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Am. Sub. S. B. No. 58

Senator Hughes

**Cosponsors: Senators Schaffer, Wagoner, Grendell, Gibbs, Harris, Husted,
Patton, Stewart, Turner, Wilson**

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A B I L L

To amend sections 1547.11, 2919.25, 2929.13, 4506.17, 1
4511.19, 4765.38, and 4765.39 and to enact section 2
2927.15 of the Revised Code to prohibit a person 3
from collecting any bodily substance of another 4
person without privilege or consent to do so, to 5
correct erroneous cross-references in provisions 6
enacted in Am. Sub. H.B. 280 of the 127th General 7
Assembly regarding increased penalties for 8
domestic violence committed against a pregnant 9
woman, and to permit emergency medical 10
technicians-intermediate and emergency medical 11
technicians-paramedic to withdraw blood for the 12
purposes of the watercraft or vehicle OVI law or 13
the commercial motor vehicle law. 14

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

Section 1. That sections 1547.11, 2919.25, 2929.13, 4506.17, 15
4511.19, 4765.38, and 4765.39 be amended and section 2927.15 of 16
the Revised Code be enacted to read as follows: 17

Sec. 1547.11. (A) No person shall operate or be in physical 18

control of any vessel underway or shall manipulate any water skis, 19
aquaplane, or similar device on the waters in this state if, at 20
the time of the operation, control, or manipulation, any of the 21
following applies: 22

(1) The person is under the influence of alcohol, a drug of 23
abuse, or a combination of them. 24

(2) The person has a concentration of eight-hundredths of one 25
per cent or more by weight of alcohol per unit volume in the 26
person's whole blood. 27

(3) The person has a concentration of ninety-six-thousandths 28
of one per cent or more by weight per unit volume of alcohol in 29
the person's blood serum or plasma. 30

(4) The person has a concentration of eleven-hundredths of 31
one gram or more by weight of alcohol per one hundred milliliters 32
of the person's urine. 33

(5) The person has a concentration of eight-hundredths of one 34
gram or more by weight of alcohol per two hundred ten liters of 35
the person's breath. 36

(6) Except as provided in division (H) of this section, the 37
person has a concentration of any of the following controlled 38
substances or metabolites of a controlled substance in the 39
person's whole blood, blood serum or plasma, or urine that equals 40
or exceeds any of the following: 41

(a) The person has a concentration of amphetamine in the 42
person's urine of at least five hundred nanograms of amphetamine 43
per milliliter of the person's urine or has a concentration of 44
amphetamine in the person's whole blood or blood serum or plasma 45
of at least one hundred nanograms of amphetamine per milliliter of 46
the person's whole blood or blood serum or plasma. 47

(b) The person has a concentration of cocaine in the person's 48

urine of at least one hundred fifty nanograms of cocaine per 49
milliliter of the person's urine or has a concentration of cocaine 50
in the person's whole blood or blood serum or plasma of at least 51
fifty nanograms of cocaine per milliliter of the person's whole 52
blood or blood serum or plasma. 53

(c) The person has a concentration of cocaine metabolite in 54
the person's urine of at least one hundred fifty nanograms of 55
cocaine metabolite per milliliter of the person's urine or has a 56
concentration of cocaine metabolite in the person's whole blood or 57
blood serum or plasma of at least fifty nanograms of cocaine 58
metabolite per milliliter of the person's whole blood or blood 59
serum or plasma. 60

(d) The person has a concentration of heroin in the person's 61
urine of at least two thousand nanograms of heroin per milliliter 62
of the person's urine or has a concentration of heroin in the 63
person's whole blood or blood serum or plasma of at least fifty 64
nanograms of heroin per milliliter of the person's whole blood or 65
blood serum or plasma. 66

(e) The person has a concentration of heroin metabolite 67
(6-monoacetyl morphine) in the person's urine of at least ten 68
nanograms of heroin metabolite (6-monoacetyl morphine) per 69
milliliter of the person's urine or has a concentration of heroin 70
metabolite (6-monoacetyl morphine) in the person's whole blood or 71
blood serum or plasma of at least ten nanograms of heroin 72
metabolite (6-monoacetyl morphine) per milliliter of the person's 73
whole blood or blood serum or plasma. 74

(f) The person has a concentration of L.S.D. in the person's 75
urine of at least twenty-five nanograms of L.S.D. per milliliter 76
of the person's urine or has a concentration of L.S.D. in the 77
person's whole blood or blood serum or plasma of at least ten 78
nanograms of L.S.D. per milliliter of the person's whole blood or 79
blood serum or plasma. 80

(g) The person has a concentration of marihuana in the 81
person's urine of at least ten nanograms of marihuana per 82
milliliter of the person's urine or has a concentration of 83
marihuana in the person's whole blood or blood serum or plasma of 84
at least two nanograms of marihuana per milliliter of the person's 85
whole blood or blood serum or plasma. 86

(h) The state board of pharmacy has adopted a rule pursuant 87
to section 4729.041 of the Revised Code that specifies the amount 88
of salvia divinorum and the amount of salvinorin A that constitute 89
concentrations of salvia divinorum and salvinorin A in a person's 90
urine, in a person's whole blood, or in a person's blood serum or 91
plasma at or above which the person is impaired for purposes of 92
operating or being in physical control of any vessel underway or 93
manipulating any water skis, aquaplane, or similar device on the 94
waters of this state, the rule is in effect, and the person has a 95
concentration of salvia divinorum or salvinorin A of at least that 96
amount so specified by rule in the person's urine, in the person's 97
whole blood, or in the person's blood serum or plasma. 98

(i) Either of the following applies: 99

(i) The person is under the influence of alcohol, a drug of 100
abuse, or a combination of them, and, as measured by gas 101
chromatography mass spectrometry, the person has a concentration 102
of marihuana metabolite in the person's urine of at least fifteen 103
nanograms of marihuana metabolite per milliliter of the person's 104
urine or has a concentration of marihuana metabolite in the 105
person's whole blood or blood serum or plasma of at least five 106
nanograms of marihuana metabolite per milliliter of the person's 107
whole blood or blood serum or plasma. 108

(ii) As measured by gas chromatography mass spectrometry, the 109
person has a concentration of marihuana metabolite in the person's 110
urine of at least thirty-five nanograms of marihuana metabolite 111
per milliliter of the person's urine or has a concentration of 112

marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

(j) The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.

(k) The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.

(B) No person under twenty-one years of age shall operate or be in physical control of any vessel underway or shall manipulate any water skis, aquaplane, or similar device on the waters in this state if, at the time of the operation, control, or manipulation, any of the following applies:

(1) The person has a concentration of at least two-hundredths of one per cent, but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least twenty-eight one-thousandths of one gram, but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the

person's urine. 144

(4) The person has a concentration of at least two-hundredths 145
of one gram, but less than eight-hundredths of one gram by weight 146
of alcohol per two hundred ten liters of the person's breath. 147

(C) In any proceeding arising out of one incident, a person 148
may be charged with a violation of division (A)(1) and a violation 149
of division (B)(1), (2), (3), or (4) of this section, but the 150
person shall not be convicted of more than one violation of those 151
divisions. 152

(D)(1)(a) In any criminal prosecution or juvenile court 153
proceeding for a violation of division (A) or (B) of this section 154
or for an equivalent offense that is watercraft-related, the 155
result of any test of any blood or urine withdrawn and analyzed at 156
any health care provider, as defined in section 2317.02 of the 157
Revised Code, may be admitted with expert testimony to be 158
considered with any other relevant and competent evidence in 159
determining the guilt or innocence of the defendant. 160

(b) In any criminal prosecution or juvenile court proceeding 161
for a violation of division (A) or (B) of this section or for an 162
equivalent offense that is watercraft-related, the court may admit 163
evidence on the concentration of alcohol, drugs of abuse, 164
controlled substances, metabolites of a controlled substance, or a 165
combination of them in the defendant's or child's whole blood, 166
blood serum or plasma, urine, or breath at the time of the alleged 167
violation as shown by chemical analysis of the substance 168
withdrawn, or specimen taken within three hours of the time of the 169
alleged violation. The three-hour time limit specified in this 170
division regarding the admission of evidence does not extend or 171
affect the two-hour time limit specified in division (C) of 172
section 1547.111 of the Revised Code as the maximum period of time 173
during which a person may consent to a chemical test or tests as 174
described in that section. The court may admit evidence on the 175

concentration of alcohol, drugs of abuse, or a combination of them 176
as described in this division when a person submits to a blood, 177
breath, urine, or other bodily substance test at the request of a 178
law enforcement officer under section 1547.111 of the Revised Code 179
or a blood or urine sample is obtained pursuant to a search 180
warrant. Only a physician, a registered nurse, an emergency 181
medical technician-intermediate, an emergency medical 182
technician-paramedic, or a qualified technician, chemist, or 183
phlebotomist shall withdraw blood for the purpose of determining 184
the alcohol, drug, controlled substance, metabolite of a 185
controlled substance, or combination content of the whole blood, 186
blood serum, or blood plasma. This limitation does not apply to 187
the taking of breath or urine specimens. A person authorized to 188
withdraw blood under this division may refuse to withdraw blood 189
under this division if, in that person's opinion, the physical 190
welfare of the defendant or child would be endangered by 191
withdrawing blood. 192

The whole blood, blood serum or plasma, urine, or breath 193
withdrawn under division (D)(1)(b) of this section shall be 194
analyzed in accordance with methods approved by the director of 195
health by an individual possessing a valid permit issued by the 196
director pursuant to section 3701.143 of the Revised Code. 197

(2) In a criminal prosecution or juvenile court proceeding 198
for a violation of division (A) of this section or for an 199
equivalent offense that is watercraft-related, if there was at the 200
time the bodily substance was taken a concentration of less than 201
the applicable concentration of alcohol specified for a violation 202
of division (A)(2), (3), (4), or (5) of this section or less than 203
the applicable concentration of a listed controlled substance or a 204
listed metabolite of a controlled substance specified for a 205
violation of division (A)(6) of this section, that fact may be 206
considered with other competent evidence in determining the guilt 207

or innocence of the defendant or in making an adjudication for the 208
child. This division does not limit or affect a criminal 209
prosecution or juvenile court proceeding for a violation of 210
division (B) of this section or for a violation of a prohibition 211
that is substantially equivalent to that division. 212

(3) Upon the request of the person who was tested, the 213
results of the chemical test shall be made available to the person 214
or the person's attorney immediately upon completion of the test 215
analysis. 216

If the chemical test was administered pursuant to division 217
(D)(1)(b) of this section, the person tested may have a physician, 218
a registered nurse, or a qualified technician, chemist, or 219
phlebotomist of the person's own choosing administer a chemical 220
test or tests in addition to any administered at the direction of 221
a law enforcement officer, and shall be so advised. The failure or 222
inability to obtain an additional test by a person shall not 223
preclude the admission of evidence relating to the test or tests 224
taken at the direction of a law enforcement officer. 225

(E)(1) In any criminal prosecution or juvenile court 226
proceeding for a violation of division (A) or (B) of this section, 227
of a municipal ordinance relating to operating or being in 228
physical control of any vessel underway or to manipulating any 229
water skis, aquaplane, or similar device on the waters of this 230
state while under the influence of alcohol, a drug of abuse, or a 231
combination of them, or of a municipal ordinance relating to 232
operating or being in physical control of any vessel underway or 233
to manipulating any water skis, aquaplane, or similar device on 234
the waters of this state with a prohibited concentration of 235
alcohol, a controlled substance, or a metabolite of a controlled 236
substance in the whole blood, blood serum or plasma, breath, or 237
urine, if a law enforcement officer has administered a field 238
sobriety test to the operator or person found to be in physical 239

control of the vessel underway involved in the violation or the 240
person manipulating the water skis, aquaplane, or similar device 241
involved in the violation and if it is shown by clear and 242
convincing evidence that the officer administered the test in 243
substantial compliance with the testing standards for reliable, 244
credible, and generally accepted field sobriety tests for vehicles 245
that were in effect at the time the tests were administered, 246
including, but not limited to, any testing standards then in 247
effect that have been set by the national highway traffic safety 248
administration, that by their nature are not clearly inapplicable 249
regarding the operation or physical control of vessels underway or 250
the manipulation of water skis, aquaplanes, or similar devices, 251
all of the following apply: 252

(a) The officer may testify concerning the results of the 253
field sobriety test so administered. 254

(b) The prosecution may introduce the results of the field 255
sobriety test so administered as evidence in any proceedings in 256
the criminal prosecution or juvenile court proceeding. 257

(c) If testimony is presented or evidence is introduced under 258
division (E)(1)(a) or (b) of this section and if the testimony or 259
evidence is admissible under the Rules of Evidence, the court 260
shall admit the testimony or evidence, and the trier of fact shall 261
give it whatever weight the trier of fact considers to be 262
appropriate. 263

(2) Division (E)(1) of this section does not limit or 264
preclude a court, in its determination of whether the arrest of a 265
person was supported by probable cause or its determination of any 266
other matter in a criminal prosecution or juvenile court 267
proceeding of a type described in that division, from considering 268
evidence or testimony that is not otherwise disallowed by division 269
(E)(1) of this section. 270

(F)(1) Subject to division (F)(3) of this section, in any 271
criminal prosecution or juvenile court proceeding for a violation 272
of division (A) or (B) of this section or for an equivalent 273
offense that is substantially equivalent to either of those 274
divisions, the court shall admit as prima-facie evidence a 275
laboratory report from any laboratory personnel issued a permit by 276
the department of health authorizing an analysis as described in 277
this division that contains an analysis of the whole blood, blood 278
serum or plasma, breath, urine, or other bodily substance tested 279
and that contains all of the information specified in this 280
division. The laboratory report shall contain all of the 281
following: 282

