

As Introduced

**127th General Assembly
Regular Session
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S. B. No. 22

Senator Faber

Cosponsors: Senators Schuring, Coughlin, Clancy

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A B I L L

To amend sections 2743.191 and 2971.05 and to enact 1
sections 5122.51, 5122.52, 5122.53, 5122.54, 2
5122.55, 5122.56, 5122.57, 5122.58, 5122.59, 3
5122.60, 5122.61, and 5122.62 of the Revised Code 4
to require that sexually violent predators who are 5
released from prison be monitored by global 6
positioning system devices, to require sexually 7
violent predators to pay the cost of monitoring by 8
global positioning system devices, and to 9
authorize the civil commitment of certain sexually 10
violent predators. 11

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

Section 1. That sections 2743.191 and 2971.05 be amended and 12
sections 5122.51, 5122.52, 5122.53, 5122.54, 5122.55, 5122.56, 13
5122.57, 5122.58, 5122.59, 5122.60, 5122.61, and 5122.62 of the 14
Revised Code be enacted to read as follows: 15

Sec. 2743.191. (A)(1) There is hereby created in the state 16
treasury the reparations fund, which shall be used only for the 17
following purposes: 18

(a) The payment of awards of reparations that are granted by 19

the attorney general;	20
(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;	21 22 23
(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;	24 25
(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;	26 27
(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;	28 29
(f) The costs of investigation and decision-making as certified by the attorney general;	30 31
(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;	32 33 34
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	35 36 37
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	38 39 40
(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;	41 42 43 44 45 46
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA	47 48 49

specimens, and of entering the resulting DNA records regarding 50
those analyses into the DNA database pursuant to section 109.573 51
of the Revised Code; 52

(1) The payment of actual costs associated with initiatives 53
by the attorney general for the apprehension, prosecution, and 54
accountability of offenders, and the enhancing of services to 55
crime victims. The amount of payments made pursuant to division 56
(A)(1)(1) of this section during any given fiscal year shall not 57
exceed five per cent of the balance of the reparations fund at the 58
close of the immediately previous fiscal year. 59

~~(m) The costs of administering the adult parole authority's 60
supervision pursuant to division (E) of section 2971.05 of the 61
Revised Code of sexually violent predators who are sentenced to a 62
prison term pursuant to division (A)(3) of section 2971.03 of the 63
Revised Code, of offenders who are sentenced to a prison term 64
pursuant to division (B)(1)(a), (b), or (c) of that section for a 65
violation of division (A)(1)(b) of section 2907.02 of the Revised 66
Code, and of offenders who are sentenced to a prison term pursuant 67
to division (B)(2)(a), (b), or (c) of section 2971.03 of the 68
Revised Code for attempted rape and a specification of the type 69
described in section 2941.1418, 2941.1419, 2941.1420 of the 70
Revised Code. 71~~

(2) All costs paid pursuant to section 2743.70 of the Revised 72
Code, the portions of license reinstatement fees mandated by 73
division (F)(2)(b) of section 4511.191 of the Revised Code to be 74
credited to the fund, the portions of the proceeds of the sale of 75
a forfeited vehicle specified in division (C)(2) of section 76
4503.234 of the Revised Code, payments collected by the department 77
of rehabilitation and correction from prisoners who voluntarily 78
participate in an approved work and training program pursuant to 79
division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and 80
all moneys collected by the state pursuant to its right of 81

subrogation provided in section 2743.72 of the Revised Code shall 82
be deposited in the fund. 83

(B) In making an award of reparations, the attorney general 84
shall render the award against the state. The award shall be 85
accomplished only through the following procedure, and the 86
following procedure may be enforced by writ of mandamus directed 87
to the appropriate official: 88

(1) The attorney general shall provide for payment of the 89
claimant or providers in the amount of the award only if the 90
amount of the award is fifty dollars or more. 91

(2) The expense shall be charged against all available 92
unencumbered moneys in the fund. 93

(3) If sufficient unencumbered moneys do not exist in the 94
fund, the attorney general shall make application for payment of 95
the award out of the emergency purposes account or any other 96
appropriation for emergencies or contingencies, and payment out of 97
this account or other appropriation shall be authorized if there 98
are sufficient moneys greater than the sum total of then pending 99
emergency purposes account requests or requests for releases from 100
the other appropriations. 101

(4) If sufficient moneys do not exist in the account or any 102
other appropriation for emergencies or contingencies to pay the 103
award, the attorney general shall request the general assembly to 104
make an appropriation sufficient to pay the award, and no payment 105
shall be made until the appropriation has been made. The attorney 106
general shall make this appropriation request during the current 107
biennium and during each succeeding biennium until a sufficient 108
appropriation is made. If, prior to the time that an appropriation 109
is made by the general assembly pursuant to this division, the 110
fund has sufficient unencumbered funds to pay the award or part of 111
the award, the available funds shall be used to pay the award or 112

part of the award, and the appropriation request shall be amended 113
to request only sufficient funds to pay that part of the award 114
that is unpaid. 115

(C) The attorney general shall not make payment on a decision 116
or order granting an award until all appeals have been determined 117
and all rights to appeal exhausted, except as otherwise provided 118
in this section. If any party to a claim for an award of 119
reparations appeals from only a portion of an award, and a 120
remaining portion provides for the payment of money by the state, 121
that part of the award calling for the payment of money by the 122
state and not a subject of the appeal shall be processed for 123
payment as described in this section. 124

(D) The attorney general shall prepare itemized bills for the 125
costs of printing and distributing the pamphlet the attorney 126
general prepares pursuant to section 109.42 of the Revised Code. 127
The itemized bills shall set forth the name and address of the 128
persons owed the amounts set forth in them. 129

