

**As Reported by the House Criminal Justice Committee**

**128th General Assembly**

**Regular Session**

**2009-2010**

**Sub. S. B. No. 58**

**Senator Hughes**

**Cosponsors: Senators Schaffer, Wagoner, Grendell, Gibbs, Harris, Husted,**

**Patton, Stewart, Turner, Wilson**

—

**A BILL**

To amend sections 109.561, 1547.11, 2919.25, 2929.13, 1  
2933.82, 4506.17, 4511.19, 4765.38, and 4765.39 2  
and to enact section 2927.15 of the Revised Code 3  
to prohibit a person from collecting any bodily 4  
substance of another person without privilege or 5  
consent to do so, to correct erroneous 6  
cross-references in provisions enacted in Am. Sub. 7  
H.B. 280 of the 127th General Assembly regarding 8  
increased penalties for domestic violence 9  
committed against a pregnant woman, to permit 10  
emergency medical technicians-intermediate and 11  
emergency medical technicians-paramedic to 12  
withdraw blood for the purposes of the watercraft 13  
or vehicle OVI law or the commercial motor vehicle 14  
law, to require the office of the attorney general 15  
to administer and conduct preservation of 16  
biological evidence training, and to add a 17  
representative from the Division of Criminal 18  
Justice Services to the Biological Evidence Task 19  
Force. 20

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

**Section 1.** That sections 109.561, 1547.11, 2919.25, 2929.13, 21  
2933.82, 4506.17, 4511.19, 4765.38, and 4765.39 be amended and 22  
section 2927.15 of the Revised Code be enacted to read as follows: 23

**Sec. 109.561.** There is hereby established within the bureau 24  
of criminal identification and investigation a preservation of 25  
biological evidence task force. The task force shall consist of 26  
officers and employees of the bureau; a representative from the 27  
Ohio prosecutors association; a representative from the Ohio state 28  
coroners association; a representative from the Ohio association 29  
of chiefs of police; a representative from the Ohio public 30  
defenders office, in consultation with the Ohio innocence project; 31  
a representative from the division of criminal justice services of 32  
the department of public safety; and a representative from the 33  
buckeye state sheriffs association. The task force shall perform 34  
the duties and functions specified in division (C) of section 35  
2933.82 of the Revised Code. 36

**Sec. 1547.11.** (A) No person shall operate or be in physical 37  
control of any vessel underway or shall manipulate any water skis, 38  
aquaplane, or similar device on the waters in this state if, at 39  
the time of the operation, control, or manipulation, any of the 40  
following applies: 41

(1) The person is under the influence of alcohol, a drug of 42  
abuse, or a combination of them. 43

(2) The person has a concentration of eight-hundredths of one 44  
per cent or more by weight of alcohol per unit volume in the 45  
person's whole blood. 46

(3) The person has a concentration of ninety-six-thousandths 47  
of one per cent or more by weight per unit volume of alcohol in 48  
the person's blood serum or plasma. 49

(4) The person has a concentration of eleven-hundredths of 50  
one gram or more by weight of alcohol per one hundred milliliters 51  
of the person's urine. 52

(5) The person has a concentration of eight-hundredths of one 53  
gram or more by weight of alcohol per two hundred ten liters of 54  
the person's breath. 55

(6) Except as provided in division (H) of this section, the 56  
person has a concentration of any of the following controlled 57  
substances or metabolites of a controlled substance in the 58  
person's whole blood, blood serum or plasma, or urine that equals 59  
or exceeds any of the following: 60

(a) The person has a concentration of amphetamine in the 61  
person's urine of at least five hundred nanograms of amphetamine 62  
per milliliter of the person's urine or has a concentration of 63  
amphetamine in the person's whole blood or blood serum or plasma 64  
of at least one hundred nanograms of amphetamine per milliliter of 65  
the person's whole blood or blood serum or plasma. 66

(b) The person has a concentration of cocaine in the person's 67  
urine of at least one hundred fifty nanograms of cocaine per 68  
milliliter of the person's urine or has a concentration of cocaine 69  
in the person's whole blood or blood serum or plasma of at least 70  
fifty nanograms of cocaine per milliliter of the person's whole 71  
blood or blood serum or plasma. 72

(c) The person has a concentration of cocaine metabolite in 73  
the person's urine of at least one hundred fifty nanograms of 74  
cocaine metabolite per milliliter of the person's urine or has a 75  
concentration of cocaine metabolite in the person's whole blood or 76  
blood serum or plasma of at least fifty nanograms of cocaine 77  
metabolite per milliliter of the person's whole blood or blood 78  
serum or plasma. 79

(d) The person has a concentration of heroin in the person's 80

urine of at least two thousand nanograms of heroin per milliliter 81  
of the person's urine or has a concentration of heroin in the 82  
person's whole blood or blood serum or plasma of at least fifty 83  
nanograms of heroin per milliliter of the person's whole blood or 84  
blood serum or plasma. 85

(e) The person has a concentration of heroin metabolite 86  
(6-monoacetyl morphine) in the person's urine of at least ten 87  
nanograms of heroin metabolite (6-monoacetyl morphine) per 88  
milliliter of the person's urine or has a concentration of heroin 89  
metabolite (6-monoacetyl morphine) in the person's whole blood or 90  
blood serum or plasma of at least ten nanograms of heroin 91  
metabolite (6-monoacetyl morphine) per milliliter of the person's 92  
whole blood or blood serum or plasma. 93

(f) The person has a concentration of L.S.D. in the person's 94  
urine of at least twenty-five nanograms of L.S.D. per milliliter 95  
of the person's urine or has a concentration of L.S.D. in the 96  
person's whole blood or blood serum or plasma of at least ten 97  
nanograms of L.S.D. per milliliter of the person's whole blood or 98  
blood serum or plasma. 99

(g) The person has a concentration of marihuana in the 100  
person's urine of at least ten nanograms of marihuana per 101  
milliliter of the person's urine or has a concentration of 102  
marihuana in the person's whole blood or blood serum or plasma of 103  
at least two nanograms of marihuana per milliliter of the person's 104  
whole blood or blood serum or plasma. 105

(h) The state board of pharmacy has adopted a rule pursuant 106  
to section 4729.041 of the Revised Code that specifies the amount 107  
of salvia divinorum and the amount of salvinorin A that constitute 108  
concentrations of salvia divinorum and salvinorin A in a person's 109  
urine, in a person's whole blood, or in a person's blood serum or 110  
plasma at or above which the person is impaired for purposes of 111  
operating or being in physical control of any vessel underway or 112

manipulating any water skis, aquaplane, or similar device on the 113  
waters of this state, the rule is in effect, and the person has a 114  
concentration of salvia divinorum or salvinorin A of at least that 115  
amount so specified by rule in the person's urine, in the person's 116  
whole blood, or in the person's blood serum or plasma. 117

(i) Either of the following applies: 118

(i) The person is under the influence of alcohol, a drug of 119  
abuse, or a combination of them, and, as measured by gas 120  
chromatography mass spectrometry, the person has a concentration 121  
of marihuana metabolite in the person's urine of at least fifteen 122  
nanograms of marihuana metabolite per milliliter of the person's 123  
urine or has a concentration of marihuana metabolite in the 124  
person's whole blood or blood serum or plasma of at least five 125  
nanograms of marihuana metabolite per milliliter of the person's 126  
whole blood or blood serum or plasma. 127

(ii) As measured by gas chromatography mass spectrometry, the 128  
person has a concentration of marihuana metabolite in the person's 129  
urine of at least thirty-five nanograms of marihuana metabolite 130  
per milliliter of the person's urine or has a concentration of 131  
marihuana metabolite in the person's whole blood or blood serum or 132  
plasma of at least fifty nanograms of marihuana metabolite per 133  
milliliter of the person's whole blood or blood serum or plasma. 134

(j) The person has a concentration of methamphetamine in the 135  
person's urine of at least five hundred nanograms of 136  
methamphetamine per milliliter of the person's urine or has a 137  
concentration of methamphetamine in the person's whole blood or 138  
blood serum or plasma of at least one hundred nanograms of 139  
methamphetamine per milliliter of the person's whole blood or 140  
blood serum or plasma. 141

