

As Introduced

**128th General Assembly
Regular Session
2009-2010**

H. B. No. 526

Representatives Pryor, Stewart

Cosponsors: Representatives Beck, Domenick

—

A B I L L

To amend sections 2929.18, 2929.20, 2929.22, 2929.28, 1
2930.01, 2930.02, 2930.06, 2930.08, 2930.14, 2
2930.17, and 2930.19 and to enact section 2929.281 3
of the Revised Code to make restitution mandatory 4
in cases of felonies and misdemeanor offenses of 5
violence, to modify the determination and 6
enforcement of restitution, and to enhance the 7
participation of crime victims and crime victim 8
advocates in the sentencing or disposition and 9
judicial or early release of offenders and 10
delinquent children. 11

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

Section 1. That sections 2929.18, 2929.20, 2929.22, 2929.28, 12
2930.01, 2930.02, 2930.06, 2930.08, 2930.14, 2930.17, and 2930.19 13
be amended and section 2929.281 of the Revised Code be enacted to 14
read as follows: 15

Sec. 2929.18. (A) Except as otherwise provided in this 16
division and in addition to imposing court costs pursuant to 17
section 2947.23 of the Revised Code, the court imposing a sentence 18
upon an offender for a felony may sentence the offender to any 19

financial sanction or combination of financial sanctions 20
authorized under this section ~~or~~, in the circumstances specified 21
in section 2929.32 of the Revised Code, may impose upon the 22
offender a fine in accordance with that section, and shall 23
sentence the offender to make restitution pursuant to this section 24
and section 2929.281 of the Revised Code. Financial sanctions that 25
either are required to be or may be imposed pursuant to this 26
section include, but are not limited to, the following: 27

(1) Restitution by the offender to the victim of the 28
offender's crime or any survivor of the victim, in an amount based 29
on the victim's economic loss. ~~If the court imposes restitution,~~ 30
~~the~~ The court shall order that ~~the~~ full restitution be made to the 31
victim in open court, to the adult probation department that 32
serves the county on behalf of the victim, to the clerk of courts, 33
or to another agency designated by the court. ~~If the court imposes~~ 34
~~restitution, at~~ At sentencing, the court shall determine the 35
amount of restitution to be made by the offender. ~~If the court~~ 36
~~imposes restitution, the court may base the amount of restitution~~ 37
~~it orders on an amount recommended by the victim, the offender, a~~ 38
~~presentence investigation report, estimates or receipts indicating~~ 39
~~the cost of repairing or replacing property, and other~~ 40
~~information, provided that the~~ The prosecuting attorney, the 41
prosecuting attorney's designee, or the probation department upon 42
agreement with the prosecuting attorney, shall, and the offender 43
may, present evidence relevant to the determination of the amount 44
of restitution. The amount the court orders as restitution shall 45
not exceed the amount of the economic loss suffered by the victim 46
as a direct and proximate result of the commission of the offense. 47
~~If the court decides to impose restitution, the~~ The court shall 48
hold a hearing on restitution if the offender, victim, or survivor 49
disputes the amount. Whether or not the court holds a hearing, the 50
court shall determine the amount of full restitution by a 51

preponderance of the evidence. All restitution payments shall be 52
credited against any recovery of economic loss in a civil action 53
brought by the victim or any survivor of the victim against the 54
offender. 55

~~If the court imposes restitution, the~~ The court may order 56
that the offender pay a surcharge of not more than five per cent 57
of the amount of the restitution otherwise ordered to the entity 58
responsible for collecting and processing restitution payments. 59

The victim or survivor may request that the prosecutor in the 60
case file a motion, or the offender may file a motion, for 61
modification of the payment terms of any restitution ordered. If 62
the court grants the motion, it may modify the payment terms as it 63
determines appropriate. 64

(2) Except as provided in division (B)(1), (3), or (4) of 65
this section, a fine payable by the offender to the state, to a 66
political subdivision, or as described in division (B)(2) of this 67
section to one or more law enforcement agencies, with the amount 68
of the fine based on a standard percentage of the offender's daily 69
income over a period of time determined by the court and based 70
upon the seriousness of the offense. A fine ordered under this 71
division shall not exceed the maximum conventional fine amount 72
authorized for the level of the offense under division (A)(3) of 73
this section. 74

(3) Except as provided in division (B)(1), (3), or (4) of 75
this section, a fine payable by the offender to the state, to a 76
political subdivision when appropriate for a felony, or as 77
described in division (B)(2) of this section to one or more law 78
enforcement agencies, in the following amount: 79

(a) For a felony of the first degree, not more than twenty 80
thousand dollars; 81

(b) For a felony of the second degree, not more than fifteen 82

thousand dollars;	83
(c) For a felony of the third degree, not more than ten thousand dollars;	84
(d) For a felony of the fourth degree, not more than five thousand dollars;	86
(e) For a felony of the fifth degree, not more than two thousand five hundred dollars.	89
(4) A state fine or costs as defined in section 2949.111 of the Revised Code.	90
(5)(a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including the following:	92
(i) All or part of the costs of implementing any community control sanction, including a supervision fee under section 2951.021 of the Revised Code;	95
(ii) All or part of the costs of confinement under a sanction imposed pursuant to section 2929.14, 2929.142, or 2929.16 of the Revised Code, provided that the amount of reimbursement ordered under this division shall not exceed the total amount of reimbursement the offender is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement;	98
(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under section 4510.13 of the Revised Code.	104
(b) If the offender is sentenced to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a facility operated by a board of county commissioners, a legislative authority of a municipal corporation,	109

or another local governmental entity, if, pursuant to section 113
307.93, 341.14, 341.19, 341.23, 753.02, 753.04, 753.16, 2301.56, 114
or 2947.19 of the Revised Code and section 2929.37 of the Revised 115
Code, the board, legislative authority, or other local 116
governmental entity requires prisoners to reimburse the county, 117
municipal corporation, or other entity for its expenses incurred 118
by reason of the prisoner's confinement, and if the court does not 119
impose a financial sanction under division (A)(5)(a)(ii) of this 120
section, confinement costs may be assessed pursuant to section 121
2929.37 of the Revised Code. In addition, the offender may be 122
required to pay the fees specified in section 2929.38 of the 123
Revised Code in accordance with that section. 124

(c) Reimbursement by the offender for costs pursuant to 125
section 2929.71 of the Revised Code. 126

(B)(1) For a first, second, or third degree felony violation 127
of any provision of Chapter 2925., 3719., or 4729. of the Revised 128
Code, the sentencing court shall impose upon the offender a 129
mandatory fine of at least one-half of, but not more than, the 130
maximum statutory fine amount authorized for the level of the 131
offense pursuant to division (A)(3) of this section. If an 132
offender alleges in an affidavit filed with the court prior to 133
sentencing that the offender is indigent and unable to pay the 134
mandatory fine and if the court determines the offender is an 135
indigent person and is unable to pay the mandatory fine described 136
in this division, the court shall not impose the mandatory fine 137
upon the offender. 138

(2) Any mandatory fine imposed upon an offender under 139
division (B)(1) of this section and any fine imposed upon an 140
offender under division (A)(2) or (3) of this section for any 141
fourth or fifth degree felony violation of any provision of 142
Chapter 2925., 3719., or 4729. of the Revised Code shall be paid 143
to law enforcement agencies pursuant to division (F) of section 144

2925.03 of the Revised Code. 145

(3) For a fourth degree felony OVI offense and for a third 146
degree felony OVI offense, the sentencing court shall impose upon 147
the offender a mandatory fine in the amount specified in division 148
(G)(1)(d) or (e) of section 4511.19 of the Revised Code, whichever 149
is applicable. The mandatory fine so imposed shall be disbursed as 150
provided in the division pursuant to which it is imposed. 151