(E) As used in this section, "DNA analysis" and "DNA 130
specimen" have the same meanings as in section 109.573 of the 131
Revised Code. 132

Sec. 2971.05. (A)(1) After control over an offender's service 133
of a prison term imposed pursuant to division (A)(3), (B)(1)(a), 134
(b), or (c), or (B)(2)(a), (b), or (c) of section 2971.03 of the 135
Revised Code has been transferred pursuant to section 2971.04 of 136
the Revised Code to the court, the court shall schedule, within 137
thirty days of any of the following, a hearing on whether to 138
modify in accordance with division (C) of this section the 139
requirement that the offender serve the entire prison term in a 140
state correctional institution or to terminate the prison term in 141
accordance with division (D) of this section: 142

(a) Control over the offender's service of a prison term is 143

transferred pursuant to section 2971.04 of the Revised Code to the court, and no hearing to modify the requirement has been held;

(b) Two years elapse after the most recent prior hearing held pursuant to division (A)(1) or (2) of this section;

(c) The prosecuting attorney, the department of rehabilitation and correction, or the adult parole authority requests the hearing, and recommends that the requirement be modified or that the offender's prison term be terminated.

(2) After control over the offender's service of a prison term has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court, within thirty days of either of the following, shall conduct a hearing on whether to modify in accordance with division (C) of this section the requirement that the offender serve the entire prison term in a state correctional institution, whether to continue, revise, or revoke an existing modification of that requirement, or whether to terminate the term in accordance with division (D) of this section:

(a) The requirement that the offender serve the entire prison term in a state correctional institution has been modified, and the offender is taken into custody for any reason.

(b) The department of rehabilitation and correction or the prosecuting attorney notifies the court pursuant to section 2971.06 of the Revised Code regarding a known or suspected violation of a term or condition of the modification or a belief that there is a substantial likelihood that the offender has committed or is about to commit a sexually violent offense.

(3) After control over the offender's service of a prison term has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court, in any of the following circumstances, may conduct a hearing within thirty days to determine whether to modify in accordance with division (C) of

this section the requirement that the offender serve the entire 175
prison term in a state correctional institution, whether to 176
continue, revise, or revoke an existing modification of that 177
requirement, or whether to terminate the sentence in accordance 178
with division (D) of this section: 179

(a) The offender requests the hearing; 180

(b) Upon the court's own motion; 181

(c) One or more examiners who have conducted a psychological 182
examination and assessment of the offender file a statement that 183
states that there no longer is a likelihood that the offender will 184
engage in the future in a sexually violent offense. 185

(B)(1) Before a court holds a hearing pursuant to division 186
(A) of this section, the court shall provide notice of the date, 187
time, place, and purpose of the hearing to the offender, the 188
prosecuting attorney, the department of rehabilitation and 189
correction, and the adult parole authority and shall request the 190
department to prepare pursuant to section 5120.61 of the Revised 191
Code an update of the most recent risk assessment and report 192
relative to the offender. The offender has the right to be present 193
at any hearing held under this section. At the hearing, the 194
offender and the prosecuting attorney may make a statement and 195
present evidence as to whether the requirement that the offender 196
serve the entire prison term in a state correctional institution 197
should or should not be modified, whether the existing 198
modification of the requirement should be continued, revised, or 199
revoked, and whether the prison term should or should not be 200
terminated. 201

(2) At a hearing held pursuant to division (A) of this 202
section, the court may and, if the hearing is held pursuant to 203
division (A)(1)(a), (1)(b), or (3)(c) of this section, shall 204
determine by clear and convincing evidence whether the offender is 205

unlikely to commit a sexually violent offense in the future. 206

(3) At the conclusion of the hearing held pursuant to 207
division (A) of this section, the court may order that the 208
requirement that the offender serve the entire prison term in a 209
state correctional institution be continued, that the requirement 210
be modified pursuant to division (C) of this section, that an 211
existing modification be continued, revised, or revoked pursuant 212
to division (C) of this section, or that the prison term be 213
terminated pursuant to division (D) of this section. 214

(C)(1) If, at the conclusion of a hearing held pursuant to 215
division (A) of this section, the court determines by clear and 216
convincing evidence that the offender will not represent a 217
substantial risk of physical harm to others, the court may modify 218
the requirement that the offender serve the entire prison term 219
imposed under division (A)(3), (B)(1)(a), (b), or (c), or 220
(B)(2)(a), (b), or (c) of section 2971.03 of the Revised Code in a 221
state correctional institution in a manner that the court 222
considers appropriate. If the court modifies the requirement for 223
an offender whose prison term was imposed pursuant to division 224
~~(A)(3), (B)(1)(a), (b), or (c), or (B)(2)(a), (b), or (c)~~ of 225
section 2971.03 of the Revised Code, the court shall order the 226
adult parole authority to supervise the offender and shall require 227
that the authority's supervision of the offender be pursuant to 228
division (E) of this section. ~~If the court modifies the~~ 229
~~requirement for an offender whose prison term was imposed pursuant~~ 230
~~to division (B)(1)(a), (b), or (c) or (2)(a), (b), or (c) of~~ 231
~~section 2971.03 of the Revised Code, the court shall order the~~ 232
~~adult parole authority to supervise the offender and may require~~ 233
~~that the authority's supervision of the offender be pursuant to~~ 234
~~division (E) of this section.~~ 235

