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Senator Schaffer

Cosponsors: Senators Coughlin, Austria, Cates, Clancy, Faber, Gardner, Grendell, Padgett, Fedor, Harris, Mason, Miller, R., Mumper, Spada, Wilson

Representatives Sears, Dyer, Adams, Bacon, Blessing, Bolon, Collier, Combs, Daniels, DeBose, Dolan, Domenick, Evans, Flowers, Gardner, Gibbs, Hagan, J., Heard, Heydinger, Hottinger, Hughes, Jones, Letson, Lundy, Mallory, Mandel, McGregor, J., Mecklenborg, Patton, Raussen, Schindel, Schlichter, Schneider, Setzer, Slesnick, Stebelton, Szollosi, Uecker,

Wachtmann, Zehringer

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A B I L L

To amend sections 2907.07, 2907.21, 2907.40, and	1
2929.13 of the Revised Code to provide mandatory	2
minimum prison terms for persons who plead guilty	3
to or are convicted of importuning, to modify the	4
definition of "adult cabaret" as used in	5
connection with the operation of a sexually	6
oriented business, and to apply the offense of	7
compelling prostitution to an offender who	8
believes the person solicited is a minor.	9

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

Section 1. That sections 2907.07, 2907.21, 2907.40, and	10
2929.13 of the Revised Code be amended to read as follows:	11
Sec. 2907.07. (A) No person shall solicit a person who is	12

less than thirteen years of age to engage in sexual activity with the offender, whether or not the offender knows the age of such person.	13 14 15
(B) No person shall solicit another, not the spouse of the offender, to engage in sexual conduct with the offender, when the offender is eighteen years of age or older and four or more years older than the other person, and the other person is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of the other person.	16 17 18 19 20 21
(C) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:	22 23 24 25 26
(1) The other person is less than thirteen years of age, and the offender knows that the other person is less than thirteen years of age or is reckless in that regard.	27 28 29
(2) The other person is a law enforcement officer posing as a person who is less than thirteen years of age, and the offender believes that the other person is less than thirteen years of age or is reckless in that regard.	30 31 32 33
(D) No person shall solicit another by means of a telecommunications device, as defined in section 2913.01 of the Revised Code, to engage in sexual activity with the offender when the offender is eighteen years of age or older and either of the following applies:	34 35 36 37 38
(1) The other person is thirteen years of age or older but less than sixteen years of age, the offender knows that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the other person.	39 40 41 42 43

(2) The other person is a law enforcement officer posing as a person who is thirteen years of age or older but less than sixteen years of age, the offender believes that the other person is thirteen years of age or older but less than sixteen years of age or is reckless in that regard, and the offender is four or more years older than the age the law enforcement officer assumes in posing as the person who is thirteen years of age or older but less than sixteen years of age.	44 45 46 47 48 49 50 51
(E) Divisions (C) and (D) of this section apply to any solicitation that is contained in a transmission via a telecommunications device that either originates in this state or is received in this state.	52 53 54 55
(F)(1) Whoever violates this section is guilty of importuning. A	56 57
(2) <u>Except as otherwise provided in this division, a violation of division (A) or (C) of this section is a felony of the third degree on a first offense, and a felony of the second degree on each subsequent offense. Notwithstanding, notwithstanding</u> division (C) of section 2929.13 of the Revised Code, there is a presumption that a prison term shall be imposed for a violation of division (A) or (C) of this section as described in division (D) of section 2929.13 of the Revised Code. <u>If the offender previously has been convicted of a sexually oriented offense or a child-victim oriented offense, a violation of division (A) or (C) of this section is a felony of the second degree, and the court shall impose upon the offender as a mandatory prison term one of the prison terms prescribed in section 2929.14 of the Revised Code for a felony of the second degree.</u>	58 59 60 61 62 63 64 65 66 67 68 69 70 71 72
(3) <u>A violation of division (B) or (D) of this section is a felony of the fifth degree on a first offense, and a felony of the fourth degree on each subsequent offense, notwithstanding division</u>	73 74 75

