

AN ACT

To amend sections 1547.01, 1547.11, 1547.111, 1547.99, 1905.01, 1905.03, 1905.05, 1905.201, 2317.02, 2317.022, 2317.422, 2743.51, 2919.22, 2937.46, 2951.02, 3701.143, 3937.41, 4506.17, 4510.01, 4510.032, 4510.036, 4510.17, 4510.54, 4511.181, 4511.19, 4511.191, 4511.192, 4511.194, and 4766.15 and to enact section 4510.011 of the Revised Code to prohibit the operation of a vehicle or vessel if a statutorily specified concentration of amphetamine, cocaine, cocaine metabolite, heroin, heroin metabolite (6-monoacetyl morphine), L.S.D., marihuana, marihuana metabolite, methamphetamine, or phencyclidine is present in the operator's blood or urine, subject to certain exceptions; to extend the time within which a chemical test of an arrested person's whole blood, blood serum or plasma, breath, or urine must be taken in order for the results of the test to be admissible as evidence; to define drug of abuse for certain watercraft and motor vehicle-related provisions; and to make other related changes.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 1547.01, 1547.11, 1547.111, 1547.99, 1905.01, 1905.03, 1905.05, 1905.201, 2317.02, 2317.022, 2317.422, 2743.51, 2919.22, 2937.46, 2951.02, 3701.143, 3937.41, 4506.17, 4510.01, 4510.032, 4510.036, 4510.17, 4510.54, 4511.181, 4511.19, 4511.191, 4511.192, 4511.194, and 4766.15 be amended and section 4510.011 of the Revised Code be enacted to read as follows:

Sec. 1547.01. (A) As used in sections 1541.03, 1547.26, 1547.39, 1547.40, 1547.53, 1547.54, 1547.541, 1547.542, 1547.543, 1547.56,

1547.57, 1547.66, 3733.21, and 5311.01 of the Revised Code, "watercraft" means any of the following when used or capable of being used for transportation on the water:

(1) A vessel operated by machinery either permanently or temporarily affixed;

(2) A sailboat other than a sailboard;

(3) An inflatable, manually propelled boat that is required by federal law to have a hull identification number meeting the requirements of the United States coast guard;

(4) A canoe or rowboat.

"Watercraft" does not include ferries as referred to in Chapter 4583. of the Revised Code.

Watercraft subject to section 1547.54 of the Revised Code shall be divided into five classes as follows:

Class A: Less than sixteen feet in length;

Class 1: At least sixteen feet, but less than twenty-six feet in length;

Class 2: At least twenty-six feet, but less than forty feet in length;

Class 3: At least forty feet, but less than sixty-five feet in length;

Class 4: At least sixty-five feet in length.

(B) As used in this chapter:

(1) "Vessel" includes every description of craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water.

(2) "Rowboat" means any vessel, except a canoe, that is designed to be rowed and that is propelled by human muscular effort by oars or paddles and upon which no mechanical propulsion device, electric motor, internal combustion engine, or sail has been affixed or is used for the operation of the vessel.

(3) "Sailboat" means any vessel, equipped with mast and sails, dependent upon the wind to propel it in the normal course of operation.

(a) Any sailboat equipped with an inboard engine is deemed a powercraft with auxiliary sail.

(b) Any sailboat equipped with a detachable motor is deemed a sailboat with auxiliary power.

(c) Any sailboat being propelled by mechanical power, whether under sail or not, is deemed a powercraft and subject to all laws and rules governing powercraft operation.

(4) "Powercraft" means any vessel propelled by machinery, fuel, rockets, or similar device.

(5) "Person" includes any legal entity defined as a person in section 1.59

of the Revised Code and any body politic, except the United States and this state, and includes any agent, trustee, executor, receiver, assignee, or other representative thereof.

(6) "Owner" includes any person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein that entitled the person to that possession.

(7) "Operator" includes any person who navigates or has under the person's control a vessel, or vessel and detachable motor, on the waters in this state.

(8) "Visible" means visible on a dark night with clear atmosphere.

(9) "Waters in this state" means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, and other bodies of water, natural or humanmade, that are situated wholly or partially within this state or within its jurisdiction and are used for recreational boating.

(10) "Navigable waters" means waters that come under the jurisdiction of the department of the army of the United States and any waterways within or adjacent to this state, except inland lakes having neither a navigable inlet nor outlet.

(11) "In operation" in reference to a vessel means that the vessel is being navigated or otherwise used on the waters in this state.

(12) "Sewage" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.

(13) "Canoe" means a narrow vessel of shallow draft, pointed at both ends and propelled by human muscular effort, and includes kayaks, racing shells, and rowing sculls.

(14) "Coast guard approved" means bearing an approval number assigned by the United States coast guard.

(15) "Type one personal flotation device" means a device that is designed to turn an unconscious person floating in water from a face downward position to a vertical or slightly face upward position and that has at least nine kilograms, approximately twenty pounds, of buoyancy.

(16) "Type two personal flotation device" means a device that is designed to turn an unconscious person in the water from a face downward position to a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(17) "Type three personal flotation device" means a device that is designed to keep a conscious person in a vertical or slightly face upward position and that has at least seven kilograms, approximately fifteen and four-tenths pounds, of buoyancy.

(18) "Type four personal flotation device" means a device that is designed to be thrown to a person in the water and not worn and that has at least seven and five-tenths kilograms, approximately sixteen and five-tenths pounds, of buoyancy.

(19) "Type five personal flotation device" means a device that, unlike other personal flotation devices, has limitations on its approval by the United States coast guard, including, without limitation, all of the following:

(a) The approval label on the type five personal flotation device indicates that the device is approved for the activity in which the vessel is being used or as a substitute for a personal flotation device of the type required on the vessel in use.

(b) The personal flotation device is used in accordance with any requirements on the approval label.

(c) The personal flotation device is used in accordance with requirements in its owner's manual if the approval label refers to such a manual.

(20) "Inflatable watercraft" means any vessel constructed of rubber, canvas, or other material that is designed to be inflated with any gaseous substance, constructed with two or more air cells, and operated as a vessel. Inflatable watercraft propelled by a motor shall be classified as powercraft and shall be registered by length. Inflatable watercraft propelled by a sail shall be classified as a sailboat and shall be registered by length.

(21) "Idle speed" means the slowest possible speed needed to maintain steerage or maneuverability.

(22) "Diver's flag" means a red flag not less than one foot square having a diagonal white stripe extending from the masthead to the opposite lower corner that when displayed indicates that divers are in the water.

(23) "Muffler" means an acoustical suppression device or system that is designed and installed to abate the sound of exhaust gases emitted from an internal combustion engine and that prevents excessive or unusual noise.

(24) "Law enforcement vessel" means any vessel used in law enforcement and under the command of a law enforcement officer.

(25) "Personal watercraft" means a vessel, less than sixteen feet in length, that is propelled by machinery and designed to be operated by an individual sitting, standing, or kneeling on the vessel rather than by an individual sitting or standing inside the vessel.

(26) "No wake" has the same meaning as "idle speed."

(27) "Watercraft dealer" means any person who is regularly engaged in the business of manufacturing, selling, displaying, offering for sale, or dealing in vessels at an established place of business. "Watercraft dealer"

does not include a person who is a marine salvage dealer or any other person who dismantles, salvages, or rebuilds vessels using used parts.

(28) "Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

(29) "Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

(30) "Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record.

(31) "Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(C) Unless otherwise provided, this chapter applies to all vessels operating on the waters in this state. Nothing in this chapter shall be construed in contravention of any valid federal act or regulation, but is in addition to the act or regulation where not inconsistent.

The state reserves to itself the exclusive right to regulate the minimum equipment requirements of watercraft and vessels operated on the waters in this state.

Sec. 1547.11. (A) No person shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this state if, at the time of the operation, control, or manipulation, any of the following applies:

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

(2) The person has a concentration of eight-hundredths of one per cent or more by weight of alcohol per unit volume in the person's whole blood.

(3) The person has a concentration of ninety-six-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.

(4) The person has a concentration of eleven-hundredths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(5) The person has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

(6) Except as provided in division (H) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:

(a) The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the

person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.

(b) The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.

(c) The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.

(d) The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.

(e) The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

(f) The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or has a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.

(g) The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

(h) Either of the following applies:

(i) The person is under the influence of alcohol, a drug of abuse, or a combination of them, and, as measured by gas chromatography mass

spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(ii) As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(i) The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

(j) The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

(B) No person under twenty-one years of age shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this state if, at the time of the operation, control, or manipulation, any of the following applies:

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

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

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

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

(C) In any proceeding arising out of one incident, a person may be charged with a violation of division (A)(1) and a violation of division (B)(1), (2), (3), or (4) of this section, but the person shall not be convicted of more than one violation of those divisions.

(D)(1) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent violation, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's or child's whole blood, blood serum or plasma, urine, or breath at the time of the alleged violation as shown by chemical analysis of the substance withdrawn, or specimen taken within ~~two~~ three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (C) of section 1547.111 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

When a person submits to a blood test, only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or ~~alcohol and drug combination~~ content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division if, in that person's opinion, the physical welfare of the defendant or child would be endangered by withdrawing blood.

The whole blood, blood serum or plasma, urine, or breath shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section or for a violation of a prohibition that is substantially equivalent to division (A) of this section, if there was at the time the bodily substance was taken a concentration of less than the applicable concentration of alcohol specified for a violation of division (A)(2), (3), (4), or (5) of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of division (A)(6) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant or in making an adjudication for the child. This division does not limit or affect a criminal

prosecution or juvenile court proceeding for a violation of division (B) of this section or for a violation of a prohibition that is substantially equivalent to that division.

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

The person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer, and shall be so advised. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(E)(1) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent violation, if a law enforcement officer has administered a field sobriety test to the operator or person found to be in physical control of the vessel underway involved in the violation or the person manipulating the water skis, aquaplane, or similar device involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for reliable, credible, and generally accepted field sobriety tests for vehicles that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that have been set by the national highway traffic safety administration, that by their nature are not clearly inapplicable regarding the operation or physical control of vessels underway or the manipulation of water skis, aquaplanes, or similar devices, all of the following apply:

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

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

(c) If testimony is presented or evidence is introduced under division (E)(1)(a) or (b) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(2) Division (E)(1) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by

probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (E)(1) of this section.

(F)(1) Subject to division (F)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of this section or for an equivalent violation, the court shall admit as prima-facie evidence a laboratory report from any ~~forensic~~ laboratory ~~certified~~ personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division. The laboratory report shall contain all of the following:

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

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

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

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

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (F)(1) of this section is not admissible against the defendant or child to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's or child's attorney or, if the defendant or child has no attorney, on the defendant or child.

(3) A report of the type described in division (F)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant or child to whom the report pertains or the defendant's or child's attorney receives a copy of the

report, the defendant or child or the defendant's or child's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

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

(H) Division (A)(6) of this section does not apply to a person who operates or is in physical control of a vessel underway or manipulates any water skis, aquaplane, or similar device while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(I) As used in this section and section 1547.111 of the Revised Code:

(1) "Equivalent violation" means a violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of this section.

(2) "National highway traffic safety administration" has the same meaning as in section 4511.19 of the Revised Code.

(3) "Operate" means that a vessel is being used on the waters in this state when the vessel is not securely affixed to a dock or to shore or to any permanent structure to which the vessel has the right to affix or that a vessel is not anchored in a designated anchorage area or boat camping area that is established by the United States coast guard, this state, or a political subdivision and in which the vessel has the right to anchor.

(4) "Controlled substance" and "marihuana" have the same meanings as in section 3719.01 of the Revised Code.

(5) "Cocaine" and "L.S.D." have the same meanings as in section 2925.01 of the Revised Code.

Sec. 1547.111. (A)(1) Any person who operates or is in physical control of a vessel or manipulates any water skis, aquaplane, or similar device upon any waters in this state shall be deemed to have given consent to a chemical test or tests to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or ~~alcohol and drug of abuse combination~~ content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance.

(2) The test or tests under division (A) of this section shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance. The law enforcement agency by which the officer is employed shall designate which test or tests shall be administered.

(B) Any person who is dead or unconscious or who otherwise is in a condition rendering the person incapable of refusal shall be deemed to have consented as provided in division (A)(1) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(C) Any person under arrest for violating section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance shall be advised of the consequences of refusing to submit to a chemical test or tests designated as provided in division (A) of this section. The advice shall be in a written form prescribed by the chief of the division of watercraft and shall be read to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. The reading of the form shall be witnessed by one or more persons, and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test or tests, subsequent to the request of the arresting officer, within two hours of the time of the alleged violation, and if the person does not submit to the test or tests within that two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test or tests.

(D) If a law enforcement officer asks a person under arrest for violating section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance to submit to a chemical test or tests as provided in division (A) of this section, if the arresting officer advises the person of the consequences of

the person's refusal as provided in division (C) of this section, and if the person refuses to submit, no chemical test shall be given. Upon receipt of a sworn statement of the officer that the arresting law enforcement officer had reasonable grounds to believe the arrested person violated section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance and that the person refused to submit to the chemical test upon the request of the officer, and upon receipt of the form as provided in division (C) of this section certifying that the arrested person was advised of the consequences of the refusal, the chief of the division of watercraft shall inform the person by written notice that the person is prohibited from operating or being in physical control of a vessel, from manipulating any water skis, aquaplane, or similar device, and from registering any watercraft in accordance with section 1547.54 of the Revised Code, for one year following the date of the alleged violation. The suspension of these operation, physical control, manipulation, and registration privileges shall continue for the entire one-year period, subject to review as provided in this section.

If the person under arrest is the owner of the vessel involved in the alleged violation, the law enforcement officer who arrested the person shall seize the watercraft registration certificate and tags from the vessel involved in the violation and forward them to the chief. The chief shall retain the impounded registration certificate and tags and shall impound all other registration certificates and tags issued to the person in accordance with sections 1547.54 and 1547.57 of the Revised Code, for a period of one year following the date of the alleged violation, subject to review as provided in this section.

If the arrested person fails to surrender the registration certificate because it is not on the person of the arrested person or in the watercraft, the law enforcement officer who made the arrest shall order the person to surrender it within twenty-four hours to the law enforcement officer or the law enforcement agency that employs the law enforcement officer. If the person fails to do so, the law enforcement officer shall notify the chief of that fact in the statement the officer submits to the chief under this division.

(E) Upon suspending a person's operation, physical control, manipulation, and registration privileges in accordance with division (D) of this section, the chief shall notify the person in writing, at the person's last known address, and inform the person that the person may petition for a hearing in accordance with division (F) of this section. If a person whose operation, physical control, manipulation, and registration privileges have been suspended petitions for a hearing or appeals any adverse decision, the suspension shall begin at the termination of any hearing or appeal unless the

hearing or appeal results in a decision favorable to the person.

(F) Any person who has been notified by the chief that the person is prohibited from operating or being in physical control of a vessel or manipulating any water skis, aquaplane, or similar device and from registering any watercraft in accordance with section 1547.54 of the Revised Code, or who has had the registration certificate and tags of the person's watercraft impounded pursuant to division (D) of this section, within twenty days of the notification or impoundment, may file a petition in the municipal court or the county court, or if the person is a minor in juvenile court, with jurisdiction over the place at which the arrest occurred, agreeing to pay the cost of the proceedings and alleging error in the action taken by the chief under division (D) of this section or alleging one or more of the matters within the scope of the hearing as provided in this section, or both. The petitioner shall notify the chief of the filing of the petition and send the chief a copy of the petition.

The scope of the hearing is limited to the issues of whether the law enforcement officer had reasonable grounds to believe the petitioner was operating or in physical control of a vessel or manipulating any water skis, aquaplane, or similar device in violation of section 1547.11 of the Revised Code or a substantially equivalent municipal ordinance, whether the petitioner was placed under arrest, whether the petitioner refused to submit to the chemical test upon request of the officer, and whether the petitioner was advised of the consequences of the petitioner's refusal.

(G)(1) The chief shall furnish the court a copy of the affidavit as provided in division (C) of this section and any other relevant information requested by the court.

(2) In hearing the matter and in determining whether the person has shown error in the decision taken by the chief as provided in division (D) of this section, the court shall decide the issue upon the relevant, competent, and material evidence submitted by the chief or the person whose operation, physical control, manipulation, and registration privileges have been suspended.

In the proceedings, the chief shall be represented by the prosecuting attorney of the county in which the petition is filed if the petition is filed in a county court or juvenile court, except that if the arrest occurred within a city or village within the jurisdiction of the county court in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the chief. If the petition is filed in the municipal court, the chief shall be represented as provided in section 1901.34 of the Revised Code.