(k) The person has a concentration of phencyclidine in the 142  
person's urine of at least twenty-five nanograms of phencyclidine 143

per milliliter of the person's urine or has a concentration of 144  
phencyclidine in the person's whole blood or blood serum or plasma 145  
of at least ten nanograms of phencyclidine per milliliter of the 146  
person's whole blood or blood serum or plasma. 147

(B) No person under twenty-one years of age shall operate or 148  
be in physical control of any vessel underway or shall manipulate 149  
any water skis, aquaplane, or similar device on the waters in this 150  
state if, at the time of the operation, control, or manipulation, 151  
any of the following applies: 152

(1) The person has a concentration of at least two-hundredths 153  
of one per cent, but less than eight-hundredths of one per cent by 154  
weight per unit volume of alcohol in the person's whole blood. 155

(2) The person has a concentration of at least 156  
three-hundredths of one per cent but less than 157  
ninety-six-thousandths of one per cent by weight per unit volume 158  
of alcohol in the person's blood serum or plasma. 159

(3) The person has a concentration of at least twenty-eight 160  
one-thousandths of one gram, but less than eleven-hundredths of 161  
one gram by weight of alcohol per one hundred milliliters of the 162  
person's urine. 163

(4) The person has a concentration of at least two-hundredths 164  
of one gram, but less than eight-hundredths of one gram by weight 165  
of alcohol per two hundred ten liters of the person's breath. 166

(C) In any proceeding arising out of one incident, a person 167  
may be charged with a violation of division (A)(1) and a violation 168  
of division (B)(1), (2), (3), or (4) of this section, but the 169  
person shall not be convicted of more than one violation of those 170  
divisions. 171

(D)(1)(a) In any criminal prosecution or juvenile court 172  
proceeding for a violation of division (A) or (B) of this section 173  
or for an equivalent offense that is watercraft-related, the 174

result of any test of any blood or urine withdrawn and analyzed at 175  
any health care provider, as defined in section 2317.02 of the 176  
Revised Code, may be admitted with expert testimony to be 177  
considered with any other relevant and competent evidence in 178  
determining the guilt or innocence of the defendant. 179

(b) In any criminal prosecution or juvenile court proceeding 180  
for a violation of division (A) or (B) of this section or for an 181  
equivalent offense that is watercraft-related, the court may admit 182  
evidence on the concentration of alcohol, drugs of abuse, 183  
controlled substances, metabolites of a controlled substance, or a 184  
combination of them in the defendant's or child's whole blood, 185  
blood serum or plasma, urine, or breath at the time of the alleged 186  
violation as shown by chemical analysis of the substance 187  
withdrawn, or specimen taken within three hours of the time of the 188  
alleged violation. The three-hour time limit specified in this 189  
division regarding the admission of evidence does not extend or 190  
affect the two-hour time limit specified in division (C) of 191  
section 1547.111 of the Revised Code as the maximum period of time 192  
during which a person may consent to a chemical test or tests as 193  
described in that section. The court may admit evidence on the 194  
concentration of alcohol, drugs of abuse, or a combination of them 195  
as described in this division when a person submits to a blood, 196  
breath, urine, or other bodily substance test at the request of a 197  
law enforcement officer under section 1547.111 of the Revised Code 198  
or a blood or urine sample is obtained pursuant to a search 199  
warrant. Only a physician, a registered nurse, an emergency 200  
medical technician-intermediate, an emergency medical 201  
technician-paramedic, or a qualified technician, chemist, or 202  
phlebotomist shall withdraw blood for the purpose of determining 203  
the alcohol, drug, controlled substance, metabolite of a 204  
controlled substance, or combination content of the whole blood, 205  
blood serum, or blood plasma. This limitation does not apply to 206  
the taking of breath or urine specimens. A person authorized to 207

withdraw blood under this division may refuse to withdraw blood 208  
under this division if, in that person's opinion, the physical 209  
welfare of the defendant or child would be endangered by 210  
withdrawing blood. 211

The whole blood, blood serum or plasma, urine, or breath 212  
withdrawn under division (D)(1)(b) of this section shall be 213  
analyzed in accordance with methods approved by the director of 214  
health by an individual possessing a valid permit issued by the 215  
director pursuant to section 3701.143 of the Revised Code. 216

(2) In a criminal prosecution or juvenile court proceeding 217  
for a violation of division (A) of this section or for an 218  
equivalent offense that is watercraft-related, if there was at the 219  
time the bodily substance was taken a concentration of less than 220  
the applicable concentration of alcohol specified for a violation 221  
of division (A)(2), (3), (4), or (5) of this section or less than 222  
the applicable concentration of a listed controlled substance or a 223  
listed metabolite of a controlled substance specified for a 224  
violation of division (A)(6) of this section, that fact may be 225  
considered with other competent evidence in determining the guilt 226  
or innocence of the defendant or in making an adjudication for the 227  
child. This division does not limit or affect a criminal 228  
prosecution or juvenile court proceeding for a violation of 229  
division (B) of this section or for a violation of a prohibition 230  
that is substantially equivalent to that division. 231

(3) Upon the request of the person who was tested, the 232  
results of the chemical test shall be made available to the person 233  
or the person's attorney immediately upon completion of the test 234  
analysis. 235

If the chemical test was administered pursuant to division 236  
(D)(1)(b) of this section, the person tested may have a physician, 237  
a registered nurse, or a qualified technician, chemist, or 238  
phlebotomist of the person's own choosing administer a chemical 239



test or tests in addition to any administered at the direction of 240  
a law enforcement officer, and shall be so advised. The failure or 241  
inability to obtain an additional test by a person shall not 242  
preclude the admission of evidence relating to the test or tests 243  
taken at the direction of a law enforcement officer. 244

(E)(1) In any criminal prosecution or juvenile court 245  
proceeding for a violation of division (A) or (B) of this section, 246  
of a municipal ordinance relating to operating or being in 247  
physical control of any vessel underway or to manipulating any 248  
water skis, aquaplane, or similar device on the waters of this 249  
state while under the influence of alcohol, a drug of abuse, or a 250  
combination of them, or of a municipal ordinance relating to 251  
operating or being in physical control of any vessel underway or 252  
to manipulating any water skis, aquaplane, or similar device on 253  
the waters of this state with a prohibited concentration of 254  
alcohol, a controlled substance, or a metabolite of a controlled 255  
substance in the whole blood, blood serum or plasma, breath, or 256  
urine, if a law enforcement officer has administered a field 257  
sobriety test to the operator or person found to be in physical 258  
control of the vessel underway involved in the violation or the 259  
person manipulating the water skis, aquaplane, or similar device 260  
involved in the violation and if it is shown by clear and 261  
convincing evidence that the officer administered the test in 262  
substantial compliance with the testing standards for reliable, 263  
credible, and generally accepted field sobriety tests for vehicles 264  
that were in effect at the time the tests were administered, 265  
including, but not limited to, any testing standards then in 266  
effect that have been set by the national highway traffic safety 267  
administration, that by their nature are not clearly inapplicable 268  
regarding the operation or physical control of vessels underway or 269  
the manipulation of water skis, aquaplanes, or similar devices, 270  
all of the following apply: 271

(a) The officer may testify concerning the results of the field sobriety test so administered. 272  
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(b) The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding. 274  
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(c) If testimony is presented or evidence is introduced under division (E)(1)(a) or (b) of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence, and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate. 277  
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(2) Division (E)(1) of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (E)(1) of this section. 283  
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(F)(1) Subject to division (F)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (A) or (B) of this section or for an equivalent offense that is substantially equivalent to either of those divisions, the court shall admit as prima-facie evidence a laboratory report from any laboratory personnel issued a permit by the department of health authorizing an analysis as described in this division that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division. The laboratory report shall contain all of the following: 290  
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(a) The signature, under oath, of any person who performed 302

the analysis; 303

(b) Any findings as to the identity and quantity of alcohol, 304  
a drug of abuse, a controlled substance, a metabolite of a 305  
controlled substance, or a combination of them that was found; 306