(B) of section 2929.13 of the Revised Code, there is a presumption 76
that a prison term shall be imposed as described in division (D) 77
of section 2929.13 of the Revised Code. If the offender previously 78
has been convicted of a sexually oriented offense or a 79
child-victim oriented offense, a violation of division (B) or (D) 80
of this section is a felony of the fourth degree, and the court 81
shall impose upon the offender as a mandatory prison term one of 82
the prison terms prescribed in section 2929.14 of the Revised Code 83
for a felony of the fourth degree that is not less than twelve 84
months in duration. 85

Sec. 2907.21. (A) No person shall knowingly do any of the 86
following: 87

(1) Compel another to engage in sexual activity for hire; 88
(2) Induce, procure, encourage, solicit, request, or 89
otherwise facilitate a either of the following: 90

(a) A minor to engage in sexual activity for hire, whether or 91
not the offender knows the age of the minor; 92

(b) A person the offender believes to be a minor to engage in 93
sexual activity for hire, whether or not the person is a minor. 94

(3)(a) Pay or agree to pay a minor, either directly or 95
through the minor's agent, so that the minor will engage in sexual 96
activity, whether or not the offender knows the age of the minor; 97

(b) Pay or agree to pay a person the offender believes to be 98
a minor, either directly or through the person's agent, so that 99
the person will engage in sexual activity, whether or not the 100
person is a minor. 101

(4)(a) Pay a minor, either directly or through the minor's 102
agent, for the minor having engaged in sexual activity, pursuant 103
to a prior agreement, whether or not the offender knows the age of 104
the minor; 105

<u>(b) Pay a person the offender believes to be a minor, either directly or through the person's agent, for the person having engaged in sexual activity pursuant to a prior agreement, whether or not the person is a minor.</u>	106
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<u>(5)(a) Allow a minor to engage in sexual activity for hire if the person allowing the child to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the minor;</u>	110
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<u>(b) Allow a person the offender believes to be a minor to engage in sexual activity for hire if the person allowing the person to engage in sexual activity for hire is the parent, guardian, custodian, person having custody or control, or person in loco parentis of the person the offender believes to be a minor, whether or not the person is a minor.</u>	114
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<u>(B) Whoever violates this section is guilty of compelling prostitution. Except as otherwise provided in this division, compelling prostitution is a felony of the third degree. If the offender commits a violation of division (A)(1) of this section and the person compelled to engage in sexual activity for hire in violation of that division is less than sixteen years of age, compelling prostitution is a felony of the second degree.</u>	120
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Sec. 2907.40. (A) As used in this section:	127
<u>(1) "Adult bookstore" or "adult video store" means a commercial establishment that has as a significant or substantial portion of its stock in trade or inventory in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes,</u>	128
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compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.	137 138 139
(2) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other similar commercial establishment, regardless of whether alcoholic beverages are served, that regularly features individuals who appear in a state of nudity or seminudity has the same meaning as in section 2907.39 of the Revised Code.	140 141 142 143 144 145
(3) "Adult motion picture theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions that are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas are regularly shown to more than five individuals for any form of consideration.	146 147 148 149 150 151
(4) "Characterized by" means describing the essential character or quality of an item.	152 153
(5) "Employee" means any individual who performs any service on the premises of a sexually oriented business on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.	154 155 156 157 158 159 160
(6) "Nudity," "nude," or "state of nudity" has the same meaning as in section 2907.39 of the Revised Code.	161 162
(7) "Operator" means any individual on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises.	163 164 165 166 167