(2) The modification of the requirement does not terminate 236
the prison term but serves only to suspend the requirement that 237

the offender serve the entire term in a state correctional 238
institution. The prison term shall remain in effect for the 239
offender's entire life unless the court terminates the prison term 240
pursuant to division (D) of this section. The offender shall 241
remain under the jurisdiction of the court for the offender's 242
entire life unless the court so terminates the prison term. The 243
modification of the requirement does not terminate the 244
classification of the offender, as described in division (F) of 245
section 2971.03 of the Revised Code, as a sexual predator for 246
purposes of Chapter 2950. of the Revised Code, and the offender is 247
subject to supervision, ~~including supervision~~ under division (E) 248
of this section ~~if the court required the supervision of the~~ 249
~~offender to be pursuant to that division.~~ 250

(3) If the court revokes the modification under 251
consideration, the court shall order that the offender be returned 252
to the custody of the department of rehabilitation and correction 253
to continue serving the prison term to which the modification 254
applied, and section 2971.06 of the Revised Code applies regarding 255
the offender. 256

(D)(1) If, at the conclusion of a hearing held pursuant to 257
division (A) of this section, the court determines by clear and 258
convincing evidence that the offender is unlikely to commit a 259
sexually violent offense in the future, the court may terminate 260
the offender's prison term imposed under division (A)(3), 261
(B)(1)(a), (b), or (c), or (B)(2)(a), (b), or (c) of section 262
2971.03 of the Revised Code, subject to the offender 263
satisfactorily completing the period of conditional release 264
required by this division and, ~~if applicable,~~ compliance with 265
division (E) of this section. If the court terminates the prison 266
term, the court shall place the offender on conditional release 267
for five years, require the offender to comply with division (E) 268
of this section, notify the adult parole authority of its 269

determination and of the termination of the prison term, and order 270
the adult parole authority to supervise the offender during the 271
five-year period of conditional release ~~or, if division (E)~~ 272
~~applies to the offender, and~~ to supervise the offender pursuant to 273
~~and for the period of time specified in that division (E) of this~~ 274
~~section. If the court terminates the prison term for an offender~~ 275
~~whose prison term was imposed pursuant to division (A)(3) of~~ 276
~~section 2971.03 of the Revised Code, the court shall require that~~ 277
~~the authority's supervision of the offender be pursuant to~~ 278
~~division (E) of this section. If the court terminates the prison~~ 279
~~term for an offender whose prison term was imposed pursuant to~~ 280
~~division (B)(1)(a), (b), or (c) or (2)(a), (b), or (c) of section~~ 281
~~2971.03 of the Revised Code, the court may require that the~~ 282
~~authority's supervision of the offender be pursuant to division~~ 283
~~(E) of this section.~~ Upon receipt of a notice from a court 284
pursuant to this division, the adult parole authority shall 285
supervise the offender who is the subject of the notice during the 286
five-year period of conditional release, periodically notify the 287
court of the offender's activities during that five-year period of 288
conditional release, and file with the court no later than thirty 289
days prior to the expiration of the five-year period of 290
conditional release a written recommendation as to whether the 291
termination of the offender's prison term should be finalized, 292
whether the period of conditional release should be extended, or 293
whether another type of action authorized pursuant to this chapter 294
should be taken. 295

(2) Upon receipt of a recommendation of the adult parole 296
authority filed pursuant to division (D)(1) of this section, the 297
court shall hold a hearing to determine whether to finalize the 298
termination of the offender's prison term, to extend the period of 299
conditional release, or to take another type of action authorized 300
pursuant to this chapter. The court shall hold the hearing no 301
later than the date on which the five-year period of conditional 302

release terminates and shall provide notice of the date, time, 303
place, and purpose of the hearing to the offender and to the 304
prosecuting attorney. At the hearing, the offender, the 305
prosecuting attorney, and the adult parole authority employee who 306
supervised the offender during the period of conditional release 307
may make a statement and present evidence. 308

If the court determines at the hearing to extend an 309
offender's period of conditional release, it may do so for 310
additional periods of one year in the same manner as the original 311
period of conditional release, and, except as otherwise described 312
in this division, all procedures and requirements that applied to 313
the original period of conditional release apply to the additional 314
period of extended conditional release unless the court modifies a 315
procedure or requirement. If an offender's period of conditional 316
release is extended as described in this division, all references 317
to a five-year period of conditional release that are contained in 318
division (D)(1) of this section shall be construed, in applying 319
the provisions of that division to the extension, as being 320
references to the one-year period of the extension of the 321
conditional release. 322

If the court determines at the hearing to take another type 323
of action authorized pursuant to this chapter, it may do so in the 324
same manner as if the action had been taken at any other stage of 325
the proceedings under this chapter. As used in this division, 326
"another type of action" includes the revocation of the 327
conditional release and the return of the offender to a state 328
correctional institution to continue to serve the prison term. 329

If the court determines at the hearing to finalize the 330
termination of the offender's prison term, it shall notify the 331
department of rehabilitation and correction, the department shall 332
enter into its records a final release and issue to the offender a 333
certificate of final release, and the prison term thereafter shall 334

be considered completed and terminated in every way. 335

(3) The termination of an offender's prison term pursuant to 336
division (D)(1) or (2) of this section does not affect the 337
classification of the offender, as described in division (F) of 338
section 2971.03 of the Revised Code, as a sexual predator for 339
purposes of Chapter 2950. of the Revised Code, does not terminate 340
the adult parole authority's supervision of the offender, and, ~~if~~ 341
~~the court had required the supervision of the offender to be~~ 342
~~pursuant to division (E) of this section,~~ does not terminate the 343
supervision of the offender with an active global positioning 344
system device, pursuant to ~~that~~ division (E) of this section. The 345
classification of the offender as a sexual predator is permanent 346
and continues until the offender's death as described in division 347
(D)(2) of section 2950.09 of the Revised Code. 348