(c) A copy of a notarized statement by the laboratory 307  
director or a designee of the director that contains the name of 308  
each certified analyst or test performer involved with the report, 309  
the analyst's or test performer's employment relationship with the 310  
laboratory that issued the report, and a notation that performing 311  
an analysis of the type involved is part of the analyst's or test 312  
performer's regular duties; 313

(d) An outline of the analyst's or test performer's 314  
education, training, and experience in performing the type of 315  
analysis involved and a certification that the laboratory 316  
satisfies appropriate quality control standards in general and, in 317  
this particular analysis, under rules of the department of health. 318

(2) Notwithstanding any other provision of law regarding the 319  
admission of evidence, a report of the type described in division 320  
(F)(1) of this section is not admissible against the defendant or 321  
child to whom it pertains in any proceeding, other than a 322  
preliminary hearing or a grand jury proceeding, unless the 323  
prosecutor has served a copy of the report on the defendant's or 324  
child's attorney or, if the defendant or child has no attorney, on 325  
the defendant or child. 326

(3) A report of the type described in division (F)(1) of this 327  
section shall not be prima-facie evidence of the contents, 328  
identity, or amount of any substance if, within seven days after 329  
the defendant or child to whom the report pertains or the 330  
defendant's or child's attorney receives a copy of the report, the 331  
defendant or child or the defendant's or child's attorney demands 332  
the testimony of the person who signed the report. The judge in 333

the case may extend the seven-day time limit in the interest of 334  
justice. 335

(G) Except as otherwise provided in this division, any 336  
physician, registered nurse, emergency medical 337  
technician-intermediate, emergency medical technician-paramedic, 338  
or qualified technician, chemist, or phlebotomist who withdraws 339  
blood from a person pursuant to this section or section 1547.111 340  
of the Revised Code, and a hospital, first-aid station, or clinic 341  
at which blood is withdrawn from a person pursuant to this section 342  
or section 1547.111 of the Revised Code, is immune from criminal 343  
and civil liability based upon a claim of assault and battery or 344  
any other claim that is not a claim of malpractice, for any act 345  
performed in withdrawing blood from the person. The immunity 346  
provided in this division also extends to an emergency medical 347  
service organization that employs an emergency medical 348  
technician-intermediate, an emergency medical technician-paramedic 349  
who withdraws blood under this section. The immunity provided in 350  
this division is not available to a person who withdraws blood if 351  
the person engages in willful or wanton misconduct. 352

(H) Division (A)(6) of this section does not apply to a 353  
person who operates or is in physical control of a vessel underway 354  
or manipulates any water skis, aquaplane, or similar device while 355  
the person has a concentration of a listed controlled substance or 356  
a listed metabolite of a controlled substance in the person's 357  
whole blood, blood serum or plasma, or urine that equals or 358  
exceeds the amount specified in that division, if both of the 359  
following apply: 360

(1) The person obtained the controlled substance pursuant to 361  
a prescription issued by a licensed health professional authorized 362  
to prescribe drugs. 363

(2) The person injected, ingested, or inhaled the controlled 364  
substance in accordance with the health professional's directions. 365

(I) As used in this section and section 1547.111 of the Revised Code:	366
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(1) "Equivalent offense" has the same meaning as in section 4511.181 of the Revised Code.	368
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(2) "National highway traffic safety administration" has the same meaning as in section 4511.19 of the Revised Code.	370
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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.	372
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(4) "Controlled substance" and "marihuana" have the same meanings as in section 3719.01 of the Revised Code.	379
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(5) "Cocaine" and "L.S.D." have the same meanings as in section 2925.01 of the Revised Code.	381
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(6) "Equivalent offense that is watercraft-related" means an equivalent offense that is one of the following:	383
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(a) A violation of division (A) or (B) of this section;	385
(b) A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane, or similar device on the waters of this state with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or	386
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urine; 396

(c) A violation of an existing or former municipal ordinance, 397  
law of another state, or law of the United States that is 398  
substantially equivalent to division (A) or (B) of this section; 399

(d) A violation of a former law of this state that was 400  
substantially equivalent to division (A) or (B) of this section. 401

(7) "Emergency medical technician-intermediate" and 402  
"emergency medical technician-paramedic" have the same meanings as 403  
in section 4765.01 of the Revised Code. 404

**Sec. 2919.25.** (A) No person shall knowingly cause or attempt 405  
to cause physical harm to a family or household member. 406

(B) No person shall recklessly cause serious physical harm to 407  
a family or household member. 408

(C) No person, by threat of force, shall knowingly cause a 409  
family or household member to believe that the offender will cause 410  
imminent physical harm to the family or household member. 411

(D)(1) Whoever violates this section is guilty of domestic 412  
violence, and the court shall sentence the offender as provided in 413  
divisions (D)(2) to (6) of this section. 414

(2) Except as otherwise provided in ~~division~~ divisions (D)(3) 415  
to (5) of this section, a violation of division (C) of this 416  
section is a misdemeanor of the fourth degree, and a violation of 417  
division (A) or (B) of this section is a misdemeanor of the first 418  
degree. 419

(3) Except as otherwise provided in division (D)(4) of this 420  
section, if the offender previously has pleaded guilty to or been 421  
convicted of domestic violence, a violation of an existing or 422  
former municipal ordinance or law of this or any other state or 423  
the United States that is substantially similar to domestic 424  
violence, a violation of section 2903.14, 2909.06, 2909.07, 425

2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of 426  
the violation was a family or household member at the time of the 427  
violation, a violation of an existing or former municipal 428  
ordinance or law of this or any other state or the United States 429  
that is substantially similar to any of those sections if the 430  
victim of the violation was a family or household member at the 431  
time of the commission of the violation, or any offense of 432  
violence if the victim of the offense was a family or household 433  
member at the time of the commission of the offense, a violation 434  
of division (A) or (B) of this section is a felony of the fourth 435  
degree, and, if the offender knew that the victim of the violation 436  
was pregnant at the time of the violation, the court shall impose 437  
a mandatory prison term on the offender pursuant to division 438  
~~(A)~~(D)(6) of this section, and a violation of division (C) of this 439  
section is a misdemeanor of the second degree. 440

(4) If the offender previously has pleaded guilty to or been 441  
convicted of two or more offenses of domestic violence or two or 442  
more violations or offenses of the type described in division 443  
(D)(3) of this section involving a person who was a family or 444  
household member at the time of the violations or offenses, a 445  
violation of division (A) or (B) of this section is a felony of 446  
the third degree, and, if the offender knew that the victim of the 447  
violation was pregnant at the time of the violation, the court 448  
shall impose a mandatory prison term on the offender pursuant to 449  
division ~~(A)~~(D)(6) of this section, and a violation of division 450  
(C) of this section is a misdemeanor of the first degree. 451

(5) Except as otherwise provided in division (D)(3) or (4) of 452  
this section, if the offender knew that the victim of the 453  
violation was pregnant at the time of the violation, a violation 454  
of division (A) or (B) of this section is a felony of the fifth 455  
degree, and the court shall impose a mandatory prison term on the 456  
offender pursuant to division ~~(A)~~(D)(6) of this section, and a 457

violation of division (C) of this section is a misdemeanor of the 458  
third degree. 459

(6) If division ~~(A)~~(D)(3), (4), or (5) of this section 460  
requires the court that sentences an offender for a violation of 461  
division (A) or (B) of this section to impose a mandatory prison 462  
term on the offender pursuant to this division, the court shall 463  
impose the mandatory prison term as follows: 464

(a) If the violation of division (A) or (B) of this section 465  
is a felony of the fourth or fifth degree, except as otherwise 466  
provided in division ~~(A)~~(D)(6)(b) or (c) of this section, the 467  
court shall impose a mandatory prison term on the offender of at 468  
least six months. 469

(b) If the violation of division (A) or (B) of this section 470  
is a felony of the fifth degree and the offender, in committing 471  
the violation, caused serious physical harm to the pregnant 472  
woman's unborn or caused the termination of the pregnant woman's 473  
pregnancy, the court shall impose a mandatory prison term on the 474  
offender of twelve months. 475

(c) If the violation of division (A) or (B) of this section 476  
is a felony of the fourth degree and the offender, in committing 477  
the violation, caused serious physical harm to the pregnant 478  
woman's unborn or caused the termination of the pregnant woman's 479  
pregnancy, the court shall impose a mandatory prison term on the 480  
offender of at least twelve months. 481