(8) "Patron" means any individual on the premises of a sexually oriented business except for any of the following:	168 169
(a) An operator or an employee of the sexually oriented business;	170 171
(b) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;	172 173 174
(c) A public employee or a volunteer firefighter emergency medical services worker acting within the scope of the public employee's or volunteer's duties as a public employee or volunteer.	175 176 177 178
(9) "Premises" means the real property on which the sexually oriented business is located and all appurtenances to the real property, including, but not limited, to the sexually oriented business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the sexually oriented business.	179 180 181 182 183 184 185
(10) "Regularly" means consistently or repeatedly.	186
(11) "Seminude" or "state of seminudity" has the same meaning as in section 2907.39 of the Revised Code.	187 188
(12) "Sexual device" means any three-dimensional object designed and marketed for stimulation of the male or female human genitals or anus or female breasts or for sadomasochistic use or abuse of oneself or others, including, but not limited to, dildos, vibrators, penis pumps, and physical representations of the human genital organs, but not including devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.	189 190 191 192 193 194 195 196
(13) "Sexual device shop" means a commercial establishment	197

that regularly features sexual devices, but not including any 198
pharmacy, drug store, medical clinic, or establishment primarily 199
dedicated to providing medical or healthcare products or services, 200
and not including any commercial establishment that does not 201
restrict access to its premises by reason of age. 202

(14) "Sexual encounter center" means a business or commercial 203
enterprise that, as one of its principal business purposes, 204
purports to offer for any form of consideration physical contact 205
in the form of wrestling or tumbling between individuals of the 206
opposite sex when one or more of the individuals is nude or 207
seminude. 208

(15) "Sexually oriented business" means an adult bookstore, 209
adult video store, adult cabaret, adult motion picture theater, 210
sexual device shop, or sexual encounter center, but does not 211
include a business solely by reason of its showing, selling, or 212
renting materials that may depict sex. 213

(16) "Specified anatomical areas" includes human genitals, 214
pubic region, and buttocks and the human female breast below a 215
point immediately above the top of the areola. 216

(17) "Specified sexual activity" means sexual intercourse, 217
oral copulation, masturbation, or sodomy, or excretory functions 218
as a part of or in connection with any of these activities. 219

(B) No sexually oriented business shall be or remain open for 220
business between 12:00 midnight and 6:00 a.m. on any day, except 221
that a sexually oriented business that holds a liquor permit 222
pursuant to Chapter 4303. of the Revised Code may remain open 223
until the hour specified in that permit if it does not conduct, 224
offer, or allow sexually oriented entertainment activity in which 225
the performers appear nude. 226

(C)(1) No patron who is not a member of the employee's 227
immediate family shall knowingly touch any employee while that 228

employee is nude or seminude or touch the clothing of any employee while that employee is nude or seminude.	229 230
(2) No employee who regularly appears nude or seminude on the premises of a sexually oriented business, while on the premises of that sexually oriented business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.	231 232 233 234 235 236 237 238 239 240 241
(D) Whoever violates division (B) of this section is guilty of illegally operating a sexually oriented business, a misdemeanor of the first degree.	242 243 244
(E) Whoever violates division (C) of this section is guilty of illegal sexually oriented activity in a sexually oriented business. If the offender touches a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (C) of this section is a misdemeanor of the first degree. If the offender does not touch a specified anatomical area of the patron or employee, or the clothing covering a specified anatomical area, a violation of division (C) of this section is a misdemeanor of the fourth degree.	245 246 247 248 249 250 251 252 253 254
Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender	255 256 257 258 259

