

As Introduced

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

S. B. No. 49

Senator Kearney

—

A BILL

To amend sections 2152.17, 2152.72, 2929.14, and 1
5103.0319 and to enact section 2941.1422 of the 2
Revised Code to require the imposition of a 3
ten-year prison term upon a person who discharges 4
a firearm while committing an offense and causes 5
injury or death to a child. 6

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

Section 1. That sections 2152.17, 2152.72, 2929.14, and 7
5103.0319 be amended and section 2941.1422 of the Revised Code be 8
enacted to read as follows: 9

Sec. 2152.17. (A) Subject to division (D) of this section, if 10
a child is adjudicated a delinquent child for committing an act, 11
other than a violation of section 2923.12 of the Revised Code, 12
that would be a felony if committed by an adult and if the court 13
determines that, if the child was an adult, the child would be 14
guilty of a specification of the type set forth in section 15
2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, 2941.1414, ~~or~~ 16
2941.1415, or 2941.1422 of the Revised Code, in addition to any 17
commitment or other disposition the court imposes for the 18
underlying delinquent act, all of the following apply: 19

(1) If the court determines that the child would be guilty of 20

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 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, or 2941.1422 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 2941.1414 of the Revised Code, the court shall 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 five 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.

(B) Division (A) of this section also applies to a child who is an accomplice to the same extent the firearm specifications would apply to an adult accomplice in a criminal proceeding.

(C) If a child is adjudicated a delinquent child for committing an act that would be aggravated murder, murder, or a

first, second, or third degree felony offense of violence if 53
committed by an adult and if the court determines that, if the 54
child was an adult, the child would be guilty of a specification 55
of the type set forth in section 2941.142 of the Revised Code in 56
relation to the act for which the child was adjudicated a 57
delinquent child, the court shall commit the child for the 58
specification to the legal custody of the department of youth 59
services for institutionalization in a secure facility for a 60
definite period of not less than one and not more than three 61
years, subject to division (D)(2) of this section, and the court 62
also shall commit the child to the department for the underlying 63
delinquent act. 64

(D)(1) If the child is adjudicated a delinquent child for 65
committing an act that would be an offense of violence that is a 66
felony if committed by an adult and is committed to the legal 67
custody of the department of youth services pursuant to division 68
(A)(1) of section 2152.16 of the Revised Code and if the court 69
determines that the child, if the child was an adult, would be 70
guilty of a specification of the type set forth in section 71
2941.1411 of the Revised Code in relation to the act for which the 72
child was adjudicated a delinquent child, the court may commit the 73
child to the custody of the department of youth services for 74
institutionalization in a secure facility for up to two years, 75
subject to division (D)(2) of this section. 76

(2) A court that imposes a period of commitment under 77
division (A) of this section is not precluded from imposing an 78
additional period of commitment under division (C) or (D)(1) of 79
this section, a court that imposes a period of commitment under 80
division (C) of this section is not precluded from imposing an 81
additional period of commitment under division (A) or (D)(1) of 82
this section, and a court that imposes a period of commitment 83
under division (D)(1) of this section is not precluded from 84

imposing an additional period of commitment under division (A) or 85
(C) of this section. 86

(E) The court shall not commit a child to the legal custody 87
of the department of youth services for a specification pursuant 88
to this section for a period that exceeds five years for any one 89
delinquent act. Any commitment imposed pursuant to division (A), 90
(B), (C), or (D)(1) of this section shall be in addition to, and 91
shall be served consecutively with and prior to, a period of 92
commitment ordered under this chapter for the underlying 93
delinquent act, and each commitment imposed pursuant to division 94
(A), (B), (C), or (D)(1) of this section shall be in addition to, 95
and shall be served consecutively with, any other period of 96
commitment imposed under those divisions. If a commitment is 97
imposed under division (A) or (B) of this section and a commitment 98
also is imposed under division (C) of this section, the period 99
imposed under division (A) or (B) of this section shall be served 100
prior to the period imposed under division (C) of this section. 101

In each case in which a court makes a disposition under this 102
section, the court retains control over the commitment for the 103
entire period of the commitment. 104

The total of all the periods of commitment imposed for any 105
specification under this section and for the underlying offense 106
shall not exceed the child's attainment of twenty-one years of 107
age. 108

(F) If a child is adjudicated a delinquent child for 109
committing two or more acts that would be felonies if committed by 110
an adult and if the court entering the delinquent child 111
adjudication orders the commitment of the child for two or more of 112
those acts to the legal custody of the department of youth 113
services for institutionalization in a secure facility pursuant to 114
section 2152.13 or 2152.16 of the Revised Code, the court may 115
order that all of the periods of commitment imposed under those 116

sections for those acts be served consecutively in the legal 117
custody of the department of youth services, provided that those 118
periods of commitment shall be in addition to and commence 119
immediately following the expiration of a period of commitment 120
that the court imposes pursuant to division (A), (B), (C), or 121
(D)(1) of this section. A court shall not commit a delinquent 122
child to the legal custody of the department of youth services 123
under this division for a period that exceeds the child's 124
attainment of twenty-one years of age. 125

Sec. 2152.72. (A) This section applies only to a child who is 126
or previously has been adjudicated a delinquent child for an act 127
to which any of the following applies: 128

(1) The act is a violation of section 2903.01, 2903.02, 129
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2907.02, 2907.03, or 130
2907.05 of the Revised Code. 131

(2) The act is a violation of section 2923.01 of the Revised 132
Code and involved an attempt to commit aggravated murder or 133
murder. 134

(3) The act would be a felony if committed by an adult, and 135
the court determined that the child, if an adult, would be guilty 136
of a specification found in section 2941.141, 2941.144, ~~or~~ 137
2941.145, or 2941.1422 of the Revised Code or in another section 138
of the Revised Code that relates to the possession or use of a 139
firearm during the commission of the act for which the child was 140
adjudicated a delinquent child. 141