(d) If the violation of division (A) or (B) of this section 482  
is a felony of the third degree, except as otherwise provided in 483  
division ~~(A)~~(D)(6)(e) of this section and notwithstanding the 484  
range of prison terms prescribed in section 2929.14 of the Revised 485  
Code for a felony of the third degree, the court shall impose a 486  
mandatory prison term on the offender of either a definite term of 487  
six months or one of the prison terms prescribed in section 488



2929.14 of the Revised Code for felonies of the third degree. 489

(e) If the violation of division (A) or (B) of this section 490  
is a felony of the third degree and the offender, in committing 491  
the violation, caused serious physical harm to the pregnant 492  
woman's unborn or caused the termination of the pregnant woman's 493  
pregnancy, notwithstanding the range of prison terms prescribed in 494  
section 2929.14 of the Revised Code for a felony of the third 495  
degree, the court shall impose a mandatory prison term on the 496  
offender of either a definite term of one year or one of the 497  
prison terms prescribed in section 2929.14 of the Revised Code for 498  
felonies of the third degree. 499

(E) Notwithstanding any provision of law to the contrary, no 500  
court or unit of state or local government shall charge any fee, 501  
cost, deposit, or money in connection with the filing of charges 502  
against a person alleging that the person violated this section or 503  
a municipal ordinance substantially similar to this section or in 504  
connection with the prosecution of any charges so filed. 505

(F) As used in this section and sections 2919.251 and 2919.26 506  
of the Revised Code: 507

(1) "Family or household member" means any of the following: 508

(a) Any of the following who is residing or has resided with 509  
the offender: 510

(i) A spouse, a person living as a spouse, or a former spouse 511  
of the offender; 512

(ii) A parent, a foster parent, or a child of the offender, 513  
or another person related by consanguinity or affinity to the 514  
offender; 515

(iii) A parent or a child of a spouse, person living as a 516  
spouse, or former spouse of the offender, or another person 517  
related by consanguinity or affinity to a spouse, person living as 518

a spouse, or former spouse of the offender. 519

(b) The natural parent of any child of whom the offender is 520  
the other natural parent or is the putative other natural parent. 521

(2) "Person living as a spouse" means a person who is living 522  
or has lived with the offender in a common law marital 523  
relationship, who otherwise is cohabiting with the offender, or 524  
who otherwise has cohabited with the offender within five years 525  
prior to the date of the alleged commission of the act in 526  
question. 527

(3) "Pregnant woman's unborn" has the same meaning as "such 528  
other person's unborn," as set forth in section 2903.09 of the 529  
Revised Code, as it relates to the pregnant woman. Division (C) of 530  
that section applies regarding the use of the term in this 531  
section, except that the second and third sentences of division 532  
(C)(1) of that section shall be construed for purposes of this 533  
section as if they included a reference to this section in the 534  
listing of Revised Code sections they contain. 535

(4) "Termination of the pregnant woman's pregnancy" has the 536  
same meaning as "unlawful termination of another's pregnancy," as 537  
set forth in section 2903.09 of the Revised Code, as it relates to 538  
the pregnant woman. Division (C) of that section applies regarding 539  
the use of the term in this section, except that the second and 540  
third sentences of division (C)(1) of that section shall be 541  
construed for purposes of this section as if they included a 542  
reference to this section in the listing of Revised Code sections 543  
they contain. 544

**Sec. 2927.15.** (A) No person shall knowingly collect any 545  
blood, urine, tissue, or other bodily substance of another person 546  
without privilege or consent to do so. 547

(B)(1) Division (A) of this section does not apply to any of 548

the following: 549

(a) The collection of any bodily substance of a person by a 550  
law enforcement officer, or by another person pursuant to the 551  
direction or advice of a law enforcement officer, for purposes of 552  
a chemical test or tests of the substance under division (A)(1) of 553  
section 1547.111 or division (A)(2) of section 4511.191 of the 554  
Revised Code to determine the alcohol, drug, controlled substance, 555  
metabolite of a controlled substance, or combination content of 556  
the bodily substance; 557

(b) The collection of any bodily substance of a person by a 558  
peace officer, or by another person pursuant to the direction or 559  
advice of a peace officer, for purposes of a test or tests of the 560  
substance as provided in division (A) of section 4506.17 of the 561  
Revised Code to determine the person's alcohol concentration or 562  
the presence of any controlled substance or metabolite of a 563  
controlled substance. 564

(2) Division (B)(1) of this section shall not be construed as 565  
implying that the persons identified in divisions (B)(1)(a) and 566  
(b) of this section do not have privilege to collect the bodily 567  
substance of another person as described in those divisions or as 568  
limiting the definition of "privilege" set forth in section 569  
2901.01 of the Revised Code. 570

(C) Whoever violates division (A) of this section is guilty 571  
of unlawful collection of a bodily substance. Except as otherwise 572  
provided in this division, unlawful collection of a bodily 573  
substance is a misdemeanor of the first degree. If the offender 574  
previously has been convicted of or pleaded guilty to a violation 575  
of division (A) of this section, unlawful collection of a bodily 576  
substance is a felony of the fifth degree. 577

**Sec. 2929.13.** (A) Except as provided in division (E), (F), or 578  
(G) of this section and unless a specific sanction is required to 579

be imposed or is precluded from being imposed pursuant to law, a 580  
court that imposes a sentence upon an offender for a felony may 581  
impose any sanction or combination of sanctions on the offender 582  
that are provided in sections 2929.14 to 2929.18 of the Revised 583  
Code. The sentence shall not impose an unnecessary burden on state 584  
or local government resources. 585

If the offender is eligible to be sentenced to community 586  
control sanctions, the court shall consider the appropriateness of 587  
imposing a financial sanction pursuant to section 2929.18 of the 588  
Revised Code or a sanction of community service pursuant to 589  
section 2929.17 of the Revised Code as the sole sanction for the 590  
offense. Except as otherwise provided in this division, if the 591  
court is required to impose a mandatory prison term for the 592  
offense for which sentence is being imposed, the court also shall 593  
impose any financial sanction pursuant to section 2929.18 of the 594  
Revised Code that is required for the offense and may impose any 595  
other financial sanction pursuant to that section but may not 596  
impose any additional sanction or combination of sanctions under 597  
section 2929.16 or 2929.17 of the Revised Code. 598

If the offender is being sentenced for a fourth degree felony 599  
OVI offense or for a third degree felony OVI offense, in addition 600  
to the mandatory term of local incarceration or the mandatory 601  
prison term required for the offense by division (G)(1) or (2) of 602  
this section, the court shall impose upon the offender a mandatory 603  
fine in accordance with division (B)(3) of section 2929.18 of the 604  
Revised Code and may impose whichever of the following is 605  
applicable: 606

(1) For a fourth degree felony OVI offense for which sentence 607  
is imposed under division (G)(1) of this section, an additional 608  
community control sanction or combination of community control 609  
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 610  
the court imposes upon the offender a community control sanction 611

and the offender violates any condition of the community control 612  
sanction, the court may take any action prescribed in division (B) 613  
of section 2929.15 of the Revised Code relative to the offender, 614  
including imposing a prison term on the offender pursuant to that 615  
division. 616

(2) For a third or fourth degree felony OVI offense for which 617  
sentence is imposed under division (G)(2) of this section, an 618  
additional prison term as described in division (D)(4) of section 619  
2929.14 of the Revised Code or a community control sanction as 620  
described in division (G)(2) of this section. 621

(B)(1) Except as provided in division (B)(2), (E), (F), or 622  
(G) of this section, in sentencing an offender for a felony of the 623  
fourth or fifth degree, the sentencing court shall determine 624  
whether any of the following apply: 625

(a) In committing the offense, the offender caused physical 626  
harm to a person. 627

(b) In committing the offense, the offender attempted to 628  
cause or made an actual threat of physical harm to a person with a 629  
deadly weapon. 630

(c) In committing the offense, the offender attempted to 631  
cause or made an actual threat of physical harm to a person, and 632  
the offender previously was convicted of an offense that caused 633  
physical harm to a person. 634

(d) The offender held a public office or position of trust 635  
and the offense related to that office or position; the offender's 636  
position obliged the offender to prevent the offense or to bring 637  
those committing it to justice; or the offender's professional 638  
reputation or position facilitated the offense or was likely to 639  
influence the future conduct of others. 640

(e) The offender committed the offense for hire or as part of 641  
an organized criminal activity. 642

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

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

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

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

(2)(a) If the court makes 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 prison term is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code and finds that the offender is not amenable to an available community control sanction, the court shall impose a prison term upon the offender.