(E) If a prison term imposed upon an offender pursuant to 349
division (A)(3), (B)(1)(a), (b), or (c) or (B)(2)(a), (b), or (c) 350
of section 2971.03 of the Revised Code is modified as provided in 351
division (C) of this section or terminated as provided in division 352
(D) of this section, the adult parole authority shall supervise 353
the offender with an active global positioning system device 354
during any time period in which the offender is not incarcerated 355
in a state correctional institution. ~~If a prison term imposed upon~~ 356
~~an offender pursuant to division (B)(1)(a), (b), or (c) or (2)(a),~~ 357
~~(b), or (c) of section 2971.03 of the Revised Code is modified as~~ 358
~~provided in division (C) of this section or terminated as provided~~ 359
~~in division (D) of this section, and if the court requires that~~ 360
~~the adult parole authority's supervision of the offender be~~ 361
~~pursuant to this division, the authority shall supervise the~~ 362
~~offender with an active global positioning system device during~~ 363
~~any time period in which the offender is not incarcerated in a~~ 364
~~state correctional institution.~~ If the adult parole authority is 365
required to supervise the offender with an active global 366

positioning system device as described in this division, unless 367
the court removes the offender's classification as a sexually 368
violent predator regarding an offender whose prison term was 369
imposed under division (A)(3) of section 2971.03 of the Revised 370
Code or terminates the requirement that supervision of the 371
offender be pursuant to this division regarding an offender whose 372
prison term was imposed under division (B)(1)(a), (b), or (c) or 373
(2)(a), (b), or (c) of section 2971.03 of the Revised Code, the 374
offender is subject to supervision with an active global 375
positioning system pursuant to this division for the offender's 376
entire life. ~~The offender shall pay the costs of administering the~~ 377
~~supervision of offenders with an~~ the active global positioning 378
system device ~~pursuant to this division shall be paid out of funds~~ 379
~~from the reparations fund, created pursuant to section 2743.191 of~~ 380
~~the Revised Code~~ supervision. The authority may waive payment of 381
all or part of the costs of the supervision upon a showing by the 382
offender that the offender is unable to pay all or part of those 383
cost. This division shall only apply to a sexually violent 384
predator sentenced pursuant to division (A)(3) of section 2971.03 385
of the Revised Code who is released from the custody of the 386
department of rehabilitation and correction on or after September 387
29, 2005, or an offender sentenced pursuant to division (B)(1) or 388
(2) of section 2971.03 of the Revised Code on or after ~~the~~ 389
~~effective date of this amendment~~ January 2, 2007. 390

Sec. 5122.51. As used in sections 5122.51 to 5122.62 of the 391
Revised Code: 392

(A) "Likely to engage in repeat acts of sexual violence" 393
means that the degree of the person's propensity to commit acts of 394
sexual violence poses a menace to the health and safety of others. 395

(B) "Mental abnormality" means a congenital or acquired 396
condition affecting the emotional or volitional capacity that 397

predisposes the person to commit a sexually violent act in a 398
degree constituting the person a menace to the health and safety 399
of others. 400

(C) "Post-release control" has the same meaning as in section 401
2967.01 of the Revised Code. 402

(D) "Sexual motivation" and "sexually violent offense" have 403
the same meanings as in section 2971.01 of the Revised Code. 404

(E) "Sexually violent predator" means any person who has been 405
convicted of, pleaded guilty to, or charged with a sexually 406
violent offense and who suffers from a mental abnormality or 407
personality disorder that makes the person likely to engage in 408
repeat acts of sexual violence. 409

Sec. 5122.52. (A)(1) The department of rehabilitation and 410
correction shall send the notice described in division (B) of this 411
section to the prosecuting attorney and to the multidisciplinary 412
team established in division (D) of this section at least ninety 413
days prior to the scheduled release from imprisonment of the 414
person who is the subject of the notice if that person meets the 415
criteria of a sexually violent predator. 416

(2) The prosecuting attorney promptly after the adjudication 417
shall send the notice described in division (B) of this section to 418
the multidisciplinary team established in division (D) of this 419
section if the person who is the subject of the notice was charged 420
with a sexually violent offense and the person was adjudicated 421
incompetent to stand trial or not guilty by reason of insanity. 422

(B) The notice sent pursuant to division (A) of this section 423
shall contain all of the following with respect to the person who 424
is the subject of the notice: 425

(1) The person's name, identifying factors, anticipated 426
future residence, and offense history; 427

(2) The date on which the person is scheduled to be released 428
or the date on which the person is adjudicated incompetent to 429
stand trial or not guilty by reason of insanity; 430

(3) Documentation of institutional adjustment of the person 431
if the person is institutionalized and of any treatment the person 432
has received. 433

(C) The department of rehabilitation and correction, its 434
employees and officials, the members of the multidisciplinary team 435
established pursuant to division (D) of this section, the members 436
of the prosecutor's review committee appointed as provided in 437
division (E) of this section, and any individual contracting, 438
appointed, or volunteering to perform services under this section 439
shall be immune from civil liability in damages for any injury, 440
death, or loss allegedly caused by any actions or omissions made 441
in good faith under this section. 442

(D) The director of rehabilitation and correction shall 443
establish a multidisciplinary team that may include individuals 444
from other state agencies. The team shall determine whether a 445
person described in a notice the team receives pursuant to 446
division (A) of this section is a sexually violent predator and 447
shall review available records of the person. Within thirty days 448
of receiving a notice as described in division (A) of this 449
section, the team shall determine whether or not the person who is 450
the subject of the notice is a sexually violent predator. The team 451
shall notify the prosecuting attorney of its determination. 452