(3) If the court finds from the evidence submitted that the person has

failed to show error in the action taken by the chief under division (D) of this section or in one or more of the matters within the scope of the hearing as provided in division (F) of this section, or both, the court shall assess the cost of the proceeding against the person and shall uphold the suspension of the operation, physical control, use, and registration privileges provided in division (D) of this section. If the court finds that the person has shown error in the action taken by the chief under division (D) of this section or in one or more of the matters within the scope of the hearing as provided in division (F) of this section, or both, the cost of the proceedings shall be paid out of the county treasury of the county in which the proceedings were held, the chief shall reinstate the operation, physical control, manipulation, and registration privileges of the person without charge, and the chief shall return the registration certificate and tags, if impounded, without charge.

(4) The court shall give information in writing of any action taken under this section to the chief.

(H) At the end of any period of suspension or impoundment imposed under this section, and upon request of the person whose operation, physical control, use, and registration privileges were suspended or whose registration certificate and tags were impounded, the chief shall reinstate the person's operation, physical control, manipulation, and registration privileges by written notice and return the certificate and tags.

(I) No person who has received written notice from the chief that the person is prohibited from operating or being in physical control of a vessel, from manipulating any water skis, aquaplane, or similar device, and from registering a watercraft, or who has had the registration certificate and tags of the person's watercraft impounded, in accordance with division (D) of this section, shall operate or be in physical control of a vessel or manipulate any water skis, aquaplane, or similar device for a period of one year following the date of the person's alleged violation of section 1547.11 of the Revised Code or the substantially equivalent municipal ordinance.

Sec. 1547.99. (A) Whoever violates section 1547.91 of the Revised Code is guilty of a felony of the fourth degree.

(B) Whoever violates section 1547.10, division (I) of section 1547.111, section 1547.13, or section 1547.66 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates a provision of this chapter or a rule adopted thereunder, for which no penalty is otherwise provided, is guilty of a minor misdemeanor.

(D) Whoever violates section 1547.07 or 1547.12 of the Revised Code without causing injury to persons or damage to property is guilty of a

misdemeanor of the fourth degree.

(E) Whoever violates section 1547.07 or 1547.12 of the Revised Code causing injury to persons or damage to property is guilty of a misdemeanor of the third degree.

(F) Whoever violates division (M) of section 1547.54, division (G) of section 1547.30, or section 1547.131, 1547.25, 1547.33, 1547.38, 1547.39, 1547.40, 1547.65, 1547.69, or 1547.92 of the Revised Code or a rule adopted under division (A)(2) of section 1547.52 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(G) Whoever violates section 1547.11 of the Revised Code is guilty of a misdemeanor of the first degree and shall be punished as provided in division (G)(1), (2), or (3) of this section.

(1) Except as otherwise provided in division (G)(2) or (3) of this section, the court shall sentence the offender to a jail term of three consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

The court may suspend the execution of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court, in lieu of the suspended jail term, places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the mandatory jail term of three consecutive days that it is required to impose by division (G)(1) of this section if the court places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three consecutive days; requires the offender to attend, for that part of the three consecutive days, a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code; and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the drivers' intervention program. The court may require the offender, as a condition of community control, to attend and satisfactorily complete any treatment or education programs, in addition to the required attendance at a drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on

the offender that it considers necessary.

(2) If, within six years of the offense, the offender has been convicted of or pleaded guilty to one violation of section 1547.11 of the Revised Code, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device while under the influence of alcohol, a drug of abuse, or a combination of them, of a municipal ordinance relating to operating a watercraft or manipulating any water skis, aquaplane, or similar device with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, of division (A)(1) of section 2903.06 of the Revised Code, or of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or section 2903.06 or 2903.07 of the Revised Code as they existed prior to March 23, 2000, in a case in which the jury or judge found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them, the court shall sentence the offender to a jail term of ten consecutive days and may sentence the offender pursuant to section 2929.24 of the Revised Code to a longer jail term. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(3) If, within six years of the offense, the offender has been convicted of or pleaded guilty to more than one violation identified in division (G)(2) of this section, the court shall sentence the offender to a jail term of thirty consecutive days and may sentence the offender to a longer jail term of not more than one year. In addition, the court shall impose upon the offender a fine of not less than one hundred fifty nor more than one thousand dollars.

In addition to any other sentence that it imposes upon the offender, the court may require the offender to attend a drivers' intervention program that is certified pursuant to section 3793.10 of the Revised Code.

(4) Upon a showing that serving a jail term would seriously affect the ability of an offender sentenced pursuant to division (G)(1), (2), or (3) of this section to continue the offender's employment, the court may authorize that the offender be granted work release after the offender has served the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. No court shall authorize work release during the mandatory jail term of three, ten, or thirty consecutive days that the court is required by division (G)(1), (2), or (3) of this section to impose. The duration of the work release shall not

exceed the time necessary each day for the offender to commute to and from the place of employment and the place in which the jail term is served and the time actually spent under employment.

(5) Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court shall suspend the mandatory jail term of ten or thirty consecutive days required to be imposed by division (G)(2) or (3) of this section or place an offender who is sentenced pursuant to division (G)(2) or (3) of this section in any treatment program in lieu of being imprisoned or serving a jail term until after the offender has served the mandatory jail term of ten or thirty consecutive days required to be imposed pursuant to division (G)(2) or (3) of this section. Notwithstanding any section of the Revised Code that authorizes the suspension of the imposition or execution of a sentence or the placement of an offender in any treatment program in lieu of being imprisoned or serving a jail term, no court, except as specifically authorized by division (G)(1) of this section, shall suspend the mandatory jail term of three consecutive days required to be imposed by division (G)(1) of this section or place an offender who is sentenced pursuant to division (G)(1) of this section in any treatment program in lieu of imprisonment until after the offender has served the mandatory jail term of three consecutive days required to be imposed pursuant to division (G)(1) of this section.

(6) As used in division (G) of this section, "jail term" and "mandatory jail term" have the same meanings as in section 2929.01 of the Revised Code.

(H) Whoever violates section 1547.304 of the Revised Code is guilty of a misdemeanor of the fourth degree and also shall be assessed any costs incurred by the state or a county, township, municipal corporation, or other political subdivision in disposing of an abandoned junk vessel or outboard motor, less any money accruing to the state, county, township, municipal corporation, or other political subdivision from that disposal.

(I) Whoever violates division (B) or (C) of section 1547.49 of the Revised Code is guilty of a minor misdemeanor.

(J) Whoever violates section 1547.31 of the Revised Code is guilty of a misdemeanor of the fourth degree on a first offense. On each subsequent offense, the person is guilty of a misdemeanor of the third degree.

(K) Whoever violates section 1547.05 or 1547.051 of the Revised Code is guilty of a misdemeanor of the fourth degree if the violation is not related to a collision, injury to a person, or damage to property and a misdemeanor of the third degree if the violation is related to a collision, injury to a person,

or damage to property.

(L) The sentencing court, in addition to the penalty provided under this section for a violation of this chapter or a rule adopted under it that involves a powercraft powered by more than ten horsepower and that, in the opinion of the court, involves a threat to the safety of persons or property, shall order the offender to complete successfully a boating course approved by the national association of state boating law administrators before the offender is allowed to operate a powercraft powered by more than ten horsepower on the waters in this state. Violation of a court order entered under this division is punishable as contempt under Chapter 2705. of the Revised Code.

Sec. 1905.01. (A) In Georgetown in Brown county, in Mount Gilead in Morrow county, and in all other municipal corporations having a population of more than one hundred, other than Batavia in Clermont county, not being the site of a municipal court nor a place where a judge of the Auglaize county, Crawford county, Jackson county, Miami county, Portage county, or Wayne county municipal court sits as required pursuant to section 1901.021 of the Revised Code or by designation of the judges pursuant to section 1901.021 of the Revised Code, the mayor of the municipal corporation has jurisdiction, except as provided in divisions (B), (C), and (E) of this section and subject to the limitation contained in section 1905.03 and the limitation contained in section 1905.031 of the Revised Code, to hear and determine any prosecution for the violation of an ordinance of the municipal corporation, to hear and determine any case involving a violation of a vehicle parking or standing ordinance of the municipal corporation unless the violation is required to be handled by a parking violations bureau or joint parking violations bureau pursuant to Chapter 4521. of the Revised Code, and to hear and determine all criminal causes involving any moving traffic violation occurring on a state highway located within the boundaries of the municipal corporation, subject to the limitations of sections 2937.08 and 2938.04 of the Revised Code.

(B)(1) In Georgetown in Brown county, in Mount Gilead in Morrow county, and in all other municipal corporations having a population of more than one hundred, other than Batavia in Clermont county, not being the site of a municipal court nor a place where a judge of a court listed in division (A) of this section sits as required pursuant to section 1901.021 of the Revised Code or by designation of the judges pursuant to section 1901.021 of the Revised Code, the mayor of the municipal corporation has jurisdiction, subject to the limitation contained in section 1905.03 of the Revised Code, to hear and determine prosecutions involving a violation of an ordinance of the municipal corporation relating to operating a vehicle

while under the influence of alcohol, a drug of abuse, or a combination of them or relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, and to hear and determine criminal causes involving a violation of section 4511.19 of the Revised Code that occur on a state highway located within the boundaries of the municipal corporation, subject to the limitations of sections 2937.08 and 2938.04 of the Revised Code, only if the person charged with the violation, within six years of the date of the violation charged, has not been convicted of or pleaded guilty to any of the following:

(a) A violation of an ordinance of any municipal corporation relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;

(b) A violation of section 4511.19 of the Revised Code;

(c) A violation of any ordinance of any municipal corporation or of any section of the Revised Code that regulates the operation of vehicles, streetcars, and trackless trolleys upon the highways or streets, to which all of the following apply:

(i) The person, in the case in which the conviction was obtained or the plea of guilty was entered, had been charged with a violation of an ordinance of a type described in division (B)(1)(a) of this section, or with a violation of section 4511.19 of the Revised Code;

(ii) The charge of the violation described in division (B)(1)(c)(i) of this section was dismissed or reduced;

(iii) The violation of which the person was convicted or to which the person pleaded guilty arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced.

(d) A violation of a statute of the United States or of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to section 4511.19 of the Revised Code.

(2) The mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving a violation described in division (B)(1)(a) or (b) of this section, regardless of where the violation occurred, if the person charged with the violation, within six years of the violation charged, has been convicted of or pleaded guilty to any violation listed in division (B)(1)(a), (b), (c), or (d) of this section.

If the mayor of a municipal corporation, in hearing a prosecution

involving a violation of an ordinance of the municipal corporation the mayor serves relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, or in hearing a criminal cause involving a violation of section 4511.19 of the Revised Code, determines that the person charged, within six years of the violation charged, has been convicted of or pleaded guilty to any violation listed in division (B)(1)(a), (b), (c), or (d) of this section, the mayor immediately shall transfer the case to the county court or municipal court with jurisdiction over the violation charged, in accordance with section 1905.032 of the Revised Code.

(C)(1) In Georgetown in Brown county, in Mount Gilead in Morrow county, and in all other municipal corporations having a population of more than one hundred, other than Batavia in Clermont county, not being the site of a municipal court and not being a place where a judge of a court listed in division (A) of this section sits as required pursuant to section 1901.021 of the Revised Code or by designation of the judges pursuant to section 1901.021 of the Revised Code, the mayor of the municipal corporation, subject to sections 1901.031, 2937.08, and 2938.04 of the Revised Code, has jurisdiction to hear and determine prosecutions involving a violation of a municipal ordinance that is substantially equivalent to division (A) of section 4510.14 or section 4510.16 of the Revised Code and to hear and determine criminal causes that involve a moving traffic violation, that involve a violation of division (A) of section 4510.14 or section 4510.16 of the Revised Code, and that occur on a state highway located within the boundaries of the municipal corporation only if all of the following apply regarding the violation and the person charged:

(a) Regarding a violation of section 4510.16 of the Revised Code or a violation of a municipal ordinance that is substantially equivalent to that division, the person charged with the violation, within six years of the date of the violation charged, has not been convicted of or pleaded guilty to any of the following:

(i) A violation of section 4510.16 of the Revised Code;

(ii) A violation of a municipal ordinance that is substantially equivalent to section 4510.16 of the Revised Code;

(iii) A violation of any municipal ordinance or section of the Revised Code that regulates the operation of vehicles, streetcars, and trackless trolleys upon the highways or streets, in a case in which, after a charge against the person of a violation of a type described in division (C)(1)(a)(i)

or (ii) of this section was dismissed or reduced, the person is convicted of or pleads guilty to a violation that arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced.

(b) Regarding a violation of division (A) of section 4510.14 of the Revised Code or a violation of a municipal ordinance that is substantially equivalent to that division, the person charged with the violation, within six years of the date of the violation charged, has not been convicted of or pleaded guilty to any of the following:

(i) A violation of division (A) of section 4510.14 of the Revised Code;

(ii) A violation of a municipal ordinance that is substantially equivalent to division (A) of section 4510.14 of the Revised Code;

(iii) A violation of any municipal ordinance or section of the Revised Code that regulates the operation of vehicles, streetcars, and trackless trolleys upon the highways or streets in a case in which, after a charge against the person of a violation of a type described in division (C)(1)(b)(i) or (ii) of this section was dismissed or reduced, the person is convicted of or pleads guilty to a violation that arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced.

(2) The mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving a violation described in division (C)(1)(a)(i) or (ii) of this section if the person charged with the violation, within six years of the violation charged, has been convicted of or pleaded guilty to any violation listed in division (C)(1)(a)(i), (ii), or (iii) of this section and does not have jurisdiction to hear and determine any prosecution or criminal cause involving a violation described in division (C)(1)(b)(i) or (ii) of this section if the person charged with the violation, within six years of the violation charged, has been convicted of or pleaded guilty to any violation listed in division (C)(1)(b)(i), (ii), or (iii) of this section.

(3) If the mayor of a municipal corporation, in hearing a prosecution involving a violation of an ordinance of the municipal corporation the mayor serves that is substantially equivalent to division (A) of section 4510.14 or section 4510.16 of the Revised Code or a violation of division (A) of section 4510.14 or section 4510.16 of the Revised Code, determines that, under division (C)(2) of this section, mayors do not have jurisdiction of the prosecution, the mayor immediately shall transfer the case to the county court or municipal court with jurisdiction over the violation in accordance with section 1905.032 of the Revised Code.

(D) If the mayor of a municipal corporation has jurisdiction pursuant to division (B)(1) of this section to hear and determine a prosecution or criminal cause involving a violation described in division (B)(1)(a) or (b) of this section, the authority of the mayor to hear or determine the prosecution or cause is subject to the limitation contained in division (C) of section 1905.03 of the Revised Code. If the mayor of a municipal corporation has jurisdiction pursuant to division (A) or (C) of this section to hear and determine a prosecution or criminal cause involving a violation other than a violation described in division (B)(1)(a) or (b) of this section, the authority of the mayor to hear or determine the prosecution or cause is subject to the limitation contained in division (C) of section 1905.031 of the Revised Code.

(E)(1) The mayor of a municipal corporation does not have jurisdiction to hear and determine any prosecution or criminal cause involving any of the following:

(a) A violation of section 2919.25 or 2919.27 of the Revised Code;

(b) A violation of section 2903.11, 2903.12, 2903.13, 2903.211, or 2911.211 of the Revised Code that involves a person who was a family or household member of the defendant at the time of the violation;

(c) A violation of a municipal ordinance that is substantially equivalent to an offense described in division (E)(1)(a) or (b) of this section and that involves a person who was a family or household member of the defendant at the time of the violation.

(2) The mayor of a municipal corporation does not have jurisdiction to hear and determine a motion filed pursuant to section 2919.26 of the Revised Code or filed pursuant to a municipal ordinance that is substantially equivalent to that section or to issue a protection order pursuant to that section or a substantially equivalent municipal ordinance.

(3) As used in this section, "family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(F) In keeping a docket and files, the mayor, and a mayor's court magistrate appointed under section 1905.05 of the Revised Code, shall be governed by the laws pertaining to county courts.