(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 674  
that is a violation of a provision of Chapter 2925. of the Revised 675  
Code and that is specified as being subject to this division for 676  
purposes of sentencing, the sentencing court shall comply with the 677  
purposes and principles of sentencing under section 2929.11 of the 678  
Revised Code and with section 2929.12 of the Revised Code. 679

(D)(1) Except as provided in division (E) or (F) of this 680  
section, for a felony of the first or second degree, for a felony 681  
drug offense that is a violation of any provision of Chapter 682  
2925., 3719., or 4729. of the Revised Code for which a presumption 683  
in favor of a prison term is specified as being applicable, and 684  
for a violation of division (A)(4) or (B) of section 2907.05 of 685  
the Revised Code for which a presumption in favor of a prison term 686  
is specified as being applicable, it is presumed that a prison 687  
term is necessary in order to comply with the purposes and 688  
principles of sentencing under section 2929.11 of the Revised 689  
Code. Division (D)(2) of this section does not apply to a 690  
presumption established under this division for a violation of 691  
division (A)(4) of section 2907.05 of the Revised Code. 692

(2) Notwithstanding the presumption established under 693  
division (D)(1) of this section for the offenses listed in that 694  
division other than a violation of division (A)(4) or (B) of 695  
section 2907.05 of the Revised Code, the sentencing court may 696  
impose a community control sanction or a combination of community 697  
control sanctions instead of a prison term on an offender for a 698  
felony of the first or second degree or for a felony drug offense 699  
that is a violation of any provision of Chapter 2925., 3719., or 700  
4729. of the Revised Code for which a presumption in favor of a 701  
prison term is specified as being applicable if it makes both of 702  
the following findings: 703

(a) A community control sanction or a combination of 704  
community control sanctions would adequately punish the offender 705

and protect the public from future crime, because the applicable 706  
factors under section 2929.12 of the Revised Code indicating a 707  
lesser likelihood of recidivism outweigh the applicable factors 708  
under that section indicating a greater likelihood of recidivism. 709

(b) A community control sanction or a combination of 710  
community control sanctions would not demean the seriousness of 711  
the offense, because one or more factors under section 2929.12 of 712  
the Revised Code that indicate that the offender's conduct was 713  
less serious than conduct normally constituting the offense are 714  
applicable, and they outweigh the applicable factors under that 715  
section that indicate that the offender's conduct was more serious 716  
than conduct normally constituting the offense. 717

(E)(1) Except as provided in division (F) of this section, 718  
for any drug offense that is a violation of any provision of 719  
Chapter 2925. of the Revised Code and that is a felony of the 720  
third, fourth, or fifth degree, the applicability of a presumption 721  
under division (D) of this section in favor of a prison term or of 722  
division (B) or (C) of this section in determining whether to 723  
impose a prison term for the offense shall be determined as 724  
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 725  
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 726  
Revised Code, whichever is applicable regarding the violation. 727

(2) If an offender who was convicted of or pleaded guilty to 728  
a felony violates the conditions of a community control sanction 729  
imposed for the offense solely by reason of producing positive 730  
results on a drug test, the court, as punishment for the violation 731  
of the sanction, shall not order that the offender be imprisoned 732  
unless the court determines on the record either of the following: 733

(a) The offender had been ordered as a sanction for the 734  
felony to participate in a drug treatment program, in a drug 735  
education program, or in narcotics anonymous or a similar program, 736  
and the offender continued to use illegal drugs after a reasonable 737



period of participation in the program. 738

(b) The imprisonment of the offender for the violation is 739  
consistent with the purposes and principles of sentencing set 740  
forth in section 2929.11 of the Revised Code. 741

(3) A court that sentences an offender for a drug abuse 742  
offense that is a felony of the third, fourth, or fifth degree may 743  
require that the offender be assessed by a properly credentialed 744  
professional within a specified period of time. The court shall 745  
require the professional to file a written assessment of the 746  
offender with the court. If the offender is eligible for a 747  
community control sanction and after considering the written 748  
assessment, the court may impose a community control sanction that 749  
includes treatment and recovery support services authorized by 750  
section 3793.02 of the Revised Code. If the court imposes 751  
treatment and recovery support services as a community control 752  
sanction, the court shall direct the level and type of treatment 753  
and recovery support services after considering the assessment and 754  
recommendation of treatment and recovery support services 755  
providers. 756

(F) Notwithstanding divisions (A) to (E) of this section, the 757  
court shall impose a prison term or terms under sections 2929.02 758  
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 759  
of the Revised Code and except as specifically provided in section 760  
2929.20 or 2967.191 of the Revised Code or when parole is 761  
authorized for the offense under section 2967.13 of the Revised 762  
Code shall not reduce the term or terms pursuant to section 763  
2929.20, section 2967.193, or any other provision of Chapter 2967. 764  
or Chapter 5120. of the Revised Code for any of the following 765  
offenses: 766

(1) Aggravated murder when death is not imposed or murder; 767

(2) Any rape, regardless of whether force was involved and 768

regardless of the age of the victim, or an attempt to commit rape 769  
if, had the offender completed the rape that was attempted, the 770  
offender would have been guilty of a violation of division 771  
(A)(1)(b) of section 2907.02 of the Revised Code and would be 772  
sentenced under section 2971.03 of the Revised Code; 773

(3) Gross sexual imposition or sexual battery, if the victim 774  
is less than thirteen years of age and if any of the following 775  
applies: 776

(a) Regarding gross sexual imposition, the offender 777  
previously was convicted of or pleaded guilty to rape, the former 778  
offense of felonious sexual penetration, gross sexual imposition, 779  
or sexual battery, and the victim of the previous offense was less 780  
than thirteen years of age; 781

(b) Regarding gross sexual imposition, the offense was 782  
committed on or after August 3, 2006, and evidence other than the 783  
testimony of the victim was admitted in the case corroborating the 784  
violation. 785

(c) Regarding sexual battery, either of the following 786  
applies: 787

(i) The offense was committed prior to August 3, 2006, the 788  
offender previously was convicted of or pleaded guilty to rape, 789  
the former offense of felonious sexual penetration, or sexual 790  
battery, and the victim of the previous offense was less than 791  
thirteen years of age. 792

(ii) The offense was committed on or after August 3, 2006. 793

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 794  
2903.11, 2903.12, 2903.13, or 2907.07 of the Revised Code if the 795  
section requires the imposition of a prison term; 796

(5) A first, second, or third degree felony drug offense for 797  
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 798

2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 799  
4729.99 of the Revised Code, whichever is applicable regarding the 800  
violation, requires the imposition of a mandatory prison term; 801

(6) Any offense that is a first or second degree felony and 802  
that is not set forth in division (F)(1), (2), (3), or (4) of this 803  
section, if the offender previously was convicted of or pleaded 804  
guilty to aggravated murder, murder, any first or second degree 805  
felony, or an offense under an existing or former law of this 806  
state, another state, or the United States that is or was 807  
substantially equivalent to one of those offenses; 808

(7) Any offense that is a third degree felony and either is a 809  
violation of section 2903.04 of the Revised Code or an attempt to 810  
commit a felony of the second degree that is an offense of 811  
violence and involved an attempt to cause serious physical harm to 812  
a person or that resulted in serious physical harm to a person if 813  
the offender previously was convicted of or pleaded guilty to any 814  
of the following offenses: 815

(a) Aggravated murder, murder, involuntary manslaughter, 816  
rape, felonious sexual penetration as it existed under section 817  
2907.12 of the Revised Code prior to September 3, 1996, a felony 818  
of the first or second degree that resulted in the death of a 819  
person or in physical harm to a person, or complicity in or an 820  
attempt to commit any of those offenses; 821