(E) Each prosecuting attorney shall appoint a prosecutor's 453
review committee to review the records of any person described in 454
a notice the prosecuting attorney receives or sends pursuant to 455
division (A) of this section. The prosecutor's review committee 456
shall assist the prosecuting attorney in determining whether or 457
not the person meets the definition of a sexually violent 458
predator. The prosecuting attorney shall make available to the 459

prosecutor's review committee the determination of the 460
multidisciplinary team made with respect to any person described 461
in a notice the prosecuting attorney receives or sends pursuant to 462
division (A) of this section. 463

(F) When a prosecutor's review committee appointed under 464
division (E) of this section determines that the person who is the 465
subject of a notice described in division (A)(1) of this section 466
meets the definition of a sexually violent predator or any time 467
after the prosecuting attorney sends the notice described in 468
division (A)(2) of this section, the prosecuting attorney may file 469
a petition for civil commitment of the person pursuant to sections 470
5122.51 to 5122.62 of the Revised Code in the probate court of the 471
county in which the person was convicted of or pleaded guilty to 472
the offense for which the person is serving a prison term, was 473
adjudicated incompetent to stand trial, or was found not guilty by 474
reason of insanity. The petition shall allege that the person is a 475
sexually violent predator and state sufficient facts to support 476
that allegation. The prosecuting attorney shall file the petition 477
with respect to a person who is an alleged sexually violent 478
predator within seventy-five days of the date the prosecuting 479
attorney received or sent the written notice with respect to the 480
person pursuant to divisions (A) and (B) of this section. 481

Sec. 5122.53. (A) Upon the filing of a petition pursuant to 482
division (F) of section 5122.52 of the Revised Code, the probate 483
court judge shall determine whether probable cause exists to 484
believe that the person named in the petition is a sexually 485
violent predator. If the judge determines probable cause exists to 486
believe that the person is a sexually violent predator, the judge 487
shall direct the sheriff to take the person into custody. 488

(B) Within seventy-two hours after a person who is an alleged 489
sexually violent predator is taken into custody pursuant to 490

division (A) of this section, the court shall provide the alleged 491
sexually violent predator with notice of, and an opportunity to 492
appear in person at, a hearing to contest probable cause as to 493
whether the person is a sexually violent predator. At this 494
hearing, the court shall verify the alleged sexually violent 495
predator's identity and again determine whether probable cause 496
exists to believe that the person is a sexually violent predator. 497
The prosecuting attorney may rely upon the petition and supplement 498
the petition with additional documentary evidence. 499

(C) At the probable cause hearing held pursuant to division 500
(B) of this section, the alleged sexually violent predator shall 501
have the following rights in addition to the rights described in 502
division (B) of this section: 503

(1) The right to be represented by counsel; 504

(2) The right to present evidence on the alleged sexually 505
violent predator's behalf; 506

(3) The right to cross-examine witnesses who testify against 507
the alleged sexually violent predator; 508

(4) The right to view and copy all petitions and reports in 509
the court file. 510

(D) If the court determines at a probable cause hearing held 511
pursuant to division (B) of this section that probable cause does 512
not exist that a person who is an alleged sexually violent 513
predator is a sexually violent predator, the court shall order the 514
person to be released or, if the person was serving a prison or 515
jail term when taken into custody by the sheriff pursuant to 516
division (A) of this section, returned to the facility in which 517
the person was incarcerated. 518

If the court determines at a probable cause hearing held 519
pursuant to division (B) of this section that probable cause 520
exists that a person who is an alleged sexually violent predator 521

is a sexually violent predator, the court shall direct that the 522
person be transferred to an appropriate secure facility, 523
including, but not limited to, a county jail, for an evaluation as 524
to whether the person is a sexually violent predator. The 525
evaluation of the alleged sexually violent predator shall be 526
conducted by a qualified professional person designated by the 527
court. When the alleged sexually violent predator wishes to be 528
examined by a qualified expert or professional person of the 529
alleged sexually violent predator's choice in addition to the 530
person designated by the court, the examiner shall be permitted to 531
have reasonable access to the person for the purpose of the 532
examination, as well as to all relevant medical and psychological 533
records and reports of the person. If the court determines that 534
the services are necessary and the expert or professional person's 535
requested compensation for the services provided is reasonable, 536
the court shall assist the alleged sexually violent predator in 537
obtaining an expert or professional person to perform an 538
examination or participate in the trial on the alleged sexually 539
violent predator's behalf. The court shall approve payment for the 540
services provided by the expert or professional person upon the 541
filing of a certified claim for compensation supported by a 542
written statement specifying the time expended, services rendered, 543
expenses incurred on behalf of the alleged sexually violent 544
predator, and compensation received in the same case or for the 545
same services from any other source. 546

Sec. 5122.54. (A) Within sixty days after finding at a 547
probable cause hearing held pursuant to division (B) of section 548
5122.53 of the Revised Code that probable cause exists that a 549
person who is an alleged sexually violent predator is a sexually 550
violent predator, the court shall conduct a trial to determine 551
whether the person who was the subject of the probable cause 552
hearing is a sexually violent predator. If a continuance will not 553

substantially prejudice the alleged sexually violent offender, the 554
court may grant a continuance upon request of either party and a 555
showing of good cause, or by the court on its own motion in the 556
due administration of justice. At all stages of the proceedings 557
under this section, the alleged sexually violent predator is 558
entitled to the assistance of counsel, and if the alleged sexually 559
violent predator is indigent, the court shall appoint counsel to 560
assist the alleged sexually violent predator. The alleged sexually 561
violent predator, prosecuting attorney, or judge has the right to 562
demand that the trial be before a jury. A demand for a jury trial 563
shall be filed, in writing, at least four days prior to trial. If 564
no demand is made, the trial shall be before the court. 565