(4) The act would be an offense of violence that is a felony 142
if committed by an adult, and the court determined that the child, 143
if an adult, would be guilty of a specification found in section 144
2941.1411 of the Revised Code or in another section of the Revised 145
Code that relates to the wearing or carrying of body armor during 146
the commission of the act for which the child was adjudicated a 147

delinquent child. 148

(B)(1) Except as provided in division (E) of this section, a 149
public children services agency, private child placing agency, 150
private noncustodial agency, or court, the department of youth 151
services, or another private or government entity shall not place 152
a child in a certified foster home or for adoption until it 153
provides the foster caregivers or prospective adoptive parents 154
with all of the following: 155

(a) A written report describing the child's social history; 156

(b) A written report describing all the acts committed by the 157
child the entity knows of that resulted in the child being 158
adjudicated a delinquent child and the disposition made by the 159
court, unless the records pertaining to the acts have been sealed 160
pursuant to section 2151.356 of the Revised Code; 161

(c) A written report describing any other violent act 162
committed by the child of which the entity is aware; 163

(d) The substantial and material conclusions and 164
recommendations of any psychiatric or psychological examination 165
conducted on the child or, if no psychological or psychiatric 166
examination of the child is available, the substantial and 167
material conclusions and recommendations of an examination to 168
detect mental and emotional disorders conducted in compliance with 169
the requirements of Chapter 4757. of the Revised Code by an 170
independent social worker, social worker, professional clinical 171
counselor, or professional counselor licensed under that chapter. 172
The entity shall not provide any part of a psychological, 173
psychiatric, or mental and emotional disorder examination to the 174
foster caregivers or prospective adoptive parents other than the 175
substantial and material conclusions. 176

(2) Notwithstanding sections 2151.356 to 2151.358 of the 177
Revised Code, if records of an adjudication that a child is a 178

delinquent child have been sealed pursuant to those sections and 179
an entity knows the records have been sealed, the entity shall 180
provide the foster caregivers or prospective adoptive parents a 181
written statement that the records of a prior adjudication have 182
been sealed. 183

(C)(1) The entity that places the child in a certified foster 184
home or for adoption shall conduct a psychological examination of 185
the child unless either of the following applies: 186

(a) An entity is not required to conduct the examination if 187
an examination was conducted no more than one year prior to the 188
child's placement, and division (C)(1)(b) of this section does not 189
apply. 190

(b) An entity is not required to conduct the examination if a 191
foster caregiver seeks to adopt the foster caregiver's foster 192
child, and an examination was conducted no more than two years 193
prior to the date the foster caregiver seeks to adopt the child. 194

(2) No later than sixty days after placing the child, the 195
entity shall provide the foster caregiver or prospective adoptive 196
parents a written report detailing the substantial and material 197
conclusions and recommendations of the examination conducted 198
pursuant to this division. 199

(D)(1) Except as provided in divisions (D)(2) and (3) of this 200
section, the expenses of conducting the examinations and preparing 201
the reports and assessment required by division (B) or (C) of this 202
section shall be paid by the entity that places the child in the 203
certified foster home or for adoption. 204

(2) When a juvenile court grants temporary or permanent 205
custody of a child pursuant to any section of the Revised Code, 206
including section 2151.33, 2151.353, 2151.354, or 2152.19 of the 207
Revised Code, to a public children services agency or private 208
child placing agency, the court shall provide the agency the 209

information described in division (B) of this section, pay the 210
expenses of preparing that information, and, if a new examination 211
is required to be conducted, pay the expenses of conducting the 212
examination described in division (C) of this section. On receipt 213
of the information described in division (B) of this section, the 214
agency shall provide to the court written acknowledgment that the 215
agency received the information. The court shall keep the 216
acknowledgment and provide a copy to the agency. On the motion of 217
the agency, the court may terminate the order granting temporary 218
or permanent custody of the child to that agency, if the court 219
does not provide the information described in division (B) of this 220
section. 221

(3) If one of the following entities is placing a child in a 222
certified foster home or for adoption with the assistance of or by 223
contracting with a public children services agency, private child 224
placing agency, or a private noncustodial agency, the entity shall 225
provide the agency with the information described in division (B) 226
of this section, pay the expenses of preparing that information, 227
and, if a new examination is required to be conducted, pay the 228
expenses of conducting the examination described in division (C) 229
of this section: 230

(a) The department of youth services if the placement is 231
pursuant to any section of the Revised Code including section 232
2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised 233
Code; 234

(b) A juvenile court with temporary or permanent custody of a 235
child pursuant to section 2151.354 or 2152.19 of the Revised Code; 236

(c) A public children services agency or private child 237
placing agency with temporary or permanent custody of the child. 238

The agency receiving the information described in division 239
(B) of this section shall provide the entity described in division 240

(D)(3)(a) to (c) of this section that sent the information written 241
acknowledgment that the agency received the information and 242
provided it to the foster caregivers or prospective adoptive 243
parents. The entity shall keep the acknowledgment and provide a 244
copy to the agency. An entity that places a child in a certified 245
foster home or for adoption with the assistance of or by 246
contracting with an agency remains responsible to provide the 247
information described in division (B) of this section to the 248
foster caregivers or prospective adoptive parents unless the 249
entity receives written acknowledgment that the agency provided 250
the information. 251

(E) If a child is placed in a certified foster home as a 252
result of an emergency removal of the child from home pursuant to 253
division (D) of section 2151.31 of the Revised Code, an emergency 254
change in the child's case plan pursuant to division (E)(3) of 255
section 2151.412 of the Revised Code, or an emergency placement by 256
the department of youth services pursuant to this chapter or 257
Chapter 5139. of the Revised Code, the entity that places the 258
child in the certified foster home shall provide the information 259
described in division (B) of this section no later than ninety-six 260
hours after the child is placed in the certified foster home. 261

(F) On receipt of the information described in divisions (B) 262
and (C) of this section, the foster caregiver or prospective 263
adoptive parents shall provide to the entity that places the child 264
in the foster caregiver's or prospective adoptive parents' home a 265
written acknowledgment that the foster caregiver or prospective 266
adoptive parents received the information. The entity shall keep 267
the acknowledgment and provide a copy to the foster caregiver or 268
prospective adoptive parents. 269