(4) Notwithstanding any fine otherwise authorized or required 152
to be imposed under division (A)(2) or (3) or (B)(1) of this 153
section or section 2929.31 of the Revised Code for a violation of 154
section 2925.03 of the Revised Code, in addition to any penalty or 155
sanction imposed for that offense under section 2925.03 or 156
sections 2929.11 to 2929.18 of the Revised Code and in addition to 157
the forfeiture of property in connection with the offense as 158
prescribed in Chapter 2981. of the Revised Code, the court that 159
sentences an offender for a violation of section 2925.03 of the 160
Revised Code may impose upon the offender a fine in addition to 161
any fine imposed under division (A)(2) or (3) of this section and 162
in addition to any mandatory fine imposed under division (B)(1) of 163
this section. The fine imposed under division (B)(4) of this 164
section shall be used as provided in division (H) of section 165
2925.03 of the Revised Code. A fine imposed under division (B)(4) 166
of this section shall not exceed whichever of the following is 167
applicable: 168

(a) The total value of any personal or real property in which 169
the offender has an interest and that was used in the course of, 170
intended for use in the course of, derived from, or realized 171
through conduct in violation of section 2925.03 of the Revised 172
Code, including any property that constitutes proceeds derived 173
from that offense; 174

(b) If the offender has no interest in any property of the 175
type described in division (B)(4)(a) of this section or if it is 176

not possible to ascertain whether the offender has an interest in 177
any property of that type in which the offender may have an 178
interest, the amount of the mandatory fine for the offense imposed 179
under division (B)(1) of this section or, if no mandatory fine is 180
imposed under division (B)(1) of this section, the amount of the 181
fine authorized for the level of the offense imposed under 182
division (A)(3) of this section. 183

(5) Prior to imposing a fine under division (B)(4) of this 184
section, the court shall determine whether the offender has an 185
interest in any property of the type described in division 186
(B)(4)(a) of this section. Except as provided in division (B)(6) 187
or (7) of this section, a fine that is authorized and imposed 188
under division (B)(4) of this section does not limit or affect the 189
imposition of the penalties and sanctions for a violation of 190
section 2925.03 of the Revised Code prescribed under those 191
sections or sections 2929.11 to 2929.18 of the Revised Code and 192
does not limit or affect a forfeiture of property in connection 193
with the offense as prescribed in Chapter 2981. of the Revised 194
Code. 195

(6) If the sum total of a mandatory fine amount imposed for a 196
first, second, or third degree felony violation of section 2925.03 197
of the Revised Code under division (B)(1) of this section plus the 198
amount of any fine imposed under division (B)(4) of this section 199
does not exceed the maximum statutory fine amount authorized for 200
the level of the offense under division (A)(3) of this section or 201
section 2929.31 of the Revised Code, the court may impose a fine 202
for the offense in addition to the mandatory fine and the fine 203
imposed under division (B)(4) of this section. The sum total of 204
the amounts of the mandatory fine, the fine imposed under division 205
(B)(4) of this section, and the additional fine imposed under 206
division (B)(6) of this section shall not exceed the maximum 207
statutory fine amount authorized for the level of the offense 208

under division (A)(3) of this section or section 2929.31 of the Revised Code. The clerk of the court shall pay any fine that is imposed under division (B)(6) of this section to the county, township, municipal corporation, park district as created pursuant to section 511.18 or 1545.04 of the Revised Code, or state law enforcement agencies in this state that primarily were responsible for or involved in making the arrest of, and in prosecuting, the offender pursuant to division (F) of section 2925.03 of the Revised Code.

(7) If the sum total of the amount of a mandatory fine imposed for a first, second, or third degree felony violation of section 2925.03 of the Revised Code plus the amount of any fine imposed under division (B)(4) of this section exceeds the maximum statutory fine amount authorized for the level of the offense under division (A)(3) of this section or section 2929.31 of the Revised Code, the court shall not impose a fine under division (B)(6) of this section.

(8)(a) If an offender who is convicted of or pleads guilty to a violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the sentencing court shall sentence the offender to a financial sanction of restitution by the offender to the victim or any survivor of the victim, with the restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of the following:

(i) The gross income or value to the offender of the victim's labor or services;

(ii) The value of the victim's labor as guaranteed under the 241
minimum wage and overtime provisions of the "Federal Fair Labor 242
Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state 243
labor laws. 244

(b) If a court imposing sentence upon an offender for a 245
felony is required to impose upon the offender a financial 246
sanction of restitution under division (B)(8)(a) of this section, 247
in addition to that financial sanction of restitution, the court 248
may sentence the offender to any other financial sanction or 249
combination of financial sanctions authorized under this section, 250
including a restitution sanction under division (A)(1) of this 251
section. 252

(C)(1) The offender shall pay reimbursements imposed upon the 253
offender pursuant to division (A)(5)(a) of this section to pay the 254
costs incurred by the department of rehabilitation and correction 255
in operating a prison or other facility used to confine offenders 256
pursuant to sanctions imposed under section 2929.14, 2929.142, or 257
2929.16 of the Revised Code to the treasurer of state. The 258
treasurer of state shall deposit the reimbursements in the 259
confinement cost reimbursement fund that is hereby created in the 260
state treasury. The department of rehabilitation and correction 261
shall use the amounts deposited in the fund to fund the operation 262
of facilities used to confine offenders pursuant to sections 263
2929.14, 2929.142, and 2929.16 of the Revised Code. 264

(2) Except as provided in section 2951.021 of the Revised 265
Code, the offender shall pay reimbursements imposed upon the 266
offender pursuant to division (A)(5)(a) of this section to pay the 267
costs incurred by a county pursuant to any sanction imposed under 268
this section or section 2929.16 or 2929.17 of the Revised Code or 269
in operating a facility used to confine offenders pursuant to a 270
sanction imposed under section 2929.16 of the Revised Code to the 271
county treasurer. The county treasurer shall deposit the 272

reimbursements in the sanction cost reimbursement fund that each 273
board of county commissioners shall create in its county treasury. 274
The county shall use the amounts deposited in the fund to pay the 275
costs incurred by the county pursuant to any sanction imposed 276
under this section or section 2929.16 or 2929.17 of the Revised 277
Code or in operating a facility used to confine offenders pursuant 278
to a sanction imposed under section 2929.16 of the Revised Code. 279

(3) Except as provided in section 2951.021 of the Revised 280
Code, the offender shall pay reimbursements imposed upon the 281
offender pursuant to division (A)(5)(a) of this section to pay the 282
costs incurred by a municipal corporation pursuant to any sanction 283
imposed under this section or section 2929.16 or 2929.17 of the 284
Revised Code or in operating a facility used to confine offenders 285
pursuant to a sanction imposed under section 2929.16 of the 286
Revised Code to the treasurer of the municipal corporation. The 287
treasurer shall deposit the reimbursements in a special fund that 288
shall be established in the treasury of each municipal 289
corporation. The municipal corporation shall use the amounts 290
deposited in the fund to pay the costs incurred by the municipal 291
corporation pursuant to any sanction imposed under this section or 292
section 2929.16 or 2929.17 of the Revised Code or in operating a 293
facility used to confine offenders pursuant to a sanction imposed 294
under section 2929.16 of the Revised Code. 295

(4) Except as provided in section 2951.021 of the Revised 296
Code, the offender shall pay reimbursements imposed pursuant to 297
division (A)(5)(a) of this section for the costs incurred by a 298
private provider pursuant to a sanction imposed under this section 299
or section 2929.16 or 2929.17 of the Revised Code to the provider. 300

(D) Except as otherwise provided in this division, a 301
financial sanction imposed pursuant to division (A) or (B) of this 302
section is a judgment in favor of the state or a political 303
subdivision in which the court that imposed the financial sanction 304

is located, and the offender subject to the financial sanction is 305
the judgment debtor. A financial sanction of reimbursement imposed 306
pursuant to division (A)(5)(a)(ii) of this section upon an 307
offender who is incarcerated in a state facility or a municipal 308
jail is a judgment in favor of the state or the municipal 309
corporation, and the offender subject to the financial sanction is 310
the judgment debtor. A financial sanction of reimbursement imposed 311
upon an offender pursuant to this section for costs incurred by a 312
private provider of sanctions is a judgment in favor of the 313
private provider, and the offender subject to the financial 314
sanction is the judgment debtor. A financial sanction of 315
restitution imposed pursuant to division (A)(1) or (B)(8) of this 316
section is an order in favor of the victim of the offender's 317
criminal act that can be collected through execution as described 318
in division (D)(1) of this section or through an order as 319
described in division (D)(2) of this section, and the offender 320
shall be considered for purposes of the collection as the judgment 321
debtor. Imposition of a financial sanction and execution on the 322
judgment does not preclude any other power of the court to impose 323
or enforce sanctions on the offender. Once the financial sanction 324
is imposed as a judgment or order under this division, the victim, 325
private provider, state, or political subdivision may bring an 326
action to do any of the following: 327