Sec. 1905.03. (A) The supreme court may adopt rules prescribing educational standards for mayors of municipal corporations who conduct a mayor's court and who wish to exercise the jurisdiction granted by section 1905.01 of the Revised Code over a prosecution or criminal cause involving a violation of section 4511.19 of the Revised Code, ~~a violation of any ordinance of the municipal corporation relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of~~

~~abuse, or a violation of any municipal OVI ordinance of the municipal corporation relating to operating a vehicle with a prohibited concentration of alcohol as defined in section 4511.181 of the blood, breath, or urine Revised Code.~~ Any educational standards prescribed by rule under authority of this division shall be for the purpose of assisting mayors of municipal corporations who conduct a mayor's court and who wish to exercise the jurisdiction granted by section 1905.01 of the Revised Code over such a prosecution or cause in the handling of such a prosecution or cause, and shall include, but shall not be limited to, all of the following:

(1) Provisions for basic training in the general principles of law that apply to the hearing and determination of such prosecutions and causes and provisions for periodic continuing education in those general principles;

(2) Provisions for basic training in the laws of this state that apply relative to persons who are convicted of or plead guilty to any such violation, particularly as those laws apply relative to a person who is convicted of or pleads guilty to any such violation in a prosecution or cause that is within the jurisdiction of a mayor's court as specified in section 1905.01 of the Revised Code, and provisions for periodic continuing education in those laws;

(3) Provisions specifying whether periodic continuing education for a mayor who conducts a mayor's court, who wishes to exercise the jurisdiction granted by section 1905.01 of the Revised Code over such a prosecution or cause, and who has received basic training in the principles and laws described in divisions (A)(1) and (2) of this section will be required on an annual or biennial basis;

(4) Provisions specifying the number of hours of basic training that a mayor who conducts a mayor's court and who wishes to exercise the jurisdiction granted by section 1905.01 of the Revised Code over such a prosecution or cause will have to obtain to comply with the educational standards and provisions specifying the number of hours of periodic continuing education that such a mayor will have to obtain within each time period specified under authority of division (A)(3) of this section to comply with the educational standards;

(5) Provisions establishing an exemption, for a reasonable period of time, from the basic training requirements for mayors who initially take office on or after July 1, 1991, and who wish to conduct a mayor's court and exercise the jurisdiction granted by section 1905.01 of the Revised Code over such a prosecution or cause.

(B) If the supreme court adopts rules under authority of division (A) of this section prescribing educational standards for mayors of municipal

corporations who conduct a mayor's court and who wish to exercise the jurisdiction granted by section 1905.01 of the Revised Code over a prosecution or criminal cause involving a violation described in division (A) of this section, the court may formulate a basic training course and a periodic continuing education course that such a mayor may complete to satisfy those educational standards, and may offer or provide for the offering of the basic training course and the periodic continuing education course to mayors of municipal corporations.

If the supreme court offers or provides for the offering of a basic training course and a periodic continuing education course formulated under this division, the court may prescribe a reasonable fee to cover the cost associated with formulating, offering, and teaching the particular course, which fee would have to be paid by each mayor who attends the particular course or the municipal corporation served by the mayor.

If the supreme court offers or provides for the offering of a basic training course and a periodic continuing education course formulated under this division, the court or other entity that offers either course shall issue to each mayor who successfully completes the particular course a certificate attesting to the mayor's satisfactory completion of the particular course.

(C) Notwithstanding section 1905.01 of the Revised Code, if the supreme court adopts rules under authority of division (A) of this section, if the supreme court formulates a basic training course and a periodic continuing education course under division (B) of this section, and if the supreme court offers or provides for the offering of the basic training course and the periodic continuing education course to mayors, a mayor shall not hear or determine, on or after July 1, 1991, any prosecution or criminal cause involving a violation described in division (A) of this section unless the exemption under the provisions described in division (A)(5) of this section applies to the mayor, or unless, prior to hearing the prosecution or criminal cause, the mayor successfully has completed the basic training course offered or provided for by the supreme court and has been issued a certificate attesting to satisfactory completion of the basic training course and also successfully has completed any periodic continuing education course offered or provided for by the supreme court that is applicable to the mayor under the rules and has been issued a certificate attesting to satisfactory completion of the periodic continuing education course.

This division does not affect and shall not be construed as affecting the authority of a mayor to appoint a mayor's court magistrate under section 1905.05 of the Revised Code. If a mayor is prohibited from hearing or determining a prosecution or criminal cause involving a violation described

in division (A) of this section due to the operation of this division, the prohibition against the mayor hearing or determining the prosecution or cause does not affect and shall not be construed as affecting the jurisdiction or authority of a mayor's court magistrate appointed under that section to hear and determine the prosecution or cause in accordance with that section.

Sec. 1905.05. (A) A mayor of a municipal corporation that has a mayor's court may appoint a person as mayor's court magistrate to hear and determine prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in section 1905.01 of the Revised Code. No person shall be appointed as a mayor's court magistrate unless the person has been admitted to the practice of law in this state and, for a total of at least three years preceding the person's appointment or the commencement of the person's service as magistrate, has been engaged in the practice of law in this state or served as a judge of a court of record in any jurisdiction in the United States, or both.

A person appointed as a mayor's court magistrate under this division is entitled to hear and determine prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in section 1905.01 of the Revised Code. If a mayor is prohibited from hearing or determining a prosecution or cause that charges a person with a violation of section 4511.19 of the Revised Code or with a violation of a municipal OVI ordinance ~~relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse or relating to operating a vehicle with a prohibited concentration of alcohol as defined in section 4511.181 of the blood, breath, or urine Revised Code~~ due to the operation of division (C) of section 1905.03 of the Revised Code, or is prohibited from hearing or determining any other prosecution or cause due to the operation of division (C) of section 1905.031 of the Revised Code, the prohibition against the mayor hearing or determining the prosecution or cause does not affect and shall not be construed as affecting the jurisdiction or authority of a person appointed as a mayor's court magistrate under this division to hear and determine the prosecution or cause in accordance with this section. In hearing and determining such prosecutions and causes, the magistrate has the same powers, duties, and authority as does a mayor who conducts a mayor's court to hear and determine prosecutions and causes in general, including, but not limited to, the power and authority to decide the prosecution or cause, enter judgment, and impose sentence; the powers, duties, and authority granted to mayors of mayor's courts by this chapter, in relation to the hearing and determination of prosecutions and causes in mayor's courts; and the powers, duties, and authority granted to mayors of

mayor's courts by any other provision of the Revised Code, in relation to the hearing and determination of prosecutions and causes in mayor's courts. A judgment entered and a sentence imposed by a mayor's court magistrate do not have to be reviewed or approved by the mayor who appointed the magistrate, and have the same force and effect as if they had been entered or imposed by the mayor.

A person appointed as a mayor's court magistrate under this division is not entitled to hear or determine any prosecution or criminal cause other than prosecutions and causes that are within the jurisdiction of the mayor's court, as set forth in section 1905.01 of the Revised Code.

A municipal corporation that a mayor's court magistrate serves shall pay the compensation for the services of the magistrate, which shall be either a fixed annual salary set by the legislative authority of the municipal corporation or a fixed annual amount or fees for services rendered set under a contract the magistrate and the municipal corporation enter into.

(B) The appointment of a person as a mayor's court magistrate under division (A) of this section does not preclude the mayor that appointed the magistrate, subject to the limitation contained in section 1905.03 and the limitation contained in section 1905.031 of the Revised Code, from also hearing and determining prosecutions and criminal causes in the mayor's court that are within the jurisdiction of the mayor's court, as set forth in section 1905.01 of the Revised Code.

Sec. 1905.201. The mayor of a municipal corporation that has a mayor's court, and a mayor's court magistrate, are entitled to suspend, and shall suspend, in accordance with sections 4510.02, 4510.07, and 4511.19 of the Revised Code, the driver's or commercial driver's license or permit or nonresident operating privilege of any person who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine that is substantially equivalent to division (A) of section 4511.19 of the Revised Code. The mayor of a municipal corporation that has a mayor's court, and a mayor's court magistrate, are entitled to suspend, and shall suspend, in accordance with sections 4510.02, 4510.07, and 4511.19 of the Revised Code, the driver's, or commercial driver's license or permit or nonresident operating privilege of any person who is convicted of or pleads guilty to a violation of division (B) of section 4511.19 of the Revised Code

or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine that is substantially equivalent to division (B) of section 4511.19 of the Revised Code.

Suspension of a commercial driver's license under this section shall be concurrent with any period of disqualification or suspension under section 3123.58 or 4506.16 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

Sec. 2317.02. The following persons shall not testify in certain respects:

(A) An attorney, concerning a communication made to the attorney by a client in that relation or the attorney's advice to a client, except that the attorney may testify by express consent of the client or, if the client is deceased, by the express consent of the surviving spouse or the executor or administrator of the estate of the deceased client and except that, if the client voluntarily testifies or is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the attorney may be compelled to testify on the same subject;

(B)(1) A physician or a dentist concerning a communication made to the physician or dentist by a patient in that relation or the physician's or dentist's advice to a patient, except as otherwise provided in this division, division (B)(2), and division (B)(3) of this section, and except that, if the patient is deemed by section 2151.421 of the Revised Code to have waived any testimonial privilege under this division, the physician may be compelled to testify on the same subject.

The testimonial privilege established under this division does not apply, and a physician or dentist may testify or may be compelled to testify, in any of the following circumstances:

(a) In any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(i) If the patient or the guardian or other legal representative of the patient gives express consent;

(ii) If the patient is deceased, the spouse of the patient or the executor or

administrator of the patient's estate gives express consent;

(iii) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(b) In any civil action concerning court-ordered treatment or services received by a patient, if the court-ordered treatment or services were ordered as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(c) In any criminal action concerning any test or the results of any test that determines the presence or concentration of alcohol, a drug of abuse, ~~or alcohol and a drug combination of abuse~~ them, a controlled substance, or a metabolite of a controlled substance in the patient's whole blood, blood serum or plasma, breath, urine, or other bodily substance at any time relevant to the criminal offense in question.

(d) In any criminal action against a physician or dentist. In such an action, the testimonial privilege established under this division does not prohibit the admission into evidence, in accordance with the Rules of Evidence, of a patient's medical or dental records or other communications between a patient and the physician or dentist that are related to the action and obtained by subpoena, search warrant, or other lawful means. A court that permits or compels a physician or dentist to testify in such an action or permits the introduction into evidence of patient records or other communications in such an action shall require that appropriate measures be taken to ensure that the confidentiality of any patient named or otherwise identified in the records is maintained. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(e) In any will contest action under sections 2107.71 to 2107.77 of the Revised Code if all of the following apply:

(i) The patient is deceased.

(ii) A party to the will contest action requests the testimony, demonstrates to the court that that party would be an heir of the patient if the patient died without a will, is a beneficiary under the will that is the subject of the will contest action, or is a beneficiary under another testamentary document allegedly executed by the patient, and demonstrates to the court

that the testimony is necessary to establish the party's rights as described in this division.

(2)(a) If any law enforcement officer submits a written statement to a health care provider that states that an official criminal investigation has begun regarding a specified person or that a criminal action or proceeding has been commenced against a specified person, that requests the provider to supply to the officer copies of any records the provider possesses that pertain to any test or the results of any test administered to the specified person to determine the presence or concentration of alcohol, a drug of abuse, ~~or alcohol and a drug~~ combination of abuse ~~them, a controlled substance, or a metabolite of a controlled substance~~ in the person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question, and that conforms to section 2317.022 of the Revised Code, the provider, except to the extent specifically prohibited by any law of this state or of the United States, shall supply to the officer a copy of any of the requested records the provider possesses. If the health care provider does not possess any of the requested records, the provider shall give the officer a written statement that indicates that the provider does not possess any of the requested records.

(b) If a health care provider possesses any records of the type described in division (B)(2)(a) of this section regarding the person in question at any time relevant to the criminal offense in question, in lieu of personally testifying as to the results of the test in question, the custodian of the records may submit a certified copy of the records, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of records submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test to which the records pertain, the person under whose supervision the test was administered, the custodian of the records, the person who made the records, or the person under whose supervision the records were made.

(3)(a) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(a)(iii) of this section, a physician or dentist may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the physician or dentist by the patient in question in that relation, or the physician's or dentist's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the

medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(b) If the testimonial privilege described in division (B)(1) of this section does not apply to a physician or dentist as provided in division (B)(1)(c) of this section, the physician or dentist, in lieu of personally testifying as to the results of the test in question, may submit a certified copy of those results, and, upon its submission, the certified copy is qualified as authentic evidence and may be admitted as evidence in accordance with the Rules of Evidence. Division (A) of section 2317.422 of the Revised Code does not apply to any certified copy of results submitted in accordance with this division. Nothing in this division shall be construed to limit the right of any party to call as a witness the person who administered the test in question, the person under whose supervision the test was administered, the custodian of the results of the test, the person who compiled the results, or the person under whose supervision the results were compiled.

(c) If the testimonial privilege described in division (B)(1) of this section does not apply as provided in division (B)(1)(e) of this section, a physician or dentist may be compelled to testify or to submit to discovery in the will contest action under sections 2107.71 to 2107.77 of the Revised Code only as to the patient in question on issues relevant to the competency of the patient at the time of the execution of the will. Testimony or discovery conducted pursuant to this division shall be conducted in accordance with the Rules of Civil Procedure.

(4) The testimonial privilege described in division (B)(1) of this section is not waived when a communication is made by a physician to a pharmacist or when there is communication between a patient and a pharmacist in furtherance of the physician-patient relation.

(5)(a) As used in divisions (B)(1) to (4) of this section, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a physician or dentist to diagnose, treat, prescribe, or act for a patient. A "communication" may include, but is not limited to, any medical or dental, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(b) As used in division (B)(2) of this section, "health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.

(c) As used in division (B)(5)(b) of this section:

(i) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory health care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(ii) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(iii) "Health care practitioner" has the same meaning as in section 4769.01 of the Revised Code.

(iv) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(v) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section 3722.01 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.

(vi) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(d) As used in divisions (B)(1) and (B)(2) of this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(6) Divisions (B)(1), (2), (3), (4), and (5) of this section apply to doctors of medicine, doctors of osteopathic medicine, doctors of podiatry, and dentists.

(7) Nothing in divisions (B)(1) to (6) of this section affects, or shall be construed as affecting, the immunity from civil liability conferred by section 307.628 or 2305.33 of the Revised Code upon physicians who report an employee's use of a drug of abuse, or a condition of an employee other than one involving the use of a drug of abuse, to the employer of the employee in accordance with division (B) of that section. As used in division (B)(7) of this section, "employee," "employer," and "physician" have the same meanings as in section 2305.33 of the Revised Code.

(C) A member of the clergy, rabbi, priest, or regularly ordained, accredited, or licensed minister of an established and legally cognizable

church, denomination, or sect, when the member of the clergy, rabbi, priest, or minister remains accountable to the authority of that church, denomination, or sect, concerning a confession made, or any information confidentially communicated, to the member of the clergy, rabbi, priest, or minister for a religious counseling purpose in the member of the clergy's, rabbi's, priest's, or minister's professional character; however, the member of the clergy, rabbi, priest, or minister may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust;

(D) Husband or wife, concerning any communication made by one to the other, or an act done by either in the presence of the other, during coverture, unless the communication was made, or act done, in the known presence or hearing of a third person competent to be a witness; and such rule is the same if the marital relation has ceased to exist;

(E) A person who assigns a claim or interest, concerning any matter in respect to which the person would not, if a party, be permitted to testify;

(F) A person who, if a party, would be restricted under section 2317.03 of the Revised Code, when the property or thing is sold or transferred by an executor, administrator, guardian, trustee, heir, devisee, or legatee, shall be restricted in the same manner in any action or proceeding concerning the property or thing.

(G)(1) A school guidance counselor who holds a valid educator license from the state board of education as provided for in section 3319.22 of the Revised Code, a person licensed under Chapter 4757. of the Revised Code as a professional clinical counselor, professional counselor, social worker, independent social worker, marriage and family therapist or independent marriage and family therapist, or registered under Chapter 4757. of the Revised Code as a social work assistant concerning a confidential communication received from a client in that relation or the person's advice to a client unless any of the following applies:

(a) The communication or advice indicates clear and present danger to the client or other persons. For the purposes of this division, cases in which there are indications of present or past child abuse or neglect of the client constitute a clear and present danger.

(b) The client gives express consent to the testimony.

(c) If the client is deceased, the surviving spouse or the executor or administrator of the estate of the deceased client gives express consent.

(d) The client voluntarily testifies, in which case the school guidance counselor or person licensed or registered under Chapter 4757. of the Revised Code may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the client is not germane to the counselor-client, marriage and family therapist-client, or social worker-client relationship.