(b) An offense under an existing or former law of this state, 822  
another state, or the United States that is or was substantially 823  
equivalent to an offense listed in division (F)(7)(a) of this 824  
section that resulted in the death of a person or in physical harm 825  
to a person. 826

(8) Any offense, other than a violation of section 2923.12 of 827  
the Revised Code, that is a felony, if the offender had a firearm 828  
on or about the offender's person or under the offender's control 829

while committing the felony, with respect to a portion of the 830  
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 831  
of the Revised Code for having the firearm; 832

(9) Any offense of violence that is a felony, if the offender 833  
wore or carried body armor while committing the felony offense of 834  
violence, with respect to the portion of the sentence imposed 835  
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 836  
Code for wearing or carrying the body armor; 837

(10) Corrupt activity in violation of section 2923.32 of the 838  
Revised Code when the most serious offense in the pattern of 839  
corrupt activity that is the basis of the offense is a felony of 840  
the first degree; 841

(11) Any violent sex offense or designated homicide, assault, 842  
or kidnapping offense if, in relation to that offense, the 843  
offender is adjudicated a sexually violent predator; 844

(12) A violation of division (A)(1) or (2) of section 2921.36 845  
of the Revised Code, or a violation of division (C) of that 846  
section involving an item listed in division (A)(1) or (2) of that 847  
section, if the offender is an officer or employee of the 848  
department of rehabilitation and correction; 849

(13) A violation of division (A)(1) or (2) of section 2903.06 850  
of the Revised Code if the victim of the offense is a peace 851  
officer, as defined in section 2935.01 of the Revised Code, or an 852  
investigator of the bureau of criminal identification and 853  
investigation, as defined in section 2903.11 of the Revised Code, 854  
with respect to the portion of the sentence imposed pursuant to 855  
division (D)(5) of section 2929.14 of the Revised Code; 856

(14) A violation of division (A)(1) or (2) of section 2903.06 857  
of the Revised Code if the offender has been convicted of or 858  
pleaded guilty to three or more violations of division (A) or (B) 859  
of section 4511.19 of the Revised Code or an equivalent offense, 860

as defined in section 2941.1415 of the Revised Code, or three or 861  
more violations of any combination of those divisions and 862  
offenses, with respect to the portion of the sentence imposed 863  
pursuant to division (D)(6) of section 2929.14 of the Revised 864  
Code; 865

(15) Kidnapping, in the circumstances specified in section 866  
2971.03 of the Revised Code and when no other provision of 867  
division (F) of this section applies; 868

(16) Kidnapping, abduction, compelling prostitution, 869  
promoting prostitution, engaging in a pattern of corrupt activity, 870  
illegal use of a minor in a nudity-oriented material or 871  
performance in violation of division (A)(1) or (2) of section 872  
2907.323 of the Revised Code, or endangering children in violation 873  
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 874  
the Revised Code, if the offender is convicted of or pleads guilty 875  
to a specification as described in section 2941.1422 of the 876  
Revised Code that was included in the indictment, count in the 877  
indictment, or information charging the offense; 878

(17) A felony violation of division (A) or (B) of section 879  
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 880  
that section, and division ~~(A)~~(D)(6) of that section, require the 881  
imposition of a prison term; 882

(18) A felony violation of section 2903.11, 2903.12, or 883  
2903.13 of the Revised Code, if the victim of the offense was a 884  
woman that the offender knew was pregnant at the time of the 885  
violation, with respect to a portion of the sentence imposed 886  
pursuant to division (D)(8) of section 2929.14 of the Revised 887  
Code. 888

(G) Notwithstanding divisions (A) to (E) of this section, if 889  
an offender is being sentenced for a fourth degree felony OVI 890  
offense or for a third degree felony OVI offense, the court shall 891

impose upon the offender a mandatory term of local incarceration 892  
or a mandatory prison term in accordance with the following: 893

(1) If the offender is being sentenced for a fourth degree 894  
felony OVI offense and if the offender has not been convicted of 895  
and has not pleaded guilty to a specification of the type 896  
described in section 2941.1413 of the Revised Code, the court may 897  
impose upon the offender a mandatory term of local incarceration 898  
of sixty days or one hundred twenty days as specified in division 899  
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 900  
not reduce the term pursuant to section 2929.20, 2967.193, or any 901  
other provision of the Revised Code. The court that imposes a 902  
mandatory term of local incarceration under this division shall 903  
specify whether the term is to be served in a jail, a 904  
community-based correctional facility, a halfway house, or an 905  
alternative residential facility, and the offender shall serve the 906  
term in the type of facility specified by the court. A mandatory 907  
term of local incarceration imposed under division (G)(1) of this 908  
section is not subject to any other Revised Code provision that 909  
pertains to a prison term except as provided in division (A)(1) of 910  
this section. 911

(2) If the offender is being sentenced for a third degree 912  
felony OVI offense, or if the offender is being sentenced for a 913  
fourth degree felony OVI offense and the court does not impose a 914  
mandatory term of local incarceration under division (G)(1) of 915  
this section, the court shall impose upon the offender a mandatory 916  
prison term of one, two, three, four, or five years if the 917  
offender also is convicted of or also pleads guilty to a 918  
specification of the type described in section 2941.1413 of the 919  
Revised Code or shall impose upon the offender a mandatory prison 920  
term of sixty days or one hundred twenty days as specified in 921  
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 922  
if the offender has not been convicted of and has not pleaded 923

guilty to a specification of that type. The court shall not reduce 924  
the term pursuant to section 2929.20, 2967.193, or any other 925  
provision of the Revised Code. The offender shall serve the one-, 926  
two-, three-, four-, or five-year mandatory prison term 927  
consecutively to and prior to the prison term imposed for the 928  
underlying offense and consecutively to any other mandatory prison 929  
term imposed in relation to the offense. In no case shall an 930  
offender who once has been sentenced to a mandatory term of local 931  
incarceration pursuant to division (G)(1) of this section for a 932  
fourth degree felony OVI offense be sentenced to another mandatory 933  
term of local incarceration under that division for any violation 934  
of division (A) of section 4511.19 of the Revised Code. In 935  
addition to the mandatory prison term described in division (G)(2) 936  
of this section, the court may sentence the offender to a 937  
community control sanction under section 2929.16 or 2929.17 of the 938  
Revised Code, but the offender shall serve the prison term prior 939  
to serving the community control sanction. The department of 940  
rehabilitation and correction may place an offender sentenced to a 941  
mandatory prison term under this division in an intensive program 942  
prison established pursuant to section 5120.033 of the Revised 943  
Code if the department gave the sentencing judge prior notice of 944  
its intent to place the offender in an intensive program prison 945  
established under that section and if the judge did not notify the 946  
department that the judge disapproved the placement. Upon the 947  
establishment of the initial intensive program prison pursuant to 948  
section 5120.033 of the Revised Code that is privately operated 949  
and managed by a contractor pursuant to a contract entered into 950  
under section 9.06 of the Revised Code, both of the following 951  
apply: 952

(a) The department of rehabilitation and correction shall 953  
make a reasonable effort to ensure that a sufficient number of 954  
offenders sentenced to a mandatory prison term under this division 955  
are placed in the privately operated and managed prison so that 956

the privately operated and managed prison has full occupancy. 957

(b) Unless the privately operated and managed prison has full 958  
occupancy, the department of rehabilitation and correction shall 959  
not place any offender sentenced to a mandatory prison term under 960  
this division in any intensive program prison established pursuant 961  
to section 5120.033 of the Revised Code other than the privately 962  
operated and managed prison. 963

(H) If an offender is being sentenced for a sexually oriented 964  
offense or child-victim oriented offense that is a felony 965  
committed on or after January 1, 1997, the judge shall require the 966  
offender to submit to a DNA specimen collection procedure pursuant 967  
to section 2901.07 of the Revised Code. 968

(I) If an offender is being sentenced for a sexually oriented 969  
offense or a child-victim oriented offense committed on or after 970  
January 1, 1997, the judge shall include in the sentence a summary 971  
of the offender's duties imposed under sections 2950.04, 2950.041, 972  
2950.05, and 2950.06 of the Revised Code and the duration of the 973  
duties. The judge shall inform the offender, at the time of 974  
sentencing, of those duties and of their duration. If required 975  
under division (A)(2) of section 2950.03 of the Revised Code, the 976  
judge shall perform the duties specified in that section, or, if 977  
required under division (A)(6) of section 2950.03 of the Revised 978  
Code, the judge shall perform the duties specified in that 979  
division. 980