(1) Obtain execution of the judgment or order through any 328
available procedure, including: 329

(a) An execution against the property of the judgment debtor 330
under Chapter 2329. of the Revised Code; 331

(b) An execution against the person of the judgment debtor 332
under Chapter 2331. of the Revised Code; 333

(c) A proceeding in aid of execution under Chapter 2333. of 334
the Revised Code, including: 335

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;	336 337 338
(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;	339 340
(iii) A creditor's suit under section 2333.01 of the Revised Code.	341 342
(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;	343 344
(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.	345 346
(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.	347 348
(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.	349 350 351 352
(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.32 of the Revised Code may designate the clerk of the court or another person to collect the financial sanction. The clerk or other person authorized by law or the court to collect the financial sanction may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.32 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.	353 354 355 356 357 358 359 360 361 362 363 364 365

(G) If the court imposes one or more financial sanctions in addition to restitution, any amounts paid by the offender shall be credited first to restitution. 366
367
368

(H) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.32 of the Revised Code that have not been paid. 369
370
371
372
373
374
375

~~(H)~~(I) No financial sanction imposed under this section or section 2929.32 of the Revised Code shall preclude a victim from bringing a civil action against the offender. 376
377
378

Sec. 2929.20. (A) As used in this section: 379

(1)(a) Except as provided in division (A)(1)(b) of this section, "eligible offender" means any person serving a stated prison term of ten years or less when either of the following applies: 380
381
382
383

(i) The stated prison term does not include a mandatory prison term. 384
385

(ii) The stated prison term includes a mandatory prison term, and the person has served the mandatory prison term. 386
387

(b) "Eligible offender" does not include any person who is serving a stated prison term for any of the following criminal offenses that was a felony and was committed while the person held a public office in this state: 388
389
390
391

(i) A violation of section 2921.02, 2921.03, 2921.05, 2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised Code; 392
393
394

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 395

2921.12 of the Revised Code, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(iii) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(i) of this section;

(iv) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(ii) of this section, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(v) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(i) or described in division (A)(1)(b)(iii) of this section;

(vi) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(ii) or described in division (A)(1)(b)(iv) of this section, if the conduct constituting the offense that was the subject of the conspiracy, that would have constituted the offense attempted, or constituting the offense in which the offender was complicit was or would have been related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.

(2) "Public office" means any elected federal, state, or local government office in this state.

(B) On the motion of an eligible offender or upon its own motion, the sentencing court may reduce the eligible offender's

stated prison term through a judicial release under this section. 427

(C) An eligible offender may file a motion for judicial 428
release with the sentencing court within the following applicable 429
periods: 430

(1) If the stated prison term is less than two years, the 431
eligible offender may file the motion not earlier than thirty days 432
after the offender is delivered to a state correctional 433
institution or, if the prison term includes a mandatory prison 434
term or terms, not earlier than thirty days after the expiration 435
of all mandatory prison terms. 436

(2) If the stated prison term is at least two years but less 437
than five years, the eligible offender may file the motion not 438
earlier than one hundred eighty days after the offender is 439
delivered to a state correctional institution or, if the prison 440
term includes a mandatory prison term or terms, not earlier than 441
one hundred eighty days after the expiration of all mandatory 442
prison terms. 443

(3) If the stated prison term is five years or more but not 444
more than ten years, the eligible offender may file the motion not 445
earlier than five years after the eligible offender is delivered 446
to a state correctional institution or, if the prison term 447
includes a mandatory prison term or terms, not earlier than five 448
years after the expiration of all mandatory prison terms. 449

(D) Upon receipt of a timely motion for judicial release 450
filed by an eligible offender under division (C) of this section 451
or upon the sentencing court's own motion made within the 452
appropriate time specified in that division, the court may deny 453
the motion without a hearing or schedule a hearing on the motion. 454
The court shall not grant the motion without a hearing. If a court 455
denies a motion without a hearing, the court later may consider 456
judicial release for that eligible offender on a subsequent motion 457

filed by that eligible offender unless the court denies the motion 458
with prejudice. If a court denies a motion with prejudice, the 459
court may later consider judicial release on its own motion. If a 460
court denies a motion after a hearing, the court shall not 461
consider a subsequent motion for that eligible offender. The court 462
shall hold only one hearing for any eligible offender. 463

A hearing under this section shall be conducted in open court 464
within sixty days after the motion is filed, provided that the 465
court may delay the hearing for one hundred eighty additional 466
days. If the court holds a hearing, the court shall enter a ruling 467
on the motion within ten days after the hearing. If the court 468
denies the motion without a hearing, the court shall enter its 469
ruling on the motion within sixty days after the motion is filed. 470

(E) If a court schedules a hearing under division (D) of this 471
section, the court shall notify the eligible offender and the head 472
of the state correctional institution in which the eligible 473
offender is confined prior to the hearing. The head of the state 474
correctional institution immediately shall notify the appropriate 475
person at the department of rehabilitation and correction of the 476
hearing, and the department within twenty-four hours after receipt 477
of the notice, shall post on the database it maintains pursuant to 478
section 5120.66 of the Revised Code the offender's name and all of 479
the information specified in division (A)(1)(c)(i) of that 480
section. If the court schedules a hearing for judicial release, 481
the court promptly shall give notice of the hearing to the 482
prosecuting attorney of the county in which the eligible offender 483
was indicted. Upon receipt of the notice from the court, the 484
prosecuting attorney shall notify the victim of the offense or the 485
victim's representative pursuant to section 2930.16 of the Revised 486
Code. 487

(F) Upon an offender's successful completion of 488
rehabilitative activities, the head of the state correctional 489

institution may notify the sentencing court of the successful 490
completion of the activities. 491

(G) Prior to the date of the hearing on a motion for judicial 492
release under this section, the head of the state correctional 493
institution in which the eligible offender is confined shall send 494
to the court a report on the eligible offender's conduct in the 495
institution and in any institution from which the eligible 496
offender may have been transferred. The report shall cover the 497
eligible offender's participation in school, vocational training, 498
work, treatment, and other rehabilitative activities and any 499
disciplinary action taken against the eligible offender. The 500
report shall be made part of the record of the hearing. 501

(H) If the court grants a hearing on a motion for judicial 502
release under this section, the eligible offender shall attend the 503
hearing if ordered to do so by the court. Upon receipt of a copy 504
of the journal entry containing the order, the head of the state 505
correctional institution in which the eligible offender is 506
incarcerated shall deliver the eligible offender to the sheriff of 507
the county in which the hearing is to be held. The sheriff shall 508
convey the eligible offender to and from the hearing. 509

(I) At the hearing on a motion for judicial release under 510
this section, the court shall afford the eligible offender and the 511
eligible offender's attorney an opportunity to present written 512
and, if present, oral information relevant to the motion. The 513
court shall afford a similar opportunity to the prosecuting 514
attorney, the victim or the victim's representative, as defined in 515
section 2930.01 of the Revised Code, and any other person the 516
court determines is likely to present additional relevant 517
information. The court shall consider any statement of a victim or 518
any other harmed person made pursuant to section 2930.14 or 519
2930.17 of the Revised Code, any victim impact statement prepared 520
pursuant to section 2947.051 of the Revised Code, and any report 521

made under division (G) of this section. The court may consider 522
any written statement of any person submitted to the court 523
pursuant to division (L) of this section. After ruling on the 524
motion, the court shall notify the victim of the ruling in 525
accordance with sections 2930.03 and 2930.16 of the Revised Code. 526