(a) The signature, under oath, of any person who performed 283
the analysis; 284

(b) Any findings as to the identity and quantity of alcohol, 285
a drug of abuse, a controlled substance, a metabolite of a 286
controlled substance, or a combination of them that was found; 287

(c) A copy of a notarized statement by the laboratory 288
director or a designee of the director that contains the name of 289
each certified analyst or test performer involved with the report, 290
the analyst's or test performer's employment relationship with the 291
laboratory that issued the report, and a notation that performing 292
an analysis of the type involved is part of the analyst's or test 293
performer's regular duties; 294

(d) An outline of the analyst's or test performer's 295
education, training, and experience in performing the type of 296
analysis involved and a certification that the laboratory 297
satisfies appropriate quality control standards in general and, in 298
this particular analysis, under rules of the department of health. 299

(2) Notwithstanding any other provision of law regarding the 300
admission of evidence, a report of the type described in division 301

(F)(1) of this section is not admissible against the defendant or 302
child to whom it pertains in any proceeding, other than a 303
preliminary hearing or a grand jury proceeding, unless the 304
prosecutor has served a copy of the report on the defendant's or 305
child's attorney or, if the defendant or child has no attorney, on 306
the defendant or child. 307

(3) A report of the type described in division (F)(1) of this 308
section shall not be prima-facie evidence of the contents, 309
identity, or amount of any substance if, within seven days after 310
the defendant or child to whom the report pertains or the 311
defendant's or child's attorney receives a copy of the report, the 312
defendant or child or the defendant's or child's attorney demands 313
the testimony of the person who signed the report. The judge in 314
the case may extend the seven-day time limit in the interest of 315
justice. 316

(G) Except as otherwise provided in this division, any 317
physician, registered nurse, emergency medical 318
technician-intermediate, emergency medical technician-paramedic, 319
or qualified technician, chemist, or phlebotomist who withdraws 320
blood from a person pursuant to this section or section 1547.111 321
of the Revised Code, and a hospital, first-aid station, or clinic 322
at which blood is withdrawn from a person pursuant to this section 323
or section 1547.111 of the Revised Code, is immune from criminal 324
and civil liability based upon a claim of assault and battery or 325
any other claim that is not a claim of malpractice, for any act 326
performed in withdrawing blood from the person. The immunity 327
provided in this division also extends to an emergency medical 328
service organization that employs an emergency medical 329
technician-intermediate, an emergency medical technician-paramedic 330
who withdraws blood under this section. The immunity provided in 331
this division is not available to a person who withdraws blood if 332
the person engages in willful or wanton misconduct. 333

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(H) Division (A)(6) of this section does not apply to a
person who operates or is in physical control of a vessel underway
or manipulates any water skis, aquaplane, or similar device while
the person has a concentration of a listed controlled substance or
a listed metabolite of a controlled substance in the person's
whole blood, blood serum or plasma, or urine that equals or
exceeds the amount specified in that division, if both of the
following apply:

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(1) The person obtained the controlled substance pursuant to
a prescription issued by a licensed health professional authorized
to prescribe drugs.

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(2) The person injected, ingested, or inhaled the controlled
substance in accordance with the health professional's directions.

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(I) As used in this section and section 1547.111 of the
Revised Code:

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(1) "Equivalent offense" has the same meaning as in section
4511.181 of the Revised Code.

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(2) "National highway traffic safety administration" has the
same meaning as in section 4511.19 of the Revised Code.

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(3) "Operate" means that a vessel is being used on the waters
in this state when the vessel is not securely affixed to a dock or
to shore or to any permanent structure to which the vessel has the
right to affix or that a vessel is not anchored in a designated
anchorage area or boat camping area that is established by the
United States coast guard, this state, or a political subdivision
and in which the vessel has the right to anchor.

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(4) "Controlled substance" and "marihuana" have the same
meanings as in section 3719.01 of the Revised Code.

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(5) "Cocaine" and "L.S.D." have the same meanings as in

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section 2925.01 of the Revised Code. 364

(6) "Equivalent offense that is watercraft-related" means an 365
equivalent offense that is one of the following: 366

(a) A violation of division (A) or (B) of this section; 367

(b) A violation of a municipal ordinance prohibiting a person 368
from operating or being in physical control of any vessel underway 369
or from manipulating any water skis, aquaplane, or similar device 370
on the waters of this state while under the influence of alcohol, 371
a drug of abuse, or a combination of them or prohibiting a person 372
from operating or being in physical control of any vessel underway 373
or from manipulating any water skis, aquaplane, or similar device 374
on the waters of this state with a prohibited concentration of 375
alcohol, a controlled substance, or a metabolite of a controlled 376
substance in the whole blood, blood serum or plasma, breath, or 377
urine; 378

(c) A violation of an existing or former municipal ordinance, 379
law of another state, or law of the United States that is 380
substantially equivalent to division (A) or (B) of this section; 381

(d) A violation of a former law of this state that was 382
substantially equivalent to division (A) or (B) of this section. 383

(7) "Emergency medical technician-intermediate" and 384
"emergency medical technician-paramedic" have the same meanings as 385
in section 4765.01 of the Revised Code. 386

Sec. 2919.25. (A) No person shall knowingly cause or attempt 387
to cause physical harm to a family or household member. 388

(B) No person shall recklessly cause serious physical harm to 389
a family or household member. 390

(C) No person, by threat of force, shall knowingly cause a 391
family or household member to believe that the offender will cause 392
imminent physical harm to the family or household member. 393

(D)(1) Whoever violates this section is guilty of domestic violence, and the court shall sentence the offender as provided in divisions (D)(2) to (6) of this section.

(2) Except as otherwise provided in division (D)(3) to (5) of this section, a violation of division (C) of this section is a misdemeanor of the fourth degree, and a violation of division (A) or (B) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in division (D)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of section 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of division (A) or (B) of this section is a felony of the fourth degree, and, if the offender knew that the victim of the violation was pregnant at the time of the violation, the court shall impose a mandatory prison term on the offender pursuant to division ~~(A)~~(D)(6) of this section, and a violation of division (C) of this section is a misdemeanor of the second degree.

(4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in division (D)(3) of this section involving a person who was a family or

household member at the time of the violations or offenses, a 426
violation of division (A) or (B) of this section is a felony of 427
the third degree, and, if the offender knew that the victim of the 428
violation was pregnant at the time of the violation, the court 429
shall impose a mandatory prison term on the offender pursuant to 430
division ~~(A)~~(D)(6) of this section, and a violation of division 431
(C) of this section is a misdemeanor of the first degree. 432

(5) Except as otherwise provided in division (D)(3) or (4) of 433
this section, if the offender knew that the victim of the 434
violation was pregnant at the time of the violation, a violation 435
of division (A) or (B) of this section is a felony of the fifth 436
degree, and the court shall impose a mandatory prison term on the 437
offender pursuant to division ~~(A)~~(D)(6) of this section, and a 438
violation of division (C) of this section is a misdemeanor of the 439
third degree. 440

(6) If division ~~(A)~~(D)(3), (4), or (5) of this section 441
requires the court that sentences an offender for a violation of 442
division (A) or (B) of this section to impose a mandatory prison 443
term on the offender pursuant to this division, the court shall 444
impose the mandatory prison term as follows: 445

(a) If the violation of division (A) or (B) of this section 446
is a felony of the fourth or fifth degree, except as otherwise 447
provided in division ~~(A)~~(D)(6)(b) or (c) of this section, the 448
court shall impose a mandatory prison term on the offender of at 449
least six months. 450

(b) If the violation of division (A) or (B) of this section 451
is a felony of the fifth degree and the offender, in committing 452
the violation, caused serious physical harm to the pregnant 453
woman's unborn or caused the termination of the pregnant woman's 454
pregnancy, the court shall impose a mandatory prison term on the 455
offender of twelve months. 456

(c) If the violation of division (A) or (B) of this section 457
is a felony of the fourth degree and the offender, in committing 458
the violation, caused serious physical harm to the pregnant 459
woman's unborn or caused the termination of the pregnant woman's 460
pregnancy, the court shall impose a mandatory prison term on the 461
offender of at least twelve months. 462

(d) If the violation of division (A) or (B) of this section 463
is a felony of the third degree, except as otherwise provided in 464
division ~~(A)~~(D)(6)(e) of this section and notwithstanding the 465
range of prison terms prescribed in section 2929.14 of the Revised 466
Code for a felony of the third degree, the court shall impose a 467
mandatory prison term on the offender of either a definite term of 468
six months or one of the prison terms prescribed in section 469
2929.14 of the Revised Code for felonies of the third degree. 470

(e) If the violation of division (A) or (B) of this section 472
is a felony of the third degree and the offender, in committing 473
the violation, caused serious physical harm to the pregnant 474
woman's unborn or caused the termination of the pregnant woman's 475
pregnancy, notwithstanding the range of prison terms prescribed in 476
section 2929.14 of the Revised Code for a felony of the third 477
degree, the court shall impose a mandatory prison term on the 478
offender of either a definite term of one year or one of the 479
prison terms prescribed in section 2929.14 of the Revised Code for 480
felonies of the third degree. 481

(E) Notwithstanding any provision of law to the contrary, no 482
court or unit of state or local government shall charge any fee, 483
cost, deposit, or money in connection with the filing of charges 484
against a person alleging that the person violated this section or 485
a municipal ordinance substantially similar to this section or in 486
connection with the prosecution of any charges so filed. 487

(F) As used in this section and sections 2919.251 and 2919.26 488

of the Revised Code:	489
(1) "Family or household member" means any of the following:	490
(a) Any of the following who is residing or has resided with the offender:	491 492
(i) A spouse, a person living as a spouse, or a former spouse of the offender;	493 494
(ii) A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;	495 496
(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the offender, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the offender.	497 498 499 500
(b) The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.	501 502
(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.	503 504 505 506 507 508
(3) "Pregnant woman's unborn" has the same meaning as "such other person's unborn," as set forth in section 2903.09 of the Revised Code, as it relates to the pregnant woman. Division (C) of that section applies regarding the use of the term in this section, except that the second and third sentences of division (C)(1) of that section shall be construed for purposes of this section as if they included a reference to this section in the listing of Revised Code sections they contain.	509 510 511 512 513 514 515 516
(4) "Termination of the pregnant woman's pregnancy" has the same meaning as "unlawful termination of another's pregnancy," as	517 518

set forth in section 2903.09 of the Revised Code, as it relates to 519
the pregnant woman. Division (C) of that section applies regarding 520
the use of the term in this section, except that the second and 521
third sentences of division (C)(1) of that section shall be 522
construed for purposes of this section as if they included a 523
reference to this section in the listing of Revised Code sections 524
they contain. 525

Sec. 2927.15. (A) No person shall knowingly collect any 526
blood, urine, tissue, or other bodily substance of another person 527
without privilege or consent to do so. 528

(B)(1) Division (A) of this section does not apply to any of 529
the following: 530

(a) The collection of any bodily substance of a person by a 531
law enforcement officer, or by another person pursuant to the 532
direction or advice of a law enforcement officer, for purposes of 533
a chemical test or tests of the substance under division (A)(1) of 534
section 1547.111 or division (A)(2) of section 4511.191 of the 535
Revised Code to determine the alcohol, drug, controlled substance, 536
metabolite of a controlled substance, or combination content of 537
the bodily substance; 538

(b) The collection of any bodily substance of a person by a 539
peace officer, or by another person pursuant to the direction or 540
advice of a peace officer, for purposes of a test or tests of the 541
substance as provided in division (A) of section 4506.17 of the 542
Revised Code to determine the person's alcohol concentration or 543
the presence of any controlled substance or metabolite of a 544
controlled substance. 545

(2) Division (B)(1) of this section shall not be construed as 546
implying that the persons identified in divisions (B)(1)(a) and 547
(b) of this section do not have privilege to collect the bodily 548
substance of another person as described in those divisions or as 549

limiting the definition of "privilege" set forth in section 550
2901.01 of the Revised Code. 551

(C) Whoever violates division (A) of this section is guilty 552
of unlawful collection of a bodily substance. Except as otherwise 553
provided in this division, unlawful collection of a bodily 554
substance is a misdemeanor of the first degree. If the offender 555
previously has been convicted of or pleaded guilty to a violation 556
of division (A) of this section, unlawful collection of a bodily 557
substance is a felony of the fifth degree. 558

Sec. 2929.13. (A) Except as provided in division (E), (F), or 559
(G) of this section and unless a specific sanction is required to 560
be imposed or is precluded from being imposed pursuant to law, a 561
court that imposes a sentence upon an offender for a felony may 562
impose any sanction or combination of sanctions on the offender 563
that are provided in sections 2929.14 to 2929.18 of the Revised 564
Code. The sentence shall not impose an unnecessary burden on state 565
or local government resources. 566

If the offender is eligible to be sentenced to community 567
control sanctions, the court shall consider the appropriateness of 568
imposing a financial sanction pursuant to section 2929.18 of the 569
Revised Code or a sanction of community service pursuant to 570
section 2929.17 of the Revised Code as the sole sanction for the 571
offense. Except as otherwise provided in this division, if the 572
court is required to impose a mandatory prison term for the 573
offense for which sentence is being imposed, the court also shall 574
impose any financial sanction pursuant to section 2929.18 of the 575
Revised Code that is required for the offense and may impose any 576
other financial sanction pursuant to that section but may not 577
impose any additional sanction or combination of sanctions under 578
section 2929.16 or 2929.17 of the Revised Code. 579

If the offender is being sentenced for a fourth degree felony 580

OVI offense or for a third degree felony OVI offense, in addition 581
to the mandatory term of local incarceration or the mandatory 582
prison term required for the offense by division (G)(1) or (2) of 583
this section, the court shall impose upon the offender a mandatory 584
fine in accordance with division (B)(3) of section 2929.18 of the 585
Revised Code and may impose whichever of the following is 586
applicable: 587

