

As Introduced

**128th General Assembly
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H. B. No. 235

Representative Heard

**Cosponsors: Representatives Domenick, Foley, Murray, Harris, Hagan,
Williams, S., Newcomb, Boyd, Letson**

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A B I L L

To amend sections 2151.23, 2151.31, 2151.314, 1
2152.02, 2152.021, 2152.10, 2152.12, 2152.13, 2
2152.14, 2152.17, 2152.22, 5139.01, 5139.05, 3
5139.06, 5139.20, and 5139.51 and to repeal 4
section 2152.11 of the Revised Code regarding the 5
transfer for criminal prosecution of an alleged 6
delinquent child, the eligibility for imposition 7
of a serious youthful offender dispositional 8
sentence, the commitment of a delinquent child to 9
the Department of Youth Services based on a 10
firearm specification or certain aggravated 11
vehicular homicide specifications, and the 12
granting of a judicial release to a delinquent 13
child. 14

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

Section 1. That sections 2151.23, 2151.31, 2151.314, 2152.02, 15
2152.021, 2152.10, 2152.12, 2152.13, 2152.14, 2152.17, 2152.22, 16
5139.01, 5139.05, 5139.06, 5139.20, and 5139.51 of the Revised 17
Code be amended to read as follows: 18

Sec. 2151.23. (A) The juvenile court has exclusive original jurisdiction under the Revised Code as follows:

(1) Concerning any child who on or about the date specified in the complaint, indictment, or information is alleged to have violated section 2151.87 of the Revised Code or an order issued under that section or to be a juvenile traffic offender or a delinquent, unruly, abused, neglected, or dependent child and, based on and in relation to the allegation pertaining to the child, concerning the parent, guardian, or other person having care of a child who is alleged to be an unruly or delinquent child for being an habitual or chronic truant;

(2) Subject to divisions (G) and (V) of section 2301.03 of the Revised Code, to determine the custody of any child not a ward of another court of this state;

(3) To hear and determine any application for a writ of habeas corpus involving the custody of a child;

(4) To exercise the powers and jurisdiction given the probate division of the court of common pleas in Chapter 5122. of the Revised Code, if the court has probable cause to believe that a child otherwise within the jurisdiction of the court is a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the Revised Code;

(5) To hear and determine all criminal cases charging adults with the violation of any section of this chapter;

(6) To hear and determine all criminal cases in which an adult is charged with a violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.222, division (B) of section 2919.23, or section 2919.24 of the Revised Code, provided the charge is not included in an indictment that also charges the alleged adult offender with the commission of a

felony arising out of the same actions that are the basis of the 49
alleged violation of division (C) of section 2919.21, division 50
(B)(1) of section 2919.22, section 2919.222, division (B) of 51
section 2919.23, or section 2919.24 of the Revised Code; 52

(7) Under the interstate compact on juveniles in section 53
2151.56 of the Revised Code; 54

(8) Concerning any child who is to be taken into custody 55
pursuant to section 2151.31 of the Revised Code, upon being 56
notified of the intent to take the child into custody and the 57
reasons for taking the child into custody; 58

(9) To hear and determine requests for the extension of 59
temporary custody agreements, and requests for court approval of 60
permanent custody agreements, that are filed pursuant to section 61
5103.15 of the Revised Code; 62

(10) To hear and determine applications for consent to marry 63
pursuant to section 3101.04 of the Revised Code; 64

(11) Subject to divisions (G) and (V) of section 2301.03 of 65
the Revised Code, to hear and determine a request for an order for 66
the support of any child if the request is not ancillary to an 67
action for divorce, dissolution of marriage, annulment, or legal 68
separation, a criminal or civil action involving an allegation of 69
domestic violence, or an action for support brought under Chapter 70
3115. of the Revised Code; 71

(12) Concerning an action commenced under section 121.38 of 72
the Revised Code; 73

(13) To hear and determine violations of section 3321.38 of 74
the Revised Code; 75

(14) To exercise jurisdiction and authority over the parent, 76
guardian, or other person having care of a child alleged to be a 77
delinquent child, unruly child, or juvenile traffic offender, 78

based on and in relation to the allegation pertaining to the	79
child;	80
(15) To conduct the hearings, and to make the determinations,	81
adjudications, and orders authorized or required under sections	82
2152.82 to 2152.86 and Chapter 2950. of the Revised Code regarding	83
a child who has been adjudicated a delinquent child and to refer	84
the duties conferred upon the juvenile court judge under sections	85
2152.82 to 2152.86 and Chapter 2950. of the Revised Code to	86
magistrates appointed by the juvenile court judge in accordance	87
with Juvenile Rule 40.	88
(B) Except as provided in divisions (G) and (I) of section	89
2301.03 of the Revised Code, the juvenile court has original	90
jurisdiction under the Revised Code:	91
(1) To hear and determine all cases of misdemeanors charging	92
adults with any act or omission with respect to any child, which	93
act or omission is a violation of any state law or any municipal	94
ordinance;	95
(2) To determine the paternity of any child alleged to have	96
been born out of wedlock pursuant to sections 3111.01 to 3111.18	97
of the Revised Code;	98
(3) Under the uniform interstate family support act in	99
Chapter 3115. of the Revised Code;	100
(4) To hear and determine an application for an order for the	101
support of any child, if the child is not a ward of another court	102
of this state;	103
(5) To hear and determine an action commenced under section	104
3111.28 of the Revised Code;	105
(6) To hear and determine a motion filed under section	106
3119.961 of the Revised Code;	107
(7) To receive filings under section 3109.74 of the Revised	108

Code, and to hear and determine actions arising under sections 109
3109.51 to 3109.80 of the Revised Code. 110

(8) To enforce an order for the return of a child made under 111
the Hague Convention on the Civil Aspects of International Child 112
Abduction pursuant to section 3127.32 of the Revised Code; 113

(9) To grant any relief normally available under the laws of 114
this state to enforce a child custody determination made by a 115
court of another state and registered in accordance with section 116
3127.35 of the Revised Code. 117

(C) The juvenile court, except as to juvenile courts that are 118
a separate division of the court of common pleas or a separate and 119
independent juvenile court, has jurisdiction to hear, determine, 120
and make a record of any action for divorce or legal separation 121
that involves the custody or care of children and that is filed in 122
the court of common pleas and certified by the court of common 123
pleas with all the papers filed in the action to the juvenile 124
court for trial, provided that no certification of that nature 125
shall be made to any juvenile court unless the consent of the 126
juvenile judge first is obtained. After a certification of that 127
nature is made and consent is obtained, the juvenile court shall 128
proceed as if the action originally had been begun in that court, 129
except as to awards for spousal support or support due and unpaid 130
at the time of certification, over which the juvenile court has no 131
jurisdiction. 132

(D) The juvenile court, except as provided in divisions (G) 133
and (I) of section 2301.03 of the Revised Code, has jurisdiction 134
to hear and determine all matters as to custody and support of 135
children duly certified by the court of common pleas to the 136
juvenile court after a divorce decree has been granted, including 137
jurisdiction to modify the judgment and decree of the court of 138
common pleas as the same relate to the custody and support of 139
children. 140

(E) The juvenile court, except as provided in divisions (G) 141
and (I) of section 2301.03 of the Revised Code, has jurisdiction 142
to hear and determine the case of any child certified to the court 143
by any court of competent jurisdiction if the child comes within 144
the jurisdiction of the juvenile court as defined by this section. 145

(F)(1) The juvenile court shall exercise its jurisdiction in 146
child custody matters in accordance with sections 3109.04 and 147
3127.01 to 3127.53 of the Revised Code and, as applicable, 148
sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised 149
Code. 150

(2) The juvenile court shall exercise its jurisdiction in 151
child support matters in accordance with section 3109.05 of the 152
Revised Code. 153

(G) Any juvenile court that makes or modifies an order for 154
child support shall comply with Chapters 3119., 3121., 3123., and 155
3125. of the Revised Code. If any person required to pay child 156
support under an order made by a juvenile court on or after April 157
15, 1985, or modified on or after December 1, 1986, is found in 158
contempt of court for failure to make support payments under the 159
order, the court that makes the finding, in addition to any other 160
penalty or remedy imposed, shall assess all court costs arising 161
out of the contempt proceeding against the person and require the 162
person to pay any reasonable attorney's fees of any adverse party, 163
as determined by the court, that arose in relation to the act of 164
contempt. 165

(H) If a child who is charged with an act that would be ~~an~~ a 166
felony offense of violence if committed by an adult was fourteen 167
years of age or older and under eighteen years of age at the time 168
of the alleged act and ~~if~~ the case is transferred for criminal 169
prosecution pursuant to division (A)(1) of section 2152.12 of the 170
Revised Code or if a complaint is filed against a person and the 171
case is transferred for criminal prosecution pursuant to division 172

(A)(2) of that section in the circumstances described in division 173
(C)(5) of section 2152.02 of the Revised Code, the juvenile court 174
does not have jurisdiction to hear or determine the case 175
subsequent to the transfer. The court to which the case is 176
transferred for criminal prosecution pursuant to ~~that~~ section 177
2152.12 of the Revised Code has jurisdiction subsequent to the 178
transfer to hear and determine the case in the same manner as if 179
the case originally had been commenced in that court, including, 180
but not limited to, jurisdiction to accept a plea of guilty or 181
another plea authorized by Criminal Rule 11 or another section of 182
the Revised Code and jurisdiction to accept a verdict and to enter 183
a judgment of conviction pursuant to the Rules of Criminal 184
Procedure against the child for the commission of the offense that 185
was the basis of the transfer of the case for criminal 186
prosecution, whether the conviction is for the same degree or a 187
lesser degree of the offense charged, for the commission of a 188
lesser-included offense, or for the commission of another offense 189
that is different from the offense charged. 190

(I) If a person under eighteen years of age allegedly commits 191
an act that would be a felony if committed by an adult and if the 192
person is not taken into custody or apprehended for that act until 193
after the person attains twenty-one years of age, the juvenile 194
court does not have jurisdiction to hear or determine any portion 195
of the case charging the person with committing that act. In those 196
circumstances, ~~divisions~~ division (A) ~~and (B)~~ of section 2152.12 197
of the Revised Code ~~do~~ does not apply regarding the act, and the 198
case charging the person with committing the act shall be a 199
criminal prosecution commenced and heard in the appropriate court 200
having jurisdiction of the offense as if the person had been 201
eighteen years of age or older when the person committed the act. 202
All proceedings pertaining to the act shall be within the 203
jurisdiction of the court having jurisdiction of the offense, and 204
that court has all the authority and duties in the case that it 205

has in other criminal cases in that court. 206

Sec. 2151.31. (A) A child may be taken into custody in any of 207
the following ways: 208

(1) Pursuant to an order of the court under this chapter or 209
pursuant to an order of the court upon a motion filed pursuant to 210
division (B) of section 2930.05 of the Revised Code; 211

(2) Pursuant to the laws of arrest; 212

(3) By a law enforcement officer or duly authorized officer 213
of the court when any of the following conditions are present: 214

(a) There are reasonable grounds to believe that the child is 215
suffering from illness or injury and is not receiving proper care, 216
as described in section 2151.03 of the Revised Code, and the 217
child's removal is necessary to prevent immediate or threatened 218
physical or emotional harm; 219

(b) There are reasonable grounds to believe that the child is 220
in immediate danger from the child's surroundings and that the 221
child's removal is necessary to prevent immediate or threatened 222
physical or emotional harm; 223

(c) There are reasonable grounds to believe that a parent, 224
guardian, custodian, or other household member of the child's 225
household has abused or neglected another child in the household 226
and to believe that the child is in danger of immediate or 227
threatened physical or emotional harm from that person. 228

(4) By an enforcement official, as defined in section 4109.01 229
of the Revised Code, under the circumstances set forth in section 230
4109.08 of the Revised Code; 231

(5) By a law enforcement officer or duly authorized officer 232
of the court when there are reasonable grounds to believe that the 233
child has run away from the child's parents, guardian, or other 234
custodian; 235

(6) By a law enforcement officer or duly authorized officer	236
of the court when any of the following apply:	237
(a) There are reasonable grounds to believe that the conduct,	238
conditions, or surroundings of the child are endangering the	239
health, welfare, or safety of the child.	240
(b) A complaint has been filed with respect to the child	241
under section 2151.27 or 2152.021 of the Revised Code or the child	242
has been indicted under division (A)(2) of section 2152.13 of the	243
Revised Code or charged by information as described in that	244
section and there are reasonable grounds to believe that the child	245
may abscond or be removed from the jurisdiction of the court.	246
(c) The child is required to appear in court and there are	247
reasonable grounds to believe that the child will not be brought	248
before the court when required.	249
(d) There are reasonable grounds to believe that the child	250
committed a delinquent act and that taking the child into custody	251
is necessary to protect the public interest and safety.	252
(B)(1) The taking of a child into custody is not and shall	253
not be deemed an arrest except for the purpose of determining its	254
validity under the constitution of this state or of the United	255
States.	256
(2) Except as provided in division (C) of section 2151.311 of	257
the Revised Code, a child taken into custody shall not be held in	258
any state correctional institution, county, multicounty, or	259
municipal jail or workhouse, or any other place where any adult	260
convicted of crime, under arrest, or charged with crime is held.	261
(C)(1) Except as provided in division (C)(2) of this section,	262
a child taken into custody shall not be confined in a place of	263
juvenile detention or placed in shelter care prior to the	264
implementation of the court's final order of disposition, unless	265
detention or shelter care is required to protect the child from	266

immediate or threatened physical or emotional harm, because the 267
child is a danger or threat to one or more other persons and is 268
charged with violating a section of the Revised Code that may be 269
violated by an adult, because the child may abscond or be removed 270
from the jurisdiction of the court, because the child has no 271
parents, guardian, or custodian or other person able to provide 272
supervision and care for the child and return the child to the 273
court when required, or because an order for placement of the 274
child in detention or shelter care has been made by the court 275
pursuant to this chapter. 276

(2) A child alleged to be a delinquent child who is taken 277
into custody may be confined in a place of juvenile detention 278
prior to the implementation of the court's final order of 279
disposition if the confinement is authorized under section 2152.04 280
of the Revised Code or if the child is alleged to be a serious 281
youthful offender under section 2152.13 of the Revised Code and is 282
not released on bond. 283

(D) Upon receipt of notice from a person that the person 284
intends to take an alleged abused, neglected, or dependent child 285
into custody pursuant to division (A)(3) of this section, a 286
juvenile judge or a designated referee may grant by telephone an 287
ex parte emergency order authorizing the taking of the child into 288
custody if there is probable cause to believe that any of the 289
conditions set forth in divisions (A)(3)(a) to (c) of this section 290
are present. The judge or referee shall journalize any ex parte 291
emergency order issued pursuant to this division. If an order is 292
issued pursuant to this division and the child is taken into 293
custody pursuant to the order, a sworn complaint shall be filed 294
with respect to the child before the end of the next business day 295
after the day on which the child is taken into custody and a 296
hearing shall be held pursuant to division (E) of this section and 297
the Juvenile Rules. A juvenile judge or referee shall not grant an 298

emergency order by telephone pursuant to this division until after 299
the judge or referee determines that reasonable efforts have been 300
made to notify the parents, guardian, or custodian of the child 301
that the child may be placed into shelter care and of the reasons 302
for placing the child into shelter care, except that, if the 303
requirement for notification would jeopardize the physical or 304
emotional safety of the child or result in the child being removed 305
from the court's jurisdiction, the judge or referee may issue the 306
order for taking the child into custody and placing the child into 307
shelter care prior to giving notice to the parents, guardian, or 308
custodian of the child. 309

(E) If a judge or referee pursuant to division (D) of this 310
section issues an ex parte emergency order for taking a child into 311
custody, the court shall hold a hearing to determine whether there 312
is probable cause for the emergency order. The hearing shall be 313
held before the end of the next business day after the day on 314
which the emergency order is issued, except that it shall not be 315
held later than seventy-two hours after the emergency order is 316
issued. 317

If the court determines at the hearing that there is not 318
probable cause for the issuance of the emergency order issued 319
pursuant to division (D) of this section, it shall order the child 320
released to the custody of the child's parents, guardian, or 321
custodian. If the court determines at the hearing that there is 322
probable cause for the issuance of the emergency order issued 323
pursuant to division (D) of this section, the court shall do all 324
of the following: 325