(J)(1) A court shall not grant a judicial release under this 527
section to an eligible offender who is imprisoned for a felony of 528
the first or second degree, or to an eligible offender who 529
committed an offense under Chapter 2925. or 3719. of the Revised 530
Code and for whom there was a presumption under section 2929.13 of 531
the Revised Code in favor of a prison term, unless the court, with 532
reference to factors under section 2929.12 of the Revised Code, 533
finds both of the following: 534

(a) That a sanction other than a prison term would adequately 535
punish the offender and protect the public from future criminal 536
violations by the eligible offender because the applicable factors 537
indicating a lesser likelihood of recidivism outweigh the 538
applicable factors indicating a greater likelihood of recidivism; 539

(b) That a sanction other than a prison term would not demean 540
the seriousness of the offense because factors indicating that the 541
eligible offender's conduct in committing the offense was less 542
serious than conduct normally constituting the offense outweigh 543
factors indicating that the eligible offender's conduct was more 544
serious than conduct normally constituting the offense. 545

(2) A court that grants a judicial release to an eligible 546
offender under division (J)(1) of this section shall specify on 547
the record both findings required in that division and also shall 548
list all the factors described in that division that were 549
presented at the hearing. 550

(K) If the court grants a motion for judicial release under 551
this section, the court shall order the release of the eligible 552

offender, shall place the eligible offender under an appropriate 553
community control sanction, under appropriate conditions, and 554
under the supervision of the department of probation serving the 555
court and shall reserve the right to reimpose the sentence that it 556
reduced if the offender violates the sanction. If the court 557
reimposes the reduced sentence, it may do so either concurrently 558
with, or consecutive to, any new sentence imposed upon the 559
eligible offender as a result of the violation that is a new 560
offense. The period of community control shall be no longer than 561
five years. The court, in its discretion, may reduce the period of 562
community control by the amount of time the eligible offender 563
spent in jail or prison for the offense and in prison. If the 564
court made any findings pursuant to division (J)(1) of this 565
section, the court shall serve a copy of the findings upon counsel 566
for the parties within fifteen days after the date on which the 567
court grants the motion for judicial release. 568

If the court grants a motion for judicial release, the court 569
shall notify the appropriate person at the department of 570
rehabilitation and correction, and the department shall post 571
notice of the release on the database it maintains pursuant to 572
section 5120.66 of the Revised Code. 573

(L) In addition to and independent of the right of a victim 574
to make a statement pursuant to section 2930.14, 2930.17, or 575
2946.051 of the Revised Code and any right of a person to present 576
written information or make a statement pursuant to division (I) 577
of this section, any person may submit to the court, at any time 578
prior to the hearing on the offender's motion for judicial 579
release, a written statement concerning the effects of the 580
offender's crime or crimes, the circumstances surrounding the 581
crime or crimes, the manner in which the crime or crimes were 582
perpetrated, and the person's opinion as to whether the offender 583
should be released. 584

Sec. 2929.22. (A) Unless a mandatory jail term is required to 585
be imposed by division (G) of section 1547.99, division (B) of 586
section 4510.14, division (G) of section 4511.19 of the Revised 587
Code, or any other provision of the Revised Code a court that 588
imposes a sentence under this chapter upon an offender for a 589
misdemeanor or minor misdemeanor has discretion to determine the 590
most effective way to achieve the purposes and principles of 591
sentencing set forth in section 2929.21 of the Revised Code. 592

Unless a specific sanction is required to be imposed or is 593
precluded from being imposed by the section setting forth an 594
offense or the penalty for an offense or by any provision of 595
sections 2929.23 to 2929.28 of the Revised Code, a court that 596
imposes a sentence upon an offender for a misdemeanor may impose 597
on the offender any sanction or combination of sanctions under 598
sections 2929.24 to 2929.28 of the Revised Code. The court shall 599
not impose a sentence that imposes an unnecessary burden on local 600
government resources. 601

(B)(1) In determining the appropriate sentence for a 602
misdemeanor, the court shall consider all of the following 603
factors: 604

(a) The nature and circumstances of the offense or offenses; 605

(b) Whether the circumstances regarding the offender and the 606
offense or offenses indicate that the offender has a history of 607
persistent criminal activity and that the offender's character and 608
condition reveal a substantial risk that the offender will commit 609
another offense; 610

(c) Whether the circumstances regarding the offender and the 611
offense or offenses indicate that the offender's history, 612
character, and condition reveal a substantial risk that the 613
offender will be a danger to others and that the offender's 614
conduct has been characterized by a pattern of repetitive, 615

compulsive, or aggressive behavior with heedless indifference to 616
the consequences; 617

(d) Whether the victim's youth, age, disability, or other 618
factor made the victim particularly vulnerable to the offense or 619
made the impact of the offense more serious; 620

(e) Whether the offender is likely to commit future crimes in 621
general, in addition to the circumstances described in divisions 622
(B)(1)(b) and (c) of this section. 623

(2) In determining the appropriate sentence for a 624
misdemeanor, in addition to complying with division (B)(1) of this 625
section, the court may consider any other factors that are 626
relevant to achieving the purposes and principles of sentencing 627
set forth in section 2929.21 of the Revised Code. 628

(C) Before imposing a jail term as a sentence for a 629
misdemeanor, a court shall consider the appropriateness of 630
imposing a community control sanction or a combination of 631
community control sanctions under sections 2929.25, 2929.26, 632
2929.27, and 2929.28 of the Revised Code. A court may impose the 633
longest jail term authorized under section 2929.24 of the Revised 634
Code only upon offenders who commit the worst forms of the offense 635
or upon offenders whose conduct and response to prior sanctions 636
for prior offenses demonstrate that the imposition of the longest 637
jail term is necessary to deter the offender from committing a 638
future crime. 639

(D)(1) A sentencing court shall consider any relevant oral or 640
written statement made by the victim, any other harmed person 641
under section 2930.14 of the Revised Code, the defendant, the 642
defense attorney, or the prosecuting authority regarding 643
sentencing for a misdemeanor. This division does not create any 644
rights to notice other than those rights authorized by Chapter 645
2930. of the Revised Code. 646

(2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

Sec. 2929.28. (A) In addition to imposing court costs pursuant to section 2947.23 of the Revised Code, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section and if the offender is being sentenced for a crime as defined in section 2930.01 of the Revised Code shall sentence the offender to make restitution pursuant to this section and section 2929.181 of the Revised Code. If the court, in its discretion or as required by this section, imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. ~~If the court~~

~~imposes restitution, the court may base the amount of restitution~~ 678
~~it orders on an amount recommended by the victim, the offender, a~~ 679
~~presentence investigation report, estimates or receipts indicating~~ 680
~~the cost of repairing or replacing property, and other~~ 681
~~information, provided that the~~ The prosecutor, the prosecutor's 682
~~designee, or the probation department upon agreement with the~~ 683
~~prosecutor, shall, and the offender may, present evidence relevant~~ 684
~~to the determination of the amount of restitution. The amount the~~ 685
court orders as restitution shall not exceed the amount of the 686
economic loss suffered by the victim as a direct and proximate 687
result of the commission of the offense. If the court decides to 688
or is required to impose restitution, the court shall hold an 689
evidentiary hearing on restitution if the offender, victim, or 690
survivor disputes the amount of restitution. ~~If the court holds an~~ 691
~~evidentiary hearing, at the hearing the victim or survivor has the~~ 692
~~burden to prove by a preponderance of the evidence the amount of~~ 693
~~restitution sought from the offender. Whether or not the court~~ 694
holds a hearing, the court shall determine the amount of full 695
restitution by a preponderance of the evidence. 696

All restitution payments shall be credited against any 697
recovery of economic loss in a civil action brought by the victim 698
or any survivor of the victim against the offender. 699

If the court imposes restitution, the court may order that 700
the offender pay a surcharge, of not more than five per cent of 701
the amount of the restitution otherwise ordered, to the entity 702
responsible for collecting and processing restitution payments. 703

The victim or survivor may request that the prosecutor in the 704
case file a motion, or the offender may file a motion, for 705
modification of the payment terms of any restitution ordered. If 706
the court grants the motion, it may modify the payment terms as it 707
determines appropriate. 708