(G) No person employed by an entity subject to this section 270
and made responsible by that entity for the child's placement in a 271
certified foster home or for adoption shall fail to provide the 272

foster caregivers or prospective adoptive parents with the 273
information required by divisions (B) and (C) of this section. 274

(H) It is not a violation of any duty of confidentiality 275
provided for in the Revised Code or a code of professional 276
responsibility for a person or government entity to provide the 277
substantial and material conclusions and recommendations of a 278
psychiatric or psychological examination, or an examination to 279
detect mental and emotional disorders, in accordance with division 280
(B)(1)(d) or (C) of this section. 281

(I) As used in this section: 282

(1) "Body armor" has the same meaning as in section 2941.1411 283
of the Revised Code. 284

(2) "Firearm" has the same meaning as in section 2923.11 of 285
the Revised Code. 286

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 287
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), ~~(D)(7)~~, (G), (I), (J), or 288
(L) of this section and except in relation to an offense for which 289
a sentence of death or life imprisonment is to be imposed, if the 290
court imposing a sentence upon an offender for a felony elects or 291
is required to impose a prison term on the offender pursuant to 292
this chapter, the court shall impose a definite prison term that 293
shall be one of the following: 294

(1) For a felony of the first degree, the prison term shall 295
be three, four, five, six, seven, eight, nine, or ten years. 296

(2) For a felony of the second degree, the prison term shall 297
be two, three, four, five, six, seven, or eight years. 298

(3) For a felony of the third degree, the prison term shall 299
be one, two, three, four, or five years. 300

(4) For a felony of the fourth degree, the prison term shall 301
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 302

fourteen, fifteen, sixteen, seventeen, or eighteen months. 303

(5) For a felony of the fifth degree, the prison term shall 304
be six, seven, eight, nine, ten, eleven, or twelve months. 305

(B) Except as provided in division (C), (D)(1), (D)(2), 306
(D)(3), (D)(5), (D)(6), (D)(7), (G), (I), (J), or (L) of this 307
section, in section 2907.02 or 2907.05 of the Revised Code, or in 308
Chapter 2925. of the Revised Code, if the court imposing a 309
sentence upon an offender for a felony elects or is required to 310
impose a prison term on the offender, the court shall impose the 311
shortest prison term authorized for the offense pursuant to 312
division (A) of this section, unless one or more of the following 313
applies: 314

(1) The offender was serving a prison term at the time of the 315
offense, or the offender previously had served a prison term. 316

(2) The court finds on the record that the shortest prison 317
term will demean the seriousness of the offender's conduct or will 318
not adequately protect the public from future crime by the 319
offender or others. 320

(C) Except as provided in division (G) or (L) of this section 321
or in Chapter 2925. of the Revised Code, the court imposing a 322
sentence upon an offender for a felony may impose the longest 323
prison term authorized for the offense pursuant to division (A) of 324
this section only upon offenders who committed the worst forms of 325
the offense, upon offenders who pose the greatest likelihood of 326
committing future crimes, upon certain major drug offenders under 327
division (D)(3) of this section, and upon certain repeat violent 328
offenders in accordance with division (D)(2) of this section. 329

(D)(1)(a) Except as provided in division (D)(1)(e) of this 330
section, if an offender who is convicted of or pleads guilty to a 331
felony also is convicted of or pleads guilty to a specification of 332
the type described in section 2941.141, 2941.144, or 2941.145 of 333

the Revised Code, the court shall impose on the offender one of 334
the following prison terms: 335

(i) A prison term of six years if the specification is of the 336
type described in section 2941.144 of the Revised Code that 337
charges the offender with having a firearm that is an automatic 338
firearm or that was equipped with a firearm muffler or silencer on 339
or about the offender's person or under the offender's control 340
while committing the felony; 341

(ii) A prison term of three years if the specification is of 342
the type described in section 2941.145 of the Revised Code that 343
charges the offender with having a firearm on or about the 344
offender's person or under the offender's control while committing 345
the offense and displaying the firearm, brandishing the firearm, 346
indicating that the offender possessed the firearm, or using it to 347
facilitate the offense; 348

(iii) A prison term of one year if the specification is of 349
the type described in section 2941.141 of the Revised Code that 350
charges the offender with having a firearm on or about the 351
offender's person or under the offender's control while committing 352
the felony. 353

(b) If a court imposes a prison term on an offender under 354
division (D)(1)(a) of this section, the prison term shall not be 355
reduced pursuant to section 2929.20, section 2967.193, or any 356
other provision of Chapter 2967. or Chapter 5120. of the Revised 357
Code. Except as provided in division (D)(1)(g) of this section, a 358
court shall not impose more than one prison term on an offender 359
under division (D)(1)(a) of this section for felonies committed as 360
part of the same act or transaction. 361

(c) Except as provided in division (D)(1)(e) of this section, 362
if an offender who is convicted of or pleads guilty to a violation 363
of section 2923.161 of the Revised Code or to a felony that 364

includes, as an essential element, purposely or knowingly causing 365
or attempting to cause the death of or physical harm to another, 366
also is convicted of or pleads guilty to a specification of the 367
type described in section 2941.146 of the Revised Code that 368
charges the offender with committing the offense by discharging a 369
firearm from a motor vehicle other than a manufactured home, the 370
court, after imposing a prison term on the offender for the 371
violation of section 2923.161 of the Revised Code or for the other 372
felony offense under division (A), (D)(2), or (D)(3) of this 373
section, shall impose an additional prison term of five years upon 374
the offender that shall not be reduced pursuant to section 375
2929.20, section 2967.193, or any other provision of Chapter 2967. 376
or Chapter 5120. of the Revised Code. A court shall not impose 377
more than one additional prison term on an offender under division 378
(D)(1)(c) of this section for felonies committed as part of the 379
same act or transaction. If a court imposes an additional prison 380
term on an offender under division (D)(1)(c) of this section 381
relative to an offense, the court also shall impose a prison term 382
under division (D)(1)(a) of this section relative to the same 383
offense, provided the criteria specified in that division for 384
imposing an additional prison term are satisfied relative to the 385
offender and the offense. 386