(f) A court, in an action brought against a school, its administration, or any of its personnel by the client, rules after an in-camera inspection that the testimony of the school guidance counselor is relevant to that action.

(g) The testimony is sought in a civil action and concerns court-ordered treatment or services received by a patient as part of a case plan journalized under section 2151.412 of the Revised Code or the court-ordered treatment or services are necessary or relevant to dependency, neglect, or abuse or temporary or permanent custody proceedings under Chapter 2151. of the Revised Code.

(2) Nothing in division (G)(1) of this section shall relieve a school guidance counselor or a person licensed or registered under Chapter 4757. of the Revised Code from the requirement to report information concerning child abuse or neglect under section 2151.421 of the Revised Code.

(H) A mediator acting under a mediation order issued under division (A) of section 3109.052 of the Revised Code or otherwise issued in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of children, in any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent who takes part in mediation in accordance with the order and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children;

(I) A communications assistant, acting within the scope of the communication assistant's authority, when providing telecommunications relay service pursuant to section 4931.35 of the Revised Code or Title II of the "Communications Act of 1934," 104 Stat. 366 (1990), 47 U.S.C. 225, concerning a communication made through a telecommunications relay service. Nothing in this section shall limit the obligation of a communications assistant to divulge information or testify when mandated by federal law or regulation or pursuant to subpoena in a criminal proceeding.

Nothing in this section shall limit any immunity or privilege granted under federal law or regulation.

(J)(1) A chiropractor in a civil proceeding concerning a communication made to the chiropractor by a patient in that relation or the chiropractor's

advice to a patient, except as otherwise provided in this division. The testimonial privilege established under this division does not apply, and a chiropractor may testify or may be compelled to testify, in any civil action, in accordance with the discovery provisions of the Rules of Civil Procedure in connection with a civil action, or in connection with a claim under Chapter 4123. of the Revised Code, under any of the following circumstances:

(a) If the patient or the guardian or other legal representative of the patient gives express consent.

(b) If the patient is deceased, the spouse of the patient or the executor or administrator of the patient's estate gives express consent.

(c) If a medical claim, dental claim, chiropractic claim, or optometric claim, as defined in section 2305.113 of the Revised Code, an action for wrongful death, any other type of civil action, or a claim under Chapter 4123. of the Revised Code is filed by the patient, the personal representative of the estate of the patient if deceased, or the patient's guardian or other legal representative.

(2) If the testimonial privilege described in division (J)(1) of this section does not apply as provided in division (J)(1)(c) of this section, a chiropractor may be compelled to testify or to submit to discovery under the Rules of Civil Procedure only as to a communication made to the chiropractor by the patient in question in that relation, or the chiropractor's advice to the patient in question, that related causally or historically to physical or mental injuries that are relevant to issues in the medical claim, dental claim, chiropractic claim, or optometric claim, action for wrongful death, other civil action, or claim under Chapter 4123. of the Revised Code.

(3) The testimonial privilege established under this division does not apply, and a chiropractor may testify or be compelled to testify, in any criminal action or administrative proceeding.

(4) As used in this division, "communication" means acquiring, recording, or transmitting any information, in any manner, concerning any facts, opinions, or statements necessary to enable a chiropractor to diagnose, treat, or act for a patient. A communication may include, but is not limited to, any chiropractic, office, or hospital communication such as a record, chart, letter, memorandum, laboratory test and results, x-ray, photograph, financial statement, diagnosis, or prognosis.

(K)(1) Except as provided under division (K)(2) of this section, a critical incident stress management team member concerning a communication received from an individual who receives crisis response services from the team member, or the team member's advice to the

individual, during a debriefing session.

(2) The testimonial privilege established under division (K)(1) of this section does not apply if any of the following are true:

(a) The communication or advice indicates clear and present danger to the individual who receives crisis response services or to other persons. For purposes of this division, cases in which there are indications of present or past child abuse or neglect of the individual constitute a clear and present danger.

(b) The individual who received crisis response services gives express consent to the testimony.

(c) If the individual who received crisis response services is deceased, the surviving spouse or the executor or administrator of the estate of the deceased individual gives express consent.

(d) The individual who received crisis response services voluntarily testifies, in which case the team member may be compelled to testify on the same subject.

(e) The court in camera determines that the information communicated by the individual who received crisis response services is not germane to the relationship between the individual and the team member.

(f) The communication or advice pertains or is related to any criminal act.

(3) As used in division (K) of this section:

(a) "Crisis response services" means consultation, risk assessment, referral, and on-site crisis intervention services provided by a critical incident stress management team to individuals affected by crisis or disaster.

(b) "Critical incident stress management team member" or "team member" means an individual specially trained to provide crisis response services as a member of an organized community or local crisis response team that holds membership in the Ohio critical incident stress management network.

(c) "Debriefing session" means a session at which crisis response services are rendered by a critical incident stress management team member during or after a crisis or disaster.

(L)(1) Subject to division (L)(2) of this section and except as provided in division (L)(3) of this section, an employee assistance professional, concerning a communication made to the employee assistance professional by a client in the employee assistance professional's official capacity as an employee assistance professional.

(2) Division (L)(1) of this section applies to an employee assistance professional who meets either or both of the following requirements:

(a) Is certified by the employee assistance certification commission to engage in the employee assistance profession;

(b) Has education, training, and experience in all of the following:

(i) Providing workplace-based services designed to address employer and employee productivity issues;

(ii) Providing assistance to employees and employees' dependents in identifying and finding the means to resolve personal problems that affect the employees or the employees' performance;

(iii) Identifying and resolving productivity problems associated with an employee's concerns about any of the following matters: health, marriage, family, finances, substance abuse or other addiction, workplace, law, and emotional issues;

(iv) Selecting and evaluating available community resources;

(v) Making appropriate referrals;

(vi) Local and national employee assistance agreements;

(vii) Client confidentiality.

(3) Division (L)(1) of this section does not apply to any of the following:

(a) A criminal action or proceeding involving an offense under sections 2903.01 to 2903.06 of the Revised Code if the employee assistance professional's disclosure or testimony relates directly to the facts or immediate circumstances of the offense;

(b) A communication made by a client to an employee assistance professional that reveals the contemplation or commission of a crime or serious, harmful act;

(c) A communication that is made by a client who is an unemancipated minor or an adult adjudicated to be incompetent and indicates that the client was the victim of a crime or abuse;

(d) A civil proceeding to determine an individual's mental competency or a criminal action in which a plea of not guilty by reason of insanity is entered;

(e) A civil or criminal malpractice action brought against the employee assistance professional;

(f) When the employee assistance professional has the express consent of the client or, if the client is deceased or disabled, the client's legal representative;

(g) When the testimonial privilege otherwise provided by division (L)(1) of this section is abrogated under law.

Sec. 2317.022. (A) As used in this section, ~~"health;~~

(1) "Health care provider" has the same meaning as in section 2317.02

of the Revised Code.

(2) "Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

(B) If an official criminal investigation has begun regarding a person or if a criminal action or proceeding is commenced against a person, any law enforcement officer who wishes to obtain from any health care provider a copy of any records the provider possesses that pertain to any test or the result of any test administered to the person to determine the presence or concentration of alcohol, a drug of abuse, or alcohol and a drug of abuse in the person's blood, breath, or urine at any time relevant to the criminal offense in question shall submit to the health care facility a written statement in the following form:

"WRITTEN STATEMENT REQUESTING THE RELEASE OF
RECORDS

To: (insert name of the health care provider in question).

I hereby state that an official criminal investigation has begun regarding, or a criminal action or proceeding has been commenced against, (insert the name of the person in question), and that I believe that one or more tests has been administered to that person by this health care provider to determine the presence or concentration of alcohol, a drug of abuse, ~~or alcohol and a drug~~ combination of abuse them, a controlled substance, or a metabolite of a controlled substance in that person's whole blood, blood serum or plasma, breath, or urine at a time relevant to the criminal offense in question. Therefore, I hereby request that, pursuant to division (B)(2) of section 2317.02 of the Revised Code, this health care provider supply me with copies of any records the provider possesses that pertain to any test or the results of any test administered to the person specified above to determine the presence or concentration of alcohol, a drug of abuse, ~~or alcohol and a drug~~ combination of abuse them, a controlled substance, or a metabolite of a controlled substance in that person's whole blood, blood serum or plasma, breath, or urine at any time relevant to the criminal offense in question.

.....
(Name of officer)

.....
(Officer's title)

.....
(Officer's employing agency)

.....
(Officer's telephone number)

.....

 (Agency's address)

 (Date written statement submitted)"

(C) A health care provider that receives a written statement of the type described in division (B) of this section shall comply with division (B)(2) of section 2317.02 of the Revised Code relative to the written statement.

Sec. 2317.422. (A) Notwithstanding sections 2317.40 and 2317.41 of the Revised Code but subject to division (B) of this section, the records, or copies or photographs of the records, of a hospital, homes required to be licensed pursuant to section 3721.01 of the Revised Code and of adult care facilities required to be licensed pursuant to Chapter 3722. of the Revised Code, and community alternative homes licensed pursuant to section 3724.03 of the Revised Code, in lieu of the testimony in open court of their custodian, person who made them, or person under whose supervision they were made, may be qualified as authentic evidence if any such person endorses thereon ~~his~~ the person's verified certification identifying such records, giving the mode and time of their preparation, and stating that they were prepared in the usual course of the business of the institution. Such records, copies, or photographs may not be qualified by certification as provided in this section unless the party intending to offer them delivers a copy of them, or of their relevant portions, to the attorney of record for each adverse party not less than five days before trial. Nothing in this section shall be construed to limit the right of any party to call the custodian, person who made such records, or person under whose supervision they were made, as a witness.

(B) Division (A) of this section does not apply to any certified copy of the results of any test given to determine the presence or concentration of alcohol, a drug of abuse, ~~or alcohol and a drug combination of abuse~~ them, a controlled substance, or a metabolite of a controlled substance in a patient's whole blood, blood serum or plasma, breath, or urine at any time relevant to a criminal offense that is submitted in a criminal action or proceeding in accordance with division (B)(2)(b) or (B)(3)(b) of section 2317.02 of the Revised Code.

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the Revised Code:

- (A) "Claimant" means both of the following categories of persons:
 - (1) Any of the following persons who claim an award of reparations

under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who was one of the following at the time of the criminally injurious conduct:

(i) A resident of the United States;

(ii) A resident of a foreign country the laws of which permit residents of this state to recover compensation as victims of offenses committed in that country.

(b) A dependent of a deceased victim who is described in division (A)(1)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(1)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(1)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(1)(a) of this section.

(2) Any of the following persons who claim an award of reparations under sections 2743.51 to 2743.72 of the Revised Code:

(a) A victim who had a permanent place of residence within this state at the time of the criminally injurious conduct and who, at the time of the criminally injurious conduct, complied with any one of the following:

(i) Had a permanent place of employment in this state;

(ii) Was a member of the regular armed forces of the United States or of the United States coast guard or was a full-time member of the Ohio organized militia or of the United States army reserve, naval reserve, or air force reserve;

(iii) Was retired and receiving social security or any other retirement income;

(iv) Was sixty years of age or older;

(v) Was temporarily in another state for the purpose of receiving medical treatment;

(vi) Was temporarily in another state for the purpose of performing employment-related duties required by an employer located within this state as an express condition of employment or employee benefits;

(vii) Was temporarily in another state for the purpose of receiving occupational, vocational, or other job-related training or instruction required by an employer located within this state as an express condition of

employment or employee benefits;

(viii) Was a full-time student at an academic institution, college, or university located in another state;

(ix) Had not departed the geographical boundaries of this state for a period exceeding thirty days or with the intention of becoming a citizen of another state or establishing a permanent place of residence in another state.

(b) A dependent of a deceased victim who is described in division (A)(2)(a) of this section;

(c) A third person, other than a collateral source, who legally assumes or voluntarily pays the obligations of a victim, or of a dependent of a victim, who is described in division (A)(2)(a) of this section, which obligations are incurred as a result of the criminally injurious conduct that is the subject of the claim and may include, but are not limited to, medical or burial expenses;

(d) A person who is authorized to act on behalf of any person who is described in division (A)(2)(a), (b), or (c) of this section;

(e) The estate of a deceased victim who is described in division (A)(2)(a) of this section.

(B) "Collateral source" means a source of benefits or advantages for economic loss otherwise reparable that the victim or claimant has received, or that is readily available to the victim or claimant, from any of the following sources:

(1) The offender;

(2) The government of the United States or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, unless the law providing for the benefits or advantages makes them excess or secondary to benefits under sections 2743.51 to 2743.72 of the Revised Code;

(3) Social security, medicare, and medicaid;

(4) State-required, temporary, nonoccupational disability insurance;

(5) Workers' compensation;

(6) Wage continuation programs of any employer;

(7) Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminally injurious conduct;

(8) A contract providing prepaid hospital and other health care services, or benefits for disability;

(9) That portion of the proceeds of all contracts of insurance payable to the claimant on account of the death of the victim that exceeds fifty thousand dollars;

(10) Any compensation recovered or recoverable under the laws of

another state, district, territory, or foreign country because the victim was the victim of an offense committed in that state, district, territory, or country.

"Collateral source" does not include any money, or the monetary value of any property, that is subject to sections 2969.01 to 2969.06 of the Revised Code or that is received as a benefit from the Ohio public safety officers death benefit fund created by section 742.62 of the Revised Code.

(C) "Criminally injurious conduct" means one of the following:

(1) For the purposes of any person described in division (A)(1) of this section, any conduct that occurs or is attempted in this state; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of this state. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of this state;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, and the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of section 2903.08 of the Revised Code.

(2) For the purposes of any person described in division (A)(2) of this section, any conduct that occurs or is attempted in another state, district, territory, or foreign country; poses a substantial threat of personal injury or death; and is punishable by fine, imprisonment, or death, or would be so punishable but for the fact that the person engaging in the conduct lacked capacity to commit the crime under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted. Criminally injurious conduct does not include conduct arising out of the ownership, maintenance, or use of a motor vehicle, except when any of the following applies:

(a) The person engaging in the conduct intended to cause personal injury or death;

(b) The person engaging in the conduct was using the vehicle to flee

immediately after committing a felony or an act that would constitute a felony but for the fact that the person engaging in the conduct lacked the capacity to commit the felony under the laws of the state, district, territory, or foreign country in which the conduct occurred or was attempted;

(c) The person engaging in the conduct was using the vehicle in a manner that constitutes an OVI violation;

(d) The conduct occurred on or after July 25, 1990, the person engaging in the conduct was using the vehicle in a manner that constitutes a violation of any law of the state, district, territory, or foreign country in which the conduct occurred, and that law is substantially similar to a violation of section 2903.08 of the Revised Code.

(3) For the purposes of any person described in division (A)(1) or (2) of this section, terrorism that occurs within or outside the territorial jurisdiction of the United States.

(D) "Dependent" means an individual wholly or partially dependent upon the victim for care and support, and includes a child of the victim born after the victim's death.

(E) "Economic loss" means economic detriment consisting only of allowable expense, work loss, funeral expense, unemployment benefits loss, replacement services loss, cost of crime scene cleanup, and cost of evidence replacement. If criminally injurious conduct causes death, economic loss includes a dependent's economic loss and a dependent's replacement services loss. Noneconomic detriment is not economic loss; however, economic loss may be caused by pain and suffering or physical impairment.

(F)(1) "Allowable expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, and other remedial treatment and care and including replacement costs for eyeglasses and other corrective lenses. It does not include that portion of a charge for a room in a hospital, clinic, convalescent home, nursing home, or any other institution engaged in providing nursing care and related services in excess of a reasonable and customary charge for semiprivate accommodations, unless accommodations other than semiprivate accommodations are medically required.

(2) An immediate family member of a victim of criminally injurious conduct that consists of a homicide, a sexual assault, domestic violence, or a severe and permanent incapacitating injury resulting in paraplegia or a similar life-altering condition, who requires psychiatric care or counseling as a result of the criminally injurious conduct, may be reimbursed for that care or counseling as an allowable expense through the victim's application.

The cumulative allowable expense for care or counseling of that nature shall not exceed two thousand five hundred dollars for each immediate family member of a victim of that type and seven thousand five hundred dollars in the aggregate for all immediate family members of a victim of that type.