(1) For a fourth degree felony OVI offense for which sentence 588
is imposed under division (G)(1) of this section, an additional 589
community control sanction or combination of community control 590
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 591
the court imposes upon the offender a community control sanction 592
and the offender violates any condition of the community control 593
sanction, the court may take any action prescribed in division (B) 594
of section 2929.15 of the Revised Code relative to the offender, 595
including imposing a prison term on the offender pursuant to that 596
division. 597

(2) For a third or fourth degree felony OVI offense for which 598
sentence is imposed under division (G)(2) of this section, an 599
additional prison term as described in division (D)(4) of section 600
2929.14 of the Revised Code or a community control sanction as 601
described in division (G)(2) of this section. 602

(B)(1) Except as provided in division (B)(2), (E), (F), or 603
(G) of this section, in sentencing an offender for a felony of the 604
fourth or fifth degree, the sentencing court shall determine 605
whether any of the following apply: 606

(a) In committing the offense, the offender caused physical 607
harm to a person. 608

(b) In committing the offense, the offender attempted to 609
cause or made an actual threat of physical harm to a person with a 610
deadly weapon. 611

(c) In committing the offense, the offender attempted to 612
cause or made an actual threat of physical harm to a person, and 613
the offender previously was convicted of an offense that caused 614
physical harm to a person. 615

(d) The offender held a public office or position of trust 616
and the offense related to that office or position; the offender's 617
position obliged the offender to prevent the offense or to bring 618
those committing it to justice; or the offender's professional 619
reputation or position facilitated the offense or was likely to 620
influence the future conduct of others. 621

(e) The offender committed the offense for hire or as part of 622
an organized criminal activity. 623

(f) The offense is a sex offense that is a fourth or fifth 624
degree felony violation of section 2907.03, 2907.04, 2907.05, 625
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 626
Revised Code. 627

(g) The offender at the time of the offense was serving, or 628
the offender previously had served, a prison term. 629

(h) The offender committed the offense while under a 630
community control sanction, while on probation, or while released 631
from custody on a bond or personal recognizance. 632

(i) The offender committed the offense while in possession of 633
a firearm. 634

(2)(a) If the court makes a finding described in division 635
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 636
section and if the court, after considering the factors set forth 637
in section 2929.12 of the Revised Code, finds that a prison term 638
is consistent with the purposes and principles of sentencing set 639
forth in section 2929.11 of the Revised Code and finds that the 640
offender is not amenable to an available community control 641
sanction, the court shall impose a prison term upon the offender. 642

(b) Except as provided in division (E), (F), or (G) of this section, if the court does not make a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a community control sanction or combination of community control sanctions is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code, the court shall impose a community control sanction or combination of community control sanctions upon the offender.

(C) Except as provided in division (D), (E), (F), or (G) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D)(1) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree, for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, and for a violation of division (A)(4) or (B) of section 2907.05 of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Division (D)(2) of this section does not apply to a presumption established under this division for a violation of division (A)(4) of section 2907.05 of the Revised Code.

(2) Notwithstanding the presumption established under

division (D)(1) of this section for the offenses listed in that 675
division other than a violation of division (A)(4) or (B) of 676
section 2907.05 of the Revised Code, the sentencing court may 677
impose a community control sanction or a combination of community 678
control sanctions instead of a prison term on an offender for a 679
felony of the first or second degree or for a felony drug offense 680
that is a violation of any provision of Chapter 2925., 3719., or 681
4729. of the Revised Code for which a presumption in favor of a 682
prison term is specified as being applicable if it makes both of 683
the following findings: 684

(a) A community control sanction or a combination of 685
community control sanctions would adequately punish the offender 686
and protect the public from future crime, because the applicable 687
factors under section 2929.12 of the Revised Code indicating a 688
lesser likelihood of recidivism outweigh the applicable factors 689
under that section indicating a greater likelihood of recidivism. 690

(b) A community control sanction or a combination of 691
community control sanctions would not demean the seriousness of 692
the offense, because one or more factors under section 2929.12 of 693
the Revised Code that indicate that the offender's conduct was 694
less serious than conduct normally constituting the offense are 695
applicable, and they outweigh the applicable factors under that 696
section that indicate that the offender's conduct was more serious 697
than conduct normally constituting the offense. 698

(E)(1) Except as provided in division (F) of this section, 699
for any drug offense that is a violation of any provision of 700
Chapter 2925. of the Revised Code and that is a felony of the 701
third, fourth, or fifth degree, the applicability of a presumption 702
under division (D) of this section in favor of a prison term or of 703
division (B) or (C) of this section in determining whether to 704
impose a prison term for the offense shall be determined as 705
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 706

2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony violates the conditions of a community control sanction imposed for the offense solely by reason of producing positive results on a drug test, the court, as punishment for the violation of the sanction, shall not order that the offender be imprisoned unless the court determines on the record either of the following:

(a) The offender had been ordered as a sanction for the felony to participate in a drug treatment program, in a drug education program, or in narcotics anonymous or a similar program, and the offender continued to use illegal drugs after a reasonable period of participation in the program.

(b) The imprisonment of the offender for the violation is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code.

(3) A court that sentences an offender for a drug abuse offense that is a felony of the third, fourth, or fifth degree may require that the offender be assessed by a properly credentialed professional within a specified period of time. The court shall require the professional to file a written assessment of the offender with the court. If the offender is eligible for a community control sanction and after considering the written assessment, the court may impose a community control sanction that includes treatment and recovery support services authorized by section 3793.02 of the Revised Code. If the court imposes treatment and recovery support services as a community control sanction, the court shall direct the level and type of treatment and recovery support services after considering the assessment and recommendation of treatment and recovery support services providers.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, section 2929.142, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20 or 2967.191 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code shall not reduce the term or terms pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape if, had the offender completed the rape that was attempted, the offender would have been guilty of a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and would be sentenced under section 2971.03 of the Revised Code;

(3) Gross sexual imposition or sexual battery, if the victim is less than thirteen years of age and if any of the following applies:

(a) Regarding gross sexual imposition, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and the victim of the previous offense was less than thirteen years of age;

(b) Regarding gross sexual imposition, the offense was committed on or after August 3, 2006, and evidence other than the testimony of the victim was admitted in the case corroborating the violation.

(c) Regarding sexual battery, either of the following applies:

(i) The offense was committed prior to August 3, 2006, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.

(ii) The offense was committed on or after August 3, 2006.

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, or 2907.07 of the Revised Code if the section requires the imposition of a prison term;

(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:

(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony

of the first or second degree that resulted in the death of a 800
person or in physical harm to a person, or complicity in or an 801
attempt to commit any of those offenses; 802

(b) An offense under an existing or former law of this state, 803
another state, or the United States that is or was substantially 804
equivalent to an offense listed in division (F)(7)(a) of this 805
section that resulted in the death of a person or in physical harm 806
to a person. 807

(8) Any offense, other than a violation of section 2923.12 of 808
the Revised Code, that is a felony, if the offender had a firearm 809
on or about the offender's person or under the offender's control 810
while committing the felony, with respect to a portion of the 811
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 812
of the Revised Code for having the firearm; 813

(9) Any offense of violence that is a felony, if the offender 814
wore or carried body armor while committing the felony offense of 815
violence, with respect to the portion of the sentence imposed 816
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 817
Code for wearing or carrying the body armor; 818

(10) Corrupt activity in violation of section 2923.32 of the 819
Revised Code when the most serious offense in the pattern of 820
corrupt activity that is the basis of the offense is a felony of 821
the first degree; 822

(11) Any violent sex offense or designated homicide, assault, 823
or kidnapping offense if, in relation to that offense, the 824
offender is adjudicated a sexually violent predator; 825

(12) A violation of division (A)(1) or (2) of section 2921.36 826
of the Revised Code, or a violation of division (C) of that 827
section involving an item listed in division (A)(1) or (2) of that 828
section, if the offender is an officer or employee of the 829
department of rehabilitation and correction; 830

(13) A violation of division (A)(1) or (2) of section 2903.06 831
of the Revised Code if the victim of the offense is a peace 832
officer, as defined in section 2935.01 of the Revised Code, or an 833
investigator of the bureau of criminal identification and 834
investigation, as defined in section 2903.11 of the Revised Code, 835
with respect to the portion of the sentence imposed pursuant to 836
division (D)(5) of section 2929.14 of the Revised Code; 837

(14) A violation of division (A)(1) or (2) of section 2903.06 838
of the Revised Code if the offender has been convicted of or 839
pleaded guilty to three or more violations of division (A) or (B) 840
of section 4511.19 of the Revised Code or an equivalent offense, 841
as defined in section 2941.1415 of the Revised Code, or three or 842
more violations of any combination of those divisions and 843
offenses, with respect to the portion of the sentence imposed 844
pursuant to division (D)(6) of section 2929.14 of the Revised 845
Code; 846

(15) Kidnapping, in the circumstances specified in section 847
2971.03 of the Revised Code and when no other provision of 848
division (F) of this section applies; 849

(16) Kidnapping, abduction, compelling prostitution, 850
promoting prostitution, engaging in a pattern of corrupt activity, 851
illegal use of a minor in a nudity-oriented material or 852
performance in violation of division (A)(1) or (2) of section 853
2907.323 of the Revised Code, or endangering children in violation 854
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 855
the Revised Code, if the offender is convicted of or pleads guilty 856
to a specification as described in section 2941.1422 of the 857
Revised Code that was included in the indictment, count in the 858
indictment, or information charging the offense; 859

(17) A felony violation of division (A) or (B) of section 860
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 861
that section, and division ~~(A)~~(D)(6) of that section, require the 862

imposition of a prison term; 863

(18) A felony violation of section 2903.11, 2903.12, or 864
2903.13 of the Revised Code, if the victim of the offense was a 865
woman that the offender knew was pregnant at the time of the 866
violation, with respect to a portion of the sentence imposed 867
pursuant to division (D)(8) of section 2929.14 of the Revised 868
Code. 869

(G) Notwithstanding divisions (A) to (E) of this section, if 870
an offender is being sentenced for a fourth degree felony OVI 871
offense or for a third degree felony OVI offense, the court shall 872
impose upon the offender a mandatory term of local incarceration 873
or a mandatory prison term in accordance with the following: 874

(1) If the offender is being sentenced for a fourth degree 875
felony OVI offense and if the offender has not been convicted of 876
and has not pleaded guilty to a specification of the type 877
described in section 2941.1413 of the Revised Code, the court may 878
impose upon the offender a mandatory term of local incarceration 879
of sixty days or one hundred twenty days as specified in division 880
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 881
not reduce the term pursuant to section 2929.20, 2967.193, or any 882
other provision of the Revised Code. The court that imposes a 883
mandatory term of local incarceration under this division shall 884
specify whether the term is to be served in a jail, a 885
community-based correctional facility, a halfway house, or an 886
alternative residential facility, and the offender shall serve the 887
term in the type of facility specified by the court. A mandatory 888
term of local incarceration imposed under division (G)(1) of this 889
section is not subject to any other Revised Code provision that 890
pertains to a prison term except as provided in division (A)(1) of 891
this section. 892

(2) If the offender is being sentenced for a third degree 893
felony OVI offense, or if the offender is being sentenced for a 894

fourth degree felony OVI offense and the court does not impose a 895
mandatory term of local incarceration under division (G)(1) of 896
this section, the court shall impose upon the offender a mandatory 897
prison term of one, two, three, four, or five years if the 898
offender also is convicted of or also pleads guilty to a 899
specification of the type described in section 2941.1413 of the 900
Revised Code or shall impose upon the offender a mandatory prison 901
term of sixty days or one hundred twenty days as specified in 902
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 903
if the offender has not been convicted of and has not pleaded 904
guilty to a specification of that type. The court shall not reduce 905
the term pursuant to section 2929.20, 2967.193, or any other 906
provision of the Revised Code. The offender shall serve the one-, 907
two-, three-, four-, or five-year mandatory prison term 908
consecutively to and prior to the prison term imposed for the 909
underlying offense and consecutively to any other mandatory prison 910
term imposed in relation to the offense. In no case shall an 911
offender who once has been sentenced to a mandatory term of local 912
incarceration pursuant to division (G)(1) of this section for a 913
fourth degree felony OVI offense be sentenced to another mandatory 914
term of local incarceration under that division for any violation 915
of division (A) of section 4511.19 of the Revised Code. In 916
addition to the mandatory prison term described in division (G)(2) 917
of this section, the court may sentence the offender to a 918
community control sanction under section 2929.16 or 2929.17 of the 919
Revised Code, but the offender shall serve the prison term prior 920
to serving the community control sanction. The department of 921
rehabilitation and correction may place an offender sentenced to a 922
mandatory prison term under this division in an intensive program 923
prison established pursuant to section 5120.033 of the Revised 924
Code if the department gave the sentencing judge prior notice of 925
its intent to place the offender in an intensive program prison 926
established under that section and if the judge did not notify the 927

department that the judge disapproved the placement. Upon the 928
establishment of the initial intensive program prison pursuant to 929
section 5120.033 of the Revised Code that is privately operated 930
and managed by a contractor pursuant to a contract entered into 931
under section 9.06 of the Revised Code, both of the following 932
apply: 933

(a) The department of rehabilitation and correction shall 934
make a reasonable effort to ensure that a sufficient number of 935
offenders sentenced to a mandatory prison term under this division 936
are placed in the privately operated and managed prison so that 937
the privately operated and managed prison has full occupancy. 938

(b) Unless the privately operated and managed prison has full 939
occupancy, the department of rehabilitation and correction shall 940
not place any offender sentenced to a mandatory prison term under 941
this division in any intensive program prison established pursuant 942
to section 5120.033 of the Revised Code other than the privately 943
operated and managed prison. 944