(1) Ensure that a complaint is filed or has been filed; 326

(2) Comply with section 2151.419 of the Revised Code; 327

(3) Hold a hearing pursuant to section 2151.314 of the 328
Revised Code to determine if the child should remain in shelter 329

care.	330
(F) If the court determines at the hearing held pursuant to	331
division (E) of this section that there is probable cause to	332
believe that the child is an abused child, as defined in division	333
(A) of section 2151.031 of the Revised Code, the court may do any	334
of the following:	335
(1) Upon the motion of any party, the guardian ad litem, the	336
prosecuting attorney, or an employee of the public children	337
services agency, or its own motion, issue reasonable protective	338
orders with respect to the interviewing or deposition of the	339
child;	340
(2) Order that the child's testimony be videotaped for	341
preservation of the testimony for possible use in any other	342
proceedings in the case;	343
(3) Set any additional conditions with respect to the child	344
or the case involving the child that are in the best interest of	345
the child.	346
(G) This section is not intended, and shall not be construed,	347
to prevent any person from taking a child into custody, if taking	348
the child into custody is necessary in an emergency to prevent the	349
physical injury, emotional harm, or neglect of the child.	350
Sec. 2151.314. (A) When a child is brought before the court	351
or delivered to a place of detention or shelter care designated by	352
the court, the intake or other authorized officer of the court	353
shall immediately make an investigation and shall release the	354
child unless it appears that the child's detention or shelter care	355
is warranted or required under section 2151.31 of the Revised	356
Code.	357
If the child is not so released, a complaint under section	358
2151.27 or 2152.021 or an information under section 2152.13 of the	359

Revised Code shall be filed or an indictment under ~~division (B) of~~ 360
section 2152.13 of the Revised Code shall be sought and an 361
informal detention or shelter care hearing held promptly, not 362
later than seventy-two hours after the child is placed in 363
detention or shelter care, to determine whether detention or 364
shelter care is required. Reasonable oral or written notice of the 365
time, place, and purpose of the detention or shelter care hearing 366
shall be given to the child and, if they can be found, to the 367
child's parents, guardian, or custodian. In cases in which the 368
complaint alleges a child to be an abused, neglected, or dependent 369
child, the notice given the parents, guardian, or custodian shall 370
inform them that a case plan may be prepared for the child, the 371
general requirements usually contained in case plans, and the 372
possible consequences of the failure to comply with a journalized 373
case plan. 374

Prior to the hearing, the court shall inform the parties of 375
their right to counsel and to appointed counsel or to the services 376
of the county public defender or joint county public defender, if 377
they are indigent, of the child's right to remain silent with 378
respect to any allegation of delinquency, and of the name and 379
telephone number of a court employee who can be contacted during 380
the normal business hours of the court to arrange for the prompt 381
appointment of counsel for any party who is indigent. Unless it 382
appears from the hearing that the child's detention or shelter 383
care is required under the provisions of section 2151.31 of the 384
Revised Code, the court shall order the child's release as 385
provided by section 2151.311 of the Revised Code. If a parent, 386
guardian, or custodian has not been so notified and did not appear 387
or waive appearance at the hearing, upon the filing of an 388
affidavit stating these facts, the court shall rehear the matter 389
without unnecessary delay. 390

(B) When the court conducts a hearing pursuant to division 391

(A) of this section, all of the following apply: 392

(1) The court shall determine whether an alleged abused, 393
neglected, or dependent child should remain or be placed in 394
shelter care; 395

(2) The court shall determine whether there are any relatives 396
of the child who are willing to be temporary custodians of the 397
child. If any relative is willing to be a temporary custodian, the 398
child would otherwise be placed or retained in shelter care, and 399
the appointment is appropriate, the court shall appoint the 400
relative as temporary custodian of the child, unless the court 401
appoints another relative as temporary custodian. If it determines 402
that the appointment of a relative as custodian would not be 403
appropriate, it shall issue a written opinion setting forth the 404
reasons for its determination and give a copy of the opinion to 405
all parties and to the guardian ad litem of the child. 406

The court's consideration of a relative for appointment as a 407
temporary custodian does not make that relative a party to the 408
proceedings. 409

(3) The court shall comply with section 2151.419 of the 410
Revised Code. 411

(C) If a child is in shelter care following the filing of a 412
complaint pursuant to section 2151.27 or 2152.021 of the Revised 413
Code, the filing of an information, or the obtaining of an 414
indictment or following a hearing held pursuant to division (A) of 415
this section, any party, including the public children services 416
agency, and the guardian ad litem of the child may file a motion 417
with the court requesting that the child be released from shelter 418
care. The motion shall state the reasons why the child should be 419
released from shelter care and, if a hearing has been held 420
pursuant to division (A) of this section, any changes in the 421
situation of the child or the parents, guardian, or custodian of 422

the child that have occurred since that hearing and that justify 423
the release of the child from shelter care. Upon the filing of the 424
motion, the court shall hold a hearing in the same manner as under 425
division (A) of this section. 426

(D) Each juvenile court shall designate at least one court 427
employee to assist persons who are indigent in obtaining appointed 428
counsel. The court shall include in each notice given pursuant to 429
division (A) or (C) of this section and in each summons served 430
upon a party pursuant to this chapter, the name and telephone 431
number at which each designated employee can be contacted during 432
the normal business hours of the court to arrange for prompt 433
appointment of counsel for indigent persons. 434

Sec. 2152.02. As used in this chapter: 435

(A) "Act charged" means the act that is identified in a 436
complaint, indictment, or information alleging that a child is a 437
delinquent child. 438

(B) "Admitted to a department of youth services facility" 439
includes admission to a facility operated, or contracted for, by 440
the department and admission to a comparable facility outside this 441
state by another state or the United States. 442

(C)(1) "Child" means a person who is under eighteen years of 443
age, except as otherwise provided in divisions (C)(2) to (6) of 444
this section. 445

(2) Subject to division (C)(3) of this section, any person 446
who violates a federal or state law or a municipal ordinance prior 447
to attaining eighteen years of age shall be deemed a "child" 448
irrespective of that person's age at the time the complaint with 449
respect to that violation is filed or the hearing on the complaint 450
is held. 451

(3) Any person who, while under eighteen years of age, 452

commits an act that would be a felony if committed by an adult and 453
who is not taken into custody or apprehended for that act until 454
after the person attains twenty-one years of age is not a child in 455
relation to that act. 456

(4) Any person whose case is transferred for criminal 457
prosecution pursuant to section 2152.12 of the Revised Code shall 458
be deemed after the transfer not to be a child in the transferred 459
case. 460

(5) Any person whose case is transferred for criminal 461
prosecution pursuant to section 2152.12 of the Revised Code and 462
who subsequently is convicted of or pleads guilty to a felony in 463
that case, and any person who is adjudicated a delinquent child 464
for the commission of an act, who has a serious youthful offender 465
dispositional sentence imposed for the act pursuant to section 466
2152.13 of the Revised Code, and whose adult portion of the 467
dispositional sentence is invoked pursuant to section 2152.14 of 468
the Revised Code, shall be deemed after the transfer or invocation 469
not to be a child in any case in which a complaint is filed 470
against the person. 471

(6) The juvenile court has jurisdiction over a person who is 472
adjudicated a delinquent child or juvenile traffic offender prior 473
to attaining eighteen years of age until the person attains 474
twenty-one years of age, and, for purposes of that jurisdiction 475
related to that adjudication, except as otherwise provided in this 476
division, a person who is so adjudicated a delinquent child or 477
juvenile traffic offender shall be deemed a "child" until the 478
person attains twenty-one years of age. If a person is so 479
adjudicated a delinquent child or juvenile traffic offender and 480
the court makes a disposition of the person under this chapter, at 481
any time after the person attains eighteen years of age, the 482
places at which the person may be held under that disposition are 483
not limited to places authorized under this chapter solely for 484

confinement of children, and the person may be confined under that 485
disposition, in accordance with division (F)(2) of section 2152.26 486
of the Revised Code, in places other than those authorized under 487
this chapter solely for confinement of children. 488

(D) "Chronic truant" means any child of compulsory school age 489
who is absent without legitimate excuse for absence from the 490
public school the child is supposed to attend for seven or more 491
consecutive school days, ten or more school days in one school 492
month, or fifteen or more school days in a school year. 493

(E) "Community corrections facility," "public safety beds," 494
"release authority," and "supervised release" have the same 495
meanings as in section 5139.01 of the Revised Code. 496

(F) "Delinquent child" includes any of the following: 497

(1) Any child, except a juvenile traffic offender, who 498
violates any law of this state or the United States, or any 499
ordinance of a political subdivision of the state, that would be 500
an offense if committed by an adult; 501

(2) Any child who violates any lawful order of the court made 502
under this chapter or under Chapter 2151. of the Revised Code 503
other than an order issued under section 2151.87 of the Revised 504
Code; 505

(3) Any child who violates division (C) of section 2907.39, 506
division (A) of section 2923.211, or division (C)(1) or (D) of 507
section 2925.55 of the Revised Code; 508

(4) Any child who is a habitual truant and who previously has 509
been adjudicated an unruly child for being a habitual truant; 510

(5) Any child who is a chronic truant. 511

(G) ~~"Discretionary serious youthful offender" means a person 512
who is eligible for a discretionary SYO and who is not transferred 513
to adult court under a mandatory or discretionary transfer. 514~~

~~(H)~~ (G) "Discretionary SYO Serious youthful offender disposition" means a case in which the juvenile court, in the juvenile court's discretion, may impose a serious youthful offender ~~disposition~~ dispositional sentence under section 2152.13 of the Revised Code.

~~(I)~~ "Discretionary transfer" means that the juvenile court has discretion to transfer a case for criminal prosecution under division ~~(B)~~ of section 2152.12 of the Revised Code.

~~(J)~~ (H) "Drug abuse offense," "felony drug abuse offense," and "minor drug possession offense" have the same meanings as in section 2925.01 of the Revised Code.

~~(K)~~ (I) "Electronic monitoring" and "electronic monitoring device" have the same meanings as in section 2929.01 of the Revised Code.

~~(L)~~ (J) "Economic loss" means any economic detriment suffered by a victim of a delinquent act or juvenile traffic offense as a direct and proximate result of the delinquent act or juvenile traffic offense and includes any loss of income due to lost time at work because of any injury caused to the victim and any property loss, medical cost, or funeral expense incurred as a result of the delinquent act or juvenile traffic offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

~~(M)~~ (K) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

~~(N)~~ (L) "Juvenile traffic offender" means any child who violates any traffic law, traffic ordinance, or traffic regulation of this state, the United States, or any political subdivision of this state, other than a resolution, ordinance, or regulation of a political subdivision of this state the violation of which is required to be handled by a parking violations bureau or a joint

parking violations bureau pursuant to Chapter 4521. of the Revised Code. 546
547

~~(O)~~(M) A "legitimate excuse for absence from the public school the child is supposed to attend" has the same meaning as in section 2151.011 of the Revised Code. 548
549
550

~~(P)~~ "Mandatory serious youthful offender" means a person who is eligible for a mandatory SYO and who is not transferred to adult court under a mandatory or discretionary transfer. 551
552
553

~~(Q)~~ "Mandatory SYO" means a case in which the juvenile court is required to impose a mandatory serious youthful offender disposition under section 2152.13 of the Revised Code. 554
555
556

~~(R)~~ "Mandatory transfer" means that a case is required to be transferred for criminal prosecution under division (A) of section 2152.12 of the Revised Code. 557
558
559

~~(S)~~(N) "Mental illness" has the same meaning as in section 5122.01 of the Revised Code. 560
561

~~(T)~~(O) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code. 562
563

~~(U)~~(P) "Monitored time" and "repeat violent offender" have the same meanings as in section 2929.01 of the Revised Code. 564
565

~~(V)~~(O) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code. 566
567

~~(W)~~(R) "Public record" has the same meaning as in section 149.43 of the Revised Code. 568
569

~~(X)~~(S) "Serious youthful offender" means a person who is eligible for a ~~mandatory SYO or discretionary SYO~~ serious youthful offender disposition but who is not transferred to adult court under a ~~mandatory or discretionary transfer~~ section 2152.12 of the Revised Code. 570
571
572
573
574

~~(Y)~~(T) "Sexually oriented offense," "juvenile offender" 575

registrant," "child-victim oriented offense," "tier I sex 576
offender/child-victim offender," "tier II sex 577
offender/child-victim offender," "tier III sex 578
offender/child-victim offender," and "public registry-qualified 579
juvenile offender registrant" have the same meanings as in section 580
2950.01 of the Revised Code. 581

~~(Z)~~(U) "Traditional juvenile disposition" means a ~~case that~~ 582
~~is not transferred to adult court under a mandatory or~~ 583
~~discretionary transfer, that is eligible for a disposition under~~ 584
sections 2152.16, 2152.17, 2152.19, and 2152.20 of the Revised 585
Code, ~~and in a case that is not eligible for a disposition~~ 586
transferred to adult court under section 2152.13 2152.12 of the 587
Revised Code. 588

~~(AA)~~(V) "Transfer" means the transfer for criminal 589
prosecution of a case involving the alleged commission by a child 590
of an act that would be ~~an~~ a felony offense of violence if 591
committed by an adult from the juvenile court to the appropriate 592
court that has jurisdiction of the offense or the transfer for 593
criminal prosecution of a case when the person charged with the 594
offense is deemed not to be a child in the circumstances described 595
in division (C)(5) of section 2152.02 of the Revised Code from the 596
juvenile court to the appropriate court that has jurisdiction of 597
the offense in the case. 598

~~(BB)~~ "Category one offense" means any of the following: 599

~~(1) A violation of section 2903.01 or 2903.02 of the Revised 600
Code;~~ 601

~~(2) A violation of section 2923.02 of the Revised Code 602
involving an attempt to commit aggravated murder or murder.~~ 603

~~(CC)~~ "Category two offense" means any of the following: 604

~~(1) A violation of section 2903.03, 2905.01, 2907.02, 605
2909.02, 2911.01, or 2911.11 of the Revised Code;~~ 606

~~(2) A violation of section 2903.04 of the Revised Code that is a felony of the first degree;~~ 607
608

~~(3) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.~~ 609
610

~~(DD)~~(W) "Non-economic loss" means nonpecuniary harm suffered 611
by a victim of a delinquent act or juvenile traffic offense as a 612
result of or related to the delinquent act or juvenile traffic 613
offense, including, but not limited to, pain and suffering; loss 614
of society, consortium, companionship, care, assistance, 615
attention, protection, advice, guidance, counsel, instruction, 616
training, or education; mental anguish; and any other intangible 617
loss. 618

Sec. 2152.021. (A)(1) Subject to division (A)(2) of this 619
section, any person having knowledge of a child who appears to be 620
a juvenile traffic offender or to be a delinquent child may file a 621
sworn complaint with respect to that child in the juvenile court 622
of the county in which the child has a residence or legal 623
settlement or in which the traffic offense or delinquent act 624
allegedly occurred. The sworn complaint may be upon information 625
and belief, and, in addition to the allegation that the child is a 626
delinquent child or a juvenile traffic offender, the complaint 627
shall allege the particular facts upon which the allegation that 628
the child is a delinquent child or a juvenile traffic offender is 629
based. 630

If a child appears to be a delinquent child who is eligible 631
under section 2152.13 of the Revised Code for a serious youthful 632
offender ~~dispositional sentence under section 2152.11 of the~~ 633
~~Revised Code~~ disposition and if the prosecuting attorney desires 634
to seek a serious youthful offender dispositional sentence under 635
that section 2152.13 of the Revised Code in regard to the child, 636
the prosecuting attorney of the county in which the alleged 637

delinquency occurs may initiate a case in the juvenile court of 638
the county by presenting the case to a grand jury for indictment, 639
by charging the child in a bill of information as a serious 640
youthful offender pursuant to section 2152.13 of the Revised Code, 641
by requesting a serious youthful offender dispositional sentence 642
in the original complaint alleging that the child is a delinquent 643
child, or by filing with the juvenile court a written notice of 644
intent to seek a serious youthful offender dispositional sentence. 645

(2) Any person having knowledge of a child who appears to be 646
a delinquent child for being an habitual or chronic truant may 647
file a sworn complaint with respect to that child and the parent, 648
guardian, or other person having care of the child in the juvenile 649
court of the county in which the child has a residence or legal 650
settlement or in which the child is supposed to attend public 651
school. The sworn complaint may be upon information and belief and 652
shall contain the following allegations: 653

(a) That the child is a delinquent child for being a chronic 654
truant or an habitual truant who previously has been adjudicated 655
an unruly child for being a habitual truant and, in addition, the 656
particular facts upon which that allegation is based; 657

(b) That the parent, guardian, or other person having care of 658
the child has failed to cause the child's attendance at school in 659
violation of section 3321.38 of the Revised Code and, in addition, 660
the particular facts upon which that allegation is based. 661

(B) Any person with standing under applicable law may file a 662
complaint for the determination of any other matter over which the 663
juvenile court is given jurisdiction by section 2151.23 of the 664
Revised Code. The complaint shall be filed in the county in which 665
the child who is the subject of the complaint is found or was last 666
known to be found. 667

(C) Within ten days after the filing of a complaint or the 668

issuance of an indictment, the court shall give written notice of 669
the filing of the complaint or the issuance of an indictment and 670
of the substance of the complaint or indictment to the 671
superintendent of a city, local, exempted village, or joint 672
vocational school district if the complaint or indictment alleges 673
that a child committed an act that would be a criminal offense if 674
committed by an adult, that the child was sixteen years of age or 675
older at the time of the commission of the alleged act, and that 676
the alleged act is any of the following: 677

(1) A violation of section 2923.122 of the Revised Code that 678
relates to property owned or controlled by, or to an activity held 679
under the auspices of, the board of education of that school 680
district; 681

(2) A violation of section 2923.12 of the Revised Code, of a 682
substantially similar municipal ordinance, or of section 2925.03 683
of the Revised Code that was committed on property owned or 684
controlled by, or at an activity held under the auspices of, the 685
board of education of that school district; 686

(3) A violation of section 2925.11 of the Revised Code that 687
was committed on property owned or controlled by, or at an 688
activity held under the auspices of, the board of education of 689
that school district, other than a violation of that section that 690
would be a minor drug possession offense if committed by an adult; 691

(4) A violation of section 2903.01, 2903.02, 2903.03, 692
2903.04, 2903.11, 2903.12, 2907.02, or 2907.05 of the Revised 693
Code, or a violation of former section 2907.12 of the Revised 694
Code, that was committed on property owned or controlled by, or at 695
an activity held under the auspices of, the board of education of 696
that school district, if the victim at the time of the commission 697
of the alleged act was an employee of the board of education of 698
that school district; 699

(5) Complicity in any violation described in division (C)(1), (2), (3), or (4) of this section that was alleged to have been committed in the manner described in division (C)(1), (2), (3), or (4) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(D) A public children services agency, acting pursuant to a complaint or an action on a complaint filed under this section, is not subject to the requirements of section 3127.23 of the Revised Code.