that are provided in sections 2929.14 to 2929.18 of the Revised
Code. The sentence shall not impose an unnecessary burden on state
or local government resources. 260
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If the offender is eligible to be sentenced to community
control sanctions, the court shall consider the appropriateness of
imposing a financial sanction pursuant to section 2929.18 of the
Revised Code or a sanction of community service pursuant to
section 2929.17 of the Revised Code as the sole sanction for the
offense. Except as otherwise provided in this division, if the
court is required to impose a mandatory prison term for the
offense for which sentence is being imposed, the court also may
impose a financial sanction pursuant to section 2929.18 of the
Revised Code but may not impose any additional sanction or
combination of sanctions under section 2929.16 or 2929.17 of the
Revised Code. 263
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If the offender is being sentenced for a fourth degree felony
OVI offense or for a third degree felony OVI offense, in addition
to the mandatory term of local incarceration or the mandatory
prison term required for the offense by division (G)(1) or (2) of
this section, the court shall impose upon the offender a mandatory
fine in accordance with division (B)(3) of section 2929.18 of the
Revised Code and may impose whichever of the following is
applicable: 275
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(1) For a fourth degree felony OVI offense for which sentence
is imposed under division (G)(1) of this section, an additional
community control sanction or combination of community control
sanctions under section 2929.16 or 2929.17 of the Revised Code. If
the court imposes upon the offender a community control sanction
and the offender violates any condition of the community control
sanction, the court may take any action prescribed in division (B)
of section 2929.15 of the Revised Code relative to the offender,
including imposing a prison term on the offender pursuant to that 283
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division.	292
(2) For a third or fourth degree felony OVI offense for which sentence is imposed under division (G)(2) of this section, an additional prison term as described in division (D)(4) of section 2929.14 of the Revised Code or a community control sanction as described in division (G)(2) of this section.	293 294 295 296 297
(B)(1) Except as provided in division (B)(2), (E), (F), or (G) of this section, in sentencing an offender for a felony of the fourth or fifth degree, the sentencing court shall determine whether any of the following apply:	298 299 300 301
(a) In committing the offense, the offender caused physical harm to a person.	302 303
(b) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.	304 305 306
(c) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously was convicted of an offense that caused physical harm to a person.	307 308 309 310
(d) The offender held a public office or position of trust and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.	311 312 313 314 315 316
(e) The offender committed the offense for hire or as part of an organized criminal activity.	317 318
(f) The offense is a sex offense that is a fourth or fifth degree felony violation of section 2907.03, 2907.04, 2907.05, 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the	319 320 321

Revised Code.	322
(g) The offender at the time of the offense was serving, or the offender previously had served, a prison term.	323 324
(h) The offender committed the offense while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance.	325 326 327
(i) The offender committed the offense while in possession of a firearm.	328 329
(2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a prison term is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code and finds that the offender is not amenable to an available community control sanction, the court shall impose a prison term upon the offender.	330 331 332 333 334 335 336 337
(b) Except as provided in division (E), (F), or (G) of this section, if the court does not make a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a community control sanction or combination of community control sanctions is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code, the court shall impose a community control sanction or combination of community control sanctions upon the offender.	338 339 340 341 342 343 344 345 346 347
(C) Except as provided in division (D), (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for	348 349 350 351 352

purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code. 353
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(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2907.05 of the Revised Code. 356
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(2) Notwithstanding the presumption established under division (D)(1) of this section for the offenses listed in that division other than a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings: 369
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(a) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors 380
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under that section indicating a greater likelihood of recidivism.	385
(b) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender's conduct was more serious than conduct normally constituting the offense.	386 387 388 389 390 391 392 393
(E)(1) Except as provided in division (F) of this section, for any drug offense that is a violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.	394 395 396 397 398 399 400 401 402 403
(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:	404 405 406 407 408 409
(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.	410 411 412 413 414
(b) The imprisonment of the offender for the violation is	415

consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code. 416
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(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, section 2929.142, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20 or 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses: 418
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(1) Aggravated murder when death is not imposed or murder; 428