(H) If an offender is being sentenced for a sexually oriented 945
offense or child-victim oriented offense that is a felony 946
committed on or after January 1, 1997, the judge shall require the 947
offender to submit to a DNA specimen collection procedure pursuant 948
to section 2901.07 of the Revised Code. 949

(I) If an offender is being sentenced for a sexually oriented 950
offense or a child-victim oriented offense committed on or after 951
January 1, 1997, the judge shall include in the sentence a summary 952
of the offender's duties imposed under sections 2950.04, 2950.041, 953
2950.05, and 2950.06 of the Revised Code and the duration of the 954
duties. The judge shall inform the offender, at the time of 955
sentencing, of those duties and of their duration. If required 956
under division (A)(2) of section 2950.03 of the Revised Code, the 957
judge shall perform the duties specified in that section, or, if 958
required under division (A)(6) of section 2950.03 of the Revised 959

Code, the judge shall perform the duties specified in that 960
division. 961

(J)(1) Except as provided in division (J)(2) of this section, 962
when considering sentencing factors under this section in relation 963
to an offender who is convicted of or pleads guilty to an attempt 964
to commit an offense in violation of section 2923.02 of the 965
Revised Code, the sentencing court shall consider the factors 966
applicable to the felony category of the violation of section 967
2923.02 of the Revised Code instead of the factors applicable to 968
the felony category of the offense attempted. 969

(2) When considering sentencing factors under this section in 970
relation to an offender who is convicted of or pleads guilty to an 971
attempt to commit a drug abuse offense for which the penalty is 972
determined by the amount or number of unit doses of the controlled 973
substance involved in the drug abuse offense, the sentencing court 974
shall consider the factors applicable to the felony category that 975
the drug abuse offense attempted would be if that drug abuse 976
offense had been committed and had involved an amount or number of 977
unit doses of the controlled substance that is within the next 978
lower range of controlled substance amounts than was involved in 979
the attempt. 980

(K) As used in this section, "drug abuse offense" has the 981
same meaning as in section 2925.01 of the Revised Code. 982

(L) At the time of sentencing an offender for any sexually 983
oriented offense, if the offender is a tier III sex 984
offender/child-victim offender relative to that offense and the 985
offender does not serve a prison term or jail term, the court may 986
require that the offender be monitored by means of a global 987
positioning device. If the court requires such monitoring, the 988
cost of monitoring shall be borne by the offender. If the offender 989
is indigent, the cost of compliance shall be paid by the crime 990
victims reparations fund. 991

Sec. 4506.17. (A) Any person who holds a commercial driver's 992
license or operates a commercial motor vehicle requiring a 993
commercial driver's license within this state shall be deemed to 994
have given consent to a test or tests of the person's whole blood, 995
blood serum or plasma, breath, or urine for the purpose of 996
determining the person's alcohol concentration or the presence of 997
any controlled substance or a metabolite of a controlled 998
substance. 999

(B) A test or tests as provided in division (A) of this 1000
section may be administered at the direction of a peace officer 1001
having reasonable ground to stop or detain the person and, after 1002
investigating the circumstances surrounding the operation of the 1003
commercial motor vehicle, also having reasonable ground to believe 1004
the person was driving the commercial vehicle while having a 1005
measurable or detectable amount of alcohol or of a controlled 1006
substance or a metabolite of a controlled substance in the 1007
person's whole blood, blood serum or plasma, breath, or urine. Any 1008
such test shall be given within two hours of the time of the 1009
alleged violation. 1010

(C) A person requested to submit to a test under division (A) 1011
of this section shall be advised by the peace officer requesting 1012
the test that a refusal to submit to the test will result in the 1013
person immediately being placed out-of-service for a period of 1014
twenty-four hours and being disqualified from operating a 1015
commercial motor vehicle for a period of not less than one year, 1016
and that the person is required to surrender the person's 1017
commercial driver's license to the peace officer. 1018

(D) If a person refuses to submit to a test after being 1019
warned as provided in division (C) of this section or submits to a 1020
test that discloses the presence of a controlled substance or a 1021
metabolite of a controlled substance, an alcohol concentration of 1022

four-hundredths of one per cent or more by whole blood or breath, 1023
an alcohol concentration of forty-eight-thousandths of one per 1024
cent or more by blood serum or blood plasma, or an alcohol 1025
concentration of fifty-six-thousandths of one per cent or more by 1026
urine, the person immediately shall surrender the person's 1027
commercial driver's license to the peace officer. The peace 1028
officer shall forward the license, together with a sworn report, 1029
to the registrar of motor vehicles certifying that the test was 1030
requested pursuant to division (A) of this section and that the 1031
person either refused to submit to testing or submitted to a test 1032
that disclosed the presence of a controlled substance or a 1033
metabolite of a controlled substance or a prohibited alcohol 1034
concentration. The form and contents of the report required by 1035
this section shall be established by the registrar by rule, but 1036
shall contain the advice to be read to the driver and a statement 1037
to be signed by the driver acknowledging that the driver has been 1038
read the advice and that the form was shown to the driver. 1039

(E) Upon receipt of a sworn report from a peace officer as 1040
provided in division (D) of this section, the registrar shall 1041
disqualify the person named in the report from driving a 1042
commercial motor vehicle for the period described below: 1043

(1) Upon a first incident, one year; 1044

(2) Upon an incident of refusal or of a prohibited 1045
concentration of alcohol, a controlled substance, or a metabolite 1046
of a controlled substance after one or more previous incidents of 1047
either refusal or of a prohibited concentration of alcohol, a 1048
controlled substance, or a metabolite of a controlled substance, 1049
the person shall be disqualified for life or such lesser period as 1050
prescribed by rule by the registrar. 1051

(F) A test of a person's whole blood or a person's blood 1052
serum or plasma given under this section shall comply with the 1053
applicable provisions of division (D) of section 4511.19 of the 1054

Revised Code and any physician, registered nurse, emergency 1055
medical technician-intermediate, emergency medical 1056
technician-paramedic, or qualified technician, chemist, or 1057
phlebotomist who withdraws whole blood or blood serum or plasma 1058
from a person under this section, and any hospital, first-aid 1059
station, clinic, or other facility at which whole blood or blood 1060
serum or plasma is withdrawn from a person pursuant to this 1061
section, is immune from criminal liability, and from civil 1062
liability that is based upon a claim of assault and battery or 1063
based upon any other claim of malpractice, for any act performed 1064
in withdrawing whole blood or blood serum or plasma from the 1065
person. The immunity provided in this division also extends to an 1066
emergency medical service organization that employs an emergency 1067
medical technician-intermediate or emergency medical 1068
technician-paramedic who withdraws blood under this section. 1069

(G) When a person submits to a test under this section, the 1070
results of the test, at the person's request, shall be made 1071
available to the person, the person's attorney, or the person's 1072
agent, immediately upon completion of the chemical test analysis. 1073
The person also may have an additional test administered by a 1074
physician, a registered nurse, or a qualified technician, chemist, 1075
or phlebotomist of the person's own choosing as provided in 1076
division (D) of section 4511.19 of the Revised Code for tests 1077
administered under that section, and the failure to obtain such a 1078
test has the same effect as in that division. 1079

(H) No person shall refuse to immediately surrender the 1080
person's commercial driver's license to a peace officer when 1081
required to do so by this section. 1082

(I) A peace officer issuing an out-of-service order or 1083
receiving a commercial driver's license surrendered under this 1084
section may remove or arrange for the removal of any commercial 1085
motor vehicle affected by the issuance of that order or the 1086

surrender of that license. 1087

(J)(1) Except for civil actions arising out of the operation 1088
of a motor vehicle and civil actions in which the state is a 1089
plaintiff, no peace officer of any law enforcement agency within 1090
this state is liable in compensatory damages in any civil action 1091
that arises under the Revised Code or common law of this state for 1092
an injury, death, or loss to person or property caused in the 1093
performance of official duties under this section and rules 1094
adopted under this section, unless the officer's actions were 1095
manifestly outside the scope of the officer's employment or 1096
official responsibilities, or unless the officer acted with 1097
malicious purpose, in bad faith, or in a wanton or reckless 1098
manner. 1099

(2) Except for civil actions that arise out of the operation 1100
of a motor vehicle and civil actions in which the state is a 1101
plaintiff, no peace officer of any law enforcement agency within 1102
this state is liable in punitive or exemplary damages in any civil 1103
action that arises under the Revised Code or common law of this 1104
state for any injury, death, or loss to person or property caused 1105
in the performance of official duties under this section of the 1106
Revised Code and rules adopted under this section, unless the 1107
officer's actions were manifestly outside the scope of the 1108
officer's employment or official responsibilities, or unless the 1109
officer acted with malicious purpose, in bad faith, or in a wanton 1110
or reckless manner. 1111

(K) When disqualifying a driver, the registrar shall cause 1112
the records of the bureau of motor vehicles to be updated to 1113
reflect the disqualification within ten days after it occurs. 1114

(L) The registrar immediately shall notify a driver who is 1115
subject to disqualification of the disqualification, of the length 1116
of the disqualification, and that the driver may request a hearing 1117
within thirty days of the mailing of the notice to show cause why 1118

the driver should not be disqualified from operating a commercial 1119
motor vehicle. If a request for such a hearing is not made within 1120
thirty days of the mailing of the notice, the order of 1121
disqualification is final. The registrar may designate hearing 1122
examiners who, after affording all parties reasonable notice, 1123
shall conduct a hearing to determine whether the disqualification 1124
order is supported by reliable evidence. The registrar shall adopt 1125
rules to implement this division. 1126

(M) Any person who is disqualified from operating a 1127
commercial motor vehicle under this section may apply to the 1128
registrar for a driver's license to operate a motor vehicle other 1129
than a commercial motor vehicle, provided the person's commercial 1130
driver's license is not otherwise suspended. A person whose 1131
commercial driver's license is suspended shall not apply to the 1132
registrar for or receive a driver's license under Chapter 4507. of 1133
the Revised Code during the period of suspension. 1134

(N) Whoever violates division (H) of this section is guilty 1135
of a misdemeanor of the first degree. 1136

(O) As used in this section, "emergency medical 1137
technician-intermediate" and "emergency medical 1138
technician-paramedic" have the same meanings as in section 4765.01 1139
of the Revised Code. 1140

Sec. 4511.19. (A)(1) No person shall operate any vehicle, 1141
streetcar, or trackless trolley within this state, if, at the time 1142
of the operation, any of the following apply: 1143

(a) The person is under the influence of alcohol, a drug of 1144
abuse, or a combination of them. 1145

(b) The person has a concentration of eight-hundredths of one 1146
per cent or more but less than seventeen-hundredths of one per 1147
cent by weight per unit volume of alcohol in the person's whole 1148

blood. 1149

(c) The person has a concentration of ninety-six-thousandths 1150
of one per cent or more but less than two hundred four-thousandths 1151
of one per cent by weight per unit volume of alcohol in the 1152
person's blood serum or plasma. 1153

(d) The person has a concentration of eight-hundredths of one 1154
gram or more but less than seventeen-hundredths of one gram by 1155
weight of alcohol per two hundred ten liters of the person's 1156
breath. 1157

(e) The person has a concentration of eleven-hundredths of 1158
one gram or more but less than two hundred 1159
thirty-eight-thousandths of one gram by weight of alcohol per one 1160
hundred milliliters of the person's urine. 1161

(f) The person has a concentration of seventeen-hundredths of 1162
one per cent or more by weight per unit volume of alcohol in the 1163
person's whole blood. 1164

(g) The person has a concentration of two hundred 1165
four-thousandths of one per cent or more by weight per unit volume 1166
of alcohol in the person's blood serum or plasma. 1167

(h) The person has a concentration of seventeen-hundredths of 1168
one gram or more by weight of alcohol per two hundred ten liters 1169
of the person's breath. 1170

(i) The person has a concentration of two hundred 1171
thirty-eight-thousandths of one gram or more by weight of alcohol 1172
per one hundred milliliters of the person's urine. 1173

(j) Except as provided in division (K) of this section, the 1174
person has a concentration of any of the following controlled 1175
substances or metabolites of a controlled substance in the 1176
person's whole blood, blood serum or plasma, or urine that equals 1177
or exceeds any of the following: 1178

(i) The person has a concentration of amphetamine in the 1179
person's urine of at least five hundred nanograms of amphetamine 1180
per milliliter of the person's urine or has a concentration of 1181
amphetamine in the person's whole blood or blood serum or plasma 1182
of at least one hundred nanograms of amphetamine per milliliter of 1183
the person's whole blood or blood serum or plasma. 1184

(ii) The person has a concentration of cocaine in the 1185
person's urine of at least one hundred fifty nanograms of cocaine 1186
per milliliter of the person's urine or has a concentration of 1187
cocaine in the person's whole blood or blood serum or plasma of at 1188
least fifty nanograms of cocaine per milliliter of the person's 1189
whole blood or blood serum or plasma. 1190

(iii) The person has a concentration of cocaine metabolite in 1191
the person's urine of at least one hundred fifty nanograms of 1192
cocaine metabolite per milliliter of the person's urine or has a 1193
concentration of cocaine metabolite in the person's whole blood or 1194
blood serum or plasma of at least fifty nanograms of cocaine 1195
metabolite per milliliter of the person's whole blood or blood 1196
serum or plasma. 1197

(iv) The person has a concentration of heroin in the person's 1198
urine of at least two thousand nanograms of heroin per milliliter 1199
of the person's urine or has a concentration of heroin in the 1200
person's whole blood or blood serum or plasma of at least fifty 1201
nanograms of heroin per milliliter of the person's whole blood or 1202
blood serum or plasma. 1203