(E) For purposes of the record to be maintained by the clerk under division (B) of section 2152.71 of the Revised Code, when a complaint is filed that alleges that a child is a delinquent child, the court shall determine if the victim of the alleged delinquent act was sixty-five years of age or older or permanently and totally disabled at the time of the alleged commission of the act.

Sec. 2152.10. (A) A child who is alleged to be a delinquent child ~~is eligible for mandatory transfer and shall be transferred as provided in section 2152.12 of the Revised Code in any of the following circumstances:~~

~~(1) The child is charged with a category one offense and either of the following apply:~~

~~(a) The child was sixteen years of age or older at the time of the act charged.~~

~~(b) The child was fourteen or fifteen years of age at the time of the act charged and previously was adjudicated a delinquent child for committing an act that is a category one or category two offense and was committed to the legal custody of the~~

~~department of youth services upon the basis of that adjudication.~~ 730

~~(2) The child is charged with a category two offense, other 731
than a violation of section 2905.01 of the Revised Code, the child 732
was sixteen years of age or older at the time of the commission of 733
the act charged, and either or both of the following apply: 734~~

~~(a) The child previously was adjudicated a delinquent child 735
for committing an act that is a category one or a category two 736
offense and was committed to the legal custody of the department 737
of youth services on the basis of that adjudication. 738~~

~~(b) The child is alleged to have had a firearm on or about 739
the child's person or under the child's control while committing 740
the act charged and to have displayed the firearm, brandished the 741
firearm, indicated possession of the firearm, or used the firearm 742
to facilitate the commission of the act charged. 743~~

~~(3) Division (A)(2) of section 2152.12 of the Revised Code 744
applies. 745~~

~~(B) Unless the child is subject to mandatory transfer, if a 746
child, who is fourteen years of age or older at the time of the 747
act charged, and if the child who is charged with an act that 748
would be a felony offense of violence if committed by an adult, 749
the child is eligible for ~~discretionary~~ transfer to the 750
appropriate court for criminal prosecution. In determining whether 751
to transfer the child for criminal prosecution, the juvenile court 752
shall follow the procedures in section 2152.12 of the Revised 753
Code. If the court does not transfer the child and if the court 754
adjudicates the child to be a delinquent child for the act 755
charged, the court shall issue an order of disposition in 756
accordance with ~~section 2152.11 of the Revised Code~~ this chapter. 757~~

~~(B) If a complaint is filed against a person who is deemed 758
not to be a child in the circumstances described in division 759
(C)(5) of section 2152.02 of the Revised Code, the person is 760~~

eligible for transfer, and the case shall be transferred to the 761
appropriate court for criminal prosecution. 762

~~Sec. 2152.12. (A)(1)(a) After a complaint has been filed~~ 763
~~alleging that a child is a delinquent child for committing an act~~ 764
~~that would be aggravated murder, murder, attempted aggravated~~ 765
~~murder, or attempted murder if committed by an adult, the juvenile~~ 766
~~court at a hearing shall transfer the case if the child was~~ 767
~~sixteen or seventeen years of age at the time of the act charged~~ 768
~~and there is probable cause to believe that the child committed~~ 769
~~the act charged. The juvenile court also shall transfer the case~~ 770
~~at a hearing if the child was fourteen or fifteen years of age at~~ 771
~~the time of the act charged, if section 2152.10 of the Revised~~ 772
~~Code provides that the child is eligible for mandatory transfer,~~ 773
~~and if there is probable cause to believe that the child committed~~ 774
~~the act charged.~~ 775

~~(b) After a complaint has been filed alleging that a child is~~ 776
~~a delinquent child by reason of committing a category two offense,~~ 777
~~the juvenile court at a hearing shall transfer the case if section~~ 778
~~2152.10 of the Revised Code requires the mandatory transfer of the~~ 779
~~case and there is probable cause to believe that the child~~ 780
~~committed the act charged.~~ 781

~~(2) The juvenile court also shall transfer a case in the~~ 782
~~circumstances described in division (C)(5) of section 2152.02 of~~ 783
~~the Revised Code or if either of the following applies:~~ 784

~~(a) A complaint is filed against a child who is eligible for~~ 785
~~a discretionary transfer under section 2152.10 of the Revised Code~~ 786
~~and who previously was convicted of or pleaded guilty to a felony~~ 787
~~in a case that was transferred to a criminal court.~~ 788

~~(b) A complaint is filed against a child who is domiciled in~~ 789
~~another state alleging that the child is a delinquent child for~~ 790
~~committing an act that would be a felony if committed by an adult,~~ 791

~~and, if the act charged had been committed in that other state,~~ 792
~~the child would be subject to criminal prosecution as an adult~~ 793
~~under the law of that other state without the need for a transfer~~ 794
~~of jurisdiction from a juvenile, family, or similar noncriminal~~ 795
~~court to a criminal court.~~ 796

~~(B) Except as provided in division (A) of this section, after~~ 797
After a complaint has been filed alleging that a child is a 798
delinquent child for committing an act that would be a felony 799
offense of violence if committed by an adult, the juvenile court 800
at a hearing may transfer the case if the court finds all of the 801
following: 802

~~(1)(a)~~ The child was fourteen years of age or older at the 803
time of the act charged. 804

~~(2)(b)~~ There is probable cause to believe that the child 805
committed the act charged. 806

~~(3)(c)~~ The child is not amenable to care or rehabilitation 807
within the juvenile system, and the safety of the community may 808
require that the child be subject to adult sanctions. In making 809
its decision under this division, the court shall consider whether 810
the applicable factors under division ~~(D)~~(C) of this section 811
indicating that the case should be transferred outweigh the 812
applicable factors under division ~~(E)~~(D) of this section 813
indicating that the case should not be transferred. The record 814
shall indicate the specific factors that were applicable and that 815
the court weighed. 816

(2) Independent of the authority to transfer a case under 817
division (A)(1) of this section, the juvenile court shall transfer 818
a case when the person charged is deemed not to be a child in the 819
circumstances described in division (C)(5) of section 2152.02 of 820
the Revised Code. 821

~~(C)(B)~~ Before considering a transfer under division ~~(B)~~(A)(1) 822

of this section, the juvenile court shall order an investigation, 823
including a mental examination of the child by a public or private 824
agency or a person qualified to make the examination. The child 825
may waive the examination required by this division if the court 826
finds that the waiver is competently and intelligently made. 827
Refusal to submit to a mental examination by the child constitutes 828
a waiver of the examination. 829

~~(D)~~(C) In considering whether to transfer a child under 830
division ~~(B)~~(A)(1) of this section, the juvenile court shall 831
consider the following relevant factors, and any other relevant 832
factors, in favor of a transfer under that division: 833

(1) The victim of the act charged suffered physical or 834
psychological harm, or serious economic harm, as a result of the 835
alleged act. 836

(2) The physical or psychological harm suffered by the victim 837
due to the alleged act of the child was exacerbated because of the 838
physical or psychological vulnerability or the age of the victim. 839

(3) The child's relationship with the victim facilitated the 840
act charged. 841

(4) The child allegedly committed the act charged for hire or 842
as a part of a gang or other organized criminal activity. 843

(5) The child had a firearm on or about the child's person or 844
under the child's control at the time of the act charged, the act 845
charged is not a violation of section 2923.12 of the Revised Code, 846
and the child, during the commission of the act charged, allegedly 847
used or displayed the firearm, brandished the firearm, or 848
indicated that the child possessed a firearm. 849

(6) At the time of the act charged, the child was awaiting 850
adjudication or disposition as a delinquent child, was under a 851
community control sanction, or was on parole for a prior 852
delinquent child adjudication or conviction. 853

(7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.

(8) The child is emotionally, physically, or psychologically mature enough for the transfer.

(9) There is not sufficient time to rehabilitate the child within the juvenile system.

~~(E)~~(D) In considering whether to transfer a child under division ~~(B)~~(A)(1) of this section, the juvenile court shall consider the following relevant factors, and any other relevant factors, against a transfer under that division:

(1) The victim induced or facilitated the act charged.

(2) The child acted under provocation in allegedly committing the act charged.

(3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.

(4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.

(5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or is a mentally retarded person.

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

~~(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred for, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:~~

~~(1) Initially, the court shall decide the motion alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred.~~

~~(2) If the court determines that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred, the court shall transfer the case or cases in accordance with that division. After the transfer pursuant to division (A) of this section, the court shall decide, in accordance with division (B) of this section, whether to grant the motion requesting that the case or cases involving one or more of the acts charged be transferred pursuant to that division. Notwithstanding division (B) of this section, prior to transferring a case pursuant to division (A) of this section, the court is not required to consider any factor specified in division (D) or (E) of this section or to conduct an investigation under division (C) of this section.~~

~~(3) If the court determines that division (A) of this section does not require that the case or cases involving one or more of the acts charged be transferred, the court shall decide in accordance with division (B) of this section whether to grant the motion requesting that the case or cases involving one or more of~~

~~the acts charged be transferred pursuant to that division.~~ 915

~~(G)~~(E) The court shall give notice in writing of the time, 916
place, and purpose of any hearing held pursuant to division (A) ~~or~~ 917
~~(B)~~(1) of this section to the child's parents, guardian, or other 918
custodian and to the child's counsel at least three days prior to 919
the hearing. 920

~~(H)~~(F) No person, either before or after reaching eighteen 921
years of age, shall be prosecuted as an adult for an offense 922
committed prior to becoming eighteen years of age, unless the 923
person has been transferred as provided in division (A) ~~or~~ ~~(B)~~(1) 924
of this section or unless division ~~(J)~~(H) of this section applies. 925
Any prosecution that is had in a criminal court on the mistaken 926
belief that the person who is the subject of the case was eighteen 927
years of age or older at the time of the commission of the offense 928
shall be deemed a nullity, and the person shall not be considered 929
to have been in jeopardy on the offense. 930

~~(I)~~(G) Upon the transfer of a case under division (A)(1) or 931
~~(B)~~(2) of this section, the juvenile court shall state the reasons 932
for the transfer on the record, and shall order the child to enter 933
into a recognizance with good and sufficient surety for the 934
child's appearance before the appropriate court for any 935
disposition that the court is authorized to make for a similar act 936
committed by an adult. The transfer abates the jurisdiction of the 937
juvenile court with respect to the delinquent acts alleged in the 938
complaint, and, upon the transfer, all further proceedings 939
pertaining to the act charged shall be discontinued in the 940
juvenile court, and the case then shall be within the jurisdiction 941
of the court to which it is transferred as described in division 942
(H) of section 2151.23 of the Revised Code. 943

~~(J)~~(H) If a person under eighteen years of age allegedly 944
commits an act that would be a felony if committed by an adult and 945
if the person is not taken into custody or apprehended for that 946

act until after the person attains twenty-one years of age, the 947
juvenile court does not have jurisdiction to hear or determine any 948
portion of the case charging the person with committing that act. 949
In those circumstances, ~~divisions~~ division (A) ~~and (B)~~ of this 950
section ~~do~~ does not apply regarding the act, and the case charging 951
the person with committing the act shall be a criminal prosecution 952
commenced and heard in the appropriate court having jurisdiction 953
of the offense as if the person had been eighteen years of age or 954
older when the person committed the act. All proceedings 955
pertaining to the act shall be within the jurisdiction of the 956
court having jurisdiction of the offense, and that court has all 957
the authority and duties in the case as it has in other criminal 958
cases in that court. 959

Sec. 2152.13. (A) (1) A child is eligible for a serious 960
youthful offender disposition under this section only if the child 961
is adjudicated a delinquent child for committing an act that would 962
be a felony offense of violence if committed by an adult, was 963
fourteen years of age or older when the act was committed, and was 964
not transferred under section 2152.12 of the Revised Code. 965

(2) A juvenile court may impose a serious youthful offender 966
dispositional sentence on a child only if the prosecuting attorney 967
of the county in which the delinquent act allegedly occurred 968
initiates the process against the child in accordance with this 969
division, and the child is an alleged delinquent child who is 970
eligible under division (A)(1) of this section for ~~the~~ 971
~~dispositional sentence~~ a serious youthful offender disposition. 972
The prosecuting attorney may initiate the process in any of the 973
following ways: 974

~~(1)(a)~~ (a) Obtaining an indictment of the child as a serious 975
youthful offender; 976

~~(2)~~ (b) If the child waives the right to indictment, 977

charging the child in a bill of information as a serious youthful 978
offender; 979

~~(3)(c)~~ Until an indictment or information is obtained, 980
requesting a serious youthful offender dispositional sentence in 981
the original complaint alleging that the child is a delinquent 982
child; 983

~~(4)(d)~~ Until an indictment or information is obtained, if the 984
original complaint does not request a serious youthful offender 985
dispositional sentence, filing with the juvenile court a written 986
notice of intent to seek a serious youthful offender dispositional 987
sentence within twenty days after the later of the following, 988
unless the time is extended by the juvenile court for good cause 989
shown: 990

~~(a)(i)~~ The date of the child's first juvenile court hearing 991
regarding the complaint; 992

~~(b)(ii)~~ The date the juvenile court determines not to 993
transfer the case under section 2152.12 of the Revised Code. 994

After a written notice is filed under division (A)~~(4)(2)(d)~~ 995
of this section, the juvenile court shall serve a copy of the 996
notice on the child and advise the child of the prosecuting 997
attorney's intent to seek a serious youthful offender 998
dispositional sentence in the case. 999

(B) If an alleged delinquent child is not indicted or charged 1000
by information as described in division (A)~~(1)(2)(a)~~ or ~~(2)(b)~~ of 1001
this section and if a notice or complaint as described in division 1002
(A)~~(3)(2)(c)~~ or ~~(4)(d)~~ of this section indicates that the 1003
prosecuting attorney intends to pursue a serious youthful offender 1004
dispositional sentence in the case, the juvenile court shall hold 1005
a preliminary hearing to determine if there is probable cause that 1006
the child committed the act charged and is ~~by age~~ eligible under 1007
division (A)(1) of this section for, ~~or required to receive,~~ a 1008

serious youthful offender ~~dispositional sentence~~ disposition. 1009

(C)(1) A child for whom a serious youthful offender 1010
dispositional sentence is sought has the right to a grand jury 1011
determination of probable cause that the child committed the act 1012
charged and that the child is eligible ~~by age~~ under division 1013
(A)(1) of this section for a serious youthful offender 1014
~~dispositional sentence~~ disposition. The grand jury may be 1015
impaneled by the court of common pleas or the juvenile court. 1016