(d) If an offender who is convicted of or pleads guilty to an 387
offense of violence that is a felony also is convicted of or 388
pleads guilty to a specification of the type described in section 389
2941.1411 of the Revised Code that charges the offender with 390
wearing or carrying body armor while committing the felony offense 391
of violence, the court shall impose on the offender a prison term 392
of two years. The prison term so imposed shall not be reduced 393
pursuant to section 2929.20, section 2967.193, or any other 394
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 395
court shall not impose more than one prison term on an offender 396
under division (D)(1)(d) of this section for felonies committed as 397

part of the same act or transaction. If a court imposes an 398
additional prison term under division (D)(1)(a) or (c) of this 399
section, the court is not precluded from imposing an additional 400
prison term under division (D)(1)(d) of this section. 401

(e) The court shall not impose any of the prison terms 402
described in division (D)(1)(a) of this section or any of the 403
additional prison terms described in division (D)(1)(c) of this 404
section upon an offender for a violation of section 2923.12 or 405
2923.123 of the Revised Code. The court shall not impose any of 406
the prison terms described in division (D)(1)(a) or (b) of this 407
section upon an offender for a violation of section 2923.122 that 408
involves a deadly weapon that is a firearm other than a dangerous 409
ordnance, section 2923.16, or section 2923.121 of the Revised 410
Code. The court shall not impose any of the prison terms described 411
in division (D)(1)(a) of this section or any of the additional 412
prison terms described in division (D)(1)(c) of this section upon 413
an offender for a violation of section 2923.13 of the Revised Code 414
unless all of the following apply: 415

(i) The offender previously has been convicted of aggravated 416
murder, murder, or any felony of the first or second degree. 417

(ii) Less than five years have passed since the offender was 418
released from prison or post-release control, whichever is later, 419
for the prior offense. 420

(f) If an offender is convicted of or pleads guilty to a 421
felony that includes, as an essential element, causing or 422
attempting to cause the death of or physical harm to another and 423
also is convicted of or pleads guilty to a specification of the 424
type described in section 2941.1412 of the Revised Code that 425
charges the offender with committing the offense by discharging a 426
firearm at a peace officer as defined in section 2935.01 of the 427
Revised Code or a corrections officer, as defined in section 428
2941.1412 of the Revised Code, the court, after imposing a prison 429

term on the offender for the felony offense under division (A), 430
(D)(2), or (D)(3) of this section, shall impose an additional 431
prison term of seven years upon the offender that shall not be 432
reduced pursuant to section 2929.20, section 2967.193, or any 433
other provision of Chapter 2967. or Chapter 5120. of the Revised 434
Code. If an offender is convicted of or pleads guilty to two or 435
more felonies that include, as an essential element, causing or 436
attempting to cause the death or physical harm to another and also 437
is convicted of or pleads guilty to a specification of the type 438
described under division (D)(1)(f) of this section in connection 439
with two or more of the felonies of which the offender is 440
convicted or to which the offender pleads guilty, the sentencing 441
court shall impose on the offender the prison term specified under 442
division (D)(1)(f) of this section for each of two of the 443
specifications of which the offender is convicted or to which the 444
offender pleads guilty and, in its discretion, also may impose on 445
the offender the prison term specified under that division for any 446
or all of the remaining specifications. If a court imposes an 447
additional prison term on an offender under division (D)(1)(f) of 448
this section relative to an offense, the court shall not impose a 449
prison term under division (D)(1)(a) or (c) of this section 450
relative to the same offense. 451

(g) If an offender is convicted of or pleads guilty to two or 452
more felonies, if one or more of those felonies is aggravated 453
murder, murder, attempted aggravated murder, attempted murder, 454
aggravated robbery, felonious assault, or rape, and if the 455
offender is convicted of or pleads guilty to a specification of 456
the type described under division (D)(1)(a) of this section in 457
connection with two or more of the felonies, the sentencing court 458
shall impose on the offender the prison term specified under 459
division (D)(1)(a) of this section for each of the two most 460
serious specifications of which the offender is convicted or to 461
which the offender pleads guilty and, in its discretion, also may 462

impose on the offender the prison term specified under that 463
division for any or all of the remaining specifications. 464

(2)(a) If division (D)(2)(b) of this section does not apply, 465
the court may impose on an offender, in addition to the longest 466
prison term authorized or required for the offense, an additional 467
definite prison term of one, two, three, four, five, six, seven, 468
eight, nine, or ten years if all of the following criteria are 469
met: 470

(i) The offender is convicted of or pleads guilty to a 471
specification of the type described in section 2941.149 of the 472
Revised Code that the offender is a repeat violent offender. 473

(ii) The offense of which the offender currently is convicted 474
or to which the offender currently pleads guilty is aggravated 475
murder and the court does not impose a sentence of death or life 476
imprisonment without parole, murder, terrorism and the court does 477
not impose a sentence of life imprisonment without parole, any 478
felony of the first degree that is an offense of violence and the 479
court does not impose a sentence of life imprisonment without 480
parole, or any felony of the second degree that is an offense of 481
violence and the trier of fact finds that the offense involved an 482
attempt to cause or a threat to cause serious physical harm to a 483
person or resulted in serious physical harm to a person. 484

(iii) The court imposes the longest prison term for the 485
offense that is not life imprisonment without parole. 486

(iv) The court finds that the prison terms imposed pursuant 487
to division (D)(2)(a)(iii) of this section and, if applicable, 488
division (D)(1) or (3) of this section are inadequate to punish 489
the offender and protect the public from future crime, because the 490
applicable factors under section 2929.12 of the Revised Code 491
indicating a greater likelihood of recidivism outweigh the 492
applicable factors under that section indicating a lesser 493

likelihood of recidivism. 494

(v) The court finds that the prison terms imposed pursuant to 495
division (D)(2)(a)(iii) of this section and, if applicable, 496
division (D)(1) or (3) of this section are demeaning to the 497
seriousness of the offense, because one or more of the factors 498
under section 2929.12 of the Revised Code indicating that the 499
offender's conduct is more serious than conduct normally 500
constituting the offense are present, and they outweigh the 501
applicable factors under that section indicating that the 502
offender's conduct is less serious than conduct normally 503
constituting the offense. 504