(v) The person has a concentration of heroin metabolite 1204
(6-monoacetyl morphine) in the person's urine of at least ten 1205
nanograms of heroin metabolite (6-monoacetyl morphine) per 1206
milliliter of the person's urine or has a concentration of heroin 1207
metabolite (6-monoacetyl morphine) in the person's whole blood or 1208
blood serum or plasma of at least ten nanograms of heroin 1209
metabolite (6-monoacetyl morphine) per milliliter of the person's 1210

whole blood or blood serum or plasma. 1211

(vi) The person has a concentration of L.S.D. in the person's 1212
urine of at least twenty-five nanograms of L.S.D. per milliliter 1213
of the person's urine or a concentration of L.S.D. in the person's 1214
whole blood or blood serum or plasma of at least ten nanograms of 1215
L.S.D. per milliliter of the person's whole blood or blood serum 1216
or plasma. 1217

(vii) The person has a concentration of marihuana in the 1218
person's urine of at least ten nanograms of marihuana per 1219
milliliter of the person's urine or has a concentration of 1220
marihuana in the person's whole blood or blood serum or plasma of 1221
at least two nanograms of marihuana per milliliter of the person's 1222
whole blood or blood serum or plasma. 1223

(viii) Either of the following applies: 1224

(I) The person is under the influence of alcohol, a drug of 1225
abuse, or a combination of them, and, as measured by gas 1226
chromatography mass spectrometry, the person has a concentration 1227
of marihuana metabolite in the person's urine of at least fifteen 1228
nanograms of marihuana metabolite per milliliter of the person's 1229
urine or has a concentration of marihuana metabolite in the 1230
person's whole blood or blood serum or plasma of at least five 1231
nanograms of marihuana metabolite per milliliter of the person's 1232
whole blood or blood serum or plasma. 1233

(II) As measured by gas chromatography mass spectrometry, the 1234
person has a concentration of marihuana metabolite in the person's 1235
urine of at least thirty-five nanograms of marihuana metabolite 1236
per milliliter of the person's urine or has a concentration of 1237
marihuana metabolite in the person's whole blood or blood serum or 1238
plasma of at least fifty nanograms of marihuana metabolite per 1239
milliliter of the person's whole blood or blood serum or plasma. 1240

(ix) The person has a concentration of methamphetamine in the 1241

person's urine of at least five hundred nanograms of 1242
methamphetamine per milliliter of the person's urine or has a 1243
concentration of methamphetamine in the person's whole blood or 1244
blood serum or plasma of at least one hundred nanograms of 1245
methamphetamine per milliliter of the person's whole blood or 1246
blood serum or plasma. 1247

(x) The person has a concentration of phencyclidine in the 1248
person's urine of at least twenty-five nanograms of phencyclidine 1249
per milliliter of the person's urine or has a concentration of 1250
phencyclidine in the person's whole blood or blood serum or plasma 1251
of at least ten nanograms of phencyclidine per milliliter of the 1252
person's whole blood or blood serum or plasma. 1253

(xi) The state board of pharmacy has adopted a rule pursuant 1254
to section 4729.041 of the Revised Code that specifies the amount 1255
of salvia divinorum and the amount of salvinorin A that constitute 1256
concentrations of salvia divinorum and salvinorin A in a person's 1257
urine, in a person's whole blood, or in a person's blood serum or 1258
plasma at or above which the person is impaired for purposes of 1259
operating any vehicle, streetcar, or trackless trolley within this 1260
state, the rule is in effect, and the person has a concentration 1261
of salvia divinorum or salvinorin A of at least that amount so 1262
specified by rule in the person's urine, in the person's whole 1263
blood, or in the person's blood serum or plasma. 1264

(2) No person who, within twenty years of the conduct 1265
described in division (A)(2)(a) of this section, previously has 1266
been convicted of or pleaded guilty to a violation of this 1267
division, a violation of division (A)(1) or (B) of this section, 1268
or any other equivalent offense shall do both of the following: 1269

(a) Operate any vehicle, streetcar, or trackless trolley 1270
within this state while under the influence of alcohol, a drug of 1271
abuse, or a combination of them; 1272

(b) Subsequent to being arrested for operating the vehicle, 1273
streetcar, or trackless trolley as described in division (A)(2)(a) 1274
of this section, being asked by a law enforcement officer to 1275
submit to a chemical test or tests under section 4511.191 of the 1276
Revised Code, and being advised by the officer in accordance with 1277
section 4511.192 of the Revised Code of the consequences of the 1278
person's refusal or submission to the test or tests, refuse to 1279
submit to the test or tests. 1280

(B) No person under twenty-one years of age shall operate any 1281
vehicle, streetcar, or trackless trolley within this state, if, at 1282
the time of the operation, any of the following apply: 1283

(1) The person has a concentration of at least two-hundredths 1284
of one per cent but less than eight-hundredths of one per cent by 1285
weight per unit volume of alcohol in the person's whole blood. 1286

(2) The person has a concentration of at least 1287
three-hundredths of one per cent but less than 1288
ninety-six-thousandths of one per cent by weight per unit volume 1289
of alcohol in the person's blood serum or plasma. 1290

(3) The person has a concentration of at least two-hundredths 1291
of one gram but less than eight-hundredths of one gram by weight 1292
of alcohol per two hundred ten liters of the person's breath. 1293

(4) The person has a concentration of at least twenty-eight 1294
one-thousandths of one gram but less than eleven-hundredths of one 1295
gram by weight of alcohol per one hundred milliliters of the 1296
person's urine. 1297

(C) In any proceeding arising out of one incident, a person 1298
may be charged with a violation of division (A)(1)(a) or (A)(2) 1299
and a violation of division (B)(1), (2), or (3) of this section, 1300
but the person may not be convicted of more than one violation of 1301
these divisions. 1302

(D)(1)(a) In any criminal prosecution or juvenile court 1303

proceeding for a violation of division (A)(1)(a) of this section 1304
or for an equivalent offense that is vehicle-related, the result 1305
of any test of any blood or urine withdrawn and analyzed at any 1306
health care provider, as defined in section 2317.02 of the Revised 1307
Code, may be admitted with expert testimony to be considered with 1308
any other relevant and competent evidence in determining the guilt 1309
or innocence of the defendant. 1310

(b) In any criminal prosecution or juvenile court proceeding 1311
for a violation of division (A) or (B) of this section or for an 1312
equivalent offense that is vehicle-related, the court may admit 1313
evidence on the concentration of alcohol, drugs of abuse, 1314
controlled substances, metabolites of a controlled substance, or a 1315
combination of them in the defendant's whole blood, blood serum or 1316
plasma, breath, urine, or other bodily substance at the time of 1317
the alleged violation as shown by chemical analysis of the 1318
substance withdrawn within three hours of the time of the alleged 1319
violation. The three-hour time limit specified in this division 1320
regarding the admission of evidence does not extend or affect the 1321
two-hour time limit specified in division (A) of section 4511.192 1322
of the Revised Code as the maximum period of time during which a 1323
person may consent to a chemical test or tests as described in 1324
that section. The court may admit evidence on the concentration of 1325
alcohol, drugs of abuse, or a combination of them as described in 1326
this division when a person submits to a blood, breath, urine, or 1327
other bodily substance test at the request of a law enforcement 1328
officer under section 4511.191 of the Revised Code or a blood or 1329
urine sample is obtained pursuant to a search warrant. Only a 1330
physician, a registered nurse, an emergency medical 1331
technician-intermediate, an emergency medical 1332
technician-paramedic, or a qualified technician, chemist, or 1333
phlebotomist shall withdraw a blood sample for the purpose of 1334
determining the alcohol, drug, controlled substance, metabolite of 1335
a controlled substance, or combination content of the whole blood, 1336

blood serum, or blood plasma. This limitation does not apply to 1337
the taking of breath or urine specimens. A person authorized to 1338
withdraw blood under this division may refuse to withdraw blood 1339
under this division, if in that person's opinion, the physical 1340
welfare of the person would be endangered by the withdrawing of 1341
blood. 1342

The bodily substance withdrawn under division (D)(1)(b) of 1343
this section shall be analyzed in accordance with methods approved 1344
by the director of health by an individual possessing a valid 1345
permit issued by the director pursuant to section 3701.143 of the 1346
Revised Code. 1347

(c) As used in division (D)(1)(b) of this section, "emergency 1348
medical technician-intermediate" and "emergency medical 1349
technician-paramedic" have the same meanings as in section 4765.01 1350
of the Revised Code. 1351

(2) In a criminal prosecution or juvenile court proceeding 1352
for a violation of division (A) of this section or for an 1353
equivalent offense that is vehicle-related, if there was at the 1354
time the bodily substance was withdrawn a concentration of less 1355
than the applicable concentration of alcohol specified in 1356
divisions (A)(1)(b), (c), (d), and (e) of this section or less 1357
than the applicable concentration of a listed controlled substance 1358
or a listed metabolite of a controlled substance specified for a 1359
violation of division (A)(1)(j) of this section, that fact may be 1360
considered with other competent evidence in determining the guilt 1361
or innocence of the defendant. This division does not limit or 1362
affect a criminal prosecution or juvenile court proceeding for a 1363
violation of division (B) of this section or for an equivalent 1364
offense that is substantially equivalent to that division. 1365

(3) Upon the request of the person who was tested, the 1367
results of the chemical test shall be made available to the person 1368

or the person's attorney, immediately upon the completion of the 1369
chemical test analysis. 1370

If the chemical test was obtained pursuant to division 1371
(D)(1)(b) of this section, the person tested may have a physician, 1372
a registered nurse, or a qualified technician, chemist, or 1373
phlebotomist of the person's own choosing administer a chemical 1374
test or tests, at the person's expense, in addition to any 1375
administered at the request of a law enforcement officer. If the 1376
person was under arrest as described in division (A)(5) of section 1377
4511.191 of the Revised Code, the arresting officer shall advise 1378
the person at the time of the arrest that the person may have an 1379
independent chemical test taken at the person's own expense. If 1380
the person was under arrest other than described in division 1381
(A)(5) of section 4511.191 of the Revised Code, the form to be 1382
read to the person to be tested, as required under section 1383
4511.192 of the Revised Code, shall state that the person may have 1384
an independent test performed at the person's expense. The failure 1385
or inability to obtain an additional chemical test by a person 1386
shall not preclude the admission of evidence relating to the 1387
chemical test or tests taken at the request of a law enforcement 1388
officer. 1389

(4)(a) As used in divisions (D)(4)(b) and (c) of this 1390
section, "national highway traffic safety administration" means 1391
the national highway traffic safety administration established as 1392
an administration of the United States department of 1393
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 1394

(b) In any criminal prosecution or juvenile court proceeding 1395
for a violation of division (A) or (B) of this section, of a 1396
municipal ordinance relating to operating a vehicle while under 1397
the influence of alcohol, a drug of abuse, or alcohol and a drug 1398
of abuse, or of a municipal ordinance relating to operating a 1399
vehicle with a prohibited concentration of alcohol, a controlled 1400

substance, or a metabolite of a controlled substance in the whole 1401
blood, blood serum or plasma, breath, or urine, if a law 1402
enforcement officer has administered a field sobriety test to the 1403
operator of the vehicle involved in the violation and if it is 1404
shown by clear and convincing evidence that the officer 1405
administered the test in substantial compliance with the testing 1406
standards for any reliable, credible, and generally accepted field 1407
sobriety tests that were in effect at the time the tests were 1408
administered, including, but not limited to, any testing standards 1409
then in effect that were set by the national highway traffic 1410
safety administration, all of the following apply: 1411

(i) The officer may testify concerning the results of the 1412
field sobriety test so administered. 1413

(ii) The prosecution may introduce the results of the field 1414
sobriety test so administered as evidence in any proceedings in 1415
the criminal prosecution or juvenile court proceeding. 1416

(iii) If testimony is presented or evidence is introduced 1417
under division (D)(4)(b)(i) or (ii) of this section and if the 1418
testimony or evidence is admissible under the Rules of Evidence, 1419
the court shall admit the testimony or evidence and the trier of 1420
fact shall give it whatever weight the trier of fact considers to 1421
be appropriate. 1422

(c) Division (D)(4)(b) of this section does not limit or 1423
preclude a court, in its determination of whether the arrest of a 1424
person was supported by probable cause or its determination of any 1425
other matter in a criminal prosecution or juvenile court 1426
proceeding of a type described in that division, from considering 1427
evidence or testimony that is not otherwise disallowed by division 1428
(D)(4)(b) of this section. 1429

(E)(1) Subject to division (E)(3) of this section, in any 1430
criminal prosecution or juvenile court proceeding for a violation 1431

of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) 1432
or (B)(1), (2), (3), or (4) of this section or for an equivalent 1433
offense that is substantially equivalent to any of those 1434
divisions, a laboratory report from any laboratory personnel 1435
issued a permit by the department of health authorizing an 1436
analysis as described in this division that contains an analysis 1437
of the whole blood, blood serum or plasma, breath, urine, or other 1438
bodily substance tested and that contains all of the information 1439
specified in this division shall be admitted as prima-facie 1440
evidence of the information and statements that the report 1441
contains. The laboratory report shall contain all of the 1442
following: 1443

(a) The signature, under oath, of any person who performed 1444
the analysis; 1445

(b) Any findings as to the identity and quantity of alcohol, 1446
a drug of abuse, a controlled substance, a metabolite of a 1447
controlled substance, or a combination of them that was found; 1448

(c) A copy of a notarized statement by the laboratory 1449
director or a designee of the director that contains the name of 1450
each certified analyst or test performer involved with the report, 1451
the analyst's or test performer's employment relationship with the 1452
laboratory that issued the report, and a notation that performing 1453
an analysis of the type involved is part of the analyst's or test 1454
performer's regular duties; 1455

(d) An outline of the analyst's or test performer's 1456
education, training, and experience in performing the type of 1457
analysis involved and a certification that the laboratory 1458
satisfies appropriate quality control standards in general and, in 1459
this particular analysis, under rules of the department of health. 1460