Once a child is indicted, or charged by information or the 1017
juvenile court determines that the child is eligible under 1018
division (A)(1) of this section for a serious youthful offender 1019
~~dispositional sentence~~ disposition, the child is entitled to an 1020
open and speedy trial by jury in juvenile court and to be provided 1021
with a transcript of the proceedings. The time within which the 1022
trial is to be held under Title XXIX of the Revised Code commences 1023
on whichever of the following dates is applicable: 1024

(a) If the child is indicted or charged by information, on 1025
the date of the filing of the indictment or information. 1026

(b) If the child is charged by an original complaint that 1027
requests a serious youthful offender dispositional sentence, on 1028
the date of the filing of the complaint. 1029

(c) If the child is not charged by an original complaint that 1030
requests a serious youthful offender dispositional sentence, on 1031
the date that the prosecuting attorney files the written notice of 1032
intent to seek a serious youthful offender dispositional sentence. 1033

(2) If ~~the~~ a child for whom a serious youthful offender 1034
dispositional sentence is sought is detained awaiting 1035
adjudication, upon indictment or being charged by information, the 1036
child has the same right to bail as an adult charged with the 1037
offense the alleged delinquent act would be if committed by an 1038
adult. Except as provided in division (D) of section 2152.14 of 1039

the Revised Code, all provisions of Title XXIX of the Revised Code 1040
and the Criminal Rules shall apply in the case and to the child. 1041
The juvenile court shall afford the child all rights afforded a 1042
person who is prosecuted for committing a crime including the 1043
right to counsel and the right to raise the issue of competency. 1044
The child may not waive the right to counsel. 1045

~~(D)(1) If a child is adjudicated a delinquent child for 1046
committing an act under circumstances that require the juvenile 1047
court to impose upon the child a serious youthful offender 1048
dispositional sentence under section 2152.11 of the Revised Code, 1049
all of the following apply: 1050~~

~~(a) The juvenile court shall impose upon the child a sentence 1051
available for the violation, as if the child were an adult, under 1052
Chapter 2929. of the Revised Code, except that the juvenile court 1053
shall not impose on the child a sentence of death or life 1054
imprisonment without parole. 1055~~

~~(b) The juvenile court also shall impose upon the child one 1056
or more traditional juvenile dispositions under sections 2152.16, 1057
2152.19, and 2152.20, and, if applicable, section 2152.17 of the 1058
Revised Code. 1059~~

~~(c) The juvenile court shall stay the adult portion of the 1060
serious youthful offender dispositional sentence pending the 1061
successful completion of the traditional juvenile dispositions 1062
imposed. 1063~~

~~(2)(a) If a child is adjudicated a delinquent child for 1064
committing an act and under circumstances that allow, but do not 1065
require, the juvenile court to impose on division (A)(1) of this 1066
section the child is eligible for a serious youthful offender 1067
dispositional sentence under section 2152.11 of the Revised Code 1068
disposition, all of the following apply: 1069~~

~~(i) If the juvenile court on the record makes a finding that, 1070~~

given the nature and circumstances of the violation and the 1071
history of the child, the length of time, level of security, and 1072
types of programming and resources available in the juvenile 1073
system alone are not adequate to provide the juvenile court with a 1074
reasonable expectation that the purposes set forth in section 1075
2152.01 of the Revised Code will be met, the juvenile court may 1076
impose upon the child a sentence available for the violation, as 1077
if the child were an adult, under Chapter 2929. of the Revised 1078
Code, except that the juvenile court shall not impose on the child 1079
a sentence of death or life imprisonment without parole. 1080

(ii) If a sentence is imposed under division (D)~~(2)~~(1)(a)(i) 1081
of this section, the juvenile court also shall impose upon the 1082
child one or more traditional juvenile dispositions under sections 1083
2152.16, 2152.19, and 2152.20 and, if applicable, section 2152.17 1084
of the Revised Code. 1085

(iii) The juvenile court shall stay the adult portion of the 1086
serious youthful offender dispositional sentence pending the 1087
successful completion of the traditional juvenile dispositions 1088
imposed. 1089

(b) If the juvenile court does not find that a sentence 1090
should be imposed under division (D)~~(2)~~(1)(a)(i) of this section, 1091
the juvenile court may impose one or more traditional juvenile 1092
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 1093
applicable, section 2152.17 of the Revised Code. 1094

~~(3)~~(2) A child upon whom a serious youthful offender 1095
dispositional sentence is imposed under division (D)(1) ~~or (2)~~ of 1096
this section has a right to appeal under division (A)(1), (3), 1097
(4), (5), or (6) of section 2953.08 of the Revised Code the adult 1098
portion of the serious youthful offender dispositional sentence 1099
when any of those divisions apply. The child may appeal the adult 1100
portion, and the court shall consider the appeal as if the adult 1101
portion were not stayed. 1102

Sec. 2152.14. (A)(1) The director of youth services may 1103
request the prosecuting attorney of the county in which is located 1104
the juvenile court that imposed a serious youthful offender 1105
dispositional sentence upon a person under section 2152.13 of the 1106
Revised Code to file a motion with that juvenile court to invoke 1107
the adult portion of the dispositional sentence if all of the 1108
following apply to the person: 1109

(a) The person is at least fourteen years of age. 1110

(b) The person is in the institutional custody, or an escapee 1111
from the custody, of the department of youth services. 1112

(c) The person is serving the juvenile portion of the serious 1113
youthful offender dispositional sentence. 1114

(2) The motion shall state that there is reasonable cause to 1115
believe that either of the following misconduct has occurred and 1116
shall state that at least one incident of misconduct of that 1117
nature occurred after the person reached fourteen years of age: 1118

(a) The person committed an act that is a violation of the 1119
rules of the institution and that could be charged as any felony 1120
or as a first degree misdemeanor offense of violence if committed 1121
by an adult. 1122

(b) The person has engaged in conduct that creates a 1123
substantial risk to the safety or security of the institution, the 1124
community, or the victim. 1125

(B) If a person is at least fourteen years of age, is serving 1126
the juvenile portion of a serious youthful offender dispositional 1127
sentence imposed under section 2152.13 of the Revised Code, and is 1128
on parole or aftercare from a department of youth services 1129
facility, or on community control, the director of youth services, 1130
the juvenile court that imposed the serious youthful offender 1131
dispositional sentence on the person, or the probation department 1132

supervising the person may request the prosecuting attorney of the 1133
county in which is located the juvenile court to file a motion 1134
with the juvenile court to invoke the adult portion of the 1135
dispositional sentence. The prosecuting attorney may file a motion 1136
to invoke the adult portion of the dispositional sentence even if 1137
no request is made. The motion shall state that there is 1138
reasonable cause to believe that either of the following occurred 1139
and shall state that at least one incident of misconduct of that 1140
nature occurred after the person reached fourteen years of age: 1141

(1) The person committed an act that is a violation of the 1142
conditions of supervision and that could be charged as any felony 1143
or as a first degree misdemeanor offense of violence if committed 1144
by an adult. 1145

(2) The person has engaged in conduct that creates a 1146
substantial risk to the safety or security of the community or of 1147
the victim. 1148

(C) If the prosecuting attorney declines a request to file a 1149
motion that was made by the department of youth services or the 1150
supervising probation department under division (A) or (B) of this 1151
section or fails to act on a request made under either division by 1152
the department within a reasonable time, the department of youth 1153
services or the supervising probation department may file a motion 1154
of the type described in division (A) or (B) of this section with 1155
the juvenile court to invoke the adult portion of the serious 1156
youthful offender dispositional sentence. If the prosecuting 1157
attorney declines a request to file a motion that was made by the 1158
juvenile court under division (B) of this section or fails to act 1159
on a request from the court under that division within a 1160
reasonable time, the juvenile court may hold the hearing described 1161
in division (D) of this section on its own motion. 1162

(D) Upon the filing of a motion described in division (A), 1163
(B), or (C) of this section, the juvenile court may hold a hearing 1164

to determine whether to invoke the adult portion of a person's 1165
serious juvenile offender dispositional sentence. The juvenile 1166
court shall not invoke the adult portion of the dispositional 1167
sentence without a hearing. At the hearing the person who is the 1168
subject of the serious youthful offender disposition has the right 1169
to be present, to receive notice of the grounds upon which the 1170
adult sentence portion is sought to be invoked, to be represented 1171
by counsel including counsel appointed under Juvenile Rule 4(A), 1172
to be advised on the procedures and protections set forth in the 1173
Juvenile Rules, and to present evidence on the person's own 1174
behalf, including evidence that the person has a mental illness or 1175
is a mentally retarded person. The person may not waive the right 1176
to counsel. The hearing shall be open to the public. If the person 1177
presents evidence that the person has a mental illness or is a 1178
mentally retarded person, the juvenile court shall consider that 1179
evidence in determining whether to invoke the adult portion of the 1180
serious youthful offender dispositional sentence. 1181

(E)(1) The juvenile court may invoke the adult portion of a 1182
person's serious youthful offender dispositional sentence if the 1183
juvenile court finds all of the following on the record by clear 1184
and convincing evidence: 1185

(a) The person is serving the juvenile portion of a serious 1186
youthful offender dispositional sentence. 1187

(b) The person is at least fourteen years of age and has been 1188
admitted to a department of youth services facility, or criminal 1189
charges are pending against the person. 1190

(c) The person engaged in the conduct or acts charged under 1191
division (A), (B), or (C) of this section, and the person's 1192
conduct demonstrates that the person is unlikely to be 1193
rehabilitated during the remaining period of juvenile 1194
jurisdiction. 1195

(2) The court may modify the adult sentence the court invokes 1196
to consist of any lesser prison term that could be imposed for the 1197
offense and, in addition to the prison term or in lieu of the 1198
prison term if the prison term was not mandatory, any community 1199
control sanction that the offender was eligible to receive at 1200
sentencing. 1201

(F) If a juvenile court issues an order invoking the adult 1202
portion of a serious youthful offender dispositional sentence 1203
under division (E) of this section, the juvenile portion of the 1204
dispositional sentence shall terminate, and the department of 1205
youth services shall transfer the person to the department of 1206
rehabilitation and correction or place the person under another 1207
sanction imposed as part of the sentence. The juvenile court shall 1208
state in its order the total number of days that the person has 1209
been held in detention or in a facility operated by, or under 1210
contract with, the department of youth services under the juvenile 1211
portion of the dispositional sentence. The time the person must 1212
serve on a prison term imposed under the adult portion of the 1213
dispositional sentence shall be reduced by the total number of 1214
days specified in the order plus any additional days the person is 1215
held in a juvenile facility or in detention after the order is 1216
issued and before the person is transferred to the custody of the 1217
department of rehabilitation and correction. In no case shall the 1218
total prison term as calculated under this division exceed the 1219
maximum prison term available for an adult who is convicted of 1220
violating the same sections of the Revised Code. 1221

Any community control imposed as part of the adult sentence 1222
or as a condition of a judicial release from prison shall be under 1223
the supervision of the entity that provides adult probation 1224
services in the county. Any post-release control imposed after the 1225
offender otherwise is released from prison shall be supervised by 1226
the adult parole authority. 1227

Sec. 2152.17. (A) Subject to division (D) of this section, if
a child is adjudicated a delinquent child for committing an act,
other than a violation of section 2923.12 of the Revised Code,
that would be a felony if committed by an adult ~~and~~, if the court
determines that, if the child was an adult, the child would be
guilty of a specification of the type set forth in section
2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, 2941.1414, or
2941.1415 of the Revised Code, and if the court commits the child
to the department of youth services for the underlying delinquent
act under sections 2152.12 to 2152.16 of the Revised Code, in
addition to ~~any that~~ commitment ~~or~~ and any other disposition the
court imposes for the underlying delinquent act, all of the
following apply:

(1) If the court determines that the child would be guilty of
a specification of the type set forth in section 2941.141 of the
Revised Code, the court may commit the child to the department of
youth services for the specification for a definite period of up
to one year.

(2) If the court determines that the child would be guilty of
a specification of the type set forth in section 2941.145 of the
Revised Code or if the delinquent act is a violation of division
(A)(1) or (2) of section 2903.06 of the Revised Code and the court
determines that the child would be guilty of a specification of
the type set forth in section 2941.1415 of the Revised Code, the
court ~~shall~~ may commit the child to the department of youth
services for the specification for a definite period of ~~not less
than one and~~ not more than three years, ~~and the court also shall
commit the child to the department for the underlying delinquent
act under sections 2152.11 to 2152.16 of the Revised Code.~~

(3) If the court determines that the child would be guilty of
a specification of the type set forth in section 2941.144,

2941.146, or 2941.1412 of the Revised Code or if the delinquent 1259
act is a violation of division (A)(1) or (2) of section 2903.06 of 1260
the Revised Code and the court determines that the child would be 1261
guilty of a specification of the type set forth in section 1262
2941.1414 of the Revised Code, the court ~~shall~~ may commit the 1263
child to the department of youth services for the specification 1264
for a definite period of ~~not less than one and~~ not more than five 1265
years, ~~and the court also shall commit the child to the department~~ 1266
~~for the underlying delinquent act under sections 2152.11 to~~ 1267
~~2152.16 of the Revised Code.~~ 1268

(B) ~~Division (A) of this section also applies to a child who~~ 1269
~~is an accomplice to the same extent the firearm specifications~~ 1270
~~would apply to an adult accomplice in a criminal proceeding~~ If a 1271
child is adjudicated a delinquent child for committing an act, 1272
other than a violation of section 2923.12 of the Revised Code, 1273
that would be a felony if committed by an adult, if the court 1274
determines that the child is complicit in another person's conduct 1275
that is of such a nature that, if the other person was an adult, 1276
the other person would be guilty of a specification of a type 1277
described in division (A)(1), (2), or (3) of this section, if the 1278
other person's conduct relates to the child's underlying 1279
delinquent act, and if the court commits the child to the 1280
department of youth services for the underlying delinquent act 1281
under sections 2152.12 to 2152.16 of the Revised Code, in addition 1282
to that commitment and any other disposition the court imposes for 1283
the underlying delinquent act, the court may commit the child to 1284
the department of youth services for the specification for a 1285
definite period of not more than one year, subject to division 1286
(D)(2) of this section. 1287

(C) If a child is adjudicated a delinquent child for 1288
committing an act that would be aggravated murder, murder, or a 1289
first, second, or third degree felony offense of violence if 1290

committed by an adult and if the court determines that, if the child was an adult, the child would be guilty of a specification of the type set forth in section 2941.142 of the Revised Code in relation to the act for which the child was adjudicated a delinquent child, the court ~~shall~~ may commit the child for the specification to the legal custody of the department of youth services for institutionalization in a secure facility for a definite period of ~~not less than one and~~ not more than three years, subject to division (D)(2) of this section, ~~and the court also shall commit the child to the department for the underlying delinquent act.~~

(D)(1) If the child is adjudicated a delinquent child for committing an act that would be an offense of violence that is a felony if committed by an adult and is committed to the legal custody of the department of youth services pursuant to division (A)(1) of section 2152.16 of the Revised Code and if the court determines that the child, if the child was an adult, would be guilty of a specification of the type set forth in section 2941.1411 of the Revised Code in relation to the act for which the child was adjudicated a delinquent child, the court may commit the child to the custody of the department of youth services for institutionalization in a secure facility for up to two years, subject to division (D)(2) of this section.