(3) A family member of a victim who died as a proximate result of criminally injurious conduct may be reimbursed as an allowable expense through the victim's application for wages lost and travel expenses incurred in order to attend criminal justice proceedings arising from the criminally injurious conduct. The cumulative allowable expense for wages lost and travel expenses incurred by a family member to attend criminal justice proceedings shall not exceed five hundred dollars for each family member of the victim and two thousand dollars in the aggregate for all family members of the victim.

(4) "Allowable expense" includes attorney's fees not exceeding two thousand five hundred dollars, at a rate not exceeding one hundred fifty dollars per hour, incurred to successfully obtain a restraining order, custody order, or other order to physically separate a victim from an offender, if the attorney has not received payment under section 2743.65 of the Revised Code for assisting a claimant with an application for an award of reparations under sections 2743.51 to 2743.72 of the Revised Code.

(G) "Work loss" means loss of income from work that the injured person would have performed if the person had not been injured and expenses reasonably incurred by the person to obtain services in lieu of those the person would have performed for income, reduced by any income from substitute work actually performed by the person, or by income the person would have earned in available appropriate substitute work that the person was capable of performing but unreasonably failed to undertake.

(H) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of the person's self or family, if the person had not been injured.

(I) "Dependent's economic loss" means loss after a victim's death of contributions of things of economic value to the victim's dependents, not including services they would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's economic loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's economic loss as a result of the victim's

death.

(J) "Dependent's replacement services loss" means loss reasonably incurred by dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed for their benefit if the victim had not suffered the fatal injury, less expenses of the dependents avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss. If a minor child of a victim is adopted after the victim's death, the minor child continues after the adoption to incur a dependent's replacement services loss as a result of the victim's death. If the surviving spouse of a victim remarries, the surviving spouse continues after the remarriage to incur a dependent's replacement services loss as a result of the victim's death.

(K) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, or other nonpecuniary damage.

(L) "Victim" means a person who suffers personal injury or death as a result of any of the following:

(1) Criminally injurious conduct;

(2) The good faith effort of any person to prevent criminally injurious conduct;

(3) The good faith effort of any person to apprehend a person suspected of engaging in criminally injurious conduct.

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.

(N)(1) "Funeral expense" means any reasonable charges that are not in excess of seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.

(2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises

solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or of any municipal ordinance prohibiting the operation of a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;

(2) A violation of division (A)(1) of section 2903.06 of the Revised Code;

(3) A violation of division (A)(2), (3), or (4) of section 2903.06 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions, if the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense;

(4) For purposes of any person described in division (A)(2) of this section, a violation of any law of the state, district, territory, or foreign country in which the criminally injurious conduct occurred, if that law is substantially similar to a violation described in division (P)(1) or (2) of this section or if that law is substantially similar to a violation described in division (P)(3) of this section and the offender was under the influence of alcohol, a drug of abuse, or a combination of them, at the time of the commission of the offense.

(Q) "Pendency of the claim" for an original reparations application or supplemental reparations application means the period of time from the date the criminally injurious conduct upon which the application is based occurred until the date a final decision, order, or judgment concerning that original reparations application or supplemental reparations application is issued.

(R) "Terrorism" means any activity to which all of the following apply:

(1) The activity involves a violent act or an act that is dangerous to human life.

(2) The act described in division (R)(1) of this section is committed within the territorial jurisdiction of the United States and is a violation of the criminal laws of the United States, this state, or any other state or the act described in division (R)(1) of this section is committed outside the territorial jurisdiction of the United States and would be a violation of the

criminal laws of the United States, this state, or any other state if committed within the territorial jurisdiction of the United States.

(3) The activity appears to be intended to do any of the following:

- (a) Intimidate or coerce a civilian population;
- (b) Influence the policy of any government by intimidation or coercion;
- (c) Affect the conduct of any government by assassination or kidnapping.

(4) The activity occurs primarily outside the territorial jurisdiction of the United States or transcends the national boundaries of the United States in terms of the means by which the activity is accomplished, the person or persons that the activity appears intended to intimidate or coerce, or the area or locale in which the perpetrator or perpetrators of the activity operate or seek asylum.

(S) "Transcends the national boundaries of the United States" means occurring outside the territorial jurisdiction of the United States in addition to occurring within the territorial jurisdiction of the United States.

(T) "Cost of crime scene cleanup" means reasonable and necessary costs of cleaning the scene and repairing, for the purpose of personal security, property damaged at the scene where the criminally injurious conduct occurred, not to exceed seven hundred fifty dollars in the aggregate per claim.

(U) "Cost of evidence replacement" means costs for replacement of property confiscated for evidentiary purposes related to the criminally injurious conduct, not to exceed seven hundred fifty dollars in the aggregate per claim.

(V) "Provider" means any person who provides a victim or claimant with a product, service, or accommodations that are an allowable expense or a funeral expense.

(W) "Immediate family member" means an individual who resided in the same permanent household as a victim at the time of the criminally injurious conduct and who is related to the victim by affinity or consanguinity.

(X) "Family member" means an individual who is related to a victim by affinity or consanguinity.

Sec. 2919.22. (A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection, or support. It is not a violation of a duty of care, protection, or support under this division when

the parent, guardian, custodian, or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(B) No person shall do any of the following to a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age:

(1) Abuse the child;

(2) Torture or cruelly abuse the child;

(3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;

(4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;

(5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;

(6) Allow the child to be on the same parcel of real property and within one hundred feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of section 2925.04 or 2925.041 of the Revised Code when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of section 2925.04 or 2925.041 of the Revised Code that is the basis of the violation of this division.

(C)(1) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (A) of section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of sections 4511.191 to 4511.197 of the Revised Code and all related provisions of law, a person arrested for a

violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in division (C)(1) of this section, ~~"vehicle,"~~

(a) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(b) "Vehicle," "streetcar," and "trackless trolley" have the same meanings as in section 4511.01 of the Revised Code.

(D)(1) Division (B)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.

(2) Mistake of age is not a defense to a charge under division (B)(5) of this section.

(3) In a prosecution under division (B)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.

(4) As used in this division and division (B)(5) of this section:

(a) "Material," "performance," "obscene," and "sexual activity" have the same meanings as in section 2907.01 of the Revised Code.

(b) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest.

(c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.

(E)(1) Whoever violates this section is guilty of endangering children.

(2) If the offender violates division (A) or (B)(1) of this section, endangering children is one of the following:

(a) Except as otherwise provided in division (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;

(b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(2)(c) or (d) of this section, a felony of the fourth degree;

(c) If the violation is a violation of division (A) of this section and results in serious physical harm to the child involved, a felony of the third degree;

(d) If the violation is a violation of division (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree.

(3) If the offender violates division (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this division, endangering children is a felony of the third degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree. If the offender violates division (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:

(a) If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than two years. If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than five years.

(b) If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than three years. If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under division (E)(3) of this section, if the drug

involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of division (B)(6) of this section, a violation of division (A) of section 2925.04 of the Revised Code, or a violation of division (A) of section 2925.041 of the Revised Code, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree that is not less than five years.

(4) If the offender violates division (B)(5) of this section, endangering children is a felony of the second degree.

(5) If the offender violates division (C) of this section, the offender shall be punished as follows:

(a) Except as otherwise provided in division (E)(5)(b) or (c) of this section, endangering children in violation of division (C) of this section is a misdemeanor of the first degree.

(b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(5)(c) of this section, endangering children in violation of division (C) of this section is a felony of the fifth degree.

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section, section 2903.06 or 2903.08 of the Revised Code, section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (C) of this section is a felony of the fourth degree.

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(e) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to division (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of

law for the violation of division (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced in accordance with section 4511.19 of the Revised Code for that violation of division (A) of section 4511.19 of the Revised Code.

(F)(1)(a) A court may require an offender to perform not more than two hundred hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to divisions (F)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:

(i) The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of division (C) of this section, if applicable.

(ii) The supervised community service work shall be subject to the limitations set forth in divisions (B)(1), (2), and (3) of section 2951.02 of the Revised Code.

(iii) The community service work shall be supervised in the manner described in division (B)(4) of section 2951.02 of the Revised Code by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.

(iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total

amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 of the Revised Code, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.

(b) If a court, pursuant to division (F)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 of the Revised Code. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the term of imprisonment that the sentencing court could have imposed upon the offender for the violation of division (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in sections 2949.08 and 2967.191 of the Revised Code.

(2) Division (F)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under a community control sanction pursuant to section 2929.25 of the Revised Code, to require a misdemeanor or felony offender to perform supervised community service work in accordance with division (B) of section 2951.02 of the Revised Code, or to place a felony offender under a community control sanction.

(G)(1) If a court suspends an offender's driver's or commercial driver's

license or permit or nonresident operating privilege under division (E)(5)(d) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Chapter 4506., 4509., 4510., or 4511. of the Revised Code or under any other provision of law in relation to the violation of division (C) of this section that is the basis of the suspension under division (E)(5)(d) of this section or in relation to the violation of division (A) of section 4511.19 of the Revised Code that is the basis for that violation of division (C) of this section.

(2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under division (E)(5)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:

(a) Division (C) of this section;

(b) Any equivalent offense, as defined in section 4511.181 of the Revised Code.

(H)(1) If a person violates division (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of division (C) of this section for each of the children, but the court may sentence the offender for only one of the violations.

(2)(a) If a person is convicted of or pleads guilty to a violation of division (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, both of the following apply:

(i) For purposes of the provisions of section 4511.19 of the Revised Code that set forth the penalties and sanctions for a violation of division (A) of section 4511.19 of the Revised Code, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute a violation of division (A) of section 4511.19 of the Revised Code;

(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code and that is not described in division (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(b) If a person is convicted of or pleads guilty to a violation of division

(C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the conviction of or plea of guilty to the violation of division (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code, a conviction of or plea of guilty to a violation of division (A) of section 4511.19 of the Revised Code.

(I) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code;

(2) "Limited driving privileges" has the same meaning as in section 4501.01 of the Revised Code;

(3) "Methamphetamine" has the same meaning as in section 2925.01 of the Revised Code.

Sec. 2937.46. (A) The supreme court of Ohio, in the interest of uniformity of procedure in the various courts and for the purpose of promoting prompt and efficient disposition of cases arising under the traffic laws of this state and related ordinances, may make uniform rules for practice and procedure in courts inferior to the court of common pleas not inconsistent with the provisions of Chapter 2937. of the Revised Code, including, but not limited to:

(1) Separation of arraignment and trial of traffic and other types of cases;

(2) Consolidation of cases for trial;

(3) Transfer of cases within the same county for the purpose of trial;

(4) Designation of special referees for hearings or for receiving pleas or bail at times when courts are not in session;

(5) Fixing of reasonable bonds, and disposition of cases in which bonds have been forfeited.

(B) Except as otherwise specified in division ~~(L)~~(N) of section 4511.19 of the Revised Code, all of the rules described in division (A) of this section, when promulgated by the supreme court, shall be fully binding on all courts inferior to the court of common pleas and on the court of common pleas in relation to felony violations of division (A) of section 4511.19 of the Revised Code and shall effect a cancellation of any local court rules inconsistent with the supreme court's rules.

Sec. 2951.02. (A) During the period of a misdemeanor offender's community control sanction or during the period of a felony offender's

nonresidential sanction, authorized probation officers who are engaged within the scope of their supervisory duties or responsibilities may search, with or without a warrant, the person of the offender, the place of residence of the offender, and a motor vehicle, another item of tangible or intangible personal property, or other real property in which the offender has a right, title, or interest or for which the offender has the express or implied permission of a person with a right, title, or interest to use, occupy, or possess if the probation officers have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the conditions of the misdemeanor offender's community control sanction or the conditions of the felony offender's nonresidential sanction. If a felony offender who is sentenced to a nonresidential sanction is under the general control and supervision of the adult parole authority, as described in division (A)(2)(a) of section 2929.15 of the Revised Code, adult parole authority field officers with supervisory responsibilities over the felony offender shall have the same search authority relative to the felony offender during the period of the sanction that is described under this division for probation officers. The court that places the misdemeanor offender under a community control sanction pursuant to section 2929.25 of the Revised Code or that sentences the felony offender to a nonresidential sanction pursuant to section 2929.17 of the Revised Code shall provide the offender with a written notice that informs the offender that authorized probation officers or adult parole authority field officers with supervisory responsibilities over the offender who are engaged within the scope of their supervisory duties or responsibilities may conduct those types of searches during the period of community control sanction or the nonresidential sanction if they have reasonable grounds to believe that the offender is not abiding by the law or otherwise is not complying with the conditions of the offender's community control sanction or nonresidential sanction.

(B) If an offender is convicted of or pleads guilty to a misdemeanor, the court may require the offender, as a condition of the offender's sentence of a community control sanction, to perform supervised community service work in accordance with this division. If an offender is convicted of or pleads guilty to a felony, the court, pursuant to sections 2929.15 and 2929.17 of the Revised Code, may impose a sanction that requires the offender to perform supervised community service work in accordance with this division. The supervised community service work shall be under the authority of health districts, park districts, counties, municipal corporations, townships, other political subdivisions of the state, or agencies of the state or any of its political subdivisions, or under the authority of charitable organizations that

render services to the community or its citizens, in accordance with this division. The court may require an offender who is ordered to perform the work to pay to it a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work.

A court may permit any offender convicted of a felony or a misdemeanor to satisfy the payment of a fine imposed for the offense pursuant to section 2929.18 or 2929.28 of the Revised Code by performing supervised community service work as described in this division if the offender requests an opportunity to satisfy the payment by this means and if the court determines that the offender is financially unable to pay the fine.

The supervised community service work that may be imposed under this division shall be subject to the following limitations:

(1) The court shall fix the period of the work and, if necessary, shall distribute it over weekends or over other appropriate times that will allow the offender to continue at the offender's occupation or to care for the offender's family. The period of the work as fixed by the court shall not exceed in the aggregate the number of hours of community service imposed by the court pursuant to section 2929.17 or 2929.27 of the Revised Code.

(2) An agency, political subdivision, or charitable organization must agree to accept the offender for the work before the court requires the offender to perform the work for the entity. A court shall not require an offender to perform supervised community service work for an agency, political subdivision, or charitable organization at a location that is an unreasonable distance from the offender's residence or domicile, unless the offender is provided with transportation to the location where the work is to be performed.

(3) A court may enter into an agreement with a county department of job and family services for the management, placement, and supervision of offenders eligible for community service work in work activities, developmental activities, and alternative work activities under sections 5107.40 to 5107.69 of the Revised Code. If a court and a county department of job and family services have entered into an agreement of that nature, the clerk of that court is authorized to pay directly to the county department all or a portion of the fees collected by the court pursuant to this division in accordance with the terms of its agreement.

(4) Community service work that a court requires under this division shall be supervised by an official of the agency, political subdivision, or charitable organization for which the work is performed or by a person

designated by the agency, political subdivision, or charitable organization. The official or designated person shall be qualified for the supervision by education, training, or experience, and periodically shall report, in writing, to the court and to the offender's probation officer concerning the conduct of the offender in performing the work.

(5) The total of any period of supervised community service work imposed on an offender under division (B) of this section plus the period of all other sanctions imposed pursuant to sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code for a felony, or pursuant to sections 2929.25, 2929.26, 2929.27, and 2929.28 of the Revised Code for a misdemeanor, shall not exceed five years.

(C)(1) If an offender is convicted of a violation of section 4511.19 of the Revised Code, a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or ~~alcohol and a drug~~ combination of abuse them, or a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine, the court may require, as a condition of a community control sanction, any suspension of a driver's or commercial driver's license or permit or nonresident operating privilege, and all other penalties provided by law or by ordinance, that the offender operate only a motor vehicle equipped with an ignition interlock device that is certified pursuant to section 4510.43 of the Revised Code.

(2) If a court requires an offender, as a condition of a community control sanction pursuant to division (C)(1) of this section, to operate only a motor vehicle equipped with an ignition interlock device that is certified pursuant to section 4510.43 of the Revised Code, the offender immediately shall surrender the offender's driver's or commercial driver's license or permit to the court. Upon the receipt of the offender's license or permit, the court shall issue an order authorizing the offender to operate a motor vehicle equipped with a certified ignition interlock device, deliver the offender's license or permit to the bureau of motor vehicles, and include in the abstract of the case forwarded to the bureau pursuant to section 4510.036 of the Revised Code the conditions of the community control sanction imposed pursuant to division (C)(1) of this section. The court shall give the offender a copy of its order, and that copy shall be used by the offender in lieu of a driver's or commercial driver's license or permit until the bureau issues a restricted license to the offender.