(2) A fine of the type described in divisions (A)(2)(a) and 709

(b) of this section payable to the appropriate entity as required	710
by law:	711
(a) A fine in the following amount:	712
(i) For a misdemeanor of the first degree, not more than one	713
thousand dollars;	714
(ii) For a misdemeanor of the second degree, not more than	715
seven hundred fifty dollars;	716
(iii) For a misdemeanor of the third degree, not more than	717
five hundred dollars;	718
(iv) For a misdemeanor of the fourth degree, not more than	719
two hundred fifty dollars;	720
(v) For a minor misdemeanor, not more than one hundred fifty	721
dollars.	722
(b) A state fine or cost as defined in section 2949.111 of	723
the Revised Code.	724
(3)(a) Reimbursement by the offender of any or all of the	725
costs of sanctions incurred by the government, including, but not	726
limited to, the following:	727
(i) All or part of the costs of implementing any community	728
control sanction, including a supervision fee under section	729
2951.021 of the Revised Code;	730
(ii) All or part of the costs of confinement in a jail or	731
other residential facility, including, but not limited to, a per	732
diem fee for room and board, the costs of medical and dental	733
treatment, and the costs of repairing property damaged by the	734
offender while confined;	735
(iii) All or part of the cost of purchasing and using an	736
immobilizing or disabling device, including a certified ignition	737
interlock device, or a remote alcohol monitoring device that a	738
court orders an offender to use under section 4510.13 of the	739

Revised Code. 740

(b) The amount of reimbursement ordered under division 741
(A)(3)(a) of this section shall not exceed the total amount of 742
reimbursement the offender is able to pay and shall not exceed the 743
actual cost of the sanctions. The court may collect any amount of 744
reimbursement the offender is required to pay under that division. 745
If the court does not order reimbursement under that division, 746
confinement costs may be assessed pursuant to a repayment policy 747
adopted under section 2929.37 of the Revised Code. In addition, 748
the offender may be required to pay the fees specified in section 749
2929.38 of the Revised Code in accordance with that section. 750

(B) If the court determines a hearing is necessary, the court 751
may hold a hearing to determine whether the offender is able to 752
pay the financial sanction imposed pursuant to this section or 753
court costs or is likely in the future to be able to pay the 754
sanction or costs. 755

If the court determines that the offender is indigent and 756
unable to pay the financial sanction or court costs, the court 757
shall consider imposing and may impose a term of community service 758
under division (A) of section 2929.27 of the Revised Code in lieu 759
of imposing a financial sanction or court costs. If the court does 760
not determine that the offender is indigent, the court may impose 761
a term of community service under division (A) of section 2929.27 762
of the Revised Code in lieu of or in addition to imposing a 763
financial sanction under this section and in addition to imposing 764
court costs except that the court may not impose a term of 765
community service in lieu of restitution for a crime as defined in 766
section 2930.01 of the Revised Code. The court may order community 767
service for a minor misdemeanor pursuant to division (C) of 768
section 2929.27 of the Revised Code in lieu of or in addition to 769
imposing a financial sanction under this section and in addition 770
to imposing court costs. If a person fails to pay a financial 771

sanction or court costs, the court may order community service in 772
lieu of the financial sanction or court costs. 773

(C)(1) The offender shall pay reimbursements imposed upon the 774
offender pursuant to division (A)(3) of this section to pay the 775
costs incurred by a county pursuant to any sanction imposed under 776
this section or section 2929.26 or 2929.27 of the Revised Code or 777
in operating a facility used to confine offenders pursuant to a 778
sanction imposed under section 2929.26 of the Revised Code to the 779
county treasurer. The county treasurer shall deposit the 780
reimbursements in the county's general fund. The county shall use 781
the amounts deposited in the fund to pay the costs incurred by the 782
county pursuant to any sanction imposed under this section or 783
section 2929.26 or 2929.27 of the Revised Code or in operating a 784
facility used to confine offenders pursuant to a sanction imposed 785
under section 2929.26 of the Revised Code. 786

(2) The offender shall pay reimbursements imposed upon the 787
offender pursuant to division (A)(3) of this section to pay the 788
costs incurred by a municipal corporation pursuant to any sanction 789
imposed under this section or section 2929.26 or 2929.27 of the 790
Revised Code or in operating a facility used to confine offenders 791
pursuant to a sanction imposed under section 2929.26 of the 792
Revised Code to the treasurer of the municipal corporation. The 793
treasurer shall deposit the reimbursements in the municipal 794
corporation's general fund. The municipal corporation shall use 795
the amounts deposited in the fund to pay the costs incurred by the 796
municipal corporation pursuant to any sanction imposed under this 797
section or section 2929.26 or 2929.27 of the Revised Code or in 798
operating a facility used to confine offenders pursuant to a 799
sanction imposed under section 2929.26 of the Revised Code. 800

(3) The offender shall pay reimbursements imposed pursuant to 801
division (A)(3) of this section for the costs incurred by a 802
private provider pursuant to a sanction imposed under this section 803

or section 2929.26 or 2929.27 of the Revised Code to the provider. 804

(D) Except as otherwise provided in this division, a 805
financial sanction imposed under division (A) of this section is a 806
judgment in favor of the state or the political subdivision that 807
operates the court that imposed the financial sanction, and the 808
offender subject to the financial sanction is the judgment debtor. 809
A financial sanction of reimbursement imposed pursuant to division 810
(A)(3)(a)(i) of this section upon an offender is a judgment in 811
favor of the entity administering the community control sanction, 812
and the offender subject to the financial sanction is the judgment 813
debtor. A financial sanction of reimbursement imposed pursuant to 814
division (A)(3)(a)(ii) of this section upon an offender confined 815
in a jail or other residential facility is a judgment in favor of 816
the entity operating the jail or other residential facility, and 817
the offender subject to the financial sanction is the judgment 818
debtor. A financial sanction of restitution imposed pursuant to 819
division (A)(1) of this section is an order in favor of the victim 820
of the offender's criminal act that can be collected through 821
execution as described in division (D)(1) of this section or 822
through an order as described in division (D)(2) of this section 823
and the offender shall be considered for purposes of the 824
collection as the judgment debtor. 825

Once the financial sanction is imposed as a judgment or order 826
under this division, the victim, private provider, state, or 827
political subdivision may bring an action to do any of the 828
following: 829

(1) Obtain execution of the judgment or order through any 830
available procedure, including any of the procedures identified in 831
divisions (D)(1)(a) to (e) of section 2929.18 of the Revised Code. 832

(2) Obtain an order for the assignment of wages of the 833
judgment debtor under section 1321.33 of the Revised Code. 834

(E) The civil remedies authorized under division (D) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(F) Each court imposing a financial sanction upon an offender under this section may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(1) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(2) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, by credit or debit card or by another electronic transfer if the court is a municipal court not operated by a county, or by any other reasonable method, in any time, and on any terms that court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to section 301.28 of the Revised Code. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(3) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(G) If the court imposes one or more financial sanctions in addition to restitution, any amounts paid by the offender shall be credited first to restitution. 867
868
869

(H) No financial sanction imposed under this section shall preclude a victim from bringing a civil action against the offender. 870
871
872

Sec. 2929.281. (A)(1) If the defendant is convicted of or pleads guilty to an offense in a criminal proceeding in which restitution is a mandatory part of the sentence imposed on the defendant, the court, on motion of the prosecuting attorney or other prosecutor, may enter a restraining order or injunction, require the execution of a performance bond, or take any other action to preserve the availability of property that may be necessary to satisfy an anticipated restitution order if the prosecuting attorney demonstrates by a preponderance of the evidence that there is a substantial likelihood that the property with respect to which the order is sought will be necessary to satisfy an anticipated restitution order. 873
874
875
876
877
878
879
880
881
882
883
884

(2) The court may issue an order under division (A)(1) of this section without notice to the defendant if the court determines that notice would jeopardize the availability of the property to satisfy a judgment of restitution. If the court issues an order under division (A)(1) of this section without notice to the defendant, the court shall promptly notify the defendant of the order and shall schedule a hearing on the motion to be held as soon as practicable but not more than ten days after the order is issued. 885
886
887
888
889
890
891
892
893

(3) An order issued under division (A)(1) of this section shall not remain in effect for longer than ninety days unless it is renewed upon motion of the prosecuting attorney. 894
895
896