(b) The court shall impose on an offender the longest prison 505
term authorized or required for the offense and shall impose on 506
the offender an additional definite prison term of one, two, 507
three, four, five, six, seven, eight, nine, or ten years if all of 508
the following criteria are met: 509

(i) The offender is convicted of or pleads guilty to a 510
specification of the type described in section 2941.149 of the 511
Revised Code that the offender is a repeat violent offender. 512

(ii) The offender within the preceding twenty years has been 513
convicted of or pleaded guilty to three or more offenses described 514
in division (DD)(1) of section 2929.01 of the Revised Code, 515
including all offenses described in that division of which the 516
offender is convicted or to which the offender pleads guilty in 517
the current prosecution and all offenses described in that 518
division of which the offender previously has been convicted or to 519
which the offender previously pleaded guilty, whether prosecuted 520
together or separately. 521

(iii) The offense or offenses of which the offender currently 522
is convicted or to which the offender currently pleads guilty is 523
aggravated murder and the court does not impose a sentence of 524

death or life imprisonment without parole, murder, terrorism and 525
the court does not impose a sentence of life imprisonment without 526
parole, any felony of the first degree that is an offense of 527
violence and the court does not impose a sentence of life 528
imprisonment without parole, or any felony of the second degree 529
that is an offense of violence and the trier of fact finds that 530
the offense involved an attempt to cause or a threat to cause 531
serious physical harm to a person or resulted in serious physical 532
harm to a person. 533

(c) For purposes of division (D)(2)(b) of this section, two 534
or more offenses committed at the same time or as part of the same 535
act or event shall be considered one offense, and that one offense 536
shall be the offense with the greatest penalty. 537

(d) A sentence imposed under division (D)(2)(a) or (b) of 538
this section shall not be reduced pursuant to section 2929.20 or 539
section 2967.193, or any other provision of Chapter 2967. or 540
Chapter 5120. of the Revised Code. The offender shall serve an 541
additional prison term imposed under this section consecutively to 542
and prior to the prison term imposed for the underlying offense. 543

(e) When imposing a sentence pursuant to division (D)(2)(a) 544
or (b) of this section, the court shall state its findings 545
explaining the imposed sentence. 546

(3)(a) Except when an offender commits a violation of section 547
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 548
the violation is life imprisonment or commits a violation of 549
section 2903.02 of the Revised Code, if the offender commits a 550
violation of section 2925.03 or 2925.11 of the Revised Code and 551
that section classifies the offender as a major drug offender and 552
requires the imposition of a ten-year prison term on the offender, 553
if the offender commits a felony violation of section 2925.02, 554
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 555
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 556

division (C) of section 4729.51, or division (J) of section 557
4729.54 of the Revised Code that includes the sale, offer to sell, 558
or possession of a schedule I or II controlled substance, with the 559
exception of marihuana, and the court imposing sentence upon the 560
offender finds that the offender is guilty of a specification of 561
the type described in section 2941.1410 of the Revised Code 562
charging that the offender is a major drug offender, if the court 563
imposing sentence upon an offender for a felony finds that the 564
offender is guilty of corrupt activity with the most serious 565
offense in the pattern of corrupt activity being a felony of the 566
first degree, or if the offender is guilty of an attempted 567
violation of section 2907.02 of the Revised Code and, had the 568
offender completed the violation of section 2907.02 of the Revised 569
Code that was attempted, the offender would have been subject to a 570
sentence of life imprisonment or life imprisonment without parole 571
for the violation of section 2907.02 of the Revised Code, the 572
court shall impose upon the offender for the felony violation a 573
ten-year prison term that cannot be reduced pursuant to section 574
2929.20 or Chapter 2967. or 5120. of the Revised Code. 575

(b) The court imposing a prison term on an offender under 576
division (D)(3)(a) of this section may impose an additional prison 577
term of one, two, three, four, five, six, seven, eight, nine, or 578
ten years, if the court, with respect to the term imposed under 579
division (D)(3)(a) of this section and, if applicable, divisions 580
(D)(1) and (2) of this section, makes both of the findings set 581
forth in divisions (D)(2)(a)(iv) and (v) of this section. 582

(4) If the offender is being sentenced for a third or fourth 583
degree felony OVI offense under division (G)(2) of section 2929.13 584
of the Revised Code, the sentencing court shall impose upon the 585
offender a mandatory prison term in accordance with that division. 586
In addition to the mandatory prison term, if the offender is being 587
sentenced for a fourth degree felony OVI offense, the court, 588

notwithstanding division (A)(4) of this section, may sentence the
offender to a definite prison term of not less than six months and
not more than thirty months, and if the offender is being
sentenced for a third degree felony OVI offense, the sentencing
court may sentence the offender to an additional prison term of
any duration specified in division (A)(3) of this section. In
either case, the additional prison term imposed shall be reduced
by the sixty or one hundred twenty days imposed upon the offender
as the mandatory prison term. The total of the additional prison
term imposed under division (D)(4) of this section plus the sixty
or one hundred twenty days imposed as the mandatory prison term
shall equal a definite term in the range of six months to thirty
months for a fourth degree felony OVI offense and shall equal one
of the authorized prison terms specified in division (A)(3) of
this section for a third degree felony OVI offense. If the court
imposes an additional prison term under division (D)(4) of this
section, the offender shall serve the additional prison term after
the offender has served the mandatory prison term required for the
offense. In addition to the mandatory prison term or mandatory and
additional prison term imposed as described in division (D)(4) of
this section, the court also may sentence the offender to a
community control sanction under section 2929.16 or 2929.17 of the
Revised Code, but the offender shall serve all of the prison terms
so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony
OVI offense under division (G)(1) of section 2929.13 of the
Revised Code and the court imposes a mandatory term of local
incarceration, the court may impose a prison term as described in
division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a
violation of division (A)(1) or (2) of section 2903.06 of the
Revised Code and also is convicted of or pleads guilty to a

specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (D)(5) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (D)(6) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

(7) If an offender is convicted of or pleads guilty to a felony and 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 discharged a firearm while committing the offense and that the discharge of the firearm caused injury or death to a child who was under the age of eighteen years at the time of the commission of the offense, the court shall impose on the offender a prison term of ten years. If a court imposes a prison term on an offender under division (D)(7) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(7) of this section for felonies committed as part of the same act.