(3) Upon receipt of an offender's driver's or commercial driver's license or permit pursuant to division (C)(2) of this section, the bureau of motor

vehicles shall issue a restricted license to the offender. The restricted license shall be identical to the surrendered license, except that it shall have printed on its face a statement that the offender is prohibited from operating a motor vehicle that is not equipped with an ignition interlock device that is certified pursuant to section 4510.43 of the Revised Code. The bureau shall deliver the offender's surrendered license or permit to the court upon receipt of a court order requiring it to do so, or reissue the offender's license or permit under section 4510.52 of the Revised Code if the registrar destroyed the offender's license or permit under that section. The offender shall surrender the restricted license to the court upon receipt of the offender's surrendered license or permit.

(4) If an offender violates a requirement of the court imposed under division (C)(1) of this section, the court may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code. On a second or subsequent violation, the court may impose a class four suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(4) of section 4510.02 of the Revised Code.

Sec. 3701.143. For purposes of ~~section~~ sections 1547.11, 4511.19, and 4511.194 of the Revised Code, the director of health shall determine, or cause to be determined, techniques or methods for chemically analyzing a person's whole blood, blood serum or plasma, urine, breath, or other bodily substance in order to ascertain the amount of alcohol, a drug of abuse, controlled substance, metabolite of a controlled substance, or alcohol and a drug of abuse combination of them in the person's whole blood, blood serum or plasma, urine, breath, or other bodily substance. The director shall approve satisfactory techniques or methods, ascertain the qualifications of individuals to conduct such analyses, and issue permits to qualified persons authorizing them to perform such analyses. Such permits shall be subject to termination or revocation at the discretion of the director.

As used in this section, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

Sec. 3937.41. (A) As used in this section:

(1) "Ambulance" has the same meaning as in section 4765.01 of the Revised Code and also includes private ambulance companies under contract to a municipal corporation, township, or county.

(2) "Emergency vehicle" means any of the following:

(a) Any vehicle, as defined in section 4511.01 of the Revised Code, that

is an emergency vehicle of a municipal, township, or county department or public utility corporation and that is identified as such as required by law, the director of public safety, or local authorities;

(b) Any motor vehicle, as defined in section 4511.01 of the Revised Code, when commandeered by a police officer;

(c) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a qualified nonprofit corporation police department established pursuant to section 1702.80 of the Revised Code and that is identified as an emergency vehicle;

(d) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a proprietary police department or security department of a hospital operated by a public hospital agency or a nonprofit hospital agency that employs police officers under section 4973.17 of the Revised Code, and that is identified as an emergency vehicle.

(3) "Firefighter" means any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township.

(4) "Law enforcement officer" means a sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal or township police officer, state highway patrol trooper, police officer employed by a qualified nonprofit police department pursuant to section 1702.80 of the Revised Code, or police officer employed by a proprietary police department or security department of a hospital operated by a public hospital agency or nonprofit hospital agency pursuant to section 4973.17 of the Revised Code.

(5) "Motor vehicle accident" means any accident involving a motor vehicle which results in bodily injury to any person, or damage to the property of any person.

(B) No insurer shall consider the circumstance that an applicant or policyholder has been involved in a motor vehicle accident while in the pursuit of the applicant's or policyholder's official duties as a law enforcement officer, firefighter, or operator of an emergency vehicle or ambulance, while operating a vehicle engaged in mowing or snow and ice removal as a county, township, or department of transportation employee, or while operating a vehicle while engaged in the pursuit of the applicant's or policyholder's official duties as a member of the motor carrier enforcement unit of the state highway patrol under section 5503.34 of the Revised Code, as a basis for doing either of the following:

(1) Refusing to issue or deliver a policy of insurance upon a private automobile, or increasing the rate to be charged for such a policy;

(2) Increasing the premium rate, canceling, or failing to renew an existing policy of insurance upon a private automobile.

(C) Any applicant or policyholder affected by an action of an insurer in violation of this section may appeal to the superintendent of insurance. After a hearing held upon not less than ten days' notice to the applicant or policyholder and to the insurer and if the superintendent determines that the insurer has violated this section, the superintendent may direct the issuance of a policy, decrease the premium rate on a policy, or reinstate insurance coverage.

(D) The employer of the law enforcement officer, firefighter, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, except as otherwise provided in division (F) of this section, shall certify to the state highway patrol or law enforcement agency that investigates the accident whether the officer, firefighter, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, was engaged in the performance of the person's official duties as such employee at the time of the accident. The employer shall designate an official authorized to make the certifications. The state highway patrol or law enforcement agency shall include the certification in any report of the accident forwarded to the department of public safety pursuant to sections 5502.11 and 5502.12 of the Revised Code and shall forward the certification to the department if received after the report of the accident has been forwarded to the department. The registrar of motor vehicles shall not include an accident in a certified abstract of information under division (A) of section 4509.05 of the Revised Code, if the person involved has been so certified as having been engaged in the performance of the person's official duties at the time of the accident.

(E) Division (B) of this section does not apply to an insurer whose policy covers the motor vehicle at the time the motor vehicle is involved in an accident described in division (B) of this section.

(F) Division (B) of this section does not apply if an applicant or policyholder, on the basis of the applicant's or policyholder's involvement in an accident described in that division, is convicted of or pleads guilty or no contest to a violation of section 4511.19 of the Revised Code; ~~of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse; or of a municipal OVI ordinance relating to operating a vehicle with a prohibited concentration of alcohol as defined in section 4511.181 of the blood, breath, or urine, or other bodily substance~~ Revised Code.

Sec. 4506.17. (A) Any person who holds a commercial driver's license or operates a commercial motor vehicle requiring a commercial driver's license within this state shall be deemed to have given consent to a test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the person's alcohol concentration or the presence of any controlled substance or a metabolite of a controlled substance.

(B) A test or tests as provided in division (A) of this section may be administered at the direction of a peace officer having reasonable ground to stop or detain the person and, after investigating the circumstances surrounding the operation of the commercial motor vehicle, also having reasonable ground to believe the person was driving the commercial vehicle while having a measurable or detectable amount of alcohol or of a controlled substance or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine. Any such test shall be given within two hours of the time of the alleged violation.

(C) A person requested to submit to a test under division (A) of this section shall be advised by the peace officer requesting the test that a refusal to submit to the test will result in the person immediately being placed out-of-service for a period of twenty-four hours and being disqualified from operating a commercial motor vehicle for a period of not less than one year, and that the person is required to surrender the person's commercial driver's license to the peace officer.

(D) If a person refuses to submit to a test after being warned as provided in division (C) of this section or submits to a test that discloses the presence of a controlled substance or a metabolite of a controlled substance, an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath, an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma, or an alcohol concentration of fifty-six-thousandths of one per cent or more by urine, the person immediately shall surrender the person's commercial driver's license to the peace officer. The peace officer shall forward the license, together with a sworn report, to the registrar of motor vehicles certifying that the test was requested pursuant to division (A) of this section and that the person either refused to submit to testing or submitted to a test that disclosed the presence of a controlled substance or a metabolite of a controlled substance or a prohibited alcohol concentration. The form and contents of the report required by this section shall be established by the registrar by rule, but shall contain the advice to be read to the driver and a statement to be signed by the driver acknowledging that the driver has been read the advice and that

the form was shown to the driver.

(E) Upon receipt of a sworn report from a peace officer as provided in division (D) of this section, the registrar shall disqualify the person named in the report from driving a commercial motor vehicle for the period described below:

(1) Upon a first incident, one year;

(2) Upon an incident of refusal or of a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance after one or more previous incidents of either refusal or of a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance, the person shall be disqualified for life or such lesser period as prescribed by rule by the registrar.

(F) A test of a person's whole blood or a person's blood serum or plasma given under this section shall comply with the applicable provisions of division (D) of section 4511.19 of the Revised Code and any physician, registered nurse, or qualified technician, chemist, or phlebotomist who withdraws whole blood or blood serum or plasma from a person under this section, and any hospital, first-aid station, clinic, or other facility at which whole blood or blood serum or plasma is withdrawn from a person pursuant to this section, is immune from criminal liability, and from civil liability that is based upon a claim of assault and battery or based upon any other claim of malpractice, for any act performed in withdrawing whole blood or blood serum or plasma from the person.

(G) When a person submits to a test under this section, the results of the test, at the person's request, shall be made available to the person, the person's attorney, or the person's agent, immediately upon completion of the chemical test analysis. The person also may have an additional test administered by a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing as provided in division (D) of section 4511.19 of the Revised Code for tests administered under that section, and the failure to obtain such a test has the same effect as in that division.

(H) No person shall refuse to immediately surrender the person's commercial driver's license to a peace officer when required to do so by this section.

(I) A peace officer issuing an out-of-service order or receiving a commercial driver's license surrendered under this section may remove or arrange for the removal of any commercial motor vehicle affected by the issuance of that order or the surrender of that license.

(J)(1) Except for civil actions arising out of the operation of a motor

vehicle and civil actions in which the state is a plaintiff, no peace officer of any law enforcement agency within this state is liable in compensatory damages in any civil action that arises under the Revised Code or common law of this state for an injury, death, or loss to person or property caused in the performance of official duties under this section and rules adopted under this section, unless the officer's actions were manifestly outside the scope of the officer's employment or official responsibilities, or unless the officer acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(2) Except for civil actions that arise out of the operation of a motor vehicle and civil actions in which the state is a plaintiff, no peace officer of any law enforcement agency within this state is liable in punitive or exemplary damages in any civil action that arises under the Revised Code or common law of this state for any injury, death, or loss to person or property caused in the performance of official duties under this section of the Revised Code and rules adopted under this section, unless the officer's actions were manifestly outside the scope of the officer's employment or official responsibilities, or unless the officer acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(K) When disqualifying a driver, the registrar shall cause the records of the bureau of motor vehicles to be updated to reflect the disqualification within ten days after it occurs.

(L) The registrar immediately shall notify a driver who is subject to disqualification of the disqualification, of the length of the disqualification, and that the driver may request a hearing within thirty days of the mailing of the notice to show cause why the driver should not be disqualified from operating a commercial motor vehicle. If a request for such a hearing is not made within thirty days of the mailing of the notice, the order of disqualification is final. The registrar may designate hearing examiners who, after affording all parties reasonable notice, shall conduct a hearing to determine whether the disqualification order is supported by reliable evidence. The registrar shall adopt rules to implement this division.

(M) Any person who is disqualified from operating a commercial motor vehicle under this section may apply to the registrar for a driver's license to operate a motor vehicle other than a commercial motor vehicle, provided the person's commercial driver's license is not otherwise suspended. A person whose commercial driver's license is suspended shall not apply to the registrar for or receive a driver's license under Chapter 4507. of the Revised Code during the period of suspension.

(N) Whoever violates division (H) of this section is guilty of a

misdemeanor of the first degree.

Sec. 4510.01. As used in this title and in Title XXIX of the Revised Code:

(A) "Cancel" or "cancellation" means the annulment or termination by the bureau of motor vehicles of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege because it was obtained unlawfully, issued in error, altered, or willfully destroyed, or because the holder no longer is entitled to the license, permit, or privilege.

(B) "Drug abuse offense," ~~has~~ "cocaine," and "L.S.D." have the same ~~meaning~~ meanings as in section 2925.01 of the Revised Code.

(C) "Ignition interlock device" means a device approved by the director of public safety that connects a breath analyzer to a motor vehicle's ignition system, that is constantly available to monitor the concentration by weight of alcohol in the breath of any person attempting to start that motor vehicle by using its ignition system, and that deters starting the motor vehicle by use of its ignition system unless the person attempting to start the vehicle provides an appropriate breath sample for the device and the device determines that the concentration by weight of alcohol in the person's breath is below a preset level.

(D) "Immobilizing or disabling device" means a device approved by the director of public safety that may be ordered by a court to be used by an offender as a condition of limited driving privileges. "Immobilizing or disabling device" includes an ignition interlock device, and any prototype device that is used according to protocols designed to ensure efficient and effective monitoring of limited driving privileges granted by a court to an offender.

(E) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of section 4513.263 of the Revised Code or a substantially equivalent municipal ordinance, a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.

(F) "Municipal OVI ordinance" and "municipal OVI offense" have the same meanings as in section 4511.181 of the Revised Code.

(G) "Prototype device" means any testing device to monitor limited driving privileges that has not yet been approved or disapproved by the director of public safety.

(H) "Suspend" or "suspension" means the permanent or temporary

withdrawal, by action of a court or the bureau of motor vehicles, of a driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of the suspension or the permanent or temporary withdrawal of the privilege to obtain a license, permit, or privilege of that type for the period of the suspension.

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

Sec. 4510.011. As used in this chapter, "drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

Sec. 4510.032. (A) If a person is charged with a violation of section 4511.19 of the Revised Code or a violation of any municipal OVI ordinance; if that charge is dismissed or reduced; if the person is convicted of or forfeits bail in relation to a violation of any other section of the Revised Code or of any ordinance that regulates the operation of vehicles, streetcars, and trackless trolleys on highways and streets but that does not relate to operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine; and if the violation of which the person was convicted or in relation to which the person forfeited bail arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced, the abstract prepared under section 4510.03 of the Revised Code also shall set forth the charge that was dismissed or reduced, indicate that it was dismissed or reduced, and indicate that the violation resulting in the conviction or bail forfeiture arose out of the same facts and circumstances and the same act as did the charge that was dismissed or reduced.

(B) If a charge against a person of a violation of division (A) of section 4510.11, division (A) of section 4510.14, or division (A) of section 4510.16 of the Revised Code or any municipal ordinance that is substantially equivalent to any of those divisions is dismissed or reduced and if the person is convicted of or forfeits bail in relation to a violation of any other section of the Revised Code or any other ordinance that regulates the operation of vehicles, streetcars, and trackless trolleys on highways and streets that arose out of the same facts and circumstances as did the charge that was dismissed or reduced, the abstract also shall set forth the charge that was dismissed or reduced, indicate that it was dismissed or reduced, and indicate that the violation resulting in the conviction or bail forfeiture arose out of the same facts and circumstances and the same act as did the charge that was

dismissed or reduced.

(C)(1) If a child has been adjudicated an unruly or delinquent child or a juvenile traffic offender for having committed any act that if committed by an adult would be a drug abuse offense or any violation of division (B) of section 2917.11 or of section 4511.19 of the Revised Code, the court shall notify the bureau, by means of an abstract of the court record as described in divisions (B) and (C) of section 4510.03 of the Revised Code, within ten days after the adjudication.

(2) If a court requires a child to attend a drug abuse or alcohol abuse education, intervention, or treatment program, the abstract required by division (C)(1) of this section and forwarded to the bureau also shall include the name and address of the operator of the program and the date that the child entered the program. If the child satisfactorily completes the program, the court, immediately upon receipt of the information, shall send to the bureau an updated abstract that also shall contain the date on which the child satisfactorily completed the program.

Sec. 4510.036. (A) The bureau of motor vehicles shall record within ten days, after receipt, and shall keep at its main office, all abstracts received under this section or section 4510.03, 4510.031, 4510.032, or 4510.034 of the Revised Code and shall maintain records of convictions and bond forfeitures for any violation of a state law or a municipal ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways and streets, except a violation related to parking a motor vehicle.

(B) Every court of record or mayor's court before which a person is charged with a violation for which points are chargeable by this section shall assess and transcribe to the abstract of conviction that is furnished by the bureau to the court the number of points chargeable by this section in the correct space assigned on the reporting form. A United States district court that has jurisdiction within this state and before which a person is charged with a violation for which points are chargeable by this section may assess and transcribe to the abstract of conviction report that is furnished by the bureau the number of points chargeable by this section in the correct space assigned on the reporting form. If the federal court so assesses and transcribes the points chargeable for the offense and furnishes the report to the bureau, the bureau shall record the points in the same manner as those assessed and transcribed by a court of record or mayor's court.