(B) In a criminal proceeding in which restitution is a 897

mandatory part of the sentence imposed on an offender, the victim 898
may request that no restitution or less than full restitution be 899
ordered or that the offender make restitution by means other than 900
the payment of money. The court shall consider but is not required 901
to grant a request made by a victim under this division. 902

(C) In determining the amount of restitution under this 903
section, the court, subject to division (B) of this section, shall 904
order full restitution for any economic loss suffered by the 905
victim. The court shall not consider the defendant's ability to 906
pay restitution. The amount of restitution shall not be reduced by 907
any payments to the victim for economic or other loss made or due 908
under a policy of insurance or governmental program. If, at the 909
time the court determines the amount of restitution, an insurance 910
company or governmental entity has made payments to the victim for 911
losses suffered as a result of the offense, the amounts of those 912
payments that are included in restitution shall be paid to the 913
insurance company or governmental entity. 914

(D) The court may order that restitution be made by a single 915
lump sum payment, partial payments at specified intervals, in-kind 916
payments, or a combination of payments at specified intervals and 917
in-kind payments. The length of time over which scheduled payments 918
are established shall be the shortest time in which full payment 919
reasonably can be made. In-kind payments may be in the form of the 920
return of property, replacement of property, or if the victim 921
agrees services rendered to the victim or a person or organization 922
other than the victim. The court may enter a restraining order or 923
injunction, require the execution of a satisfactory performance 924
bond, or take any other action to ensure payment of restitution. 925

(E) Any money owed by the state or by a political subdivision 926
of the state to an offender who is required to make restitution 927
under this section, including any tax refund owed to the offender, 928
shall be assigned first to the discharge of the offender's 929

outstanding restitution obligation. 930

(F) If an offender is required to make restitution under this 931
section in the form of monetary payments to more than one victim, 932
the offender shall make the payments to the victims in the 933
following order of priority: 934

(1) Individuals; 935

(2) Nonprofit organizations; 936

(3) Business entities; 937

(4) Governmental entities. 938

(G) A court that imposes restitution on an offender as part 939
of the offender's sentence under this section shall not suspend 940
that part of the offender's sentence. If the court suspends any 941
other part of the offender's sentence, the offender's payment of 942
restitution in accordance with the sentence shall be a condition 943
of the suspended part of the sentence. 944

(H) A restitution obligation imposed pursuant to this section 945
is not subject to discharge in bankruptcy or to any other 946
statutory or common-law proceeding for relief against creditors, 947
except to the extent required by federal law. 948

(I) If money or property that is received pursuant to a 949
sentence of restitution cannot be paid to the victim or the 950
victim's estate, the person or agency that receives the money or 951
property shall pay or deliver it to the reparations fund created 952
by section 2743.191 of the Revised Code or to a crime victim 953
service organization as defined in section 2930.01 of the Revised 954
Code. 955

Sec. 2930.01. As used in this chapter: 956

(A) "Crime" means any of the following: 957

(1) A felony; 958

(2) A violation of section 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04 of the Revised Code, a violation of section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or a violation of a substantially equivalent municipal ordinance;

(3) A violation of division (A) or (B) of section 4511.19, division (A) or (B) of section 1547.11, or division (A)(3) of section 4561.15 of the Revised Code or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(4) A motor vehicle accident to which both of the following apply:

(a) The motor vehicle accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher.

(b) As a result of the motor vehicle accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

(B) "Custodial agency" means one of the following:

(1) The entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including any of

the following:	990
(a) The department of rehabilitation and correction or the adult parole authority;	991 992
(b) A county sheriff;	993
(c) The entity that administers a jail, as defined in section 2929.01 of the Revised Code;	994 995
(d) The entity that administers a community-based correctional facility and program or a district community-based correctional facility and program;	996 997 998
(e) The department of mental health or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed.	999 1000 1001
(2) The entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.	1002 1003 1004 1005 1006
(C) "Defendant" means a person who is alleged to be the perpetrator of a crime in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution and subsequent proceedings to which this chapter makes reference.	1007 1008 1009 1010 1011
(D) "Member of the victim's family" means a spouse, child, stepchild, sibling, parent, stepparent, grandparent, or other relative of a victim but does not include a person who is charged with, convicted of, or adjudicated to be a delinquent child for the crime or specified delinquent act against the victim or another crime or specified delinquent act arising from the same conduct, criminal episode, or plan.	1012 1013 1014 1015 1016 1017 1018
(E) "Prosecutor" means one of the following:	1019

(1) With respect to a criminal case, it has the same meaning 1020
as in section 2935.01 of the Revised Code and also includes the 1021
attorney general and, when appropriate, the employees of any 1022
person listed in section 2935.01 of the Revised Code or of the 1023
attorney general. 1024

(2) With respect to a delinquency proceeding, it includes any 1025
person listed in division (C) of section 2935.01 of the Revised 1026
Code or an employee of a person listed in that division who 1027
prosecutes a delinquency proceeding. 1028

(F) "Public agency" means an office, agency, department, 1029
bureau, or other governmental entity of the state or of a 1030
political subdivision of the state. 1031

(G) "Public official" has the same meaning as in section 1032
2921.01 of the Revised Code. 1033

(H) "Victim" means either of the following: 1034

(1) A person who is identified as the victim of a crime or 1035
specified delinquent act in a police report or in a complaint, 1036
indictment, or information that charges the commission of a crime 1037
and that provides the basis for the criminal prosecution or 1038
delinquency proceeding and subsequent proceedings to which this 1039
chapter makes reference. 1040

(2) A person who receives injuries as a result of a vehicle, 1041
streetcar, trackless trolley, aquatic device, or aircraft accident 1042
that is proximately caused by a violation described in division 1043
(A)(3) of this section or a motor vehicle accident that is 1044
proximately caused by a violation described in division (A)(4) of 1045
this section and who receives medical treatment as described in 1046
division (A)(3) or (4) of this section, whichever is applicable. 1047

(I) "Victim's representative" means a member of the victim's 1048
family or another person who pursuant to the authority of section 1049
2930.02 of the Revised Code exercises the rights of a victim under 1050

this chapter.	1051
(J) "Court" means a court of common pleas, juvenile court, municipal court, or county court.	1052 1053
(K) "Delinquency proceeding" means all proceedings in a juvenile court that are related to a case in which a complaint has been filed alleging that a child is a delinquent child.	1054 1055 1056
(L) "Case" means a delinquency proceeding and all related activity or a criminal prosecution and all related activity.	1057 1058
(M) The "defense" means the defense against criminal charges in a criminal prosecution or the defense against a delinquent child complaint in a delinquency proceeding.	1059 1060 1061
(N) The "prosecution" means the prosecution of criminal charges in a criminal prosecution or the prosecution of a delinquent child complaint in a delinquency proceeding.	1062 1063 1064
(O) "Specified delinquent act" means any of the following:	1065
(1) An act committed by a child that if committed by an adult would be a felony;	1066 1067
(2) An act committed by a child that is a violation of a section listed in division (A)(1) or (2) of this section or is a violation of a substantially equivalent municipal ordinance;	1068 1069 1070
(3) An act committed by a child that is described in division (A)(3) or (4) of this section.	1071 1072
(P)(1) "Alleged juvenile offender" means a child who is alleged to have committed a specified delinquent act in a police report or in a complaint in juvenile court that charges the commission of a specified delinquent act and that provides the basis for the delinquency proceeding and all subsequent proceedings to which this chapter makes reference.	1073 1074 1075 1076 1077 1078
(2) As used in divisions (O) and (P)(1) of this section, "child" has the same meaning as in section 2151.011 of the Revised	1079 1080

Code. 1081

(Q) "Motor vehicle accident" means any accident involving a 1082
motor vehicle. 1083

(R) "Motor vehicle" has the same meaning as in section 1084
4509.01 of the Revised Code. 1085

(S) "Aircraft" has the same meaning as in section 4561.01 of 1086
the Revised Code. 1087

(T) "Aquatic device" means any vessel, or any water skis, 1088
aquaplane, or similar device. 1089