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (D)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (D)(2), or (D)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (D)(1)(d) of this section for wearing or

carrying body armor while committing an offense of violence that 685
is a felony, the offender shall serve the mandatory term so 686
imposed consecutively to any other mandatory prison term imposed 687
under that division or under division (D)(1)(a) or (c) of this 688
section, consecutively to and prior to any prison term imposed for 689
the underlying felony under division (A), (D)(2), or (D)(3) of 690
this section or any other section of the Revised Code, and 691
consecutively to any other prison term or mandatory prison term 692
previously or subsequently imposed upon the offender. 693

(c) If a mandatory prison term is imposed upon an offender 694
pursuant to division (D)(1)(f) of this section, the offender shall 695
serve the mandatory prison term so imposed consecutively to and 696
prior to any prison term imposed for the underlying felony under 697
division (A), (D)(2), or (D)(3) of this section or any other 698
section of the Revised Code, and consecutively to any other prison 699
term or mandatory prison term previously or subsequently imposed 700
upon the offender. 701

(2) If an offender who is an inmate in a jail, prison, or 702
other residential detention facility violates section 2917.02, 703
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 704
who is under detention at a detention facility commits a felony 705
violation of section 2923.131 of the Revised Code, or if an 706
offender who is an inmate in a jail, prison, or other residential 707
detention facility or is under detention at a detention facility 708
commits another felony while the offender is an escapee in 709
violation of section 2921.34 of the Revised Code, any prison term 710
imposed upon the offender for one of those violations shall be 711
served by the offender consecutively to the prison term or term of 712
imprisonment the offender was serving when the offender committed 713
that offense and to any other prison term previously or 714
subsequently imposed upon the offender. 715

(3) If a prison term is imposed for a violation of division 716

(B) of section 2911.01 of the Revised Code, a violation of 717
division (A) of section 2913.02 of the Revised Code in which the 718
stolen property is a firearm or dangerous ordnance, or a felony 719
violation of division (B) of section 2921.331 of the Revised Code, 720
the offender shall serve that prison term consecutively to any 721
other prison term or mandatory prison term previously or 722
subsequently imposed upon the offender. 723

(4) If multiple prison terms are imposed on an offender for 724
convictions of multiple offenses, the court may require the 725
offender to serve the prison terms consecutively if the court 726
finds that the consecutive service is necessary to protect the 727
public from future crime or to punish the offender and that 728
consecutive sentences are not disproportionate to the seriousness 729
of the offender's conduct and to the danger the offender poses to 730
the public, and if the court also finds any of the following: 731

(a) The offender committed one or more of the multiple 732
offenses while the offender was awaiting trial or sentencing, was 733
under a sanction imposed pursuant to section 2929.16, 2929.17, or 734
2929.18 of the Revised Code, or was under post-release control for 735
a prior offense. 736

(b) At least two of the multiple offenses were committed as 737
part of one or more courses of conduct, and the harm caused by two 738
or more of the multiple offenses so committed was so great or 739
unusual that no single prison term for any of the offenses 740
committed as part of any of the courses of conduct adequately 741
reflects the seriousness of the offender's conduct. 742

(c) The offender's history of criminal conduct demonstrates 743
that consecutive sentences are necessary to protect the public 744
from future crime by the offender. 745

(5) If a mandatory prison term is imposed upon an offender 746
pursuant to division (D)(5) or (6) of this section, the offender 747

shall serve the mandatory prison term consecutively to and prior 748
to any prison term imposed for the underlying violation of 749
division (A)(1) or (2) of section 2903.06 of the Revised Code 750
pursuant to division (A) of this section or section 2929.142 of 751
the Revised Code. If a mandatory prison term is imposed upon an 752
offender pursuant to division (D)(5) of this section, and if a 753
mandatory prison term also is imposed upon the offender pursuant 754
to division (D)(6) of this section in relation to the same 755
violation, the offender shall serve the mandatory prison term 756
imposed pursuant to division (D)(5) of this section consecutively 757
to and prior to the mandatory prison term imposed pursuant to 758
division (D)(6) of this section and consecutively to and prior to 759
any prison term imposed for the underlying violation of division 760
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 761
division (A) of this section or section 2929.142 of the Revised 762
Code. 763

(6) If a mandatory prison term is imposed upon an offender 764
pursuant to division (D)(7) of this section, the offender shall 765
serve the mandatory prison term consecutively to and prior to any 766
prison term imposed for the underlying offense. 767

(7) When consecutive prison terms are imposed pursuant to 768
division (E)(1), (2), (3), (4), ~~or (5)~~, or (6) or division (J)(1) 769
or (2) of this section, the term to be served is the aggregate of 770
all of the terms so imposed. 771

(F)(1) If a court imposes a prison term for a felony of the 772
first degree, for a felony of the second degree, for a felony sex 773
offense, or for a felony of the third degree that is not a felony 774
sex offense and in the commission of which the offender caused or 775
threatened to cause physical harm to a person, it shall include in 776
the sentence a requirement that the offender be subject to a 777
period of post-release control after the offender's release from 778
imprisonment, in accordance with that division. If a court imposes 779

a sentence including a prison term of a type described in this 780
division on or after July 11, 2006, the failure of a court to 781
include a post-release control requirement in the sentence 782
pursuant to this division does not negate, limit, or otherwise 783
affect the mandatory period of post-release control that is 784
required for the offender under division (B) of section 2967.28 of 785
the Revised Code. Section 2929.191 of the Revised Code applies if, 786
prior to July 11, 2006, a court imposed a sentence including a 787
prison term of a type described in this division and failed to 788
include in the sentence pursuant to this division a statement 789
regarding post-release control. 790