(2) A court that imposes a period of commitment under division (A) or (B) of this section is not precluded from imposing an additional period of commitment under division (C) or (D)(1) of this section, a court that imposes a period of commitment under division (C) of this section is not precluded from imposing an additional period of commitment under division (A), (B), or (D)(1) of this section, and a court that imposes a period of commitment under division (D)(1) of this section is not precluded from imposing an additional period of commitment under division (A),

(B), or (C) of this section. 1323

(E) The court shall not commit a child to the legal custody 1324
of the department of youth services for a specification pursuant 1325
to this section for a period that exceeds five years for any one 1326
delinquent act. Any commitment imposed pursuant to division (A), 1327
(B), (C), or (D)(1) of this section shall be in addition to, and 1328
shall be served consecutively with and prior to, a period of 1329
commitment ordered under this chapter for the underlying 1330
delinquent act, ~~and each~~ and the child shall be eligible for 1331
judicial release during the commitments in accordance with section 1332
2152.22 of the Revised Code. Each commitment imposed pursuant to 1333
division (A), (B), (C), or (D)(1) of this section shall be in 1334
addition to, and shall be served consecutively with, any other 1335
period of commitment imposed under any of those divisions, and the 1336
child shall be eligible for judicial release during the 1337
commitments in accordance with section 2152.22 of the Revised 1338
Code. If a commitment is imposed under division (A) or (B) of this 1339
section and a commitment also is imposed under division (C) of 1340
this section, the period imposed under division (A) or (B) of this 1341
section shall be served prior to the period imposed under division 1342
(C) of this section, and the child shall be eligible for judicial 1343
release during the commitments in accordance with section 2152.22 1344
of the Revised Code. 1345

In each case in which a court makes a disposition under this 1346
section, the court retains control over the commitment for the 1347
entire period of the commitment. 1348

The total of all the periods of commitment imposed for any 1349
specification under this section and for the underlying offense 1350
shall not exceed the child's attainment of twenty-one years of 1351
age. 1352

(F) If a child is adjudicated a delinquent child for 1353
committing two or more acts that would be felonies if committed by 1354

an adult and if the court entering the delinquent child 1355
adjudication orders the commitment of the child for two or more of 1356
those acts to the legal custody of the department of youth 1357
services for institutionalization in a secure facility pursuant to 1358
section 2152.13 or 2152.16 of the Revised Code, the court may 1359
order that all of the periods of commitment imposed under those 1360
sections for those acts be served consecutively in the legal 1361
custody of the department of youth services, provided that those 1362
periods of commitment shall be in addition to and commence 1363
immediately following the expiration of a period of commitment 1364
that the court imposes pursuant to division (A), (B), (C), or 1365
(D)(1) of this section. A court shall not commit a delinquent 1366
child to the legal custody of the department of youth services 1367
under this division for a period that exceeds the child's 1368
attainment of twenty-one years of age. 1369

Sec. 2152.22. (A) When a child is committed to the legal 1370
custody of the department of youth services under this chapter, 1371
the juvenile court relinquishes control with respect to the child 1372
so committed, except as provided in divisions (B), (C), and (G) of 1373
this section or in sections 2152.82 to 2152.86 of the Revised 1374
Code. Subject to divisions (B) and (C) of this section, sections 1375
2151.353 and 2151.412 to 2151.421 of the Revised Code, sections 1376
2152.82 to 2152.86 of the Revised Code, and any other provision of 1377
law that specifies a different duration for a dispositional order, 1378
all other dispositional orders made by the court under this 1379
chapter shall be temporary and shall continue for a period that is 1380
designated by the court in its order, until terminated or modified 1381
by the court or until the child attains twenty-one years of age. 1382

The department shall not release the child from a department 1383
facility and as a result shall not discharge the child or order 1384
the child's release on supervised release prior to the expiration 1385
of the minimum period specified by the court in division (A)(1) of 1386

section 2152.16 of the Revised Code ~~and, prior to the expiration~~ 1387
~~of any term of commitment imposed under section 2152.17 of the~~ 1388
~~Revised Code,~~ or prior to the child's attainment of twenty-one 1389
years of age, except upon the order of a court pursuant to 1390
division (B) or (C) of this section or in accordance with section 1391
5139.54 of the Revised Code. 1392

(B)(1) The court that commits a delinquent child to the 1393
department may grant judicial release of the child to court 1394
supervision under this division for any of the following periods 1395
of time: 1396

(a) Except as otherwise provided in division (B)(1)(c) of 1397
this section, if the child was committed to the department for a 1398
prescribed minimum period and a maximum period not to exceed the 1399
child's attainment of twenty-one years of age, the court may grant 1400
judicial release of the child to court supervision during the 1401
first half of ~~the~~ that prescribed minimum ~~term for which the child~~ 1402
~~was committed to the department or, if~~ period of commitment. 1403

(b) Except as otherwise provided in division (B)(1)(d) of 1404
this section, if the child was committed to the department until 1405
the child attains twenty-one years of age, the court may grant 1406
judicial release of the child to court supervision during the 1407
first half of the prescribed period of commitment that begins on 1408
the first day of that commitment and ends on the child's 1409
twenty-first birthday, ~~provided any commitment imposed under~~ 1410
~~division (A), (B), (C), or (D) of section 2152.17 of the Revised~~ 1411
~~Code has ended.~~ 1412

(c) If the child was committed to the department for both one 1413
or more definite periods under division (A), (B), (C), or (D) of 1414
section 2152.17 of the Revised Code and a period of the type 1415
described in division (B)(1)(a) of this section, all of the 1416
prescribed definite periods of commitment imposed under division 1417
(A), (B), (C), or (D) of section 2152.17 of the Revised Code and 1418

the prescribed minimum period of commitment of the type described 1419
in division (B)(1)(a) of this section shall be aggregated for 1420
purposes of this division and the court may grant judicial release 1421
of the child to court supervision during the first half of that 1422
aggregate minimum period of commitment. 1423

(d) If the child was committed to the department for both one 1424
or more definite periods under division (A), (B), (C), or (D) of 1425
section 2152.17 of the Revised Code and a period of the type 1426
described in division (B)(1)(b) of this section, the court may 1427
grant judicial release of the child to court supervision during 1428
the first half of the prescribed minimum period of commitment that 1429
begins on the first day of the first prescribed definite period of 1430
commitment imposed under division (A), (B), (C), or (D) of section 1431
2152.17 of the Revised Code and ends on the child's twenty-first 1432
birthday. 1433

(2) If the department of youth services desires to release a 1434
child during a period specified in division (B)(1) of this 1435
section, it shall request the court that committed the child to 1436
grant a judicial release of the child to court supervision. During 1437
whichever of those periods is applicable, the child or the parents 1438
of the child also may request that court to grant a judicial 1439
release of the child to court supervision. Upon receipt of a 1440
request for a judicial release to court supervision from the 1441
department, the child, or the child's parent, or upon its own 1442
motion, the court that committed the child shall do one of the 1443
following: approve the release by journal entry; schedule within 1444
thirty days after the request is received a time for a hearing on 1445
whether the child is to be released; or reject the request by 1446
journal entry without conducting a hearing. 1447

If the court rejects an initial request for a release under 1448
this division by the child or the child's parent, the child or the 1449
child's parent may make one additional request for a judicial 1450

release to court supervision within the applicable period. The 1451
additional request may be made no earlier than thirty days after 1452
the filing of the prior request for a judicial release to court 1453
supervision. Upon the filing of a second request for a judicial 1454
release to court supervision, the court shall either approve or 1455
disapprove the release by journal entry or schedule within thirty 1456
days after the request is received a time for a hearing on whether 1457
the child is to be released. 1458

(3) If a court schedules a hearing under division (B)(2) of 1459
this section, it may order the department to deliver the child to 1460
the court on the date set for the hearing and may order the 1461
department to present to the court a report on the child's 1462
progress in the institution to which the child was committed and 1463
recommendations for conditions of supervision of the child by the 1464
court after release. The court may conduct the hearing without the 1465
child being present. The court shall determine at the hearing 1466
whether the child should be granted a judicial release to court 1467
supervision. 1468

If the court approves the release, it shall order its staff 1469
to prepare a written treatment and rehabilitation plan for the 1470
child that may include any conditions of the child's release that 1471
were recommended by the department and approved by the court. The 1472
committing court shall send the juvenile court of the county in 1473
which the child is placed a copy of the recommended plan. The 1474
court of the county in which the child is placed may adopt the 1475
recommended conditions set by the committing court as an order of 1476
the court and may add any additional consistent conditions it 1477
considers appropriate. If a child is granted a judicial release to 1478
court supervision, the release discharges the child from the 1479
custody of the department of youth services. 1480

(C)(1) The court that commits a delinquent child to the 1481
department may grant judicial release of the child to department 1482

of youth services supervision under this division ~~during the~~ 1483
~~second~~ for any of the following periods of time: 1484

(a) Except as otherwise provided in division (C)(1)(c) of 1485
this section, if the child was committed to the department for a 1486
prescribed minimum period and a maximum period not to exceed the 1487
child's attainment of twenty-one years of age, the court may grant 1488
judicial release of the child to department of youth services 1489
supervision at any time after the expiration of the first half of 1490
the ~~that~~ prescribed minimum term for which the child was committed 1491
to the department or, if period of commitment. 1492

(b) Except as otherwise provided in division (C)(1)(d) of 1493
this section, if the child was committed to the department until 1494
the child attains twenty-one years of age, the court may grant 1495
judicial release of the child to department of youth services 1496
supervision during the second half of the prescribed period of 1497
commitment that begins on the first day of ~~that~~ commitment and 1498
ends on the child's twenty-first birthday, ~~provided any commitment~~ 1499
~~imposed under division (A), (B), (C), or (D) of section 2152.17 of~~ 1500
~~the Revised Code has ended;~~ 1501

(c) If the child was committed to the department for both one 1502
or more definite periods under division (A), (B), (C), or (D) of 1503
section 2152.17 of the Revised Code and a period of the type 1504
described in division (C)(1)(a) of this section, all of the 1505
prescribed definite periods of commitment imposed under division 1506
(A), (B), (C), or (D) of section 2152.17 of the Revised Code and 1507
the prescribed minimum period of commitment of the type described 1508
in division (C)(1)(a) of this section shall be aggregated for 1509
purposes of this division, and the court may grant judicial 1510
release of the child to department of youth services supervision 1511
at any time after the expiration of the first half of that 1512
aggregate minimum period of commitment. 1513

(d) If the child was committed to the department for both one 1514

or more definite periods under division (A), (B), (C), or (D) of 1515
section 2152.17 of the Revised Code and a period of the type 1516
described in division (C)(1)(b) of this section, the court may 1517
grant judicial release of the child to department of youth 1518
services supervision during the second half of the prescribed 1519
minimum period of commitment that begins on the first day of the 1520
first prescribed definite period of commitment imposed under 1521
division (A), (B), (C), or (D) of section 2152.17 of the Revised 1522
Code and ends on the child's twenty-first birthday. 1523

(2) If the department of youth services desires to release a 1524
child during a period specified in division (C)(1) of this 1525
section, it shall request the court that committed the child to 1526
grant a judicial release to department of youth services 1527
supervision. During whichever of those periods is applicable, the 1528
child or the child's parent also may request the court that 1529
committed the child to grant a judicial release to department of 1530
youth services supervision. Upon receipt of a request for judicial 1531
release to department of youth services supervision, the child, or 1532
the child's parent, or upon its own motion at any time during that 1533
period, the court shall do one of the following: approve the 1534
release by journal entry; schedule a time within thirty days after 1535
receipt of the request for a hearing on whether the child is to be 1536
released; or reject the request by journal entry without 1537
conducting a hearing. 1538

If the court rejects an initial request for release under 1539
this division by the child or the child's parent, the child or the 1540
child's parent may make one or more subsequent requests for a 1541
release within the applicable period, but may make no more than 1542
one request during each period of ninety days that the child is in 1543
a secure department facility after the filing of a prior request 1544
for early release. Upon the filing of a request for release under 1545
this division subsequent to an initial request, the court shall 1546

either approve or disapprove the release by journal entry or 1547
schedule a time within thirty days after receipt of the request 1548
for a hearing on whether the child is to be released. 1549

(3) If a court schedules a hearing under division (C)(2) of 1550
this section, it may order the department to deliver the child to 1551
the court on the date set for the hearing and shall order the 1552
department to present to the court at that time a treatment plan 1553
for the child's post-institutional care. The court may conduct the 1554
hearing without the child being present. The court shall determine 1555
at the hearing whether the child should be granted a judicial 1556
release to department of youth services supervision. 1557

If the court approves the judicial release to department of 1558
youth services supervision, the department shall prepare a written 1559
treatment and rehabilitation plan for the child pursuant to 1560
division (E) of this section that shall include the conditions of 1561
the child's release. It shall send the committing court and the 1562
juvenile court of the county in which the child is placed a copy 1563
of the plan. The court of the county in which the child is placed 1564
may adopt the conditions set by the department as an order of the 1565
court and may add any additional consistent conditions it 1566
considers appropriate, provided that the court may not add any 1567
condition that decreases the level or degree of supervision 1568
specified by the department in its plan, that substantially 1569
increases the financial burden of supervision that will be 1570
experienced by the department, or that alters the placement 1571
specified by the department in its plan. If the court of the 1572
county in which the child is placed adds to the department's plan 1573
any additional conditions, it shall enter those additional 1574
conditions in its journal and shall send to the department a copy 1575
of the journal entry of the additional conditions. 1576

If the court approves the judicial release to department of 1577
youth services supervision, the actual date on which the 1578

department shall release the child is contingent upon the 1579
department finding a suitable placement for the child. If the 1580
child is to be returned to the child's home, the department shall 1581
return the child on the date that the court schedules for the 1582
child's release or shall bear the expense of any additional time 1583
that the child remains in a department facility. If the child is 1584
unable to return to the child's home, the department shall 1585
exercise reasonable diligence in finding a suitable placement for 1586
the child, and the child shall remain in a department facility 1587
while the department finds the suitable placement. 1588

(D) If a child is released under division (B) or (C) of this 1589
section and the court of the county in which the child is placed 1590
has reason to believe that the child's department is not in 1591
accordance with the conditions of the child's judicial release, 1592
the court of the county in which the child is placed shall 1593
schedule a time for a hearing to determine whether the child 1594
violated any of the post-release conditions, and, if the child was 1595
released under division (C) of this section, divisions (A) to (E) 1596
of section 5139.52 of the Revised Code apply regarding the child. 1597

If that court determines at the hearing that the child 1598
violated any of the post-release conditions, the court, if it 1599
determines that the violation was a serious violation, may order 1600
the child to be returned to the department for 1601
institutionalization, consistent with the original order of 1602
commitment of the child, or in any case may make any other 1603
disposition of the child authorized by law that the court 1604
considers proper. If the court of the county in which the child is 1605
placed orders the child to be returned to a department of youth 1606
services institution, the time during which the child was held in 1607
a secure department facility prior to the child's judicial release 1608
shall be considered as time served in fulfilling the prescribed 1609
period of institutionalization that is applicable to the child 1610

under the child's original order of commitment. If the court 1611
orders the child returned to a department institution, the child 1612
shall remain in institutional care for a minimum of three months 1613
or until the child successfully completes a revocation program of 1614
a duration of not less than thirty days operated either by the 1615
department or by an entity with which the department has 1616
contracted to provide a revocation program. 1617

(E) The department of youth services, prior to the release of 1618
a child pursuant to division (C) of this section, shall do all of 1619
the following: 1620

(1) After reviewing the child's rehabilitative progress 1621
history and medical and educational records, prepare a written 1622
treatment and rehabilitation plan for the child that includes 1623
conditions of the release; 1624

(2) Completely discuss the conditions of the plan prepared 1625
pursuant to division (E)(1) of this section and the possible 1626
penalties for violation of the plan with the child and the child's 1627
parents, guardian, or legal custodian; 1628

(3) Have the plan prepared pursuant to division (E)(1) of 1629
this section signed by the child, the child's parents, legal 1630
guardian, or custodian, and any authority or person that is to 1631
supervise, control, and provide supportive assistance to the child 1632
at the time of the child's release pursuant to division (C) of 1633
this section; 1634

(4) Prior to the child's release, file a copy of the 1635
treatment plan prepared pursuant to division (E)(1) of this 1636
section with the committing court and the juvenile court of the 1637
county in which the child is to be placed. 1638

(F) The department of youth services shall file a written 1639
progress report with the committing court regarding each child 1640
released pursuant to division (C) of this section at least once 1641

every thirty days unless specifically directed otherwise by the 1642
court. The report shall indicate the treatment and rehabilitative 1643
progress of the child and the child's family, if applicable, and 1644
shall include any suggestions for altering the program, custody, 1645
living arrangements, or treatment. The department shall retain 1646
legal custody of a child so released until it discharges the child 1647
or until the custody is terminated as otherwise provided by law. 1648

(G) When a child is committed to the legal custody of the 1649
department of youth services, the court retains jurisdiction to 1650
perform the functions specified in section 5139.51 of the Revised 1651
Code with respect to the granting of supervised release by the 1652
release authority and to perform the functions specified in 1653
section 5139.52 of the Revised Code with respect to violations of 1654
the conditions of supervised release granted by the release 1655
authority and to the revocation of supervised release granted by 1656
the release authority. 1657