(C) A court shall assess the following points for an offense based on the following formula:

(1) Aggravated vehicular homicide, vehicular homicide, vehicular manslaughter, aggravated vehicular assault, or vehicular assault when the

offense involves the operation of a vehicle, streetcar, or trackless trolley on a highway or street 6 points

(2) A violation of section 2921.331 of the Revised Code or any ordinance prohibiting the willful fleeing or eluding of a law enforcement officer 6 points

(3) A violation of section 4549.02 or 4549.021 of the Revised Code or any ordinance requiring the driver of a vehicle to stop and disclose identity at the scene of an accident 6 points

(4) A violation of section 4511.251 of the Revised Code or any ordinance prohibiting street racing 6 points

(5) A violation of section 4510.11, 4510.14, 4510.16, or 4510.21 of the Revised Code or any ordinance prohibiting the operation of a motor vehicle while the driver's or commercial driver's license is under suspension 6 points

(6) A violation of division (A) of section 4511.19 of the Revised Code, any ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them, or any ordinance substantially equivalent to division (A) of section 4511.19 of the Revised Code prohibiting the operation of a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine 6 points

(7) A violation of section 2913.03 of the Revised Code that does not involve an aircraft or motorboat or any ordinance prohibiting the operation of a vehicle without the consent of the owner 6 points

(8) Any offense under the motor vehicle laws of this state that is a felony, or any other felony in the commission of which a motor vehicle was used 6 points

(9) A violation of division (B) of section 4511.19 of the Revised Code or any ordinance substantially equivalent to that division prohibiting the operation of a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine 4 points

(10) A violation of section 4511.20 of the Revised Code or any ordinance prohibiting the operation of a motor vehicle in willful or wanton disregard of the safety of persons or property 4 points

(11) A violation of any law or ordinance pertaining to speed:

(a) Notwithstanding divisions (C)(11)(b) and (c) of this section, when the speed exceeds the lawful speed limit by thirty miles per hour or more 4 points

(b) When the speed exceeds the lawful speed limit of fifty-five miles per

hour or more by more than ten miles per hour 2 points

(c) When the speed exceeds the lawful speed limit of less than fifty-five miles per hour by more than five miles per hour 2 points

(d) When the speed does not exceed the amounts set forth in divisions (C)(11)(a), (b), or (c) of this section 0 points

(12) Operating a motor vehicle in violation of a restriction imposed by the registrar 2 points

(13) All other moving violations reported under this section 2 points

(D) Upon receiving notification from the proper court, including a United States district court that has jurisdiction within this state, the bureau shall delete any points entered for a bond forfeiture if the driver is acquitted of the offense for which bond was posted.

(E) If a person is convicted of or forfeits bail for two or more offenses arising out of the same facts and points are chargeable for each of the offenses, points shall be charged for only the conviction or bond forfeiture for which the greater number of points is chargeable, and, if the number of points chargeable for each offense is equal, only one offense shall be recorded, and points shall be charged only for that offense.

Sec. 4510.17. (A) The registrar of motor vehicles shall impose a class D suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code on any person who is a resident of this state and is convicted of or pleads guilty to a violation of a statute of any other state or any federal statute that is substantially similar to section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code. Upon receipt of a report from a court, court clerk, or other official of any other state or from any federal authority that a resident of this state was convicted of or pleaded guilty to an offense described in this division, the registrar shall send a notice by regular first class mail to the person, at the person's last known address as shown in the records of the bureau of motor vehicles, informing the person of the suspension, that the suspension will take effect twenty-one days from the date of the notice, and that, if the person wishes to appeal the suspension or denial, the person must file a notice of appeal within twenty-one days of the date of the notice requesting a hearing on the matter. If the person requests a hearing, the registrar shall hold the hearing not more than forty days after receipt by the registrar of the notice of appeal. The filing of a notice of appeal does not

stay the operation of the suspension that must be imposed pursuant to this division. The scope of the hearing shall be limited to whether the person actually was convicted of or pleaded guilty to the offense for which the suspension is to be imposed.

The suspension the registrar is required to impose under this division shall end either on the last day of the class D suspension period or of the suspension of the person's nonresident operating privilege imposed by the state or federal court, whichever is earlier.

The registrar shall subscribe to or otherwise participate in any information system or register, or enter into reciprocal and mutual agreements with other states and federal authorities, in order to facilitate the exchange of information with other states and the United States government regarding persons who plead guilty to or are convicted of offenses described in this division and therefore are subject to the suspension or denial described in this division.

(B) The registrar shall impose a class D suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code on any person who is a resident of this state and is convicted of or pleads guilty to a violation of a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to section 4511.19 of the Revised Code. Upon receipt of a report from another state made pursuant to section 4510.61 of the Revised Code indicating that a resident of this state was convicted of or pleaded guilty to an offense described in this division, the registrar shall send a notice by regular first class mail to the person, at the person's last known address as shown in the records of the bureau of motor vehicles, informing the person of the suspension, that the suspension or denial will take effect twenty-one days from the date of the notice, and that, if the person wishes to appeal the suspension, the person must file a notice of appeal within twenty-one days of the date of the notice requesting a hearing on the matter. If the person requests a hearing, the registrar shall hold the hearing not more than forty days after receipt by the registrar of the notice of appeal. The filing of a notice of appeal does not stay the operation of the suspension that must be imposed pursuant to this division. The scope of the hearing shall be limited to whether the person actually was convicted of or pleaded guilty to the offense for which the suspension is to be imposed.

The suspension the registrar is required to impose under this division shall end either on the last day of the class D suspension period or of the

suspension of the person's nonresident operating privilege imposed by the state or federal court, whichever is earlier.

(C) The registrar shall impose a class D suspension of the child's driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code on any child who is a resident of this state and is convicted of or pleads guilty to a violation of a statute of any other state or any federal statute that is substantially similar to section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.14, 2925.22, 2925.23, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code. Upon receipt of a report from a court, court clerk, or other official of any other state or from any federal authority that a child who is a resident of this state was convicted of or pleaded guilty to an offense described in this division, the registrar shall send a notice by regular first class mail to the child, at the child's last known address as shown in the records of the bureau of motor vehicles, informing the child of the suspension, that the suspension or denial will take effect twenty-one days from the date of the notice, and that, if the child wishes to appeal the suspension, the child must file a notice of appeal within twenty-one days of the date of the notice requesting a hearing on the matter. If the child requests a hearing, the registrar shall hold the hearing not more than forty days after receipt by the registrar of the notice of appeal. The filing of a notice of appeal does not stay the operation of the suspension that must be imposed pursuant to this division. The scope of the hearing shall be limited to whether the child actually was convicted of or pleaded guilty to the offense for which the suspension is to be imposed.

The suspension the registrar is required to impose under this division shall end either on the last day of the class D suspension period or of the suspension of the child's nonresident operating privilege imposed by the state or federal court, whichever is earlier. If the child is a resident of this state who is sixteen years of age or older and does not have a current, valid Ohio driver's or commercial driver's license or permit, the notice shall inform the child that the child will be denied issuance of a driver's or commercial driver's license or permit for six months beginning on the date of the notice. If the child has not attained the age of sixteen years on the date of the notice, the notice shall inform the child that the period of denial of six months shall commence on the date the child attains the age of sixteen years.

The registrar shall subscribe to or otherwise participate in any information system or register, or enter into reciprocal and mutual

agreements with other states and federal authorities, in order to facilitate the exchange of information with other states and the United States government regarding children who are residents of this state and plead guilty to or are convicted of offenses described in this division and therefore are subject to the suspension or denial described in this division.

(D) The registrar shall impose a class D suspension of the child's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for the period of time specified in division (B)(4) of section 4510.02 of the Revised Code on any child who is a resident of this state and is convicted of or pleads guilty to a violation of a statute of any other state or a municipal ordinance of a municipal corporation located in any other state that is substantially similar to section 4511.19 of the Revised Code. Upon receipt of a report from another state made pursuant to section 4510.61 of the Revised Code indicating that a child who is a resident of this state was convicted of or pleaded guilty to an offense described in this division, the registrar shall send a notice by regular first class mail to the child, at the child's last known address as shown in the records of the bureau of motor vehicles, informing the child of the suspension, that the suspension will take effect twenty-one days from the date of the notice, and that, if the child wishes to appeal the suspension, the child must file a notice of appeal within twenty-one days of the date of the notice requesting a hearing on the matter. If the child requests a hearing, the registrar shall hold the hearing not more than forty days after receipt by the registrar of the notice of appeal. The filing of a notice of appeal does not stay the operation of the suspension that must be imposed pursuant to this division. The scope of the hearing shall be limited to whether the child actually was convicted of or pleaded guilty to the offense for which the suspension is to be imposed.

The suspension the registrar is required to impose under this division shall end either on the last day of the class D suspension period or of the suspension of the child's nonresident operating privilege imposed by the state or federal court, whichever is earlier. If the child is a resident of this state who is sixteen years of age or older and does not have a current, valid Ohio driver's or commercial driver's license or permit, the notice shall inform the child that the child will be denied issuance of a driver's or commercial driver's license or permit for six months beginning on the date of the notice. If the child has not attained the age of sixteen years on the date of the notice, the notice shall inform the child that the period of denial of six months shall commence on the date the child attains the age of sixteen years.

(E) Any person whose license or permit has been suspended pursuant to this section may file a petition in the municipal or county court, or in case the person is under eighteen years of age, the juvenile court, in whose jurisdiction the person resides, agreeing to pay the cost of the proceedings and alleging that the suspension would seriously affect the person's ability to continue the person's employment. Upon satisfactory proof that there is reasonable cause to believe that the suspension would seriously affect the person's ability to continue the person's employment, the judge may grant the person limited driving privileges during the period during which the suspension otherwise would be imposed, except that the judge shall not grant limited driving privileges for employment as a driver of a commercial motor vehicle to any person who would be disqualified from operating a commercial motor vehicle under section 4506.16 of the Revised Code if the violation had occurred in this state, or during any of the following periods of time:

(1) The first fifteen days of a suspension under division (B) or (D) of this section, if the person has not been convicted within six years of the date of the offense giving rise to the suspension under this section of a violation of any of the following:

(a) Section 4511.19 of the Revised Code, or a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse;

(b) A municipal ordinance relating to operating a motor vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine;

(c) Section 2903.04 of the Revised Code in a case in which the person was subject to the sanctions described in division (D) of that section;

(d) Division (A)(1) of section 2903.06 or division (A)(1) of section 2903.08 of the Revised Code or a municipal ordinance that is substantially similar to either of those divisions;

(e) Division (A)(2), (3), or (4) of section 2903.06, division (A)(2) of section 2903.08, or as it existed prior to March 23, 2000, section 2903.07 of the Revised Code, or a municipal ordinance that is substantially similar to any of those divisions or that former section, in a case in which the jury or judge found that the person was under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse.

(2) The first thirty days of a suspension under division (B) or (D) of this section, if the person has been convicted one time within six years of the date of the offense giving rise to the suspension under this section of any

violation identified in division (E)(1) of this section.

(3) The first one hundred eighty days of a suspension under division (B) or (D) of this section, if the person has been convicted two times within six years of the date of the offense giving rise to the suspension under this section of any violation identified in division (E)(1) of this section.

(4) No limited driving privileges may be granted if the person has been convicted three or more times within five years of the date of the offense giving rise to a suspension under division (B) or (D) of this section of any violation identified in division (E)(1) of this section.

If a person petitions for limited driving privileges under division (E) of this section, the registrar shall be represented by the county prosecutor of the county in which the person resides if the petition is filed in a juvenile court or county court, except that if the person resides within a city or village that is located within the jurisdiction of the county in which the petition is filed, the city director of law or village solicitor of that city or village shall represent the registrar. If the petition is filed in a municipal court, the registrar shall be represented as provided in section 1901.34 of the Revised Code.

In granting limited driving privileges under division (E) of this section, the court may impose any condition it considers reasonable and necessary to limit the use of a vehicle by the person. The court shall deliver to the person a permit card, in a form to be prescribed by the court, setting forth the time, place, and other conditions limiting the person's use of a motor vehicle. The grant of limited driving privileges shall be conditioned upon the person's having the permit in the person's possession at all times during which the person is operating a vehicle.

A person granted limited driving privileges who operates a vehicle for other than limited purposes, in violation of any condition imposed by the court or without having the permit in the person's possession, is guilty of a violation of section 4510.11 of the Revised Code.

(F) As used in divisions (C) and (D) of this section:

(1) "Child" means a person who is under the age of eighteen years, except that any person who violates a statute or ordinance described in division (C) or (D) of this section prior to attaining eighteen years of age shall be deemed a "child" irrespective of the person's age at the time the complaint or other equivalent document is filed in the other state or a hearing, trial, or other proceeding is held in the other state on the complaint or other equivalent document, and irrespective of the person's age when the period of license suspension or denial prescribed in division (C) or (D) of this section is imposed.

(2) "Is convicted of or pleads guilty to" means, as it relates to a child who is a resident of this state, that in a proceeding conducted in a state or federal court located in another state for a violation of a statute or ordinance described in division (C) or (D) of this section, the result of the proceeding is any of the following:

(a) Under the laws that govern the proceedings of the court, the child is adjudicated to be or admits to being a delinquent child or a juvenile traffic offender for a violation described in division (C) or (D) of this section that would be a crime if committed by an adult;

(b) Under the laws that govern the proceedings of the court, the child is convicted of or pleads guilty to a violation described in division (C) or (D) of this section;

(c) Under the laws that govern the proceedings of the court, irrespective of the terminology utilized in those laws, the result of the court's proceedings is the functional equivalent of division (F)(2)(a) or (b) of this section.

Sec. 4510.54. (A) A person whose driver's or commercial driver's license has been suspended for life under a class one suspension or as otherwise provided by law or has been suspended for a period in excess of fifteen years under a class two suspension may file a motion with the sentencing court for modification or termination of the suspension. The person filing the motion shall demonstrate all of the following:

(1) At least fifteen years have elapsed since the suspension began.

(2) For the past fifteen years, the person has not been found guilty of any felony, any offense involving a moving violation under federal law, the law of this state, or the law of any of its political subdivisions, or any violation of a suspension under this chapter or a substantially equivalent municipal ordinance.

(3) The person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standard set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar of motor vehicles, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in that section.

(4) If the suspension was imposed because the person was under the influence of alcohol, a drug of abuse, or combination of them at the time of the offense or because at the time of the offense the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in

division (A)(1)(j) of section 4511.19 of the Revised Code, the person also shall demonstrate all of the following:

(a) The person successfully completed an alcohol, drug, or alcohol and drug treatment program.

(b) The person has not abused alcohol or other drugs for a period satisfactory to the court.

(c) For the past fifteen years, the person has not been found guilty of any alcohol-related or drug-related offense.

(B) Upon receipt of a motion for modification or termination of the suspension under this section, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but shall not grant the motion without a hearing. If the court denies a motion without a hearing, the court may consider a subsequent motion filed under this section by that person. If a court denies the motion after a hearing, the court shall not consider a subsequent motion for that person. The court shall hear only one motion filed by a person under this section. If scheduled, the hearing shall be conducted in open court within ninety days after the date on which the motion is filed.

(C) The court shall notify the person whose license was suspended and the prosecuting attorney of the date, time, and location of the hearing. Upon receipt of the notice from the court, the prosecuting attorney shall notify the victim or the victim's representative of the date, time, and location of the hearing.

(D) At any hearing under this section, the person who seeks modification or termination of the suspension has the burden to demonstrate, under oath, that the person meets the requirements of division (A) of this section. At the hearing, the court shall afford the offender or the offender's counsel an opportunity to present oral or written information relevant to the motion. The court shall afford a similar opportunity to provide relevant information to the prosecuting attorney and the victim or victim's representative.

Before ruling on the motion, the court shall take into account the person's driving record, the nature of the offense that led to the suspension, and the impact of the offense on any victim. In addition, if the offender is eligible for modification or termination of the suspension under division (A)(2) of this section, the court shall consider whether the person committed any other offense while under suspension and determine whether the offense is relevant to a determination under this section. The court may modify or terminate the suspension subject to any considerations it considers proper if it finds that allowing the person to drive is not likely to present a danger to

the public. After the court makes a ruling on a motion filed under this section, the prosecuting attorney shall notify the victim or the victim's representative of the court's ruling.

(E) If a court modifies a person's license suspension under this section and the person subsequently is found guilty of any moving violation or of any substantially equivalent municipal ordinance that carries as a possible penalty the suspension of a person's driver's or commercial driver's license, the court may reimpose the class one or other lifetime suspension, or the class two suspension, whichever is applicable.

Sec. 4511.181. As used in sections 4511.181 to 4511.197 of the Revised Code:

(A) "Equivalent offense" means any of the following:

(1) A violation of division (A) or (B) of section 4511.19 of the Revised Code;

(2) A violation of a municipal OVI ordinance;

(3) A violation of section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section;

(4) A violation of division (A)(1) of section 2903.06 or 2903.08 of the Revised Code or a municipal ordinance that is substantially equivalent to either of those divisions;

(5) A violation of division (A)(2), (3), or (4) of section 2903.06, division (A)(2) of section 2903.08, or former section 2903.07 of the Revised Code, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;

(6) A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of section 4511.19 of the Revised Code;

(7) A violation of a former law of this state that was substantially equivalent to division (A) or (B) of section 4511.19 of the Revised Code.