(U) "Vehicle," "streetcar," and "trackless trolley" have the 1090
same meanings as in section 4511.01 of the Revised Code. 1091

(V) "Vehicle, streetcar, trackless trolley, aquatic device, 1092
or aircraft accident" means any accident involving a vehicle, 1093
streetcar, trackless trolley, aquatic device, or aircraft. 1094

(W) "Vessel" has the same meaning as in section 1547.01 of 1095
the Revised Code. 1096

(X) "Victim advocate" means a person from a crime victim 1097
service organization who provides support and assistance for a 1098
victim of a crime during criminal and administrative proceedings 1099
and recovery efforts related to the crime. 1100

(Y) "Crime victim service organization" means any 1101
organization that is not organized for profit and that is 1102
organized and operated to provide, or to contribute to the support 1103
of organizations or institutions that are organized and operated 1104
to provide, services and assistance for victims of crime. 1105

Sec. 2930.02. (A) If a victim is a minor or is incapacitated, 1106
incompetent, or deceased, or if the victim chooses to designate 1107
another person, including, but not limited to, a member of a 1108
victim's family or ~~another~~ a victim advocate from a crime victim 1109

service organization, that person may exercise the rights of the 1110
victim under this chapter as the victim's representative. 1111

1112

If more than one person seeks to act as the victim's 1113
representative for a particular victim, the court in which the 1114
criminal prosecution or delinquency proceeding is held shall 1115
designate one of those persons as the victim's representative. If 1116
a victim does not want to have anyone act as the victim's 1117
representative, the court shall order that only the victim may 1118
exercise the rights of a victim under this chapter. 1119

(B) If pursuant to division (A) of this section a victim's 1120
representative is to exercise the rights of a victim, the victim 1121
or victim's representative shall notify the prosecutor or, if it 1122
is a delinquency proceeding and a prosecutor is not involved in 1123
the case, shall notify the court that the victim's representative 1124
is to act for the victim. When a victim or victim's representative 1125
has so notified the prosecutor or the court, all notice under this 1126
chapter shall be sent only to the victim's representative, all 1127
rights under this chapter shall be granted only to the victim's 1128
representative, and all references in this chapter to a victim 1129
shall be interpreted as being references to the victim's 1130
representative unless the victim informs the notifying authority 1131
that the victim also wishes to receive the notices or exercise the 1132
rights. If division (B) of section 2930.03 of the Revised Code 1133
requires a victim to make a request in order to receive any notice 1134
of a type described in this division and if a victim's 1135
representative is to exercise the rights of the victim, the 1136
victim's representative shall make the request. 1137

Sec. 2930.06. (A) The prosecutor in a case, to the extent 1138
practicable, shall confer with the victim in the case before 1139
pretrial diversion is granted to the defendant or alleged juvenile 1140

offender in the case, before amending or dismissing an indictment, 1141
information, or complaint against that defendant or alleged 1142
juvenile offender, before agreeing to a negotiated plea for that 1143
defendant or alleged juvenile offender, before a trial of that 1144
defendant by judge or jury, or before the juvenile court conducts 1145
an adjudicatory hearing for that alleged juvenile offender. If the 1146
juvenile court disposes of a case prior to the prosecutor's 1147
involvement in the case, the court or a court employee shall 1148
notify the victim in the case that the alleged juvenile offender 1149
will be granted pretrial diversion, the complaint against that 1150
alleged juvenile offender will be amended or dismissed, or the 1151
court will conduct an adjudicatory hearing for that alleged 1152
juvenile offender. If the prosecutor fails to confer with the 1153
victim at any of those times, the court, if informed of the 1154
failure, shall note on the record the failure and the prosecutor's 1155
reasons for the failure. A prosecutor's failure to confer with a 1156
victim as required by this division and a court's failure to 1157
provide the notice as required by this division do not affect the 1158
validity of an agreement between the prosecutor and the defendant 1159
or alleged juvenile offender in the case, a pretrial diversion of 1160
the defendant or alleged juvenile offender, an amendment or 1161
dismissal of an indictment, information, or complaint filed 1162
against the defendant or alleged juvenile offender, a plea entered 1163
by the defendant or alleged juvenile defender, an admission 1164
entered by the defendant or alleged juvenile offender, or any 1165
other disposition in the case. A court shall not dismiss a 1166
criminal complaint, charge, information, or indictment or a 1167
delinquent child complaint solely at the request of the victim and 1168
over the objection of the prosecuting attorney, village solicitor, 1169
city director of law, or other chief legal officer responsible for 1170
the prosecution of the case. 1171

(B) After a prosecution in a case has been commenced, the 1172
prosecutor or a designee of the prosecutor other than a court or 1173

court employee, to the extent practicable, promptly shall give the 1174
victim all of the following information, except that, if the 1175
juvenile court disposes of a case prior to the prosecutor's 1176
involvement in the case, the court or a court employee, to the 1177
extent practicable, promptly shall give the victim all of the 1178
following information: 1179

(1) The name of the crime or specified delinquent act with 1180
which the defendant or alleged juvenile offender in the case has 1181
been charged and the name of the defendant or alleged juvenile 1182
offender; 1183

(2) The file number of the case; 1184

(3) A brief statement regarding the procedural steps in a 1185
criminal prosecution or delinquency proceeding involving a crime 1186
or specified delinquent act similar to the crime or specified 1187
delinquent act with which the defendant or alleged juvenile 1188
offender has been charged and the right of the victim to be 1189
present during all proceedings held throughout the prosecution of 1190
the case; 1191

(4) A summary of the rights of a victim under this chapter; 1192

(5) Procedures the victim or the prosecutor may follow if the 1193
victim becomes subject to threats or intimidation by the 1194
defendant, alleged juvenile offender, or any other person; 1195

(6) The name and business telephone number of a person to 1196
contact for further information with respect to the case; 1197

(7) The right of the victim to have a victim's representative 1198
exercise the victim's rights under this chapter in accordance with 1199
section 2930.02 of the Revised Code and the procedure by which a 1200
victim's representative may be designated; 1201

(8) Notice that any notification under division (C) of this 1202
section, sections 2930.07 to 2930.19, and section 5139.56 of the 1203

Revised Code will be given to the victim only if the victim asks 1204
to receive the notification. 1205

(C) Upon the request of the victim, the prosecutor or, if it 1206
is a delinquency proceeding and a prosecutor is not involved in 1207
the case, the court shall give the victim notice of the date, 1208
time, and place of any scheduled criminal or juvenile proceedings 1209
in the case and notice of any changes in those proceedings or in 1210
the schedule in the case. 1211

(D) A victim who requests notice under division (C) of this 1212
section and who elects pursuant to division (B) of section 2930.03 1213
of the Revised Code to receive any further notice from the 1214
prosecutor or, if it is a delinquency proceeding and a prosecutor 1215
is not involved in the case, the court under this chapter shall 1216
keep the prosecutor or the court informed of the victim's current 1217
address and telephone number until the case is dismissed or 1218
terminated, the defendant is acquitted or sentenced, the 1219
delinquent child complaint is dismissed, the defendant is 1220
adjudicated a delinquent child, or the appellate process is 1221
completed, whichever is the final disposition in the case. 1222

(E) If a defendant is charged with the commission of a 1223
misdemeanor offense that is not identified in division (A)(2) of 1224
section 2930.01 of the Revised Code and if a police report or a 1225
complaint, indictment, or information that charges the commission 1226
of that offense and provides the basis for a criminal prosecution 1227
of that defendant identifies one or more individuals as 1228
individuals against whom that offense was committed, after a 1229
prosecution in the case has been commenced, the prosecutor or a 1230
designee of the prosecutor other than a court or court employee, 1231
to the extent practicable, promptly shall notify each of the 1232
individuals so identified in the report, complaint, indictment, or 1233
information that, if the defendant is convicted of or pleads 1234
guilty to the offense, the individual may make an oral or written 1235

statement to the court hearing the case regarding the sentence to 1236
be imposed upon the defendant and that the court must consider any 1237
statement so made that is relevant. Before imposing sentence in 1238
the case, the court shall permit the individuals so identified in 1239
the report, complaint, indictment, or information, and may permit 1240
any other person who was emotionally, physically, or financially 1241
harmed by the offense, to make an oral or written statement. 1242
Division (A) of section 2930.14 of the Revised Code applies 1243
regarding any statement so made. The court shall consider a 1244
statement so made, in accordance with division (B) of that section 1245
and division (D) of section 2929.22 of the Revised Code. 1246