Sec. 5139.01. (A) As used in this chapter: 1658

(1) "Commitment" means the transfer of the physical custody 1659
of a child or youth from the court to the department of youth 1660
services. 1661

(2) "Permanent commitment" means a commitment that vests 1662
legal custody of a child in the department of youth services. 1663

(3) "Legal custody," insofar as it pertains to the status 1664
that is created when a child is permanently committed to the 1665
department of youth services, means a legal status in which the 1666
department has the following rights and responsibilities: the 1667
right to have physical possession of the child; the right and duty 1668
to train, protect, and control the child; the responsibility to 1669
provide the child with food, clothing, shelter, education, and 1670
medical care; and the right to determine where and with whom the 1671
child shall live, subject to the minimum periods of, or periods 1672

of, institutional care prescribed in sections 2152.13 to 2152.18 1673
of the Revised Code; provided, that these rights and 1674
responsibilities are exercised subject to the powers, rights, 1675
duties, and responsibilities of the guardian of the person of the 1676
child, and subject to any residual parental rights and 1677
responsibilities. 1678

(4) Unless the context requires a different meaning, 1679
"institution" means a state facility that is created by the 1680
general assembly and that is under the management and control of 1681
the department of youth services or a private entity with which 1682
the department has contracted for the institutional care and 1683
custody of felony delinquents. 1684

(5) "Full-time care" means care for twenty-four hours a day 1685
for over a period of at least two consecutive weeks. 1686

(6) "Placement" means the conditional release of a child 1687
under the terms and conditions that are specified by the 1688
department of youth services. The department shall retain legal 1689
custody of a child released pursuant to division (C) of section 1690
2152.22 of the Revised Code or division (C) of section 5139.06 of 1691
the Revised Code until the time that it discharges the child or 1692
until the legal custody is terminated as otherwise provided by 1693
law. 1694

(7) "Home placement" means the placement of a child in the 1695
home of the child's parent or parents or in the home of the 1696
guardian of the child's person. 1697

(8) "Discharge" means that the department of youth services' 1698
legal custody of a child is terminated. 1699

(9) "Release" means the termination of a child's stay in an 1700
institution and the subsequent period during which the child 1701
returns to the community under the terms and conditions of 1702
supervised release. 1703

(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.	1704 1705
(11) "Felony delinquent" means any child who is at least ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony.	1706 1707 1708 1709 1710 1711 1712 1713
(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.	1714 1715
(13) "Public safety beds" means all of the following:	1716
(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a community corrections facility;	1717 1718 1719 1720 1721 1722 1723
(b) Felony delinquents who, while committed to the department of youth services and in the care and custody of an institution or a community corrections facility, are adjudicated delinquent children for having committed in that institution or community corrections facility an act that if committed by an adult would be a misdemeanor or a felony;	1724 1725 1726 1727 1728 1729
(c) Children who satisfy all of the following:	1730
(i) They are at least ten years of age but less than eighteen years of age.	1731 1732
(ii) They are adjudicated delinquent children for having	1733

committed acts that if committed by an adult would be a felony. 1734

(iii) They are committed to the department of youth services 1735
by the juvenile court of a county that has had one-tenth of one 1736
per cent or less of the statewide adjudications for felony 1737
delinquents as averaged for the past four fiscal years. 1738

(iv) They are in the care and custody of an institution or a 1739
community corrections facility. 1740

(d) Felony delinquents who, while committed to the department 1741
of youth services and in the care and custody of an institution 1742
are serving disciplinary time for having committed an act 1743
described in division (A)(18)(a), (b), or (c) of this section, and 1744
who have been institutionalized or institutionalized in a secure 1745
facility for the minimum period of time specified in divisions 1746
(A)(1)(b) to (e) of section 2152.16 of the Revised Code. 1747

(e) Felony delinquents who are subject to and serving a 1748
three-year period of commitment order imposed by a juvenile court 1749
pursuant to divisions (A) and (B) of section 2152.17 of the 1750
Revised Code for an act, other than a violation of section 2911.11 1751
of the Revised Code, that would be a category one offense or 1752
category two offense if committed by an adult. 1753

(f) Felony delinquents who are described in divisions 1754
(A)(13)(a) to (e) of this section, who have been granted a 1755
judicial release to court supervision under division (B) of 1756
section 2152.22 of the Revised Code or a judicial release to the 1757
department of youth services supervision under division (C) of 1758
that section from the commitment to the department of youth 1759
services for the act described in divisions (A)(13)(a) to (e) of 1760
this section, who have violated the terms and conditions of that 1761
release, and who, pursuant to an order of the court of the county 1762
in which the particular felony delinquent was placed on release 1763
that is issued pursuant to division (D) of section 2152.22 of the 1764

Revised Code, have been returned to the department for 1765
institutionalization or institutionalization in a secure facility. 1766

(g) Felony delinquents who have been committed to the custody 1767
of the department of youth services, who have been granted 1768
supervised release from the commitment pursuant to section 5139.51 1769
of the Revised Code, who have violated the terms and conditions of 1770
that supervised release, and who, pursuant to an order of the 1771
court of the county in which the particular child was placed on 1772
supervised release issued pursuant to division (F) of section 1773
5139.52 of the Revised Code, have had the supervised release 1774
revoked and have been returned to the department for 1775
institutionalization. A felony delinquent described in this 1776
division shall be a public safety bed only for the time during 1777
which the felony delinquent is institutionalized as a result of 1778
the revocation subsequent to the initial thirty-day period of 1779
institutionalization required by division (F) of section 5139.52 1780
of the Revised Code. 1781

(14) Unless the context requires a different meaning, 1782
"community corrections facility" means a county or multicounty 1783
rehabilitation center for felony delinquents who have been 1784
committed to the department of youth services and diverted from 1785
care and custody in an institution and placed in the 1786
rehabilitation center pursuant to division (E) of section 5139.36 1787
of the Revised Code. 1788

(15) "Secure facility" means any facility that is designed 1789
and operated to ensure that all of its entrances and exits are 1790
under the exclusive control of its staff and to ensure that, 1791
because of that exclusive control, no child who has been 1792
institutionalized in the facility may leave the facility without 1793
permission or supervision. 1794

(16) "Community residential program" means a program that 1795
satisfies both of the following: 1796

(a) It is housed in a building or other structure that has no associated major restraining construction, including, but not limited to, a security fence.

(b) It provides twenty-four-hour care, supervision, and programs for felony delinquents who are in residence.

(17) ~~"Category one offense" and "category two offense" have the same meanings as in section 2151.26 of the Revised Code~~ means any of the following:

(a) A violation of section 2903.01 or 2903.02 of the Revised Code;

(b) A violation of section 2923.02 of the Revised Code involving an attempt to commit aggravated murder or murder.

(18) "Disciplinary time" means additional time that the department of youth services requires a felony delinquent to serve in an institution, that delays the felony delinquent's planned release, and that the department imposes upon the felony delinquent following the conduct of an internal due process hearing for having committed any of the following acts while committed to the department and in the care and custody of an institution:

(a) An act that if committed by an adult would be a felony;

(b) An act that if committed by an adult would be a misdemeanor;

(c) An act that is not described in division (A)(18)(a) or (b) of this section and that violates an institutional rule of conduct of the department.

(19) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(20) "Revocation" means the act of revoking a child's supervised release for a violation of a term or condition of the

child's supervised release in accordance with section 5139.52 of 1827
the Revised Code. 1828

(21) "Release authority" means the release authority of the 1829
department of youth services that is established by section 1830
5139.50 of the Revised Code. 1831

(22) "Supervised release" means the event of the release of a 1832
child under this chapter from an institution and the period after 1833
that release during which the child is supervised and assisted by 1834
an employee of the department of youth services under specific 1835
terms and conditions for reintegration of the child into the 1836
community. 1837

(23) "Victim" means the person identified in a police report, 1838
complaint, or information as the victim of an act that would have 1839
been a criminal offense if committed by an adult and that provided 1840
the basis for adjudication proceedings resulting in a child's 1841
commitment to the legal custody of the department of youth 1842
services. 1843

(24) "Victim's representative" means a member of the victim's 1844
family or another person whom the victim or another authorized 1845
person designates in writing, pursuant to section 5139.56 of the 1846
Revised Code, to represent the victim with respect to proceedings 1847
of the release authority of the department of youth services and 1848
with respect to other matters specified in that section. 1849

(25) "Member of the victim's family" means a spouse, child, 1850
stepchild, sibling, parent, stepparent, grandparent, other 1851
relative, or legal guardian of a child but does not include a 1852
person charged with, convicted of, or adjudicated a delinquent 1853
child for committing a criminal or delinquent act against the 1854
victim or another criminal or delinquent act arising out of the 1855
same conduct, criminal or delinquent episode, or plan as the 1856
criminal or delinquent act committed against the victim. 1857

(26) "Judicial release to court supervision" means a release 1858
of a child from institutional care or institutional care in a 1859
secure facility that is granted by a court pursuant to division 1860
(B) of section 2152.22 of the Revised Code during the period 1861
specified in that division. 1862

(27) "Judicial release to department of youth services 1863
supervision" means a release of a child from institutional care or 1864
institutional care in a secure facility that is granted by a court 1865
pursuant to division (C) of section 2152.22 of the Revised Code 1866
during the period specified in that division. 1867

(28) "Juvenile justice system" includes all of the functions 1868
of the juvenile courts, the department of youth services, any 1869
public or private agency whose purposes include the prevention of 1870
delinquency or the diversion, adjudication, detention, or 1871
rehabilitation of delinquent children, and any of the functions of 1872
the criminal justice system that are applicable to children. 1873

(29) "Metropolitan county criminal justice services agency" 1874
means an agency that is established pursuant to division (A) of 1875
section 5502.64 of the Revised Code. 1876

(30) "Administrative planning district" means a district that 1877
is established pursuant to division (A) or (B) of section 5502.66 1878
of the Revised Code. 1879

(31) "Criminal justice coordinating council" means a criminal 1880
justice services agency that is established pursuant to division 1881
(D) of section 5502.66 of the Revised Code. 1882

(32) "Comprehensive plan" means a document that coordinates, 1883
evaluates, and otherwise assists, on an annual or multi-year 1884
basis, all of the functions of the juvenile justice systems of the 1885
state or a specified area of the state, that conforms to the 1886
priorities of the state with respect to juvenile justice systems, 1887
and that conforms with the requirements of all federal criminal 1888

justice acts. These functions include, but are not limited to, all 1889
of the following: 1890

- (a) Delinquency; 1891
- (b) Identification, detection, apprehension, and detention of 1892
persons charged with delinquent acts; 1893
- (c) Assistance to crime victims or witnesses, except that the 1894
comprehensive plan does not include the functions of the attorney 1895
general pursuant to sections 109.91 and 109.92 of the Revised 1896
Code; 1897
- (d) Adjudication or diversion of persons charged with 1898
delinquent acts; 1899
- (e) Custodial treatment of delinquent children; 1900
- (f) Institutional and noninstitutional rehabilitation of 1901
delinquent children. 1902

(33) "Category two offense" means any of the following: 1903

- (a) A violation of section 2903.03, 2905.01, 2907.02, 1904
2909.02, 2911.01, or 2911.11 of the Revised Code; 1905
- (b) A violation of section 2903.04 of the Revised Code that 1906
is a felony of the first degree; 1907
- (c) A violation of section 2907.12 of the Revised Code as it 1908
existed prior to September 3, 1996. 1909

(B) There is hereby created the department of youth services. 1910
The governor shall appoint the director of the department with the 1911
advice and consent of the senate. The director shall hold office 1912
during the term of the appointing governor but subject to removal 1913
at the pleasure of the governor. Except as otherwise authorized in 1914
section 108.05 of the Revised Code, the director shall devote the 1915
director's entire time to the duties of the director's office and 1916
shall hold no other office or position of trust or profit during 1917
the director's term of office. 1918

The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or action shall be performed by the director or, upon the director's order, in the name of the department.

Sec. 5139.05. (A) The juvenile court may commit any child to the department of youth services as authorized in Chapter 2152. of the Revised Code, provided that any child so committed shall be at least ten years of age at the time of the child's delinquent act, and, if the child is ten or eleven years of age, the delinquent act is a violation of section 2909.03 of the Revised Code or would be aggravated murder, murder, or a first or second degree felony offense of violence if committed by an adult. Any order to commit a child to an institution under the control and management of the department shall have the effect of ordering that the child be committed to the department and assigned to an institution as follows:

(1) For an indefinite term consisting of the prescribed minimum period specified by the court under division (A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised Code and a maximum period not to exceed the child's attainment of twenty-one years of age, if the child was committed pursuant to section 2152.16 of the Revised Code;

(2) Until the child's attainment of twenty-one years of age, 1950
if the child was committed for aggravated murder or murder 1951
pursuant to section 2152.16 of the Revised Code; 1952

(3) For a definite period of commitment ~~that~~ specified by the 1953
court under section 2152.17 of the Revised Code if the child was 1954
committed pursuant to that section, which definite period shall be 1955
in addition to, and shall be served consecutively with and prior 1956
to, a the period of commitment described in division (A)(1) or (2) 1957
of this section, ~~if the child was committed pursuant to section~~ 1958
~~2152.17 of the Revised Code;~~ that is imposed for the child's 1959
underlying delinquent act. The child shall be eligible for 1960
judicial release during the commitments in accordance with section 1961
2152.22 of the Revised Code. 1962

(4) If the child is ten or eleven years of age, to an 1963
institution, a residential care facility, a residential facility, 1964
or a facility licensed by the department of job and family 1965
services that the department of youth services considers best 1966
designated for the training and rehabilitation of the child and 1967
protection of the public. The child shall be housed separately 1968
from children who are twelve years of age or older until the child 1969
is released or discharged or until the child attains twelve years 1970
of age, whichever occurs first. Upon the child's attainment of 1971
twelve years of age, if the child has not been released or 1972
discharged, the department is not required to house the child 1973
separately. 1974

(B)(1) Except as otherwise provided in section 5139.54 of the 1975
Revised Code, the release authority of the department of youth 1976
services, in accordance with section 5139.51 of the Revised Code 1977
and at any time after the end of the prescribed minimum period 1978
specified of institutionalization or institutionalization in a 1979
secure facility imposed under division (A)(1)(b), (c), (d), or (e) 1980
of section 2152.16 of the Revised Code and after the expiration of 1981

<u>any term of commitment imposed under division (A), (B), (C), or</u>	1982
<u>(D) of section 2152.17 of the Revised Code, may grant the release</u>	1983
<u>from custody of any child committed to the department.</u>	1984
The order committing a child to the department of youth	1985
services shall state that the child has been adjudicated a	1986
delinquent child and state the minimum period. The jurisdiction of	1987
the court terminates at the end of the minimum period except as	1988
follows:	1989
(a) In relation to judicial release procedures, supervision,	1990
and violations;	1991
(b) With respect to functions of the court related to the	1992
revocation of supervised release that are specified in sections	1993
5139.51 and 5139.52 of the Revised Code;	1994
(c) In relation to its duties relating to serious youthful	1995
offender dispositional sentences under sections 2152.13 and	1996
2152.14 of the Revised Code.	1997
(2) When a child has been committed to the department under	1998
section 2152.16 of the Revised Code, the department shall retain	1999
legal custody of the child until one of the following:	2000
(a) The department discharges the child to the exclusive	2001
management, control, and custody of the child's parent or the	2002
guardian of the child's person or, if the child is eighteen years	2003
of age or older, discharges the child.	2004
(b) The committing court, upon its own motion, upon petition	2005
of the parent, guardian of the person, or next friend of a child,	2006
or upon petition of the department, terminates the department's	2007
legal custody of the child.	2008
(c) The committing court grants the child a judicial release	2009
to court supervision under section 2152.22 of the Revised Code.	2010
(d) The department's legal custody of the child is terminated	2011

automatically by the child attaining twenty-one years of age. 2012

(e) If the child is subject to a serious youthful offender 2013
dispositional sentence, the adult portion of that dispositional 2014
sentence is imposed under section 2152.14 of the Revised Code. 2015

(C) When a child is committed to the department of youth 2016
services, the department may assign the child to a hospital for 2017
mental, physical, and other examination, inquiry, or treatment for 2018
the period of time that is necessary. The department may remove 2019
any child in its custody to a hospital for observation, and a 2020
complete report of every observation at the hospital shall be made 2021
in writing and shall include a record of observation, treatment, 2022
and medical history and a recommendation for future treatment, 2023
custody, and maintenance. The department shall thereupon order the 2024
placement and treatment that it determines to be most conducive to 2025
the purposes of Chapters 2151. and 5139. of the Revised Code. The 2026
committing court and all public authorities shall make available 2027
to the department all pertinent data in their possession with 2028
respect to the case. 2029