(2) If a court imposes a prison term for a felony of the 791
third, fourth, or fifth degree that is not subject to division 792
(F)(1) of this section, it shall include in the sentence a 793
requirement that the offender be subject to a period of 794
post-release control after the offender's release from 795
imprisonment, in accordance with that division, if the parole 796
board determines that a period of post-release control is 797
necessary. Section 2929.191 of the Revised Code applies if, prior 798
to July 11, 2006, a court imposed a sentence including a prison 799
term of a type described in this division and failed to include in 800
the sentence pursuant to this division a statement regarding 801
post-release control. 802

(G) The court shall impose sentence upon the offender in 803
accordance with section 2971.03 of the Revised Code, and Chapter 804
2971. of the Revised Code applies regarding the prison term or 805
term of life imprisonment without parole imposed upon the offender 806
and the service of that term of imprisonment if any of the 807
following apply: 808

(1) A person is convicted of or pleads guilty to a violent 809
sex offense or a designated homicide, assault, or kidnapping 810
offense, and, in relation to that offense, the offender is 811

adjudicated a sexually violent predator. 812

(2) A person is convicted of or pleads guilty to a violation 813
of division (A)(1)(b) of section 2907.02 of the Revised Code 814
committed on or after January 2, 2007, and either the court does 815
not impose a sentence of life without parole when authorized 816
pursuant to division (B) of section 2907.02 of the Revised Code, 817
or division (B) of section 2907.02 of the Revised Code provides 818
that the court shall not sentence the offender pursuant to section 819
2971.03 of the Revised Code. 820

(3) A person is convicted of or pleads guilty to attempted 821
rape committed on or after January 2, 2007, and a specification of 822
the type described in section 2941.1418, 2941.1419, or 2941.1420 823
of the Revised Code. 824

(4) A person is convicted of or pleads guilty to a violation 825
of section 2905.01 of the Revised Code committed on or after 826
January 1, 2008, and that section requires the court to sentence 827
the offender pursuant to section 2971.03 of the Revised Code. 828

(5) A person is convicted of or pleads guilty to aggravated 829
murder committed on or after January 1, 2008, and division 830
(A)(2)(b)(ii) of section 2929.022, division (A)(1)(e), 831
(C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or 832
(E)(1)(d) of section 2929.03, or division (A) or (B) of section 833
2929.06 of the Revised Code requires the court to sentence the 834
offender pursuant to division (B)(3) of section 2971.03 of the 835
Revised Code. 836

(6) A person is convicted of or pleads guilty to murder 837
committed on or after January 1, 2008, and division (B)(2) of 838
section 2929.02 of the Revised Code requires the court to sentence 839
the offender pursuant to section 2971.03 of the Revised Code. 840

841

(H) If a person who has been convicted of or pleaded guilty 842

to a felony is sentenced to a prison term or term of imprisonment 843
under this section, sections 2929.02 to 2929.06 of the Revised 844
Code, section 2929.142 of the Revised Code, section 2971.03 of the 845
Revised Code, or any other provision of law, section 5120.163 of 846
the Revised Code applies regarding the person while the person is 847
confined in a state correctional institution. 848

(I) If an offender who is convicted of or pleads guilty to a 849
felony that is an offense of violence also is convicted of or 850
pleads guilty to a specification of the type described in section 851
2941.142 of the Revised Code that charges the offender with having 852
committed the felony while participating in a criminal gang, the 853
court shall impose upon the offender an additional prison term of 854
one, two, or three years. 855

(J)(1) If an offender who is convicted of or pleads guilty to 856
aggravated murder, murder, or a felony of the first, second, or 857
third degree that is an offense of violence also is convicted of 858
or pleads guilty to a specification of the type described in 859
section 2941.143 of the Revised Code that charges the offender 860
with having committed the offense in a school safety zone or 861
towards a person in a school safety zone, the court shall impose 862
upon the offender an additional prison term of two years. The 863
offender shall serve the additional two years consecutively to and 864
prior to the prison term imposed for the underlying offense. 865

(2)(a) If an offender is convicted of or pleads guilty to a 866
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 867
of the Revised Code and to a specification of the type described 868
in section 2941.1421 of the Revised Code and if the court imposes 869
a prison term on the offender for the felony violation, the court 870
may impose upon the offender an additional prison term as follows: 871

(i) Subject to division (J)(2)(a)(ii) of this section, an 872
additional prison term of one, two, three, four, five, or six 873
months; 874

(ii) If the offender previously has been convicted of or 875
pleaded guilty to one or more felony or misdemeanor violations of 876
section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the 877
Revised Code and also was convicted of or pleaded guilty to a 878
specification of the type described in section 2941.1421 of the 879
Revised Code regarding one or more of those violations, an 880
additional prison term of one, two, three, four, five, six, seven, 881
eight, nine, ten, eleven, or twelve months. 882

(b) In lieu of imposing an additional prison term under 883
division (J)(2)(a) of this section, the court may directly impose 884
on the offender a sanction that requires the offender to wear a 885
real-time processing, continual tracking electronic monitoring 886
device during the period of time specified by the court. The 887
period of time specified by the court shall equal the duration of 888
an additional prison term that the court could have imposed upon 889
the offender under division (J)(2)(a) of this section. A sanction 890
imposed under this division shall commence on the date specified 891
by the court, provided that the sanction shall not commence until 892
after the offender has served the prison term imposed for the 893
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 894
of the Revised Code and any residential sanction imposed for the 895
violation under section 2929.16 of the Revised Code. A sanction 896
imposed under this division shall be considered to be a community 897
control sanction for purposes of section 2929.15 of the Revised 898
Code, and all provisions of the Revised Code that pertain to 899
community control sanctions shall apply to a sanction imposed 900
under this division, except to the extent that they would by their 901
nature be clearly inapplicable. The offender shall pay all costs 902
associated with a sanction imposed under this division, including 903
the cost of the use of the monitoring device. 904