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been guilty of a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and would be sentenced under section 2971.03 of the Revised Code; 429
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(3) Gross sexual imposition or sexual battery, if the victim is less than thirteen years of age and if any of the following applies: 435
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(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was less than thirteen years of age; 438
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(b) Regarding gross sexual imposition, the offense was committed on or after August 3, 2006, and evidence other than the testimony of the victim was admitted in the case corroborating the violation. 443
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(c) Regarding sexual battery, either of the following applies:	447
(i) The offense was committed prior to August 3, 2006, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.	448
(ii) The offense was committed on or after August 3, 2006.	449
(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, or 2903.13, or 2907.07 of the Revised Code if the section requires the imposition of a prison term;	450
(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;	451
(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;	452
(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:	453
(a) Aggravated murder, murder, involuntary manslaughter,	454
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rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;	478
(b) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed in division (F)(7)(a) of this section that resulted in the death of a person or in physical harm to a person.	483
(8) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (D)(1)(a) of section 2929.14 of the Revised Code for having the firearm;	488
(9) Any offense of violence that is a felony, if the offender wore or carried body armor while committing the felony offense of violence, with respect to the portion of the sentence imposed pursuant to division (D)(1)(d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;	494
(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;	499
(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;	503
(12) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that	506
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section, if the offender is an officer or employee of the department of rehabilitation and correction;	509 510
(13) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (D)(5) of section 2929.14 of the Revised Code;	511 512 513 514 515 516 517
(14) A violation of division (A)(1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, with respect to the portion of the sentence imposed pursuant to division (D)(6) of section 2929.14 of the Revised Code;	518 519 520 521 522 523 524 525 526
(15) Kidnapping, in the circumstances specified in section 2971.03 of the Revised Code and when no other provision of division (F) of this section applies.	527 528 529
(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OVI offense or for a third degree felony OVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:	530 531 532 533 534
(1) If the offender is being sentenced for a fourth degree felony OVI offense and if the offender has not been convicted of and has not pleaded guilty to a specification of the type described in section 2941.1413 of the Revised Code, the court may impose upon the offender a mandatory term of local incarceration	535 536 537 538 539

of sixty days or one hundred twenty days as specified in division 540
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 541
not reduce the term pursuant to section 2929.20, 2967.193, or any 542
other provision of the Revised Code. The court that imposes a 543
mandatory term of local incarceration under this division shall 544
specify whether the term is to be served in a jail, a 545
community-based correctional facility, a halfway house, or an 546
alternative residential facility, and the offender shall serve the 547
term in the type of facility specified by the court. A mandatory 548
term of local incarceration imposed under division (G)(1) of this 549
section is not subject to extension under section 2967.11 of the 550
Revised Code, to a period of post-release control under section 551
2967.28 of the Revised Code, or to any other Revised Code 552
provision that pertains to a prison term except as provided in 553
division (A)(1) of this section. 554

(2) If the offender is being sentenced for a third degree 555
felony OVI offense, or if the offender is being sentenced for a 556
fourth degree felony OVI offense and the court does not impose a 557
mandatory term of local incarceration under division (G)(1) of 558
this section, the court shall impose upon the offender a mandatory 559
prison term of one, two, three, four, or five years if the 560
offender also is convicted of or also pleads guilty to a 561
specification of the type described in section 2941.1413 of the 562
Revised Code or shall impose upon the offender a mandatory prison 563
term of sixty days or one hundred twenty days as specified in 564
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 565
if the offender has not been convicted of and has not pleaded 566
guilty to a specification of that type. The court shall not reduce 567
the term pursuant to section 2929.20, 2967.193, or any other 568
provision of the Revised Code. The offender shall serve the one-, 569
two-, three-, four-, or five-year mandatory prison term 570
consecutively to and prior to the prison term imposed for the 571
underlying offense and consecutively to any other mandatory prison 572