(2) Notwithstanding any other provision of law regarding the 1461
admission of evidence, a report of the type described in division 1462

(E)(1) of this section is not admissible against the defendant to 1463
whom it pertains in any proceeding, other than a preliminary 1464
hearing or a grand jury proceeding, unless the prosecutor has 1465
served a copy of the report on the defendant's attorney or, if the 1466
defendant has no attorney, on the defendant. 1467

(3) A report of the type described in division (E)(1) of this 1468
section shall not be prima-facie evidence of the contents, 1469
identity, or amount of any substance if, within seven days after 1470
the defendant to whom the report pertains or the defendant's 1471
attorney receives a copy of the report, the defendant or the 1472
defendant's attorney demands the testimony of the person who 1473
signed the report. The judge in the case may extend the seven-day 1474
time limit in the interest of justice. 1475

(F) Except as otherwise provided in this division, any 1476
physician, registered nurse, emergency medical 1477
technician-intermediate, emergency medical technician-paramedic, 1478
or qualified technician, chemist, or phlebotomist who withdraws 1479
blood from a person pursuant to this section or section 4511.191 1480
or 4511.192 of the Revised Code, and any hospital, first-aid 1481
station, or clinic at which blood is withdrawn from a person 1482
pursuant to this section or section 4511.191 or 4511.192 of the 1483
Revised Code, is immune from criminal liability and civil 1484
liability based upon a claim of assault and battery or any other 1485
claim that is not a claim of malpractice, for any act performed in 1486
withdrawing blood from the person. The immunity provided in this 1487
division also extends to an emergency medical service organization 1488
that employs an emergency medical technician-intermediate or 1489
emergency medical technician-paramedic who withdraws blood under 1490
this section. The immunity provided in this division is not 1491
available to a person who withdraws blood if the person engages in 1492
willful or wanton misconduct. 1493

As used in this division, "emergency medical 1494

technician-intermediate" and "emergency medical 1495
technician-paramedic" have the same meanings as in section 4765.01 1496
of the Revised Code. 1497

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 1498
to (i) or (A)(2) of this section is guilty of operating a vehicle 1499
under the influence of alcohol, a drug of abuse, or a combination 1500
of them. Whoever violates division (A)(1)(j) of this section is 1501
guilty of operating a vehicle while under the influence of a 1502
listed controlled substance or a listed metabolite of a controlled 1503
substance. The court shall sentence the offender for either 1504
offense under Chapter 2929. of the Revised Code, except as 1505
otherwise authorized or required by divisions (G)(1)(a) to (e) of 1506
this section: 1507

(a) Except as otherwise provided in division (G)(1)(b), (c), 1508
(d), or (e) of this section, the offender is guilty of a 1509
misdemeanor of the first degree, and the court shall sentence the 1510
offender to all of the following: 1511

(i) If the sentence is being imposed for a violation of 1512
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1513
mandatory jail term of three consecutive days. As used in this 1514
division, three consecutive days means seventy-two consecutive 1515
hours. The court may sentence an offender to both an intervention 1516
program and a jail term. The court may impose a jail term in 1517
addition to the three-day mandatory jail term or intervention 1518
program. However, in no case shall the cumulative jail term 1519
imposed for the offense exceed six months. 1520

The court may suspend the execution of the three-day jail 1521
term under this division if the court, in lieu of that suspended 1522
term, places the offender under a community control sanction 1523
pursuant to section 2929.25 of the Revised Code and requires the 1524
offender to attend, for three consecutive days, a drivers' 1525
intervention program certified under section 3793.10 of the 1526

Revised Code. The court also may suspend the execution of any part 1527
of the three-day jail term under this division if it places the 1528
offender under a community control sanction pursuant to section 1529
2929.25 of the Revised Code for part of the three days, requires 1530
the offender to attend for the suspended part of the term a 1531
drivers' intervention program so certified, and sentences the 1532
offender to a jail term equal to the remainder of the three 1533
consecutive days that the offender does not spend attending the 1534
program. The court may require the offender, as a condition of 1535
community control and in addition to the required attendance at a 1536
drivers' intervention program, to attend and satisfactorily 1537
complete any treatment or education programs that comply with the 1538
minimum standards adopted pursuant to Chapter 3793. of the Revised 1539
Code by the director of alcohol and drug addiction services that 1540
the operators of the drivers' intervention program determine that 1541
the offender should attend and to report periodically to the court 1542
on the offender's progress in the programs. The court also may 1543
impose on the offender any other conditions of community control 1544
that it considers necessary. 1545

(ii) If the sentence is being imposed for a violation of 1546
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1547
section, except as otherwise provided in this division, a 1548
mandatory jail term of at least three consecutive days and a 1549
requirement that the offender attend, for three consecutive days, 1550
a drivers' intervention program that is certified pursuant to 1551
section 3793.10 of the Revised Code. As used in this division, 1552
three consecutive days means seventy-two consecutive hours. If the 1553
court determines that the offender is not conducive to treatment 1554
in a drivers' intervention program, if the offender refuses to 1555
attend a drivers' intervention program, or if the jail at which 1556
the offender is to serve the jail term imposed can provide a 1557
driver's intervention program, the court shall sentence the 1558
offender to a mandatory jail term of at least six consecutive 1559

days. 1560

The court may require the offender, under a community control 1561
sanction imposed under section 2929.25 of the Revised Code, to 1562
attend and satisfactorily complete any treatment or education 1563
programs that comply with the minimum standards adopted pursuant 1564
to Chapter 3793. of the Revised Code by the director of alcohol 1565
and drug addiction services, in addition to the required 1566
attendance at drivers' intervention program, that the operators of 1567
the drivers' intervention program determine that the offender 1568
should attend and to report periodically to the court on the 1569
offender's progress in the programs. The court also may impose any 1570
other conditions of community control on the offender that it 1571
considers necessary. 1572

(iii) In all cases, a fine of not less than three hundred 1573
seventy-five and not more than one thousand seventy-five dollars; 1574
1575

(iv) In all cases, a class five license suspension of the 1576
offender's driver's or commercial driver's license or permit or 1577
nonresident operating privilege from the range specified in 1578
division (A)(5) of section 4510.02 of the Revised Code. The court 1579
may grant limited driving privileges relative to the suspension 1580
under sections 4510.021 and 4510.13 of the Revised Code. 1581

(b) Except as otherwise provided in division (G)(1)(e) of 1582
this section, an offender who, within six years of the offense, 1583
previously has been convicted of or pleaded guilty to one 1584
violation of division (A) or (B) of this section or one other 1585
equivalent offense is guilty of a misdemeanor of the first degree. 1586
The court shall sentence the offender to all of the following: 1587

(i) If the sentence is being imposed for a violation of 1588
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1589
mandatory jail term of ten consecutive days. The court shall 1590

impose the ten-day mandatory jail term under this division unless, 1591
subject to division (G)(3) of this section, it instead imposes a 1592
sentence under that division consisting of both a jail term and a 1593
term of house arrest with electronic monitoring, with continuous 1594
alcohol monitoring, or with both electronic monitoring and 1595
continuous alcohol monitoring. The court may impose a jail term in 1596
addition to the ten-day mandatory jail term. The cumulative jail 1597
term imposed for the offense shall not exceed six months. 1598

In addition to the jail term or the term of house arrest with 1599
electronic monitoring or continuous alcohol monitoring or both 1600
types of monitoring and jail term, the court shall require the 1601
offender to be assessed by an alcohol and drug treatment program 1602
that is authorized by section 3793.02 of the Revised Code, subject 1603
to division (I) of this section, and shall order the offender to 1604
follow the treatment recommendations of the program. The purpose 1605
of the assessment is to determine the degree of the offender's 1606
alcohol usage and to determine whether or not treatment is 1607
warranted. Upon the request of the court, the program shall submit 1608
the results of the assessment to the court, including all 1609
treatment recommendations and clinical diagnoses related to 1610
alcohol use. 1611

(ii) If the sentence is being imposed for a violation of 1612
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1613
section, except as otherwise provided in this division, a 1614
mandatory jail term of twenty consecutive days. The court shall 1615
impose the twenty-day mandatory jail term under this division 1616
unless, subject to division (G)(3) of this section, it instead 1617
imposes a sentence under that division consisting of both a jail 1618
term and a term of house arrest with electronic monitoring, with 1619
continuous alcohol monitoring, or with both electronic monitoring 1620
and continuous alcohol monitoring. The court may impose a jail 1621
term in addition to the twenty-day mandatory jail term. The 1622

cumulative jail term imposed for the offense shall not exceed six 1623
months. 1624

In addition to the jail term or the term of house arrest with 1625
electronic monitoring or continuous alcohol monitoring or both 1626
types of monitoring and jail term, the court shall require the 1627
offender to be assessed by an alcohol and drug treatment program 1628
that is authorized by section 3793.02 of the Revised Code, subject 1629
to division (I) of this section, and shall order the offender to 1630
follow the treatment recommendations of the program. The purpose 1631
of the assessment is to determine the degree of the offender's 1632
alcohol usage and to determine whether or not treatment is 1633
warranted. Upon the request of the court, the program shall submit 1634
the results of the assessment to the court, including all 1635
treatment recommendations and clinical diagnoses related to 1636
alcohol use. 1637

(iii) In all cases, notwithstanding the fines set forth in 1638
Chapter 2929. of the Revised Code, a fine of not less than five 1639
hundred twenty-five and not more than one thousand six hundred 1640
twenty-five dollars; 1641

(iv) In all cases, a class four license suspension of the 1642
offender's driver's license, commercial driver's license, 1643
temporary instruction permit, probationary license, or nonresident 1644
operating privilege from the range specified in division (A)(4) of 1645
section 4510.02 of the Revised Code. The court may grant limited 1646
driving privileges relative to the suspension under sections 1647
4510.021 and 4510.13 of the Revised Code. 1648

(v) In all cases, if the vehicle is registered in the 1649
offender's name, immobilization of the vehicle involved in the 1650
offense for ninety days in accordance with section 4503.233 of the 1651
Revised Code and impoundment of the license plates of that vehicle 1652
for ninety days. 1653

(c) Except as otherwise provided in division (G)(1)(e) of 1654
this section, an offender who, within six years of the offense, 1655
previously has been convicted of or pleaded guilty to two 1656
violations of division (A) or (B) of this section or other 1657
equivalent offenses is guilty of a misdemeanor. The court shall 1658
sentence the offender to all of the following: 1659

(i) If the sentence is being imposed for a violation of 1660
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1661
mandatory jail term of thirty consecutive days. The court shall 1662
impose the thirty-day mandatory jail term under this division 1663
unless, subject to division (G)(3) of this section, it instead 1664
imposes a sentence under that division consisting of both a jail 1665
term and a term of house arrest with electronic monitoring, with 1666
continuous alcohol monitoring, or with both electronic monitoring 1667
and continuous alcohol monitoring. The court may impose a jail 1668
term in addition to the thirty-day mandatory jail term. 1669
Notwithstanding the jail terms set forth in sections 2929.21 to 1670
2929.28 of the Revised Code, the additional jail term shall not 1671
exceed one year, and the cumulative jail term imposed for the 1672
offense shall not exceed one year. 1673

(ii) If the sentence is being imposed for a violation of 1674
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1675
section, a mandatory jail term of sixty consecutive days. The 1676
court shall impose the sixty-day mandatory jail term under this 1677
division unless, subject to division (G)(3) of this section, it 1678
instead imposes a sentence under that division consisting of both 1679
a jail term and a term of house arrest with electronic monitoring, 1680
with continuous alcohol monitoring, or with both electronic 1681
monitoring and continuous alcohol monitoring. The court may impose 1682
a jail term in addition to the sixty-day mandatory jail term. 1683
Notwithstanding the jail terms set forth in sections 2929.21 to 1684
2929.28 of the Revised Code, the additional jail term shall not 1685

exceed one year, and the cumulative jail term imposed for the 1686
offense shall not exceed one year. 1687

(iii) In all cases, notwithstanding the fines set forth in 1688
Chapter 2929. of the Revised Code, a fine of not less than eight 1689
hundred fifty and not more than two thousand seven hundred fifty 1690
dollars; 1691

(iv) In all cases, a class three license suspension of the 1692
offender's driver's license, commercial driver's license, 1693
temporary instruction permit, probationary license, or nonresident 1694
operating privilege from the range specified in division (A)(3) of 1695
section 4510.02 of the Revised Code. The court may grant limited 1696
driving privileges relative to the suspension under sections 1697
4510.021 and 4510.13 of the Revised Code. 1698

(v) In all cases, if the vehicle is registered in the 1699
offender's name, criminal forfeiture of the vehicle involved in 1700
the offense in accordance with section 4503.234 of the Revised 1701
Code. Division (G)(6) of this section applies regarding any 1702
vehicle that is subject to an order of criminal forfeiture under 1703
this division. 1704

(vi) In all cases, the court shall order the offender to 1705
participate in an alcohol and drug addiction program authorized by 1706
section 3793.02 of the Revised Code, subject to division (I) of 1707
this section, and shall order the offender to follow the treatment 1708
recommendations of the program. The operator of the program shall 1709
determine and assess the degree of the offender's alcohol 1710
dependency and shall make recommendations for treatment. Upon the 1711
request of the court, the program shall submit the results of the 1712
assessment to the court, including all treatment recommendations 1713
and clinical diagnoses related to alcohol use. 1714

(d) Except as otherwise provided in division (G)(1)(e) of 1715
this section, an offender who, within six years of the offense, 1716

previously has been convicted of or pleaded guilty to three or 1717
four violations of division (A) or (B) of this section or other 1718
equivalent offenses or an offender who, within twenty years of the 1719
offense, previously has been convicted of or pleaded guilty to 1720
five or more violations of that nature is guilty of a felony of 1721
the fourth degree. The court shall sentence the offender to all of 1722
the following: 1723