(D) Records maintained by the department of youth services 2030
pertaining to the children in its custody shall be accessible only 2031
to department employees, except by consent of the department, upon 2032
the order of the judge of a court of record, or as provided in 2033
divisions (D)(1) and (2) of this section. These records shall not 2034
be considered "public records," as defined in section 149.43 of 2035
the Revised Code. 2036

(1) Except as otherwise provided by a law of this state or 2037
the United States, the department of youth services may release 2038
records that are maintained by the department of youth services 2039
and that pertain to children in its custody to the department of 2040
rehabilitation and correction regarding persons who are under the 2041
jurisdiction of the department of rehabilitation and correction 2042
and who have previously been committed to the department of youth 2043

services. The department of rehabilitation and correction may use 2044
those records for the limited purpose of carrying out the duties 2045
of the department of rehabilitation and correction. Records 2046
released by the department of youth services to the department of 2047
rehabilitation and correction shall remain confidential and shall 2048
not be considered public records as defined in section 149.43 of 2049
the Revised Code. 2050

(2) The department of youth services shall provide to the 2051
superintendent of the school district in which a child discharged 2052
or released from the custody of the department is entitled to 2053
attend school under section 3313.64 or 3313.65 of the Revised Code 2054
the records described in divisions (D)(4)(a) to (d) of section 2055
2152.18 of the Revised Code. Subject to the provisions of section 2056
3319.321 of the Revised Code and the Family Educational Rights and 2057
Privacy Act, 20 U.S.C. 1232g, as amended, the records released to 2058
the superintendent shall remain confidential and shall not be 2059
considered public records as defined in section 149.43 of the 2060
Revised Code. 2061

(E)(1) When a child is committed to the department of youth 2062
services, the department, orally or in writing, shall notify the 2063
parent, guardian, or custodian of a child that the parent, 2064
guardian, or custodian may request at any time from the 2065
superintendent of the institution in which the child is located 2066
any of the information described in divisions (E)(1)(a), (b), (c), 2067
and (d) of this section. The parent, guardian, or custodian may 2068
provide the department with the name, address, and telephone 2069
number of the parent, guardian, or custodian, and, until the 2070
department is notified of a change of name, address, or telephone 2071
number, the department shall use the name, address, and telephone 2072
number provided by the parent, guardian, or custodian to provide 2073
notices or answer inquiries concerning the following information: 2074

(a) When the department of youth services makes a permanent 2075

assignment of the child to a facility, the department, orally or 2076
in writing and on or before the third business day after the day 2077
the permanent assignment is made, shall notify the parent, 2078
guardian, or custodian of the child of the name of the facility to 2079
which the child has been permanently assigned. 2080

If a parent, guardian, or custodian of a child who is 2081
committed to the department of youth services requests, orally or 2082
in writing, the department to provide the parent, guardian, or 2083
custodian with the name of the facility in which the child is 2084
currently located, the department, orally or in writing and on or 2085
before the next business day after the day on which the request is 2086
made, shall provide the name of that facility to the parent, 2087
guardian, or custodian. 2088

(b) If a parent, guardian, or custodian of a child who is 2089
committed to the department of youth services, orally or in 2090
writing, asks the superintendent of the institution in which the 2091
child is located whether the child is being disciplined by the 2092
personnel of the institution, what disciplinary measure the 2093
personnel of the institution are using for the child, or why the 2094
child is being disciplined, the superintendent or the 2095
superintendent's designee, on or before the next business day 2096
after the day on which the request is made, shall provide the 2097
parent, guardian, or custodian with written or oral responses to 2098
the questions. 2099

(c) If a parent, guardian, or custodian of a child who is 2100
committed to the department of youth services, orally or in 2101
writing, asks the superintendent of the institution in which the 2102
child is held whether the child is receiving any medication from 2103
personnel of the institution, what type of medication the child is 2104
receiving, or what condition of the child the medication is 2105
intended to treat, the superintendent or the superintendent's 2106
designee, on or before the next business day after the day on 2107

which the request is made, shall provide the parent, guardian, or 2108
custodian with oral or written responses to the questions. 2109

(d) When a major incident occurs with respect to a child who 2110
is committed to the department of youth services, the department, 2111
as soon as reasonably possible after the major incident occurs, 2112
shall notify the parent, guardian, or custodian of the child that 2113
a major incident has occurred with respect to the child and of all 2114
the details of that incident that the department has ascertained. 2115

(2) The failure of the department of youth services to 2116
provide any notification required by or answer any requests made 2117
pursuant to division (E) of this section does not create a cause 2118
of action against the state. 2119

(F) The department of youth services, as a means of 2120
punishment while the child is in its custody, shall not prohibit a 2121
child who is committed to the department from seeing that child's 2122
parent, guardian, or custodian during standard visitation periods 2123
allowed by the department of youth services unless the 2124
superintendent of the institution in which the child is held 2125
determines that permitting that child to visit with the child's 2126
parent, guardian, or custodian would create a safety risk to that 2127
child, that child's parents, guardian, or custodian, the personnel 2128
of the institution, or other children held in that institution. 2129

(G) As used in this section: 2130

(1) "Permanent assignment" means the assignment or transfer 2131
for an extended period of time of a child who is committed to the 2132
department of youth services to a facility in which the child will 2133
receive training or participate in activities that are directed 2134
toward the child's successful rehabilitation. "Permanent 2135
assignment" does not include the transfer of a child to a facility 2136
for judicial release hearings pursuant to section 2152.22 of the 2137
Revised Code or for any other temporary assignment or transfer to 2138

a facility. 2139

(2) "Major incident" means the escape or attempted escape of 2140
a child who has been committed to the department of youth services 2141
from the facility to which the child is assigned; the return to 2142
the custody of the department of a child who has escaped or 2143
otherwise fled the custody and control of the department without 2144
authorization; the allegation of any sexual activity with a child 2145
committed to the department; physical injury to a child committed 2146
to the department as a result of alleged abuse by department 2147
staff; an accident resulting in injury to a child committed to the 2148
department that requires medical care or treatment outside the 2149
institution in which the child is located; the discovery of a 2150
controlled substance upon the person or in the property of a child 2151
committed to the department; a suicide attempt by a child 2152
committed to the department; a suicide attempt by a child 2153
committed to the department that results in injury to the child 2154
requiring emergency medical services outside the institution in 2155
which the child is located; the death of a child committed to the 2156
department; an injury to a visitor at an institution under the 2157
control of the department that is caused by a child committed to 2158
the department; and the commission or suspected commission of an 2159
act by a child committed to the department that would be an 2160
offense if committed by an adult. 2161

(3) "Sexual activity" has the same meaning as in section 2162
2907.01 of the Revised Code. 2163

(4) "Controlled substance" has the same meaning as in section 2164
3719.01 of the Revised Code. 2165

(5) "Residential care facility" and "residential facility" 2166
have the same meanings as in section 2151.011 of the Revised Code. 2167

Sec. 5139.06. (A) When a child has been committed to the 2168
department of youth services, the department shall do both of the 2169

following: 2170

(1) Place the child in an appropriate institution under the 2171
condition that it considers best designed for the training and 2172
rehabilitation of the child and the protection of the public, 2173
provided that the institutional placement shall be consistent with 2174
the order committing the child to its custody; 2175

(2) Maintain the child in institutional care or institutional 2176
care in a secure facility for the required period of 2177
institutionalization in a manner consistent with division (A)(1) 2178
of section 2152.16 and divisions (A) to (F) of section 2152.17 of 2179
the Revised Code, whichever are applicable, and with section 2180
5139.38 or division (B) or (C) of section 2152.22 of the Revised 2181
Code. 2182

(B) When a child has been committed to the department of 2183
youth services and has not been institutionalized or 2184
institutionalized in a secure facility for the prescribed minimum 2185
period of time, ~~including, but not limited to, a imposed under~~ 2186
division (A)(1)(b), (c), (d), or (e) of section 2152.16 of the 2187
Revised Code, the prescribed period of time under division 2188
(A)(1)(a) of section 2152.16 of the Revised Code, or the definite 2189
period or periods of commitment imposed under division (A), (B), 2190
(C), or (D) of section 2152.17 of the Revised Code plus the 2191
prescribed minimum period of time imposed under division 2192
(A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised 2193
Code, whichever is applicable, the department, the child, or the 2194
child's parent may request the court that committed the child to 2195
order a judicial release to court supervision or a judicial 2196
release to department of youth services supervision in accordance 2197
with division (B) or (C) of section 2152.22 of the Revised Code, 2198
and the child may be released from institutionalization or 2199
institutionalization in a secure facility in accordance with the 2200

applicable division. A child in those circumstances shall not be released from institutionalization or institutionalization in a secure facility except in accordance with section 2152.22 or 5139.38 of the Revised Code. When a child is released pursuant to a judicial release to court supervision under division (B) of section 2152.22 of the Revised Code, the department shall comply with division (B)(3) of that section and, if the court requests, shall send the committing court a report on the child's progress in the institution and recommendations for conditions of supervision by the court after release. When a child is released pursuant to a judicial release to department of youth services supervision under division (C) of section 2152.22 of the Revised Code, the department shall comply with division (C)(3) of that section relative to the child and shall send the committing court and the juvenile court of the county in which the child is placed a copy of the treatment and rehabilitation plan described in that division and the conditions that it fixed. The court of the county in which the child is placed may adopt the conditions as an order of the court and may add any additional consistent conditions it considers appropriate, provided that the court may not add any condition that decreases the level or degree of supervision specified by the department in its plan, that substantially increases the financial burden of supervision that will be experienced by the department, or that alters the placement specified by the department in its plan. Any violations of the conditions of the child's judicial release or early release shall be handled pursuant to division (D) of section 2152.22 of the Revised Code.

(C) When a child has been committed to the department of youth services, the department may do any of the following:

(1) Notwithstanding the provisions of this chapter, Chapter 2151., or Chapter 2152. of the Revised Code that prescribe

required periods of institutionalization, transfer the child to 2233
any other state institution, whenever it appears that the child by 2234
reason of mental illness, mental retardation, or other 2235
developmental disability ought to be in another state institution. 2236
Before transferring a child to any other state institution, the 2237
department shall include in the minutes a record of the order of 2238
transfer and the reason for the transfer and, at least seven days 2239
prior to the transfer, shall send a certified copy of the order to 2240
the person shown by its record to have had the care or custody of 2241
the child immediately prior to the child's commitment. Except as 2242
provided in division (C)(2) of this section, no person shall be 2243
transferred from a benevolent institution to a correctional 2244
institution or to a facility or institution operated by the 2245
department of youth services. 2246

(2) Notwithstanding the provisions of this chapter, Chapter 2247
2151., or Chapter 2152. of the Revised Code that prescribe 2248
required periods of institutionalization, transfer the child under 2249
section 5120.162 of the Revised Code to a correctional medical 2250
center established by the department of rehabilitation and 2251
correction, whenever the child has an illness, physical condition, 2252
or other medical problem and it appears that the child would 2253
benefit from diagnosis or treatment at the center for that 2254
illness, condition, or problem. Before transferring a child to a 2255
center, the department of youth services shall include in the 2256
minutes a record of the order of transfer and the reason for the 2257
transfer and, except in emergency situations, at least seven days 2258
prior to the transfer, shall send a certified copy of the order to 2259
the person shown by its records to have had the care or custody of 2260
the child immediately prior to the child's commitment. If the 2261
transfer of the child occurs in an emergency situation, as soon as 2262
possible after the decision is made to make the transfer, the 2263
department of youth services shall send a certified copy of the 2264
order to the person shown by its records to have had the care or 2265

custody of the child immediately prior to the child's commitment. 2266
A transfer under this division shall be in accordance with the 2267
terms of the agreement the department of youth services enters 2268
into with the department of rehabilitation and correction under 2269
section 5120.162 of the Revised Code and shall continue only as 2270
long as the child reasonably appears to receive benefit from 2271
diagnosis or treatment at the center for an illness, physical 2272
condition, or other medical problem. 2273

(3) Revoke or modify any order of the department except an 2274
order of discharge as often as conditions indicate it to be 2275
desirable; 2276

(4) If the child was committed pursuant to division 2277
(A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised Code 2278
and has been institutionalized or institutionalized in a secure 2279
facility for the prescribed minimum periods of time under ~~those~~ 2280
divisions the division pursuant to which the commitment was made, 2281
assign the child to a family home, a group care facility, or other 2282
place maintained under public or private auspices, within or 2283
without this state, for necessary treatment and rehabilitation, 2284
the costs of which may be paid by the department, provided that 2285
the department shall notify the committing court, in writing, of 2286
the place and terms of the assignment at least fifteen days prior 2287
to the scheduled date of the assignment. A child may not be 2288
assigned to a home, facility, or place under this division until 2289
after the expiration of any term of commitment imposed on the 2290
child under division (A), (B), (C), or (D) of section 2152.17 of 2291
the Revised Code. 2292

(5) Release the child from an institution in accordance with 2293
sections 5139.51 to 5139.54 of the Revised Code in the 2294
circumstances described in those sections. 2295

(D) The department of youth services shall notify the 2296
committing court of any order transferring the physical location 2297

of any child committed to it in accordance with section 5139.35 of 2298
the Revised Code. Upon the discharge from its custody and control, 2299
the department may petition the court for an order terminating its 2300
custody and control. 2301

Sec. 5139.20. (A) Notwithstanding any other provision of the 2302
Revised Code that sets forth the minimum periods or period for 2303
which a child committed to the department of youth services is to 2304
be institutionalized or institutionalized in a secure facility or 2305
the procedures for the judicial release to court supervision or 2306
judicial release to department of youth services supervision, the 2307
department may grant emergency releases to children confined in 2308
state juvenile institutions if the governor, upon request of the 2309
director of the department authorizes the director, in writing, to 2310
issue a declaration that an emergency overcrowding condition 2311
exists in all of the institutions in which males are confined, or 2312
in all of the institutions in which females are confined, that are 2313
under the control of the department. If the governor authorizes 2314
the issuance of a declaration, the director may issue the 2315
declaration. If the director issues the declaration, the director 2316
shall file a copy of it with the secretary of state, which copy 2317
shall be a public record. Upon the filing of the copy, the 2318
department is authorized to grant emergency releases to children 2319
within its custody subject to division (B) of this section. The 2320
authority to grant the emergency releases shall continue until the 2321
expiration of thirty days from the day on which the declaration 2322
was filed. The director shall not issue a declaration that an 2323
emergency overcrowding condition exists unless the director 2324
determines that no other method of alleviating the overcrowding 2325
condition is available. 2326

(B)(1) If the department is authorized under division (A) of 2327
this section to grant emergency releases to children within its 2328
custody, the department shall determine which, if any, children to 2329

release under that authority only in accordance with this division 2330
and divisions (C), (D), and (E) of this section. The department, 2331
in determining which, if any, children to release, initially shall 2332
classify each child within its custody according to the degree of 2333
offense that the act for which the child is serving the period of 2334
institutionalization would have been if committed by an adult. The 2335
department then shall scrutinize individual children for emergency 2336
release, based upon their degree of offense, in accordance with 2337
the categories and the order of consideration set forth in 2338
division (B)(2) of this section. After scrutiny of all children 2339
within the particular category under consideration, the department 2340
shall designate individual children within that category to whom 2341
it wishes to grant an emergency release. 2342

(2) The categories of children in the custody of the 2343
department that may be considered for emergency release under this 2344
section, and the order in which the categories shall be 2345
considered, are as follows: 2346

(a) Initially, only children who are not serving a period of 2347
institutionalization for an act that would have been aggravated 2348
murder, murder, or a felony of the first, second, third, or fourth 2349
degree if committed by an adult or for an act that was committed 2350
before July 1, 1996, and that would have been an aggravated felony 2351
of the first, second, or third degree if committed by an adult may 2352
be considered. 2353

(b) When all children in the category described in division 2354
(B)(2)(a) of this section have been scrutinized and all children 2355
in that category who have been designated for emergency release 2356
under division (B)(1) of this section have been so released, then 2357
all children who are not serving a period of institutionalization 2358
for an act that would have been aggravated murder, murder, or a 2359
felony of the first or second degree if committed by an adult or 2360
for an act that was committed before July 1, 1996, and that would 2361

have been an aggravated felony of the first or second degree if 2362
committed by an adult may be considered. 2363