(B)(1) If the person who is the subject of the trial 566
conducted pursuant to division (A) of this section has been found 567
incompetent to stand trial, the court shall hear evidence and 568
determine whether the person did commit the acts charged prior to 569
hearing evidence and determining whether the person is a sexually 570
violent predator. The hearing on this issue shall comply with all 571
the procedures specified in division (A) of this section. In 572
addition, the rules of evidence applicable in criminal cases and 573
all constitutional rights available to criminal defendants at 574
criminal trials, other than the right not to be tried while 575
incompetent, apply to the hearing held pursuant to division (B)(1) 576
of this section. 577

(2) After the hearing held pursuant to division (B)(1) of 578
this section, the court shall enter an order containing the 579
following specific findings: 580

(a) Whether, beyond a reasonable doubt, the person committed 581
the act or acts charged; 582

(b) The extent to which the person's incompetence or 583
developmental disability affected the outcome of the hearing, 584

including its effect on the person's ability to consult with and 585
assist counsel and to testify on the person's own behalf; 586

(c) The extent to which the evidence could be reconstructed 587
without the assistance of the person; 588

(d) The strength of the prosecution's case. 589

(3) If the court finds, beyond a reasonable doubt, that the 590
person did commit the acts charged, the court may proceed to hold 591
the trial pursuant to division (A) of this section. The order that 592
the court enters pursuant to division (B)(2) of this section is a 593
final order that may be appealed. 594

(C)(1) At the trial held pursuant to division (A) of this 595
section, the court or jury, if the trial is tried before a jury, 596
shall determine by proof beyond a reasonable doubt whether the 597
person who is the subject of the trial has been convicted of or 598
charged with a sexually violent offense and suffers from a mental 599
abnormality or personality disorder that makes the person likely 600
to engage in repeat acts of sexual violence. If the determination 601
is made by a jury, the jury shall make the determination by 602
unanimous verdict. The determination is a final order that may be 603
appealed. 604

(2) At the conclusion of the trial, the court shall do one of 605
the following: 606

(a) If the court or jury determines that the alleged sexually 607
violent predator has been convicted of or charged with a sexually 608
violent offense and suffers from a mental abnormality or 609
personality disorder that makes the person likely to engage in 610
repeat acts of sexual violence, the court shall adjudicate the 611
person a sexually violent predator. If the sexually violent 612
predator is serving a prison term, the court shall commit the 613
sexually violent predator to the custody of the director of 614
rehabilitation and correction for the completion of the prison 615

term and, upon the completion of the prison term, civilly commit 616
the sexually violent predator to the custody of the director of 617
mental health for control, care, and treatment. If the sexually 618
violent predator is not serving a prison term, the court shall 619
civilly commit the sexually violent predator to the custody of the 620
director of mental health for control, care, and treatment. 621

(b) If the court or jury does not determine that the alleged 622
sexually violent predator has been convicted of or charged with a 623
sexually violent offense and suffers from a mental abnormality or 624
personality disorder that makes the alleged sexually violent 625
predator likely to engage in repeat acts of sexual violence and if 626
the alleged sexually violent predator is serving a prison term, 627
the court shall commit the alleged sexually violent predator to 628
the custody of the director of rehabilitation and correction for 629
the completion of the prison term. 630

(c) If the court or jury does not determine that the alleged 631
sexually violent predator has been convicted of or charged with a 632
sexually violent offense and suffers from a mental abnormality or 633
personality disorder that makes the person likely to engage in 634
repeat acts of sexual violence and if the alleged sexually violent 635
predator is not serving a prison term, the court shall release the 636
alleged sexually violent predator. 637

(d) If the trial results in a mistrial, the court shall 638
direct that the alleged sexually violent predator be held at an 639
appropriate secure facility until another trial is conducted. Any 640
subsequent trial following a mistrial shall be held within ninety 641
days of the previous trial, unless the subsequent trial is 642
continued. The subsequent trial may be continued in the same 643
manner and for the same reasons as the original trial. 644

Sec. 5122.55. (A)(1) Each person civilly committed to the 645
department of mental health pursuant to section 5122.54 of the 646

Revised Code shall have an annual examination of the person's 647
mental condition. The person may retain or, if the person is 648
indigent and so requests, the court may appoint a qualified expert 649
or professional person to examine the person, and the expert or 650
professional person shall have access to all records concerning 651
the person. The department shall provide the report of the annual 652
examination to the court that committed the person pursuant to 653
section 5122.54 of the Revised Code. 654

(2) The court shall conduct an annual review of the status of 655
the committed person. Nothing contained in sections 5122.51 to 656
5122.62 of the Revised Code prohibits the person from otherwise 657
petitioning the court for discharge at this annual review. The 658
department of mental health shall provide the committed person 659
with an annual written notice of the person's right to petition 660
the court for discharge over the department's objection. The 661
notice shall contain a waiver of rights. The department shall 662
forward the notice and waiver form to the court with the annual 663
report. The committed person has a right to have an attorney 664
represent the person at the annual review, but the person is not 665
entitled to be present at the review. 666

(3) If the court at the annual review determines that 667
probable cause exists to believe that the committed person's 668
mental abnormality or personality disorder has so changed that the 669
person is safe to be placed in transitional release or conditional 670
release, then the court shall set a hearing on the issue. 671

(B) If the department of mental health determines that a 672
committed person's mental abnormality or personality disorder has 673
so changed that the person is not likely to commit predatory acts 674
of sexual violence if placed in transitional release or 675
conditional release, the department shall authorize the person to 676
petition the court for transitional release. The petition shall be 677

served upon the court and the attorney general. The court, upon receipt of the petition for transitional release or conditional release, shall schedule a hearing to be held within thirty days of the filing of the petition. 678
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(C) At a hearing held pursuant to division (A) or (B) of this section, division (A) of section 5122.58 of the Revised Code, or division (B) of section 5122.59 of the Revised Code, all of the following apply: 682
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(1) The committed person is entitled to be present and is entitled to the benefit of all constitutional protections that were afforded the person at the initial commitment proceeding. 686
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(2) The prosecuting attorney shall represent the state. 689