(K) At the time of sentencing, the court may recommend the 905
offender for placement in a program of shock incarceration under 906

section 5120.031 of the Revised Code or for placement in an 907
intensive program prison under section 5120.032 of the Revised 908
Code, disapprove placement of the offender in a program of shock 909
incarceration or an intensive program prison of that nature, or 910
make no recommendation on placement of the offender. In no case 911
shall the department of rehabilitation and correction place the 912
offender in a program or prison of that nature unless the 913
department determines as specified in section 5120.031 or 5120.032 914
of the Revised Code, whichever is applicable, that the offender is 915
eligible for the placement. 916

If the court disapproves placement of the offender in a 917
program or prison of that nature, the department of rehabilitation 918
and correction shall not place the offender in any program of 919
shock incarceration or intensive program prison. 920

If the court recommends placement of the offender in a 921
program of shock incarceration or in an intensive program prison, 922
and if the offender is subsequently placed in the recommended 923
program or prison, the department shall notify the court of the 924
placement and shall include with the notice a brief description of 925
the placement. 926

If the court recommends placement of the offender in a 927
program of shock incarceration or in an intensive program prison 928
and the department does not subsequently place the offender in the 929
recommended program or prison, the department shall send a notice 930
to the court indicating why the offender was not placed in the 931
recommended program or prison. 932

If the court does not make a recommendation under this 933
division with respect to an offender and if the department 934
determines as specified in section 5120.031 or 5120.032 of the 935
Revised Code, whichever is applicable, that the offender is 936
eligible for placement in a program or prison of that nature, the 937
department shall screen the offender and determine if there is an 938

available program of shock incarceration or an intensive program 939
prison for which the offender is suited. If there is an available 940
program of shock incarceration or an intensive program prison for 941
which the offender is suited, the department shall notify the 942
court of the proposed placement of the offender as specified in 943
section 5120.031 or 5120.032 of the Revised Code and shall include 944
with the notice a brief description of the placement. The court 945
shall have ten days from receipt of the notice to disapprove the 946
placement. 947

(L) If a person is convicted of or pleads guilty to 948
aggravated vehicular homicide in violation of division (A)(1) of 949
section 2903.06 of the Revised Code and division (B)(2)(c) of that 950
section applies, the person shall be sentenced pursuant to section 951
2929.142 of the Revised Code. 952

Sec. 2941.1422. (A) Imposition of a ten-year mandatory prison 953
term upon an offender under division (D)(7) of section 2929.14 of 954
the Revised Code is precluded unless the indictment, count in the 955
indictment, or information charging the offense specifies that the 956
offender discharged a firearm while committing the offense and the 957
discharge of the firearm caused injury or death to a child who was 958
under the age of eighteen years at the time of the commission of 959
the offense. The specification shall be stated at the end of the 960
body of the indictment, count, or information and shall be in 961
substantially the following form: 962

"SPECIFICATION (or, SPECIFICATION OF THE FIRST COUNT). 963

The Grand Jurors (or insert the person's or the prosecuting 964
attorney's name when appropriate) further find and specify that 965
(set forth that the offender discharged a firearm while committing 966
the offense and the discharge of the firearm caused injury or 967
death to a child who was under the age of eighteen years at the 968
time of the commission of the offense)." 969

(B) The specification described in division (A) of this section may be used in a delinquent child proceeding in the manner and for the purpose described in section 2152.17 of the Revised Code. 970
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(C) As used in this section, "firearm" has the same meaning as in section 2923.11 of the Revised Code. 974
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Sec. 5103.0319. (A) No foster caregiver or prospective foster caregiver shall fail to notify the recommending agency that recommended or is recommending the foster caregiver or prospective foster caregiver for certification in writing if a person at least twelve years of age but less than eighteen years of age residing with the foster caregiver or prospective foster caregiver has been convicted of or pleaded guilty to any of the following or has been adjudicated to be a delinquent child for committing an act that if committed by an adult would have constituted such a violation: 976
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(1) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, a violation of section 2923.01 of the Revised Code that involved an attempt to commit aggravated murder or 985
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murder, an OVI or OVUAC violation if the person previously was 1001
convicted of or pleaded guilty to one or more OVI or OVUAC 1002
violations within the three years immediately preceding the 1003
current violation, or felonious sexual penetration in violation of 1004
former section 2907.12 of the Revised Code; 1005

(2) An offense that would be a felony if committed by an 1006
adult and the court determined that the child, if an adult, would 1007
be guilty of a specification found in section 2941.141, 2941.144, 1008
~~or~~ 2941.145, or 2941.1422 of the Revised Code or in another 1009
section of the Revised Code that relates to the possession or use 1010
of a firearm, as defined in section 2923.11 of the Revised Code, 1011
during the commission of the act for which the child was 1012
adjudicated a delinquent child; 1013

(3) A violation of an existing or former law of this state, 1014
any other state, or the United States that is substantially 1015
equivalent to any of the offenses described in division (A)(1) or 1016
(2) of this section. 1017

(B) If a recommending agency learns that a foster caregiver 1018
has failed to comply with division (A) of this section, it shall 1019
notify the department of job and family services and the 1020
department shall revoke the foster caregiver's foster home 1021
certificate. 1022

(C) As used in this section, "OVI or OVUAC violation" means a 1023
violation of section 4511.19 of the Revised Code or a violation of 1024
an existing or former law of this state, any other state, or the 1025
United States that is substantially equivalent to section 4511.19 1026
of the Revised Code. 1027

Section 2. That existing sections 2152.17, 2152.72, 2929.14, 1028
and 5103.0319 of the Revised Code are hereby repealed. 1029

Section 3. Section 2929.14 of the Revised Code is presented 1030

in this act as a composite of the section as amended by both Sub. 1031
S.B. 184 and Sub. S.B. 220 of the 127th General Assembly. The 1032
General Assembly, applying the principle stated in division (B) of 1033
section 1.52 of the Revised Code that amendments are to be 1034
harmonized if reasonably capable of simultaneous operation, finds 1035
that the composite is the resulting version of the section in 1036
effect prior to the effective date of the section as presented in 1037
this act. 1038