(B) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under division (G)(1)(a), (b), or (c) of section 4511.19 of the Revised Code upon an offender convicted of a violation of division (A) of that section and in relation to which all of the following apply:

(1) Except as specifically authorized under section 4511.19 of the Revised Code, the term must be served in a jail.

(2) Except as specifically authorized under section 4511.19 of the

Revised Code, the term cannot be suspended, reduced, or otherwise modified pursuant to sections 2929.21 to 2929.28 or any other provision of the Revised Code.

(C) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(D) "Community residential sanction," "jail," "mandatory prison term," "mandatory term of local incarceration," "sanction," and "prison term" have the same meanings as in section 2929.01 of the Revised Code.

(E) "Drug of abuse" has the same meaning as in section 4506.01 of the Revised Code.

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

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

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

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

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

(e) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

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

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

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

breath.

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

(j) Except as provided in division (K) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:

(i) The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.

(ii) The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.

(iii) The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.

(iv) The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.

(v) The person has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.

(vi) The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or

plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.

(vii) The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.

(viii) Either of the following applies:

(I) The person is under the influence of alcohol, a drug of abuse, or a combination of them, and, as measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(II) As measured by gas chromatography mass spectrometry, the person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(ix) The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

(x) The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

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

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

them;

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

(B) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this state, if, at the time of the operation, any of the following apply:

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

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

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

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

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

(D)(1) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within ~~two~~ three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (A) of section 4511.192 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

When a person submits to a blood test at the request of a law

enforcement officer under section 4511.191 of the Revised Code, only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or alcohol and drug combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn shall be analyzed in accordance with methods approved by the director of health by an individual possessing a valid permit issued by the director pursuant to section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (A) of this section or for an equivalent offense, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in divisions (A)(1)(b), (c), (d), and (e) of this section or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of division (A)(1)(j) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (B) of this section or for an equivalent offense that is substantially equivalent to that division.

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

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

(4)(a) As used in divisions (D)(4)(b) and (c) of this section, "national

highway traffic safety administration" means the national highway traffic safety administration established as an administration of the United States department of transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

(b) In any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the blood, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

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

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

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

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

(E)(1) Subject to division (E)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (A)(1)(b), (c), (d), (e), (f), (g), (h), ~~or (i), or (j)~~ or (B)(1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any ~~forensic~~ certified personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the

whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

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

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

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

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

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (E)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.

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

(F) Except as otherwise provided in this division, any physician, registered nurse, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the

person. The immunity provided in this division is not available to a person who withdraws blood if the person engages in willful or wanton misconduct.

(G)(1) Whoever violates any provision of divisions (A)(1)(a) to (i) or (A)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates division (A)(1)(j) of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Chapter 2929. of the Revised Code, except as otherwise authorized or required by divisions (G)(1)(a) to (e) of this section:

(a) Except as otherwise provided in division (G)(1)(b), (c), (d), or (e) of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

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

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

offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

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

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

(iii) In all cases, a fine of not less than two hundred fifty and not more than one thousand dollars;

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

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

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), ~~or~~ (e), or (j) of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term

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

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

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

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

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

(iv) In all cases, a class four license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit,

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

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

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

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

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

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

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

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

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

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

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), ~~or (e)~~, or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of sixty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the sixty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall

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

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of one hundred twenty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the one hundred twenty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

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

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

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

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

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

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

(i) If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), ~~or (e)~~, or (j) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or a mandatory prison term of sixty consecutive days in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender is not convicted of and does not plead guilty to a specification of that type. The court may impose a prison term in addition to the mandatory prison term. The cumulative total of a sixty-day mandatory prison term and the additional prison term for the offense shall not exceed five years. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or a mandatory prison term of one

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

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

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

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

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

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

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

monitoring, or with both electronic monitoring and continuous alcohol monitoring.

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

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

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

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

monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

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

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

(a) Twenty-five dollars of the fine imposed under division (G)(1)(a)(iii), thirty-five dollars of the fine imposed under division (G)(1)(b)(iii), one hundred twenty-three dollars of the fine imposed under division (G)(1)(c)(iii), and two hundred ten dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to an enforcement and education fund established by the legislative authority of the law enforcement agency in this state that primarily was responsible for the arrest of the offender, as determined by the court that imposes the fine. The agency shall use this share to pay only those costs it incurs in enforcing this section or a municipal OVI ordinance and in informing the public of the laws governing the operation of a vehicle while under the influence of alcohol, the dangers of the operation of a vehicle under the influence of alcohol, and other information relating to the operation of a vehicle under the influence of alcohol and the consumption of alcoholic beverages.

(b) Fifty dollars of the fine imposed under division (G)(1)(a)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. If the offender is being sentenced for a violation of division (A)(1)(a), (b), (c), (d), ~~or (e)~~, or (j) of this section and was confined as a result of the offense prior to being sentenced for the offense but is not sentenced to a term of incarceration, the fifty dollars shall be paid to the political subdivision that paid the cost of housing the offender during that period of confinement. The political subdivision shall use the share under this division to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and

alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs of any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

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

(d) One hundred fifteen dollars of the fine imposed under division (G)(1)(b)(iii), two hundred seventy-seven dollars of the fine imposed under division (G)(1)(c)(iii), and four hundred forty dollars of the fine imposed under division (G)(1)(d)(iii) or (e)(iii) of this section shall be paid to the political subdivision that pays the cost of housing the offender during the offender's term of incarceration. The political subdivision shall use this share to pay or reimburse incarceration or treatment costs it incurs in housing or providing drug and alcohol treatment to persons who violate this section or a municipal OVI ordinance, costs for any immobilizing or disabling device used on the offender's vehicle, and costs of electronic house arrest equipment needed for persons who violate this section.

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

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

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

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

(1) Except as otherwise provided in division (H)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any

other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of section 4510.02 of the Revised Code.

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

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

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

(2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

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

(K) Division (A)(1)(j) of this section does not apply to a person who operates a vehicle, streetcar, or trackless trolley while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that division, if both of

the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(L) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in division (A)(1)(j) of this section also apply in a prosecution of a violation of division (D) of section 2923.16 of the Revised Code in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(M) All terms defined in section 4510.01 of the Revised Code apply to this section. If the meaning of a term defined in section 4510.01 of the Revised Code conflicts with the meaning of the same term as defined in section 4501.01 or 4511.01 of the Revised Code, the term as defined in section 4510.01 of the Revised Code applies to this section.

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

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

Sec. 4511.191. (A)(1) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or alcohol and drug combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical

control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (F)(1) to (4) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section

4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless

trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the bureau of motor vehicles of a license reinstatement fee of four hundred twenty-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The fund shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and

3793.10 of the Revised Code. The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an electronic continuous alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund

shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the bureau, only one reinstatement fee of four hundred twenty-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification

under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) If the suspension in question was imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) If the suspension in question was imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers

alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the continued use of an electronic continuous alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring of the device.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense

with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing electronic continuous alcohol monitoring devices to be used in conjunction with division (H)(3) of this section.

Sec. 4511.192. (A) The arresting law enforcement officer shall give advice in accordance with this section to any person under arrest for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance. The officer shall give that advice in a written form that contains the information described in division (B) of this section and shall read the advice to the person. The form shall contain a statement that the form was shown to the person under arrest and read to the person by the arresting officer. One or more persons shall witness the arresting officer's reading of the form, and the witnesses shall certify to this fact by signing the form. The person must submit to the chemical test or tests, subsequent to the request of the arresting officer, within two hours of the time of the alleged violation and, if the person does not submit to the test or tests within that two-hour time limit, the failure to submit automatically constitutes a refusal to submit to the test or tests.

(B) If a person is under arrest as described in division (A) of this section, before the person may be requested to submit to a chemical test or tests to determine the alcohol ~~and~~ drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine, the arresting officer shall read the following form to the person:

"You now are under arrest for (specifically state the offense under state law or a substantially equivalent municipal ordinance for which the person was arrested - operating a vehicle under the influence of alcohol, a drug, or a combination of them; operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance; operating a vehicle after underage alcohol consumption; or having physical control of a vehicle while under the influence).

If you refuse to take any chemical test required by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated. If you have a prior ~~OVI or OVUAC~~ conviction of OVI, OVUAC, or operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a

controlled substance under state or municipal law within the preceding twenty years, you now are under arrest for state OVI, and, if you refuse to take a chemical test, you will face increased penalties if you subsequently are convicted of the state OVI.

(Read this part unless the person is under arrest for solely having physical control of a vehicle while under the influence.) If you take any chemical test required by law and are found to be at or over the prohibited amount of alcohol, a controlled substance, or a metabolite of a controlled substance in your whole blood, blood serum or plasma, breath, or urine as set by law, your Ohio driving privileges will be suspended immediately, and you will have to pay a fee to have the privileges reinstated.

If you take a chemical test, you may have an independent chemical test taken at your own expense."

(C) If the arresting law enforcement officer does not ask a person under arrest as described in division (A) of this section to submit to a chemical test or tests under section 4511.191 of the Revised Code, the arresting officer shall seize the Ohio or out-of-state driver's or commercial driver's license or permit of the person and immediately forward it to the court in which the arrested person is to appear on the charge. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the arrest, and, upon the surrender, the agency immediately shall forward the license or permit to the court in which the person is to appear on the charge. Upon receipt of the license or permit, the court shall retain it pending the arrested person's initial appearance and any action taken under section 4511.196 of the Revised Code.

(D)(1) If a law enforcement officer asks a person under arrest as described in division (A) of this section to submit to a chemical test or tests under section 4511.191 of the Revised Code, if the officer advises the person in accordance with this section of the consequences of the person's refusal or submission, and if either the person refuses to submit to the test or tests or, unless the arrest was for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, the person submits to the test or tests and the test results indicate a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense, the arresting officer shall do all of the following:

(a) On behalf of the registrar of motor vehicles, notify the person that,

independent of any penalties or sanctions imposed upon the person, the person's Ohio driver's or commercial driver's license or permit or nonresident operating privilege is suspended immediately, that the suspension will last at least until the person's initial appearance on the charge, which will be held within five days after the date of the person's arrest or the issuance of a citation to the person, and that the person may appeal the suspension at the initial appearance or during the period of time ending thirty days after that initial appearance;

(b) Seize the driver's or commercial driver's license or permit of the person and immediately forward it to the registrar. If the arrested person is not in possession of the person's license or permit or it is not in the person's vehicle, the officer shall order the person to surrender it to the law enforcement agency that employs the officer within twenty-four hours after the person is given notice of the suspension, and, upon the surrender, the officer's employing agency immediately shall forward the license or permit to the registrar.

(c) Verify the person's current residence and, if it differs from that on the person's driver's or commercial driver's license or permit, notify the registrar of the change;

(d) Send to the registrar, within forty-eight hours after the arrest of the person, a sworn report that includes all of the following statements:

(i) That the officer had reasonable grounds to believe that, at the time of the arrest, the arrested person was operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance or for being in physical control of a stationary vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance;

(ii) That the person was arrested and charged with a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance;

(iii) That the officer asked the person to take the designated chemical test or tests, advised the person in accordance with this section of the consequences of submitting to, or refusing to take, the test or tests, and gave the person the form described in division (B) of this section;

(iv) That either the person refused to submit to the chemical test or tests or, unless the arrest was for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, the person submitted to the chemical test or tests and the test results indicate a

prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the person's whole blood, blood serum or plasma, breath, or urine at the time of the alleged offense.

(2) Division (D)(1) of this section does not apply to a person who is arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, who is asked by a law enforcement officer to submit to a chemical test or tests under section 4511.191 of the Revised Code, and who submits to the test or tests, regardless of the amount of alcohol, a controlled substance, or a metabolite of a controlled substance that the test results indicate is present in the person's whole blood, blood serum or plasma, breath, or urine.

(E) The arresting officer shall give the officer's sworn report that is completed under this section to the arrested person at the time of the arrest, or the registrar of motor vehicles shall send the report to the person by regular first class mail as soon as possible after receipt of the report, but not later than fourteen days after receipt of it. An arresting officer may give an unsworn report to the arrested person at the time of the arrest provided the report is complete when given to the arrested person and subsequently is sworn to by the arresting officer. As soon as possible, but not later than forty-eight hours after the arrest of the person, the arresting officer shall send a copy of the sworn report to the court in which the arrested person is to appear on the charge for which the person was arrested.

(F) The sworn report of an arresting officer completed under this section is prima-facie proof of the information and statements that it contains. It shall be admitted and considered as prima-facie proof of the information and statements that it contains in any appeal under section 4511.197 of the Revised Code relative to any suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege that results from the arrest covered by the report.

Sec. 4511.194. (A) As used in this section:

(1) "National highway traffic safety administration" has the same meaning as in section 4511.19 of the Revised Code.

(2) "Physical control" means being in the driver's position of the front seat of a vehicle or in the driver's position of a streetcar or trackless trolley and having possession of the vehicle's, streetcar's, or trackless trolley's ignition key or other ignition device.

(B) No person shall be in physical control of a vehicle, streetcar, or trackless trolley ~~while~~ if, at the time of the physical control, any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse, or a

combination of them ~~or while the~~.

(2) The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code.

(3) Except as provided in division (E) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in division (A)(1)(j) of section 4511.19 of the Revised Code.

(C)(1) In any criminal prosecution or juvenile court proceeding for a violation of this section or a substantially equivalent municipal ordinance, if a law enforcement officer has administered a field sobriety test to the person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

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

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

(c) If testimony is presented or evidence is introduced under division (C)(1)(a) or (b) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

(2) Division (C)(1) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (C)(1) of this section.

(D) Whoever violates this section is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident

operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(E) Division (B)(3) of this section does not apply to a person who is in physical control of a vehicle, streetcar, or trackless trolley while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in division (A)(1)(j) of section 4511.19 of the Revised Code, if both of the following apply:

(1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.

(2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

Sec. 4766.15. (A) An applicant for employment as an ambulette driver with an organization licensed pursuant to this chapter shall submit proof to the organization of, or give consent to the employer to obtain, all of the following:

(1)(a) A valid driver's license issued pursuant to Chapter 4506. or 4507. of the Revised Code, or its equivalent, if the applicant is a resident of another state;

(b) A recent certified abstract of the applicant's record of convictions for violations of motor vehicle laws provided by the registrar of motor vehicles pursuant to section 4509.05 of the Revised Code, or its equivalent, if the applicant is a resident of another state.

(2)(a) A certificate of completion of a course in first aid techniques offered by the American red cross or an equivalent organization;

(b) A certificate of completion of a course in cardiopulmonary resuscitation, or its equivalent, offered by an organization approved by the Ohio medical transportation board.

(3) The result of a chemical test or tests of the applicant's blood, breath, or urine conducted at a hospital or other institution approved by the board for the purpose of determining the alcohol ~~or~~ drug of abuse, controlled substance, or metabolite of a controlled substance content of the applicant's whole blood, blood serum or plasma, breath, or urine;

(4) The result of a criminal records check conducted by the bureau of criminal identification and investigation.

(B) An organization may employ an applicant on a temporary provisional basis pending the completion of all of the requirements of this section. The length of the provisional period shall be determined by the board.

(C) An organization licensed pursuant to this chapter shall use information received pursuant to this section to determine in accordance with rules adopted by the Ohio medical transportation board under section 4766.03 of the Revised Code whether an applicant is disqualified for employment.

No applicant shall be accepted for permanent employment as an ambulette driver by an organization licensed pursuant to this chapter until all of the requirements of division (A) of this section have been met.

SECTION 2. That existing sections 1547.01, 1547.11, 1547.111, 1547.99, 1905.01, 1905.03, 1905.05, 1905.201, 2317.02, 2317.022, 2317.422, 2743.51, 2919.22, 2937.46, 2951.02, 3701.143, 3937.41, 4506.17, 4510.01, 4510.032, 4510.036, 4510.17, 4510.54, 4511.181, 4511.19, 4511.191, 4511.192, 4511.194, and 4766.15 of the Revised Code are hereby repealed.

SECTION 3. Section 4510.54 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 52 and Am. Sub. H.B. 163 of the 125th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. S. B. No. 8

115

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____