(i) If the sentence is being imposed for a violation of 1724
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1725
mandatory prison term of one, two, three, four, or five years as 1726
required by and in accordance with division (G)(2) of section 1727
2929.13 of the Revised Code if the offender also is convicted of 1728
or also pleads guilty to a specification of the type described in 1729
section 2941.1413 of the Revised Code or, in the discretion of the 1730
court, either a mandatory term of local incarceration of sixty 1731
consecutive days in accordance with division (G)(1) of section 1732
2929.13 of the Revised Code or a mandatory prison term of sixty 1733
consecutive days in accordance with division (G)(2) of that 1734
section if the offender is not convicted of and does not plead 1735
guilty to a specification of that type. If the court imposes a 1736
mandatory term of local incarceration, it may impose a jail term 1737
in addition to the sixty-day mandatory term, the cumulative total 1738
of the mandatory term and the jail term for the offense shall not 1739
exceed one year, and, except as provided in division (A)(1) of 1740
section 2929.13 of the Revised Code, no prison term is authorized 1741
for the offense. If the court imposes a mandatory prison term, 1742
notwithstanding division (A)(4) of section 2929.14 of the Revised 1743
Code, it also may sentence the offender to a definite prison term 1744
that shall be not less than six months and not more than thirty 1745
months and the prison terms shall be imposed as described in 1746
division (G)(2) of section 2929.13 of the Revised Code. If the 1747
court imposes a mandatory prison term or mandatory prison term and 1748
additional prison term, in addition to the term or terms so 1749

imposed, the court also may sentence the offender to a community 1750
control sanction for the offense, but the offender shall serve all 1751
of the prison terms so imposed prior to serving the community 1752
control sanction. 1753

(ii) If the sentence is being imposed for a violation of 1754
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1755
section, a mandatory prison term of one, two, three, four, or five 1756
years as required by and in accordance with division (G)(2) of 1757
section 2929.13 of the Revised Code if the offender also is 1758
convicted of or also pleads guilty to a specification of the type 1759
described in section 2941.1413 of the Revised Code or, in the 1760
discretion of the court, either a mandatory term of local 1761
incarceration of one hundred twenty consecutive days in accordance 1762
with division (G)(1) of section 2929.13 of the Revised Code or a 1763
mandatory prison term of one hundred twenty consecutive days in 1764
accordance with division (G)(2) of that section if the offender is 1765
not convicted of and does not plead guilty to a specification of 1766
that type. If the court imposes a mandatory term of local 1767
incarceration, it may impose a jail term in addition to the one 1768
hundred twenty-day mandatory term, the cumulative total of the 1769
mandatory term and the jail term for the offense shall not exceed 1770
one year, and, except as provided in division (A)(1) of section 1771
2929.13 of the Revised Code, no prison term is authorized for the 1772
offense. If the court imposes a mandatory prison term, 1773
notwithstanding division (A)(4) of section 2929.14 of the Revised 1774
Code, it also may sentence the offender to a definite prison term 1775
that shall be not less than six months and not more than thirty 1776
months and the prison terms shall be imposed as described in 1777
division (G)(2) of section 2929.13 of the Revised Code. If the 1778
court imposes a mandatory prison term or mandatory prison term and 1779
additional prison term, in addition to the term or terms so 1780
imposed, the court also may sentence the offender to a community 1781
control sanction for the offense, but the offender shall serve all 1782

of the prison terms so imposed prior to serving the community 1783
control sanction. 1784

(iii) In all cases, notwithstanding section 2929.18 of the 1785
Revised Code, a fine of not less than one thousand three hundred 1786
fifty nor more than ten thousand five hundred dollars; 1787

(iv) In all cases, a class two license suspension of the 1788
offender's driver's license, commercial driver's license, 1789
temporary instruction permit, probationary license, or nonresident 1790
operating privilege from the range specified in division (A)(2) of 1791
section 4510.02 of the Revised Code. The court may grant limited 1792
driving privileges relative to the suspension under sections 1793
4510.021 and 4510.13 of the Revised Code. 1794

(v) In all cases, if the vehicle is registered in the 1795
offender's name, criminal forfeiture of the vehicle involved in 1796
the offense in accordance with section 4503.234 of the Revised 1797
Code. Division (G)(6) of this section applies regarding any 1798
vehicle that is subject to an order of criminal forfeiture under 1799
this division. 1800

(vi) In all cases, the court shall order the offender to 1801
participate in an alcohol and drug addiction program authorized by 1802
section 3793.02 of the Revised Code, subject to division (I) of 1803
this section, and shall order the offender to follow the treatment 1804
recommendations of the program. The operator of the program shall 1805
determine and assess the degree of the offender's alcohol 1806
dependency and shall make recommendations for treatment. Upon the 1807
request of the court, the program shall submit the results of the 1808
assessment to the court, including all treatment recommendations 1809
and clinical diagnoses related to alcohol use. 1810

(vii) In all cases, if the court sentences the offender to a 1811
mandatory term of local incarceration, in addition to the 1812
mandatory term, the court, pursuant to section 2929.17 of the 1813

Revised Code, may impose a term of house arrest with electronic 1814
monitoring. The term shall not commence until after the offender 1815
has served the mandatory term of local incarceration. 1816

(e) An offender who previously has been convicted of or 1817
pleaded guilty to a violation of division (A) of this section that 1818
was a felony, regardless of when the violation and the conviction 1819
or guilty plea occurred, is guilty of a felony of the third 1820
degree. The court shall sentence the offender to all of the 1821
following: 1822

(i) If the offender is being sentenced for a violation of 1823
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1824
mandatory prison term of one, two, three, four, or five years as 1825
required by and in accordance with division (G)(2) of section 1826
2929.13 of the Revised Code if the offender also is convicted of 1827
or also pleads guilty to a specification of the type described in 1828
section 2941.1413 of the Revised Code or a mandatory prison term 1829
of sixty consecutive days in accordance with division (G)(2) of 1830
section 2929.13 of the Revised Code if the offender is not 1831
convicted of and does not plead guilty to a specification of that 1832
type. The court may impose a prison term in addition to the 1833
mandatory prison term. The cumulative total of a sixty-day 1834
mandatory prison term and the additional prison term for the 1835
offense shall not exceed five years. In addition to the mandatory 1836
prison term or mandatory prison term and additional prison term 1837
the court imposes, the court also may sentence the offender to a 1838
community control sanction for the offense, but the offender shall 1839
serve all of the prison terms so imposed prior to serving the 1840
community control sanction. 1841

(ii) If the sentence is being imposed for a violation of 1842
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1843
section, a mandatory prison term of one, two, three, four, or five 1844
years as required by and in accordance with division (G)(2) of 1845

section 2929.13 of the Revised Code if the offender also is 1846
convicted of or also pleads guilty to a specification of the type 1847
described in section 2941.1413 of the Revised Code or a mandatory 1848
prison term of one hundred twenty consecutive days in accordance 1849
with division (G)(2) of section 2929.13 of the Revised Code if the 1850
offender is not convicted of and does not plead guilty to a 1851
specification of that type. The court may impose a prison term in 1852
addition to the mandatory prison term. The cumulative total of a 1853
one hundred twenty-day mandatory prison term and the additional 1854
prison term for the offense shall not exceed five years. In 1855
addition to the mandatory prison term or mandatory prison term and 1856
additional prison term the court imposes, the court also may 1857
sentence the offender to a community control sanction for the 1858
offense, but the offender shall serve all of the prison terms so 1859
imposed prior to serving the community control sanction. 1860

(iii) In all cases, notwithstanding section 2929.18 of the 1861
Revised Code, a fine of not less than one thousand three hundred 1862
fifty nor more than ten thousand five hundred dollars; 1863

(iv) In all cases, a class two license suspension of the 1864
offender's driver's license, commercial driver's license, 1865
temporary instruction permit, probationary license, or nonresident 1866
operating privilege from the range specified in division (A)(2) of 1867
section 4510.02 of the Revised Code. The court may grant limited 1868
driving privileges relative to the suspension under sections 1869
4510.021 and 4510.13 of the Revised Code. 1870

(v) In all cases, if the vehicle is registered in the 1871
offender's name, criminal forfeiture of the vehicle involved in 1872
the offense in accordance with section 4503.234 of the Revised 1873
Code. Division (G)(6) of this section applies regarding any 1874
vehicle that is subject to an order of criminal forfeiture under 1875
this division. 1876

(vi) In all cases, the court shall order the offender to 1877

participate in an alcohol and drug addiction program authorized by 1878
section 3793.02 of the Revised Code, subject to division (I) of 1879
this section, and shall order the offender to follow the treatment 1880
recommendations of the program. The operator of the program shall 1881
determine and assess the degree of the offender's alcohol 1882
dependency and shall make recommendations for treatment. Upon the 1883
request of the court, the program shall submit the results of the 1884
assessment to the court, including all treatment recommendations 1885
and clinical diagnoses related to alcohol use. 1886

(2) An offender who is convicted of or pleads guilty to a 1887
violation of division (A) of this section and who subsequently 1888
seeks reinstatement of the driver's or occupational driver's 1889
license or permit or nonresident operating privilege suspended 1890
under this section as a result of the conviction or guilty plea 1891
shall pay a reinstatement fee as provided in division (F)(2) of 1892
section 4511.191 of the Revised Code. 1893

(3) If an offender is sentenced to a jail term under division 1894
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 1895
if, within sixty days of sentencing of the offender, the court 1896
issues a written finding on the record that, due to the 1897
unavailability of space at the jail where the offender is required 1898
to serve the term, the offender will not be able to begin serving 1899
that term within the sixty-day period following the date of 1900
sentencing, the court may impose an alternative sentence under 1901
this division that includes a term of house arrest with electronic 1902
monitoring, with continuous alcohol monitoring, or with both 1903
electronic monitoring and continuous alcohol monitoring. 1904

As an alternative to a mandatory jail term of ten consecutive 1905
days required by division (G)(1)(b)(i) of this section, the court, 1906
under this division, may sentence the offender to five consecutive 1907
days in jail and not less than eighteen consecutive days of house 1908
arrest with electronic monitoring, with continuous alcohol 1909

monitoring, or with both electronic monitoring and continuous 1910
alcohol monitoring. The cumulative total of the five consecutive 1911
days in jail and the period of house arrest with electronic 1912
monitoring, continuous alcohol monitoring, or both types of 1913
monitoring shall not exceed six months. The five consecutive days 1914
in jail do not have to be served prior to or consecutively to the 1915
period of house arrest. 1916

As an alternative to the mandatory jail term of twenty 1917
consecutive days required by division (G)(1)(b)(ii) of this 1918
section, the court, under this division, may sentence the offender 1919
to ten consecutive days in jail and not less than thirty-six 1920
consecutive days of house arrest with electronic monitoring, with 1921
continuous alcohol monitoring, or with both electronic monitoring 1922
and continuous alcohol monitoring. The cumulative total of the ten 1923
consecutive days in jail and the period of house arrest with 1924
electronic monitoring, continuous alcohol monitoring, or both 1925
types of monitoring shall not exceed six months. The ten 1926
consecutive days in jail do not have to be served prior to or 1927
consecutively to the period of house arrest. 1928

As an alternative to a mandatory jail term of thirty 1929
consecutive days required by division (G)(1)(c)(i) of this 1930
section, the court, under this division, may sentence the offender 1931
to fifteen consecutive days in jail and not less than fifty-five 1932
consecutive days of house arrest with electronic monitoring, with 1933
continuous alcohol monitoring, or with both electronic monitoring 1934
and continuous alcohol monitoring. The cumulative total of the 1935
fifteen consecutive days in jail and the period of house arrest 1936
with electronic monitoring, continuous alcohol monitoring, or both 1937
types of monitoring shall not exceed one year. The fifteen 1938
consecutive days in jail do not have to be served prior to or 1939
consecutively to the period of house arrest. 1940

As an alternative to the mandatory jail term of sixty 1941

consecutive days required by division (G)(1)(c)(ii) of this 1942
section, the court, under this division, may sentence the offender 1943
to thirty consecutive days in jail and not less than one hundred 1944
ten consecutive days of house arrest with electronic monitoring, 1945
with continuous alcohol monitoring, or with both electronic 1946
monitoring and continuous alcohol monitoring. The cumulative total 1947
of the thirty consecutive days in jail and the period of house 1948
arrest with electronic monitoring, continuous alcohol monitoring, 1949
or both types of monitoring shall not exceed one year. The thirty 1950
consecutive days in jail do not have to be served prior to or 1951
consecutively to the period of house arrest. 1952

(4) If an offender's driver's or occupational driver's 1953
license or permit or nonresident operating privilege is suspended 1954
under division (G) of this section and if section 4510.13 of the 1955
Revised Code permits the court to grant limited driving 1956
privileges, the court may grant the limited driving privileges in 1957
accordance with that section. If division (A)(7) of that section 1958
requires that the court impose as a condition of the privileges 1959
that the offender must display on the vehicle that is driven 1960
subject to the privileges restricted license plates that are 1961
issued under section 4503.231 of the Revised Code, except as 1962
provided in division (B) of that section, the court shall impose 1963
that condition as one of the conditions of the limited driving 1964
privileges granted to the offender, except as provided in division 1965
(B) of section 4503.231 of the Revised Code. 1966

(5) Fines imposed under this section for a violation of 1967
division (A) of this section shall be distributed as follows: 1968

(a) Twenty-five dollars of the fine imposed under division 1969
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 1970
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 1971
fine imposed under division (G)(1)(c)(iii), and two hundred ten 1972
dollars of the fine imposed under division (G)(1)(d)(iii) or 1973