(J)(1) Except as provided in division (J)(2) of this section, 981  
when considering sentencing factors under this section in relation 982  
to an offender who is convicted of or pleads guilty to an attempt 983  
to commit an offense in violation of section 2923.02 of the 984  
Revised Code, the sentencing court shall consider the factors 985  
applicable to the felony category of the violation of section 986  
2923.02 of the Revised Code instead of the factors applicable to 987  
the felony category of the offense attempted. 988



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

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

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

**Sec. 2933.82.** (A) As used in this section:

(1)(a) "Biological evidence" means any of the following:

(i) The contents of a sexual assault examination kit;

(ii) Any item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids, or any other identifiable biological material that was collected as part of a criminal investigation or delinquent child investigation and that reasonably may be used to incriminate or exculpate any person for

an offense or delinquent act. 1019

(b) The definition of "biological evidence" set forth in 1020  
division (A)(1)(a) of this section applies whether the material in 1021  
question is cataloged separately, such as on a slide or swab or in 1022  
a test tube, or is present on other evidence, including, but not 1023  
limited to, clothing, ligatures, bedding or other household 1024  
material, drinking cups or containers, or cigarettes. 1025

(2) "Biological material" has the same meaning as in section 1026  
2953.71 of the Revised Code. 1027

(3) "DNA" has the same meaning as in section 109.573 of the 1028  
Revised Code. 1029

(4) "Profile" means a unique identifier of an individual, 1030  
derived from DNA. 1031

(5) "Prosecutor" has the same meaning as in section 2935.01 1032  
of the Revised Code. 1033

(6) "Governmental evidence-retention entity" means all of the 1034  
following: 1035

(a) Any law enforcement agency, prosecutor's office, court, 1036  
public hospital, crime laboratory, or other governmental or public 1037  
entity or individual within this state that is charged with the 1038  
collection, storage, or retrieval of biological evidence; 1039

(b) Any official or employee of any entity or individual 1040  
described in division (A)(6)(a) of this section. 1041

(B)(1) Each governmental evidence-retention entity that 1042  
secures any biological evidence in relation to an investigation or 1043  
prosecution of a criminal offense or delinquent act that is a 1044  
violation of section 2903.01, 2903.02, or 2903.03, a violation of 1045  
section 2903.04 or 2903.06 that is a felony of the first or second 1046  
degree, a violation of section 2907.02 or 2907.03 or division 1047  
(A)(4) or (B) of section 2907.05 of the Revised Code, or an 1048

attempt to commit a violation of section 2907.02 of the Revised Code shall secure the biological evidence for whichever of the following periods of time is applicable:

(a) For a violation of section 2903.01 or 2903.02 of the Revised Code, for the period of time that the offense or act remains unsolved;

(b) For a violation of section 2903.03, a violation of section 2903.04 or 2903.06 that is a felony of the first or second degree, a violation of section 2907.02 or 2907.03 or of division (A)(4) or (B) of section 2907.05 of the Revised Code, or an attempt to commit a violation of section 2907.02 of the Revised Code, for a period of thirty years if the offense or act remains unsolved;

(c) If any person is convicted of or pleads guilty to the offense, or is adjudicated a delinquent child for committing the delinquent act, for the earlier of the following: (i) the expiration of the latest of the following periods of time that apply to the person: the period of time that the person is incarcerated, is in a department of youth services institution or other juvenile facility, is under a community control sanction for that offense, is under any order of disposition for that act, is on probation or parole for that offense, is under judicial release or supervised release for that act, is under post-release control for that offense, is involved in civil litigation in connection with that offense or act, or is subject to registration and other duties imposed for that offense or act under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code or (ii) thirty years. If after the period of thirty years the person remains incarcerated, then the governmental evidence-retention entity shall secure the biological evidence until the person is released from incarceration or dies.

(2) This section applies to evidence likely to contain

biological material that was in the possession of any governmental 1081  
evidence-retention entity during the investigation and prosecution 1082  
of a criminal case or delinquent child case involving a violation 1083  
of section 2903.01, 2903.02, or 2903.03, a violation of section 1084  
2903.04 or 2903.06 that is a felony of the first or second degree, 1085  
a violation of section 2907.02 or 2907.03 or of division (A)(4) or 1086  
(B) of section 2907.05 of the Revised Code, or an attempt to 1087  
commit a violation of section 2907.02 of the Revised Code. 1088

(3) A governmental evidence-retention entity that possesses 1089  
biological evidence shall retain the biological evidence in the 1090  
amount and manner sufficient to develop a DNA profile from the 1091  
biological material contained in or included on the evidence. 1092

(4) Upon written request by the defendant in a criminal case 1093  
or the alleged delinquent child in a delinquent child case 1094  
involving a violation of section 2903.01, 2903.02, or 2903.03, a 1095  
violation of section 2903.04 or 2903.06 that is a felony of the 1096  
first or second degree, a violation of section 2907.02 or 2907.03 1097  
or of division (A)(4) or (B) of section 2907.05 of the Revised 1098  
Code, or an attempt to commit a violation of section 2907.02 of 1099  
the Revised Code, a governmental evidence-retention entity that 1100  
possesses biological evidence shall prepare an inventory of the 1101  
biological evidence that has been preserved in connection with the 1102  
defendant's criminal case or the alleged delinquent child's 1103  
delinquent child case. 1104

(5) Except as otherwise provided in division (B)(7) of this 1105  
section, a governmental evidence-retention entity that possesses 1106  
biological evidence that includes biological material may destroy 1107  
the evidence before the expiration of the applicable period of 1108  
time specified in division (B)(1) of this section if all of the 1109  
following apply: 1110

(a) No other provision of federal or state law requires the 1111  
state to preserve the evidence. 1112

(b) The governmental evidence-retention entity, by certified mail, return receipt requested, provides notice of intent to destroy the evidence to all of the following:

(i) All persons who remain in custody, incarcerated, in a department of youth services institution or other juvenile facility, under a community control sanction, under any order of disposition, on probation or parole, under judicial release or supervised release, under post-release control, involved in civil litigation, or subject to registration and other duties imposed for that offense or act under sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code as a result of a criminal conviction, delinquency adjudication, or commitment related to the evidence in question;

(ii) The attorney of record for each person who is in custody in any circumstance described in division (B)(5)(b)(i) of this section if the attorney of record can be located;

(iii) The state public defender;

(iv) The office of the prosecutor of record in the case that resulted in the custody of the person in custody in any circumstance described in division (B)(5)(b)(i) of this section;

(v) The attorney general.

(c) No person who is notified under division (B)(5)(b) of this section does either of the following within one year after the date on which the person receives the notice:

(i) Files a motion for testing of evidence under sections 2953.71 to 2953.81 or section 2953.82 of the Revised Code;

(ii) Submits a written request for retention of evidence to the governmental evidence-retention entity that provided notice of its intent to destroy evidence under division (B)(5)(b) of this section.