Sec. 2930.08. If a motion, request, or agreement between 1247
counsel is made in a case and the motion, request, or agreement 1248
might result in a substantial delay in the prosecution of the 1249
case, the prosecutor in the case, ~~to the extent practicable and~~ if 1250
the victim has requested notice and has provided current contact 1251
information pursuant to ~~division (B) of~~ section 2930.03 of the 1252
Revised Code, shall inform the victim that the motion, request, or 1253
agreement has been made and that it might result in a delay. If 1254
the victim objects to the delay, the prosecutor shall inform the 1255
court of the victim's objections, and the court shall consider the 1256
victim's objections in ruling on the motion, request, or 1257
agreement. 1258

Sec. 2930.14. (A) Before imposing sentence upon, or entering 1259
an order of disposition for, a defendant or alleged juvenile 1260
offender for the commission of a crime or specified delinquent 1261
act, the court shall permit the victim of the crime or specified 1262
delinquent act, and may permit any other person who was 1263
emotionally, physically, or financially harmed by the crime or 1264
specified delinquent act, to submit a written statement prior to 1265
or at the sentencing or disposition and make a an oral statement 1266

during the sentencing or disposition proceeding. The court may 1267
give copies of any written statement made by a victim or other 1268
harmed person to the defendant or alleged juvenile offender and 1269
defendant's or alleged juvenile offender's counsel and may give 1270
any written statement made by the defendant or alleged juvenile 1271
offender to the victim, the other harmed person, and the 1272
prosecutor. The court may redact any information contained in a 1273
written statement that the court determines is not relevant to and 1274
will not be relied upon in the sentencing or disposition decision. 1275
The written statement of the victim, the other harmed person, or 1276
~~of~~ the defendant or alleged juvenile offender is confidential and 1277
is not a public record as used in section 149.43 of the Revised 1278
Code. Any person to whom a copy of a written statement was 1279
released by the court shall return it to the court immediately 1280
following sentencing or disposition. 1281

(B) The court shall consider a ~~victim's~~ statement made by a 1282
victim or other harmed person under division (A) of this section 1283
along with other factors that the court is required to consider in 1284
imposing sentence or in determining the order of disposition. If 1285
the statement includes new material facts, the court shall not 1286
rely on the new material facts unless it continues the sentencing 1287
or dispositional proceeding or takes other appropriate action to 1288
allow the defendant or alleged juvenile offender an adequate 1289
opportunity to respond to the new material facts. 1290

Sec. 2930.17. (A) In determining whether to grant a judicial 1291
release to a defendant from a prison term pursuant to section 1292
2929.20 of the Revised Code at a time before the defendant's 1293
stated prison term expires ~~or in determining whether to grant,~~ a 1294
judicial release or early release to an alleged juvenile offender 1295
from a commitment to the department of youth services pursuant to 1296
section 2151.38 of the Revised Code, an application to seal a 1297
record of conviction pursuant to section 2953.32 of the Revised 1298

Code, or an application to seal or expunge a juvenile record 1299
pursuant to section 2151.356 or 2151.358 of the Revised Code, the 1300
court shall notify the prosecutor regarding consideration and 1301
hearing of the matter not less than ten days before the 1302
consideration and hearing, and the prosecutor shall provide timely 1303
notice to victims who have requested notice and who maintain 1304
current contact information with the prosecutor. The court also 1305
shall permit a victim of a crime or specified delinquent act for 1306
which the defendant or alleged juvenile offender was incarcerated 1307
or committed to make a statement, in addition to any other 1308
statement made under this chapter, concerning the effects of that 1309
crime or specified delinquent act on the victim, the circumstances 1310
surrounding the crime or specified delinquent act, the manner in 1311
which the crime or specified delinquent act was perpetrated, and 1312
the victim's opinion whether the defendant or alleged juvenile 1313
offender should be released or the record should be sealed or 1314
expunged. The victim may make the statement in writing ~~or~~, orally, 1315
or both at the ~~court's~~ victim's discretion. The court shall give 1316
the defendant or alleged juvenile offender and either the adult 1317
parole authority or the department of youth services, whichever is 1318
applicable, a copy of any written impact statement made by the 1319
victim under this division. 1320

(B) In deciding whether to grant a judicial release or early 1321
release to the defendant or alleged juvenile offender or to seal 1322
or expunge a record, the court shall consider a any statement made 1323
by the victim under division (A) of this section or section 1324
2930.14 or 2947.051 of the Revised Code or by any other harmed 1325
person under section 2930.14 of the Revised Code. 1326

(C) Upon making a determination whether to grant a judicial 1327
release to a defendant from a prison term pursuant to section 1328
2929.20 of the Revised Code, a judicial release or early release 1329
to an alleged juvenile offender from a commitment to the 1330

department of youth services pursuant to section 2151.38 of the 1331
Revised Code, an application to seal a record of conviction 1332
pursuant to section 2953.32 of the Revised Code, or an application 1333
to seal or expunge a juvenile record pursuant to section 2151.356 1334
or 2151.358 of the Revised Code, the court shall promptly notify 1335
the prosecutor of the determination. Before ordering an offender 1336
or juvenile released from custody, the court shall send the 1337
custodial agency a copy of its journal entry of the determination. 1338

Sec. 2930.19. (A) ~~In a manner consistent with the duty of a~~ 1339
~~prosecutor to represent the interests of the public as a whole, a~~ 1340
~~prosecutor shall seek compliance with this chapter on behalf of a~~ 1341
~~victim, a member of the victim's family, or the victim's~~ 1342
~~representative. A victim of a crime, an attorney or other lawful~~ 1343
~~representative of the victim, or at the request of the victim the~~ 1344
~~prosecuting attorney has standing as a matter of right to assert~~ 1345
~~the rights of the victim provided by the law of this state in any~~ 1346
~~proceeding in any judicial or administrative tribunal having~~ 1347
~~jurisdiction. The tribunal shall act promptly on a request to~~ 1348
~~enforce the rights of the victim.~~ 1349

(B) The failure of a public official or public agency to 1350
comply with the requirements of this chapter does not give rise to 1351
a claim for damages against that public official or public agency, 1352
except that a public agency as an employer may be held responsible 1353
for a violation of section 2930.18 of the Revised Code. 1354

(C) The failure of any person or entity to provide a right, 1355
privilege, or notice to a victim under this chapter does not 1356
constitute grounds for declaring a mistrial or new trial, or for 1357
setting aside a conviction, ~~sentence, adjudication, or~~ 1358
~~disposition, or for granting postconviction release to a defendant~~ 1359
~~or alleged juvenile offender.~~ 1360

(D) If there is a conflict between a provision in this 1361

chapter and a specific statute governing the procedure in a case 1362
involving a capital offense, the specific statute supersedes the 1363
provision in this chapter. 1364

(E) If the victim of a crime is incarcerated in a state or 1365
local correctional facility or is in the legal custody of the 1366
department of youth services, the victim's rights under this 1367
chapter may be modified by court order to prevent any security 1368
risk, hardship, or undue burden upon a public official or public 1369
agency with a duty under this chapter. 1370

Section 2. That existing sections 2929.18, 2929.20, 2929.22, 1371
2929.28, 2930.01, 2930.02, 2930.06, 2930.08, 2930.14, 2930.17, and 1372
2930.19 of the Revised Code are hereby repealed. 1373

Section 3. Section 2929.20 of the Revised Code is presented 1374
in this act as a composite of the section as amended by both Am. 1375
Sub. H.B. 130 and Sub. S.B. 108 of the 127th General Assembly. The 1376
General Assembly, applying the principle stated in division (B) of 1377
section 1.52 of the Revised Code that amendments are to be 1378
harmonized if reasonably capable of simultaneous operation, finds 1379
that the composite is the resulting version of the section in 1380
effect prior to the effective date of the section as presented in 1381
this act. 1382