(e)(iii) of this section shall be paid to an enforcement and 1974
education fund established by the legislative authority of the law 1975
enforcement agency in this state that primarily was responsible 1976
for the arrest of the offender, as determined by the court that 1977
imposes the fine. The agency shall use this share to pay only 1978
those costs it incurs in enforcing this section or a municipal OVI 1979
ordinance and in informing the public of the laws governing the 1980
operation of a vehicle while under the influence of alcohol, the 1981
dangers of the operation of a vehicle under the influence of 1982
alcohol, and other information relating to the operation of a 1983
vehicle under the influence of alcohol and the consumption of 1984
alcoholic beverages. 1985

(b) Fifty dollars of the fine imposed under division 1986
(G)(1)(a)(iii) of this section shall be paid to the political 1987
subdivision that pays the cost of housing the offender during the 1988
offender's term of incarceration. If the offender is being 1989
sentenced for a violation of division (A)(1)(a), (b), (c), (d), 1990
(e), or (j) of this section and was confined as a result of the 1991
offense prior to being sentenced for the offense but is not 1992
sentenced to a term of incarceration, the fifty dollars shall be 1993
paid to the political subdivision that paid the cost of housing 1994
the offender during that period of confinement. The political 1995
subdivision shall use the share under this division to pay or 1996
reimburse incarceration or treatment costs it incurs in housing or 1997
providing drug and alcohol treatment to persons who violate this 1998
section or a municipal OVI ordinance, costs of any immobilizing or 1999
disabling device used on the offender's vehicle, and costs of 2000
electronic house arrest equipment needed for persons who violate 2001
this section. 2002

(c) Twenty-five dollars of the fine imposed under division 2003
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 2004
division (G)(1)(b)(iii) of this section shall be deposited into 2005

the county or municipal indigent drivers' alcohol treatment fund 2006
under the control of that court, as created by the county or 2007
municipal corporation under division (F) of section 4511.191 of 2008
the Revised Code. 2009

(d) One hundred fifteen dollars of the fine imposed under 2010
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 2011
fine imposed under division (G)(1)(c)(iii), and four hundred forty 2012
dollars of the fine imposed under division (G)(1)(d)(iii) or 2013
(e)(iii) of this section shall be paid to the political 2014
subdivision that pays the cost of housing the offender during the 2015
offender's term of incarceration. The political subdivision shall 2016
use this share to pay or reimburse incarceration or treatment 2017
costs it incurs in housing or providing drug and alcohol treatment 2018
to persons who violate this section or a municipal OVI ordinance, 2019
costs for any immobilizing or disabling device used on the 2020
offender's vehicle, and costs of electronic house arrest equipment 2021
needed for persons who violate this section. 2022

(e) Fifty dollars of the fine imposed under divisions 2023
(G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), 2024
and (G)(1)(e)(iii) of this section shall be deposited into the 2025
special projects fund of the court in which the offender was 2026
convicted and that is established under division (E)(1) of section 2027
2303.201, division (B)(1) of section 1901.26, or division (B)(1) 2028
of section 1907.24 of the Revised Code, to be used exclusively to 2029
cover the cost of immobilizing or disabling devices, including 2030
certified ignition interlock devices, and remote alcohol 2031
monitoring devices for indigent offenders who are required by a 2032
judge to use either of these devices. If the court in which the 2033
offender was convicted does not have a special projects fund that 2034
is established under division (E)(1) of section 2303.201, division 2035
(B)(1) of section 1901.26, or division (B)(1) of section 1907.24 2036
of the Revised Code, the fifty dollars shall be deposited into the 2037

indigent drivers interlock and alcohol monitoring fund under 2038
division (I) of section 4511.191 of the Revised Code. 2039

2040

(f) Seventy-five dollars of the fine imposed under division 2041
(G)(1)(a)(iii), one hundred twenty-five dollars of the fine 2042
imposed under division (G)(1)(b)(iii), two hundred fifty dollars 2043
of the fine imposed under division (G)(1)(c)(iii), and five 2044
hundred dollars of the fine imposed under division (G)(1)(d)(iii) 2045
or (e)(iii) of this section shall be transmitted to the treasurer 2046
of state for deposit into the indigent defense support fund 2047
established under section 120.08 of the Revised Code. 2048

(g) The balance of the fine imposed under division 2049
(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this 2050
section shall be disbursed as otherwise provided by law. 2051

(6) If title to a motor vehicle that is subject to an order 2052
of criminal forfeiture under division (G)(1)(c), (d), or (e) of 2053
this section is assigned or transferred and division (B)(2) or (3) 2054
of section 4503.234 of the Revised Code applies, in addition to or 2055
independent of any other penalty established by law, the court may 2056
fine the offender the value of the vehicle as determined by 2057
publications of the national auto dealers association. The 2058
proceeds of any fine so imposed shall be distributed in accordance 2059
with division (C)(2) of that section. 2060

(7) As used in division (G) of this section, "electronic 2061
monitoring," "mandatory prison term," and "mandatory term of local 2062
incarceration" have the same meanings as in section 2929.01 of the 2063
Revised Code. 2064

(H) Whoever violates division (B) of this section is guilty 2065
of operating a vehicle after underage alcohol consumption and 2066
shall be punished as follows: 2067

(1) Except as otherwise provided in division (H)(2) of this 2068

section, the offender is guilty of a misdemeanor of the fourth 2069
degree. In addition to any other sanction imposed for the offense, 2070
the court shall impose a class six suspension of the offender's 2071
driver's license, commercial driver's license, temporary 2072
instruction permit, probationary license, or nonresident operating 2073
privilege from the range specified in division (A)(6) of section 2074
4510.02 of the Revised Code. 2075

(2) If, within one year of the offense, the offender 2076
previously has been convicted of or pleaded guilty to one or more 2077
violations of division (A) or (B) of this section or other 2078
equivalent offenses, the offender is guilty of a misdemeanor of 2079
the third degree. In addition to any other sanction imposed for 2080
the offense, the court shall impose a class four suspension of the 2081
offender's driver's license, commercial driver's license, 2082
temporary instruction permit, probationary license, or nonresident 2083
operating privilege from the range specified in division (A)(4) of 2084
section 4510.02 of the Revised Code. 2085

(3) If the offender also is convicted of or also pleads 2086
guilty to a specification of the type described in section 2087
2941.1416 of the Revised Code and if the court imposes a jail term 2088
for the violation of division (B) of this section, the court shall 2089
impose upon the offender an additional definite jail term pursuant 2090
to division (E) of section 2929.24 of the Revised Code. 2091

(I)(1) No court shall sentence an offender to an alcohol 2092
treatment program under this section unless the treatment program 2093
complies with the minimum standards for alcohol treatment programs 2094
adopted under Chapter 3793. of the Revised Code by the director of 2095
alcohol and drug addiction services. 2096

(2) An offender who stays in a drivers' intervention program 2097
or in an alcohol treatment program under an order issued under 2098
this section shall pay the cost of the stay in the program. 2099
However, if the court determines that an offender who stays in an 2100

alcohol treatment program under an order issued under this section 2101
is unable to pay the cost of the stay in the program, the court 2102
may order that the cost be paid from the court's indigent drivers' 2103
alcohol treatment fund. 2104

(J) If a person whose driver's or commercial driver's license 2105
or permit or nonresident operating privilege is suspended under 2106
this section files an appeal regarding any aspect of the person's 2107
trial or sentence, the appeal itself does not stay the operation 2108
of the suspension. 2109

(K) Division (A)(1)(j) of this section does not apply to a 2110
person who operates a vehicle, streetcar, or trackless trolley 2111
while the person has a concentration of a listed controlled 2112
substance or a listed metabolite of a controlled substance in the 2113
person's whole blood, blood serum or plasma, or urine that equals 2114
or exceeds the amount specified in that division, if both of the 2115
following apply: 2116

(1) The person obtained the controlled substance pursuant to 2117
a prescription issued by a licensed health professional authorized 2118
to prescribe drugs. 2119

(2) The person injected, ingested, or inhaled the controlled 2120
substance in accordance with the health professional's directions. 2121

(L) The prohibited concentrations of a controlled substance 2122
or a metabolite of a controlled substance listed in division 2123
(A)(1)(j) of this section also apply in a prosecution of a 2124
violation of division (D) of section 2923.16 of the Revised Code 2125
in the same manner as if the offender is being prosecuted for a 2126
prohibited concentration of alcohol. 2127

(M) All terms defined in section 4510.01 of the Revised Code 2128
apply to this section. If the meaning of a term defined in section 2129
4510.01 of the Revised Code conflicts with the meaning of the same 2130
term as defined in section 4501.01 or 4511.01 of the Revised Code, 2131

the term as defined in section 4510.01 of the Revised Code applies 2132
to this section. 2133

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, 2134
as adopted by the supreme court under authority of section 2937.46 2135
of the Revised Code, do not apply to felony violations of this 2136
section. Subject to division (N)(2) of this section, the Rules of 2137
Criminal Procedure apply to felony violations of this section. 2138

(2) If, on or after January 1, 2004, the supreme court 2139
modifies the Ohio Traffic Rules to provide procedures to govern 2140
felony violations of this section, the modified rules shall apply 2141
to felony violations of this section. 2142

Sec. 4765.38. (A) An emergency medical 2143
technician-intermediate shall perform the emergency medical 2144
services described in this section in accordance with this chapter 2145
and any rules adopted under it. 2146

(B) An EMT-I may do any of the following: 2147

(1) Establish and maintain an intravenous lifeline that has 2148
been approved by a cooperating physician or physician advisory 2149
board; 2150

(2) Perform cardiac monitoring; 2151

(3) Perform electrical interventions to support or correct 2152
the cardiac function; 2153

(4) Administer epinephrine; 2154

(5) Determine triage of adult and pediatric trauma victims; 2155

(6) Perform any other emergency medical services approved 2156
pursuant to rules adopted under section 4765.11 of the Revised 2157
Code. 2158

(C)(1) Except as provided in division (C)(2) of this section, 2159
the services described in division (B) of this section shall be 2160

performed by an EMT-I only pursuant to the written or verbal 2161
authorization of a physician or of the cooperating physician 2162
advisory board, or pursuant to an authorization transmitted 2163
through a direct communication device by a physician or registered 2164
nurse designated by a physician. 2165

(2) If communications fail during an emergency situation or 2166
the required response time prohibits communication, an EMT-I may 2167
perform any of the services described in division (B) of this 2168
section, if, in the judgment of the EMT-I, the life of the patient 2169
is in immediate danger. Services performed under these 2170
circumstances shall be performed in accordance with the protocols 2171
for triage of adult and pediatric trauma victims established in 2172
rules adopted under sections 4765.11 and 4765.40 of the Revised 2173
Code and any applicable protocols adopted by the emergency medical 2174
service organization with which the EMT-I is affiliated. 2175

(D) In addition to providing emergency medical services, an 2176
emergency medical technician-intermediate may withdraw blood as 2177
provided under sections 1547.11, 4506.17, and 4511.19 of the 2178
Revised Code. An emergency medical technician-intermediate shall 2179
withdraw blood in accordance with this chapter and any rules 2180
adopted under it by the state board of emergency medical services. 2181

Sec. 4765.39. (A) An emergency medical technician-paramedic 2182
shall perform the emergency medical services described in this 2183
section in accordance with this chapter and any rules adopted 2184
under it. 2185

(B) A paramedic may do any of the following: 2186

(1) Perform cardiac monitoring; 2187

(2) Perform electrical interventions to support or correct 2188
the cardiac function; 2189

(3) Perform airway procedures; 2190

(4) Perform relief of pneumothorax;	2191
(5) Administer appropriate drugs and intravenous fluids;	2192
(6) Determine triage of adult and pediatric trauma victims;	2193
(7) Perform any other emergency medical services, including	2194
life support or intensive care techniques, approved pursuant to	2195
rules adopted under section 4765.11 of the Revised Code.	2196
(C)(1) Except as provided in division (C)(2) of this section,	2197
the services described in division (B) of this section shall be	2198
performed by a paramedic only pursuant to the written or verbal	2199
authorization of a physician or of the cooperating physician	2200
advisory board, or pursuant to an authorization transmitted	2201
through a direct communication device by a physician or registered	2202
nurse designated by a physician.	2203
(2) If communications fail during an emergency situation or	2204
the required response time prohibits communication, a paramedic	2205
may perform any of the services described in division (B) of this	2206
section, if, in the paramedic's judgment, the life of the patient	2207
is in immediate danger. Services performed under these	2208
circumstances shall be performed in accordance with the protocols	2209
for triage of adult and pediatric trauma victims established in	2210
rules adopted under sections 4765.11 and 4765.40 of the Revised	2211
Code and any applicable protocols adopted by the emergency medical	2212
service organization with which the paramedic is affiliated.	2213
<u>(D) In addition to providing emergency medical services,</u>	2214
<u>emergency medical technician-paramedic may withdraw blood as</u>	2215
<u>provided under sections 1547.11, 4506.17, and 4511.19 of the</u>	2216
<u>Revised Code. An emergency medical technician-paramedic shall</u>	2217
<u>withdraw blood in accordance with this chapter and any rules</u>	2218
<u>adopted under it by the state board of emergency medical services.</u>	2219
Section 2. That existing sections 1547.11, 2919.25, 2929.13,	2220

4506.17, 4511.19, 4765.38, and 4765.39 of the Revised Code are 2221
hereby repealed. 2222

Section 3. Section 2929.13 of the Revised Code is presented 2223
in this act as a composite of the section as amended by both Am. 2224
Sub. H.B. 130 and Am. Sub. H.B. 280 of the 127th General Assembly. 2225
The General Assembly, applying the principle stated in division 2226
(B) of section 1.52 of the Revised Code that amendments are to be 2227
harmonized if reasonably capable of simultaneous operation, finds 2228
that the composite is the resulting version of the section in 2229
effect prior to the effective date of the section as presented in 2230
this act. 2231