(3) Both parties shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts or professional persons evaluate the person on the person's behalf, and the court shall appoint an expert if the person is indigent and requests an appointment. 690
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(4) The state has the burden of proving beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains and that the person is not safe to be placed in the transitional release program, conditional release program, or final discharge, whichever is applicable, and that, if the person is transitionally released, conditionally released, or finally discharged, the person is likely to engage in acts of sexual violence. 696
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(5) At the conclusion of the hearing, the court shall do one of the following: 704
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(a) In a hearing held regarding a petition to be placed in the transitional release program, if the court or jury determines by proof beyond a reasonable doubt that the person's mental 706
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abnormality or personality disorder remains and that the person is 709
unsafe to be placed in transitional release, the court shall order 710
the person to remain in custody of the director of mental health 711
for control, care, and treatment in a secure facility. 712

(b) In a hearing held regarding a petition to be placed in 713
the transitional release program, if the court or jury does not 714
find by proof beyond a reasonable doubt that the committed 715
person's mental abnormality or personality disorder remains and 716
that the person is unsafe to be placed in the transitional release 717
program, the department of mental health shall transfer the person 718
to the transitional release program. 719

(c) In a hearing held regarding a petition to be placed in 720
the conditional release program, if the court or jury determines 721
by proof beyond a reasonable doubt that the person's mental 722
abnormality or personality disorder remains and that the person is 723
unsafe to be placed in conditional release, the court shall order 724
the person to remain in the custody of the director of mental 725
health for control, care, and treatment in either the transitional 726
release program or a secure facility. 727

(d) In a hearing held regarding a petition to be placed in 728
the conditional release program, if the court or jury does not 729
find by proof beyond a reasonable doubt that the committed 730
person's mental abnormality or personality disorder remains and 731
that the person is unsafe to be placed in the conditional release 732
program, the department of mental health shall transfer the person 733
to the conditional release program. 734

(e) In a hearing held regarding a petition for final 735
discharge, if the court or jury determines by proof beyond a 736
reasonable doubt that the person's mental abnormality or 737
personality disorder remains and that the person is unsafe for 738
final discharge, the court shall order the person to remain in the 739
custody of the director of mental health for control, care, and 740

treatment in the transitional release program, the conditional 741
release program, or a secure facility. 742

(f) In a hearing held regarding a petition for final 743
discharge, if the court or jury does not find by proof beyond a 744
reasonable doubt that the committed person's mental abnormality or 745
personality disorder remains and that the person is unsafe for 746
final discharge, the court shall order the person finally 747
discharged. 748

Sec. 5122.56. (A) The department of mental health shall 749
develop and operate a program of transitional release for sexually 750
violent predators civilly committed to the custody of the director 751
of mental health for control, care, and treatment. The department 752
may contract for services to be provided in the transitional 753
release program. During any period a person is in transitional 754
release, that person shall comply with any rules or regulations 755
the department may establish for this program and every directive 756
of the treatment staff of the transitional release program. 757

(B) At any time during which the person is in the 758
transitional release program and the treatment staff determines 759
that the person has violated any rule, regulation, or directive 760
associated with the transitional release program, the treatment 761
staff may remove the person from the transitional release program 762
and return the person to the secure commitment facility, or may 763
request the court to issue an emergency ex parte order directing 764
any law enforcement officer to take the person into custody and 765
return the person to the secure commitment facility. The treatment 766
staff may make the request orally, in person, or by telephone, but 767
the oral request shall be followed in written or facsimile form 768
delivered to the court not later than five o'clock p.m. of the 769
first day the court is open for the transaction of business after 770
the oral request was made. 771

(C) Upon a person being returned to the secure commitment facility from the transitional release program, the department of mental health shall give notice of the return to the court. The court shall schedule the matter for a hearing within two working days of the receipt of notice of the person's having been returned to the secure commitment facility and cause notice to be given to the prosecuting attorney, the person, and the department. The prosecuting attorney has the burden of proof to show probable cause that the person violated any conditions of transitional release. The hearing shall be to the court. At the conclusion of the hearing, the court shall issue an order returning the person to the secure commitment facility or to the transitional release program and may order any other further conditions with which the person must comply if the person is returned to the transitional release program. 772
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Sec. 5122.57. (A) Upon receipt of the first or subsequent petition for transitional release, conditional release, or final release from a person civilly committed to the department of mental health pursuant to section 5122.54 of the Revised Code, without the department's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing. 787
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(B) If a committed person has previously filed a petition for transitional release, conditional release, or final discharge without the department's approval and the court determined either upon review of the petition or following a hearing, that the person's petition was frivolous or that the person's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the person had so changed that a hearing was warranted. 795
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(C) Nothing in sections 5122.51 to 5122.61 of the Revised Code prohibits a person from filing a petition for transitional release, conditional release, or final discharge. 804
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Sec. 5122.58. (A) During any period a person is in the transitional release program, the treatment staff shall examine the committed person at least annually, and at any other time deemed appropriate by the treatment staff to determine if the person's mental abnormality or personality disorder has so changed so as to warrant the person being considered for the conditional release program. The treatment staff shall forward a report of its examination to the court. If the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be placed in conditional release, the court shall then set a hearing on the issue. The hearing shall be held as described in division (C) of section 5122.55 of the Revised Code. Subsequent to either a court review or a hearing, the court shall issue an appropriate order with findings of fact. The order of the court shall be provided to the prosecuting attorney, the person and the department of mental health. 807
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(B) If, after the hearing, the court is convinced beyond a reasonable doubt that the person is not appropriate for conditional release, the court shall order that the person remain either in secure commitment or in transitional release. Otherwise, the court shall order that the person be placed on conditional release. 824
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Sec. 5122.59. (A)(1) If a court determines by proof beyond a reasonable doubt that a committed person should be placed on conditional release, the court, based upon recommendation of the treatment staff, shall establish a plan of treatment that the person shall be ordered to follow. 830
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(2) The plan of treatment may include, but is not limited to, 835
the following: 836