(c) When all children in the categories described in 2364
divisions (B)(2)(a) and (b) of this section have been scrutinized 2365
and all children in those categories who have been designated for 2366
emergency release under division (B)(1) of this section have been 2367
released, then all children who are not serving a term of 2368
institutionalization for an act that would have been aggravated 2369
murder, murder, or a felony of the first degree if committed by an 2370
adult or for an act that was committed before July 1, 1996, and 2371
that would have been an aggravated felony of the first or second 2372
degree if committed by an adult may be considered. 2373

(d) In no case shall the department consider for emergency 2374
release any child who is serving a term of institutionalization 2375
for an act that would have been aggravated murder, murder, or a 2376
felony of the first degree if committed by an adult or for an act 2377
that was committed before July 1, 1996, and that would have been 2378
an aggravated felony of the first degree if committed by an adult, 2379
and in no case shall the department grant an emergency release to 2380
any such child pursuant to this section. 2381

(C) An emergency release granted pursuant to this section 2382
shall consist of one of the following: 2383

(1) A supervised release under terms and conditions that the 2384
department believes conducive to law-abiding conduct; 2385

(2) A discharge of the child from the custody and control of 2386
the department if the department is satisfied that the discharge 2387
is consistent with the welfare of the individual and protection of 2388
the public; 2389

(3) An assignment to a family home, a group care facility, or 2390
other place maintained under public or private auspices, within or 2391
without this state, for necessary treatment or rehabilitation, the 2392

costs of which may be paid by the department. 2393

(D) If a child is granted an emergency release pursuant to 2394
this section, the child thereafter shall be considered to have 2395
been institutionalized or institutionalized in a secure facility 2396
for the prescribed minimum period of time under division 2397
(A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised 2398
Code, or ~~divisions~~ all definite periods of commitment imposed 2399
under division (A) and, (B), (C), or (D) of section 2152.17 of the 2400
Revised Code plus the prescribed minimum period of time imposed 2401
under division (A)(1)(b), (c), (d), or (e) of section 2152.16 of 2402
the Revised Code, whichever is applicable. The department shall 2403
retain legal custody of a child so released until it discharges 2404
the child or until its custody is terminated as otherwise provided 2405
by law. 2406

(E)(1) If a child is granted an emergency release so that the 2407
child is released on supervised release or assigned to a family 2408
home, group care facility, or other place for treatment or 2409
rehabilitation, the department shall prepare a written treatment 2410
and rehabilitation plan for the child in accordance with division 2411
(E) of section 2152.22 of the Revised Code, which shall include 2412
the conditions of the child's release or assignment, and shall 2413
send the committing court and the juvenile court of the county in 2414
which the child is placed a copy of the plan and the conditions 2415
that it fixed. The court of the county in which the child is 2416
placed may adopt the conditions as an order of the court and may 2417
add any additional consistent conditions it considers appropriate. 2418
If a child is released on supervised release or is assigned 2419
subject to specified conditions and the court of the county in 2420
which the child is placed has reason to believe that the child's 2421
deportment is not in accordance with any post-release conditions 2422
established by the court in its journal entry, the court of the 2423
county in which the child is placed, in its discretion, may 2424

schedule a time for a hearing on whether the child violated any of 2425
the post-release conditions. If that court conducts a hearing and 2426
determines at the hearing that the child violated any of the 2427
post-release conditions established in its journal entry, the 2428
court, if it determines that the violation of the conditions was a 2429
serious violation, may order the child to be returned to the 2430
department of youth services for institutionalization or, in any 2431
case, may make any other disposition of the child authorized by 2432
law that the court considers proper. If the court of the county in 2433
which the child is placed orders the child to be returned to a 2434
department of youth services institution, the child shall remain 2435
institutionalized for a minimum period of three months. 2436

(2) The department also shall file a written progress report 2438
with the committing court regarding each child granted an 2439
emergency release pursuant to this section at least once every 2440
thirty days unless specifically directed otherwise by the court. 2441
The report shall include the information required of reports 2442
described in division (F) of section 2152.22 of the Revised Code. 2443

Sec. 5139.51. (A) The release authority of the department of 2444
youth services shall not release a child who is in the custody of 2445
the department of youth services from institutional care or 2446
institutional care in a secure facility and shall not discharge 2447
the child or order the child's release on supervised release prior 2448
to the expiration of the prescribed minimum period of 2449
institutionalization or institutionalization in a secure facility 2450
imposed under division (A)(1)(b), (c), (d), or (e) of section 2451
2152.16 of the Revised Code, prior to the expiration of all 2452
definite periods of commitment imposed under division (A), (B), 2453
(C), or (D) of section 2152.17 of the Revised Code plus the 2454
prescribed minimum period of time imposed under division 2455
(A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised 2456

Code, or prior to the child's attainment of twenty-one years of 2457
age, whichever is applicable under the order of commitment, other 2458
than as is provided in section 2152.22 of the Revised Code. The 2459
release authority may conduct periodic reviews of the case of each 2460
child who is in the custody of the department and who is eligible 2461
for supervised release or discharge after completing the minimum 2462
period of time or period of time in an institution prescribed by 2463
the committing court. At least thirty days prior to conducting a 2464
periodic review of the case of a child who was committed to the 2465
department regarding the possibility of supervised release or 2466
discharge and at least thirty days prior to conducting a release 2467
review, a release hearing, or a discharge review under division 2468
(E) of this section, the release authority shall give notice of 2469
the review or hearing to the court that committed the child, to 2470
the prosecuting attorney in the case, and to the victim of the 2471
delinquent act for which the child was committed or the victim's 2472
representative. If a child is on supervised release and has had 2473
the child's parole revoked, and if, upon release, there is 2474
insufficient time to provide the notices otherwise required by 2475
this division, the release authority, at least ten days prior to 2476
the child's release, shall provide reasonable notice of the 2477
child's release to the court that committed the child, to the 2478
prosecuting attorney in the case, and to the victim of the 2479
delinquent act for which the child was committed or the victim's 2480
representative. The court or prosecuting attorney may submit to 2481
the release authority written comments regarding, or written 2482
objections to, the supervised release or discharge of that child. 2483
Additionally, if the child was committed for an act that is a 2484
category one or category two offense, the court or prosecuting 2485
attorney orally may communicate to a representative of the release 2486
authority comments regarding, or objections to, the supervised 2487
release or discharge of the child or, if a hearing is held 2488

regarding the possible release or discharge of the child, may 2489
communicate those comments at the hearing. In conducting the 2490
review of the child's case regarding the possibility of supervised 2491
release or discharge, the release authority shall consider any 2492
comments and objections so submitted or communicated by the court 2493
or prosecutor and any statements or comments submitted or 2494
communicated under section 5139.56 of the Revised Code by a victim 2495
of an act for which the child was committed to the legal custody 2496
of the department or by the victim's representative of a victim of 2497
an act of that type. 2498

The release authority shall determine the date on which a 2499
child may be placed on supervised release or discharged. If the 2500
release authority believes that a child should be placed on 2501
supervised release, it shall comply with division (B) of this 2502
section. If the release authority believes that a child should be 2503
discharged, it shall comply with division (C) or (E) of this 2504
section. If the release authority denies the supervised release or 2505
discharge of a child, it shall provide the child with a written 2506
record of the reasons for the decision. 2507

(B)(1) When the release authority decides to place a child on 2508
supervised release, consistent with division (D) of this section, 2509
the department shall prepare a written supervised release plan 2510
that specifies the terms and conditions upon which the child is to 2511
be released from an institution on supervised release and, at 2512
least thirty days prior to the release of the child on the 2513
supervised release, shall send to the committing court and the 2514
juvenile court of the county in which the child will be placed a 2515
copy of the supervised release plan and the terms and conditions 2516
of release. The juvenile court of the county in which the child 2517
will be placed, within fifteen days after its receipt of the copy 2518
of the supervised release plan, may add to the supervised release 2519
plan any additional consistent terms and conditions it considers 2520

appropriate, provided that the court may not add any term or 2521
condition that decreases the level or degree of supervision 2522
specified by the release authority in the plan, that substantially 2523
increases the financial burden of supervision that will be 2524
experienced by the department of youth services, or that alters 2525
the placement specified by the plan. 2526

If, within fifteen days after its receipt of the copy of the 2527
supervised release plan, the juvenile court of the county in which 2528
the child will be placed does not add to the supervised release 2529
plan any additional terms and conditions, the court shall enter 2530
the supervised release plan in its journal within that fifteen-day 2531
period and, within that fifteen-day period, shall send to the 2532
release authority a copy of the journal entry of the supervised 2533
release plan. The journalized plan shall apply regarding the 2534
child's supervised release. 2535

If, within fifteen days after its receipt of the copy of the 2536
supervised release plan, the juvenile court of the county in which 2537
the child will be placed adds to the supervised release plan any 2538
additional terms and conditions, the court shall enter the 2539
supervised release plan and the additional terms and conditions in 2540
its journal and, within that fifteen-day period, shall send to the 2541
release authority a copy of the journal entry of the supervised 2542
release plan and additional terms and conditions. The journalized 2543
supervised release plan and additional terms and conditions added 2544
by the court that satisfy the criteria described in this division 2545
shall apply regarding the child's supervised release. 2546

If, within fifteen days after its receipt of the copy of the 2547
supervised release plan, the juvenile court of the county in which 2548
the child will be placed neither enters in its journal the 2549
supervised release plan nor enters in its journal the supervised 2550
release plan plus additional terms and conditions added by the 2551
court, the court and the department of youth services may attempt 2552

to resolve any differences regarding the plan within three days. 2553
If a resolution is not reached within that three-day period, 2554
thereafter, the supervised release plan shall be enforceable to 2555
the same extent as if the court actually had entered the 2556
supervised release plan in its journal. 2557

(2) When the release authority receives from the court a copy 2558
of the journalized supervised release plan and, if applicable, a 2559
copy of the journalized additional terms and conditions added by 2560
the court, the release authority shall keep the original copy or 2561
copies in the child's file and shall provide a copy of each 2562
document to the child, the employee of the department who is 2563
assigned to supervise and assist the child while on release, and 2564
the committing court. 2565

(C) If a child who is in the custody of the department of 2566
youth services was committed pursuant to division (A)(1)(b), (c), 2567
(d), or (e) of section 2152.16 of the Revised Code and has been 2568
institutionalized or institutionalized in a secure facility for 2569
the prescribed minimum ~~periods~~ period of time under whichever of 2570
those divisions the child was committed or was committed to the 2571
custody of the department pursuant to both division (A), (B), (C), 2572
or (D) of section 2152.17 of the Revised Code and division 2573
(A)(1)(b), (c), (d), or (e) of section 2152.16 of the Revised Code 2574
and has been institutionalized or institutionalized in a secure 2575
facility for all of the definite periods of commitment imposed 2576
under division (A), (B), (C), or (D) of section 2152.17 of the 2577
Revised Code plus the prescribed minimum period of time imposed 2578
under division (A)(1)(b), (c), (d), or (e) of section 2152.16 of 2579
the Revised Code, whichever is applicable, and if the release 2580
authority is satisfied that the discharge of the child without the 2581
child being placed on supervised release would be consistent with 2582
the welfare of the child and protection of the public, the release 2583
authority, without approval of the court that committed the child, 2584

may discharge the child from the department's custody and control 2585
without placing the child on supervised release. Additionally, the 2586
release authority may discharge a child in the department's 2587
custody without the child being placed on supervised release if 2588
the child is removed from the jurisdiction of this state by a 2589
court order of a court of this state, another state, or the United 2590
States, or by any agency of this state, another state, or the 2591
United States, if the child is convicted of or pleads guilty to 2592
any criminal offense, or as otherwise provided by law. At least 2593
fifteen days before the scheduled date of discharge of the child 2594
without the child being placed on supervised release, the 2595
department shall notify the committing court, in writing, that it 2596
is going to discharge the child and of the reason for the 2597
discharge. Upon discharge of the child without the child being 2598
placed on supervised release, the department immediately shall 2599
certify the discharge in writing and shall transmit the 2600
certificate of discharge to the committing court. 2601

(D) In addition to requirements that are reasonably related 2602
to the child's prior pattern of criminal or delinquent behavior 2603
and the prevention of further criminal or delinquent behavior, the 2604
release authority shall specify the following requirements for 2605
each child whom it releases: 2606

(1) The child shall observe the law. 2607

(2) The child shall maintain appropriate contact, as 2608
specified in the written supervised release plan for that child. 2609

(3) The child shall not change residence unless the child 2610
seeks prior approval for the change from the employee of the 2611
department assigned to supervise and assist the child, provides 2612
that employee, at the time the child seeks the prior approval for 2613
the change, with appropriate information regarding the new 2614
residence address at which the child wishes to reside, and obtains 2615
the prior approval of that employee for the change. 2616

(E) The period of a child's supervised release may extend 2617
from the date of release from an institution until the child 2618
attains twenty-one years of age. If the period of supervised 2619
release extends beyond one year after the date of release, the 2620
child may request in writing that the release authority conduct a 2621
discharge review after the expiration of the one-year period or 2622
the minimum period or period. If the child so requests, the 2623
release authority shall conduct a discharge review and give the 2624
child its decision in writing. The release authority shall not 2625
grant a discharge prior to the discharge date if it finds good 2626
cause for retaining the child in the custody of the department 2627
until the discharge date. A child may request an additional 2628
discharge review six months after the date of a previous discharge 2629
review decision, but not more than once during any six-month 2630
period after the date of a previous discharge review decision. 2631

(F) At least two weeks before the release authority places on 2632
supervised release or discharge a child who was committed to the 2633
legal custody of the department, the release authority shall 2634
provide notice of the release or discharge as follows: 2635

(1) In relation to the placement on supervised release or 2636
discharge of a child who was committed to the department for 2637
committing an act that is a category one or category two offense, 2638
the release authority shall notify, by the specified deadline, all 2639
of the following of the release or discharge: 2640

(a) The prosecuting attorney of the county in which the child 2641
was adjudicated a delinquent child and committed to the custody of 2642
the department; 2643

(b) Whichever of the following is applicable: 2644

(i) If upon the supervised release or discharge the child 2645
will reside in a municipal corporation, the chief of police or 2646
other chief law enforcement officer of that municipal corporation; 2647

(ii) If upon the supervised release or discharge the child will reside in an unincorporated area of a county, the sheriff of that county.

(2) In relation to the placement on supervised release or discharge of a child who was committed to the department for committing any act, the release authority shall notify, by the specified deadline, each victim of the act for which the child was committed to the legal custody of the department who, pursuant to section 5139.56 of the Revised Code, has requested to be notified of the placement of the child on supervised release or the discharge of the child, provided that, if any victim has designated a person pursuant to that section to act on the victim's behalf as a victim's representative, the notification required by this division shall be provided to that victim's representative.

Section 2. That existing sections 2151.23, 2151.31, 2151.314, 2152.02, 2152.021, 2152.10, 2152.12, 2152.13, 2152.14, 2152.17, 2152.22, 5139.01, 5139.05, 5139.06, 5139.20, and 5139.51 and section 2152.11 of the Revised Code are hereby repealed.

Section 3. The amendments to sections 2151.23, 2151.31, 2151.314, 2152.02, 2152.021, 2152.10, 2152.12, 2152.13, 2152.14, 2152.17, 2152.22, 5139.01, 5139.05, 5139.06, 5139.20, and 5139.51 and the repeal of section 2152.11 of the Revised Code made in Sections 1 and 2 of this act apply only to a child who is charged with an act that allegedly was committed on or after the effective date of this act. The versions of sections 2151.23, 2151.31, 2151.314, 2152.02, 2152.021, 2152.10, 2152.11, 2152.12, 2152.13, 2152.14, 2152.17, 2152.22, 5139.01, 5139.05, 5139.06, 5139.20, and 5139.51 of the Revised Code in effect immediately prior to the effective date of this act apply to a child who is charged with an act that allegedly was committed prior to the effective date of

this act. 2679

Section 4. Section 2151.23 of the Revised Code is presented 2680
in this act as a composite of the section as amended by both Am. 2681
Sub. H.B. 214 and Am. Sub. S.B. 10 of the 127th General Assembly. 2682
The General Assembly, applying the principle stated in division 2683
(B) of section 1.52 of the Revised Code that amendments are to be 2684
harmonized if reasonably capable of simultaneous operation, finds 2685
that the composite is the resulting version of the section in 2686
effect prior to the effective date of the section as presented in 2687
this act. 2688