term imposed in relation to the offense. In no case shall an 573
offender who once has been sentenced to a mandatory term of local 574
incarceration pursuant to division (G)(1) of this section for a 575
fourth degree felony OVI offense be sentenced to another mandatory 576
term of local incarceration under that division for any violation 577
of division (A) of section 4511.19 of the Revised Code. In 578
addition to the mandatory prison term described in division (G)(2) 579
of this section, the court may sentence the offender to a 580
community control sanction under section 2929.16 or 2929.17 of the 581
Revised Code, but the offender shall serve the prison term prior 582
to serving the community control sanction. The department of 583
rehabilitation and correction may place an offender sentenced to a 584
mandatory prison term under this division in an intensive program 585
prison established pursuant to section 5120.033 of the Revised 586
Code if the department gave the sentencing judge prior notice of 587
its intent to place the offender in an intensive program prison 588
established under that section and if the judge did not notify the 589
department that the judge disapproved the placement. Upon the 590
establishment of the initial intensive program prison pursuant to 591
section 5120.033 of the Revised Code that is privately operated 592
and managed by a contractor pursuant to a contract entered into 593
under section 9.06 of the Revised Code, both of the following 594
apply: 595

(a) The department of rehabilitation and correction shall 596
make a reasonable effort to ensure that a sufficient number of 597
offenders sentenced to a mandatory prison term under this division 598
are placed in the privately operated and managed prison so that 599
the privately operated and managed prison has full occupancy. 600

(b) Unless the privately operated and managed prison has full 601
occupancy, the department of rehabilitation and correction shall 602
not place any offender sentenced to a mandatory prison term under 603
this division in any intensive program prison established pursuant 604

to section 5120.033 of the Revised Code other than the privately 605
operated and managed prison. 606

(H) If an offender is being sentenced for a sexually oriented 607
offense or child-victim oriented offense that is a felony 608
committed on or after January 1, 1997, the judge shall require the 609
offender to submit to a DNA specimen collection procedure pursuant 610
to section 2901.07 of the Revised Code. 611

(I) If an offender is being sentenced for a sexually oriented 612
offense or a child-victim oriented offense committed on or after 613
January 1, 1997, the judge shall include in the sentence a summary 614
of the offender's duties imposed under sections 2950.04, 2950.041, 615
2950.05, and 2950.06 of the Revised Code and the duration of the 616
duties. The judge shall inform the offender, at the time of 617
sentencing, of those duties and of their duration. If required 618
under division (A)(2) of section 2950.03 of the Revised Code, the 619
judge shall perform the duties specified in that section, or, if 620
required under division (A)(6) of section 2950.03 of the Revised 621
Code, the judge shall perform the duties specified in that 622
division. 623

(J)(1) Except as provided in division (J)(2) of this section, 624
when considering sentencing factors under this section in relation 625
to an offender who is convicted of or pleads guilty to an attempt 626
to commit an offense in violation of section 2923.02 of the 627
Revised Code, the sentencing court shall consider the factors 628
applicable to the felony category of the violation of section 629
2923.02 of the Revised Code instead of the factors applicable to 630
the felony category of the offense attempted. 631

(2) When considering sentencing factors under this section in 632
relation to an offender who is convicted of or pleads guilty to an 633
attempt to commit a drug abuse offense for which the penalty is 634
determined by the amount or number of unit doses of the controlled 635
substance involved in the drug abuse offense, the sentencing court 636

shall consider the factors applicable to the felony category that	637
the drug abuse offense attempted would be if that drug abuse	638
offense had been committed and had involved an amount or number of	639
unit doses of the controlled substance that is within the next	640
lower range of controlled substance amounts than was involved in	641
the attempt.	642
(K) As used in this section, "drug abuse offense" has the	643
same meaning as in section 2925.01 of the Revised Code.	644
(L) At the time of sentencing an offender for any sexually	645
oriented offense, if the offender is a tier III sex	646
offender/child-victim offender relative to that offense and the	647
offender does not serve a prison term or jail term, the court may	648
require that the offender be monitored by means of a global	649
positioning device. If the court requires such monitoring, the	650
cost of monitoring shall be borne by the offender. If the offender	651
is indigent, the cost of compliance shall be paid by the crime	652
victims reparations fund.	653
Section 2. That existing sections 2907.07, 2907.21, 2907.40,	654
and 2929.13 of the Revised Code are hereby repealed.	655