(a) Provisions as to where the person shall reside and with 837
whom; 838

(b) Taking prescribed medication; 839

(c) Attending individual and group counseling; 840

(d) Maintaining employment; 841

(e) Having no contact with children; 842

(f) Not frequenting facilities, locations, events, or other 843
areas in which children are likely to be present and not engaging 844
in activities in which contact with children is likely. 845

(3) Upon a showing by the person that the person accepts the 846
plan of treatment and is prepared to follow it, the court shall 847
release the person from the transitional release program. 848

(B)(1) If after a minimum of five years, the person has not 849
violated any of the conditions of the person's treatment plan, the 850
treatment staff, or other professionals directed by the court, may 851
examine the person to determine if the person's mental abnormality 852
or personality disorder has changed so as to warrant the person 853
being considered for final discharge. The person preparing the 854
report shall forward the report to the court. The court shall 855
review the report. 856

(2) If the court determines that probable cause exists to 857
believe that the person's mental abnormality or personality 858
disorder has so changed that the person is safe to be entitled to 859
final discharge, the court shall schedule a formal hearing, as 860
described in division (C) of section 5122.55 of the Revised Code, 861
on the issue. 862

(3) Subsequent to either a court review or a hearing under 863
this section, the court shall issue an appropriate order with 864

findings of fact. The court shall provide the order to the 865
prosecuting attorney, the person who is the subject of the order, 866
and the director of mental health. 867

(C) If, after a hearing, the court is convinced beyond a 868
reasonable doubt that the person is not appropriate for final 869
discharge, the court shall continue custody of the person with the 870
department of mental health in a secure facility, transitional 871
release program, or conditional release program. Otherwise, the 872
court shall order the person finally discharged. If the court does 873
not order final discharge of the person, the person retains the 874
right to annual reviews. 875

(D)(1) At any time during the person's conditional release, 876
if the professional person designated by the court in the 877
treatment plan to monitor the person's compliance with the plan 878
determines that the person has violated any material condition of 879
that plan, that professional person may request the court to issue 880
an emergency ex parte order directing any law enforcement officer 881
to take the person into custody and return the person to the 882
secure commitment facility. The professional person may make the 883
request orally, in person, or by telephone, but the oral request 884
shall be followed in written or facsimile form delivered to the 885
court not later than five o'clock p.m. of the first day the court 886
is open for the transaction of business after the oral request was 887
made. 888

(2) Upon the person being returned to the secure commitment 889
facility from conditional release, the director of mental health 890
shall give notice to the court. The court shall schedule the 891
matter for a hearing within two working days of receipt of notice 892
of the person's having been returned to the secure commitment 893
facility and shall cause notice to be given to the prosecuting 894
attorney, the person, and the director. The prosecuting attorney 895
has the burden of proof to show probable cause that the person 896

violated any conditions of conditional release. The hearing shall 897
be to the court. 898

(3) At the conclusion of the hearing, the court shall issue 899
an order that does one of the following: 900

(a) Return the person to the secure commitment facility; 901

(b) Return the person to the transitional release program; 902

(c) Return the person to conditional release. 903

The court may order the person to comply with further 904
conditions if the person is returned to either the transitional 905
release program or to conditional release. 906

(E) The final discharge of a person under this section does 907
not prevent the person from being prosecuted for any criminal acts 908
that the person is alleged to have committed or from being subject 909
in the future to a subsequent commitment under sections 5122.51 to 910
5122.62 of the Revised Code. 911

Sec. 5122.60. The department of mental health shall be 912
responsible for all costs relating to the evaluation and treatment 913
of persons committed to the department's custody under sections 914
5122.51 to 5122.62 of the Revised Code. The department may obtain 915
reimbursement for the cost of that evaluation and treatment. 916

Sec. 5122.61. In addition to any other information required 917
to be released pursuant to sections 5122.51 to 5122.62 of the 918
Revised Code, prior to the release of a person civilly committed 919
to the department of mental health pursuant to section 5122.54 of 920
the Revised Code, the department of mental health shall give 921
written notice of the placement or release of the person to any 922
victim of the person's activities or crime who is alive and whose 923
address is known to the department. The department's failure to 924
notify a victim as required by this division is not a reason for 925

postponement of the release of a person. Nothing in this section 926
creates a cause of action against the state or an employee of the 927
state who is acting within the scope of the employee's employment 928
and who fails to notify a victim as required by this section. 929

Sec. 5122.62. (A) In order to protect the public, relevant 930
information and records that are otherwise confidential or 931
privileged shall be released to the agency with jurisdiction or 932
the attorney general for the purpose of meeting the notice 933
requirement provided in section 5122.59 of the Revised Code and 934
determining whether a person is or continues to be a sexually 935
violent predator. 936

(B) Any psychological reports, drug and alcohol reports, 937
treatment records, reports of the diagnostic center, medical 938
records, or victim impact statements that have been submitted to 939
the court or admitted into evidence under sections 5122.51 to 940
5122.62 of the Revised Code shall be sealed and opened only on an 941
order of a court or as provided in division (A) of this section. 942

Section 2. That existing sections 2743.191 and 2971.05 of the 943
Revised Code are hereby repealed. 944