(6) Except as otherwise provided in division (B)(7) of this 1143  
section, if, after providing notice under division (B)(5)(b) of 1144  
this section of its intent to destroy evidence, a governmental 1145  
evidence-retention entity receives a written request for retention 1146  
of the evidence from any person to whom the notice is provided, 1147  
the governmental evidence-retention entity shall retain the 1148  
evidence while the person referred to in division (B)(5)(b)(i) of 1149  
this section remains in custody, incarcerated, in a department of 1150  
youth services institution or other juvenile facility, under a 1151  
community control sanction, under any order of disposition, on 1152  
probation or parole, under judicial release or supervised release, 1153  
under post-release control, involved in civil litigation, or 1154  
subject to registration and other duties imposed for that offense 1155  
or act under sections 2950.04, 2950.041, 2950.05, and 2950.06 of 1156  
the Revised Code as a result of a criminal conviction, delinquency 1157  
adjudication, or commitment related to the evidence in question. 1158

(7) A governmental evidence-retention entity that possesses 1159  
biological evidence that includes biological material may destroy 1160  
the evidence five years after a person pleads guilty or no contest 1161  
to a violation of section 2903.01, 2903.02, or 2903.03, a 1162  
violation of 2903.04 or 2903.06 that is a felony of the first or 1163  
second degree, a violation of section 2907.02, 2907.03, division 1164  
(A)(4) or (B) of section 2907.05, or an attempt to commit a 1165  
violation of section 2907.02 of the Revised Code and all appeals 1166  
have been exhausted unless, upon a motion to the court by the 1167  
person who pleaded guilty or no contest or the person's attorney 1168  
and notice to those persons described in division (B)(5)(b) of 1169  
this section requesting that the evidence not be destroyed, the 1170  
court finds good cause as to why that evidence must be retained. 1171

(8) A governmental evidence-retention entity shall not be 1172  
required to preserve physical evidence pursuant to this section 1173  
that is of such a size, bulk, or physical character as to render 1174

retention impracticable. When retention of physical evidence that 1175  
otherwise would be required to be retained pursuant to this 1176  
section is impracticable as described in this division, the 1177  
governmental evidence-retention entity that otherwise would be 1178  
required to retain the physical evidence shall remove and preserve 1179  
portions of the material evidence likely to contain biological 1180  
evidence related to the offense, in a quantity sufficient to 1181  
permit future DNA testing before returning or disposing of that 1182  
physical evidence. 1183

(C)(1) The preservation of biological evidence task force 1184  
established within the bureau of criminal identification and 1185  
investigation under section 109.561 of the Revised Code shall 1186  
establish a system regarding the proper preservation of biological 1187  
evidence in this state. In establishing the system, the task force 1188  
shall do all of the following: 1189

(a) Devise standards regarding the proper collection, 1190  
retention, and cataloguing of biological evidence for ongoing 1191  
investigations and prosecutions; 1192

(b) Recommend practices, protocols, models, and resources for 1193  
the cataloging and accessibility of preserved biological evidence 1194  
already in the possession of governmental evidence-retention 1195  
entities. 1196

(2) In consultation with the preservation of biological 1197  
evidence task force described in division (C)(1) of this section, 1198  
the ~~division of criminal justice services of the department of~~ 1199  
~~public safety~~ office of the attorney general shall administer and 1200  
conduct training programs for law enforcement officers and other 1201  
relevant employees who are charged with preserving and cataloging 1202  
biological evidence regarding the methods and procedures 1203  
referenced in this section. 1204

**Sec. 4506.17.** (A) Any person who holds a commercial driver's 1205

license or operates a commercial motor vehicle requiring a 1206  
commercial driver's license within this state shall be deemed to 1207  
have given consent to a test or tests of the person's whole blood, 1208  
blood serum or plasma, breath, or urine for the purpose of 1209  
determining the person's alcohol concentration or the presence of 1210  
any controlled substance or a metabolite of a controlled 1211  
substance. 1212

(B) A test or tests as provided in division (A) of this 1213  
section may be administered at the direction of a peace officer 1214  
having reasonable ground to stop or detain the person and, after 1215  
investigating the circumstances surrounding the operation of the 1216  
commercial motor vehicle, also having reasonable ground to believe 1217  
the person was driving the commercial vehicle while having a 1218  
measurable or detectable amount of alcohol or of a controlled 1219  
substance or a metabolite of a controlled substance in the 1220  
person's whole blood, blood serum or plasma, breath, or urine. Any 1221  
such test shall be given within two hours of the time of the 1222  
alleged violation. 1223

(C) A person requested to submit to a test under division (A) 1224  
of this section shall be advised by the peace officer requesting 1225  
the test that a refusal to submit to the test will result in the 1226  
person immediately being placed out-of-service for a period of 1227  
twenty-four hours and being disqualified from operating a 1228  
commercial motor vehicle for a period of not less than one year, 1229  
and that the person is required to surrender the person's 1230  
commercial driver's license to the peace officer. 1231

(D) If a person refuses to submit to a test after being 1232  
warned as provided in division (C) of this section or submits to a 1233  
test that discloses the presence of a controlled substance or a 1234  
metabolite of a controlled substance, an alcohol concentration of 1235  
four-hundredths of one per cent or more by whole blood or breath, 1236



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

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

(1) Upon a first incident, one year;

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

(F) A test of a person's whole blood or a person's blood serum or plasma given under this section shall comply with the applicable provisions of division (D) of section 4511.19 of the Revised Code and any physician, registered nurse, emergency

medical technician-intermediate, emergency medical 1269  
technician-paramedic, or qualified technician, chemist, or 1270  
phlebotomist who withdraws whole blood or blood serum or plasma 1271  
from a person under this section, and any hospital, first-aid 1272  
station, clinic, or other facility at which whole blood or blood 1273  
serum or plasma is withdrawn from a person pursuant to this 1274  
section, is immune from criminal liability, and from civil 1275  
liability that is based upon a claim of assault and battery or 1276  
based upon any other claim of malpractice, for any act performed 1277  
in withdrawing whole blood or blood serum or plasma from the 1278  
person. The immunity provided in this division also extends to an 1279  
emergency medical service organization that employs an emergency 1280  
medical technician-intermediate or emergency medical 1281  
technician-paramedic who withdraws blood under this section. 1282

(G) When a person submits to a test under this section, the 1283  
results of the test, at the person's request, shall be made 1284  
available to the person, the person's attorney, or the person's 1285  
agent, immediately upon completion of the chemical test analysis. 1286  
The person also may have an additional test administered by a 1287  
physician, a registered nurse, or a qualified technician, chemist, 1288  
or phlebotomist of the person's own choosing as provided in 1289  
division (D) of section 4511.19 of the Revised Code for tests 1290  
administered under that section, and the failure to obtain such a 1291  
test has the same effect as in that division. 1292

(H) No person shall refuse to immediately surrender the 1293  
person's commercial driver's license to a peace officer when 1294  
required to do so by this section. 1295

(I) A peace officer issuing an out-of-service order or 1296  
receiving a commercial driver's license surrendered under this 1297  
section may remove or arrange for the removal of any commercial 1298  
motor vehicle affected by the issuance of that order or the 1299  
surrender of that license. 1300

(J)(1) Except for civil actions arising out of the operation 1301  
of a motor vehicle and civil actions in which the state is a 1302  
plaintiff, no peace officer of any law enforcement agency within 1303  
this state is liable in compensatory damages in any civil action 1304  
that arises under the Revised Code or common law of this state for 1305  
an injury, death, or loss to person or property caused in the 1306  
performance of official duties under this section and rules 1307  
adopted under this section, unless the officer's actions were 1308  
manifestly outside the scope of the officer's employment or 1309  
official responsibilities, or unless the officer acted with 1310  
malicious purpose, in bad faith, or in a wanton or reckless 1311  
manner. 1312

(2) Except for civil actions that arise out of the operation 1313  
of a motor vehicle and civil actions in which the state is a 1314  
plaintiff, no peace officer of any law enforcement agency within 1315  
this state is liable in punitive or exemplary damages in any civil 1316  
action that arises under the Revised Code or common law of this 1317  
state for any injury, death, or loss to person or property caused 1318  
in the performance of official duties under this section of the 1319  
Revised Code and rules adopted under this section, unless the 1320  
officer's actions were manifestly outside the scope of the 1321  
officer's employment or official responsibilities, or unless the 1322  
officer acted with malicious purpose, in bad faith, or in a wanton 1323  
or reckless manner. 1324

(K) When disqualifying a driver, the registrar shall cause 1325  
the records of the bureau of motor vehicles to be updated to 1326  
reflect the disqualification within ten days after it occurs. 1327

(L) The registrar immediately shall notify a driver who is 1328  
subject to disqualification of the disqualification, of the length 1329  
of the disqualification, and that the driver may request a hearing 1330  
within thirty days of the mailing of the notice to show cause why 1331  
the driver should not be disqualified from operating a commercial 1332

motor vehicle. If a request for such a hearing is not made within 1333  
thirty days of the mailing of the notice, the order of 1334  
disqualification is final. The registrar may designate hearing 1335  
examiners who, after affording all parties reasonable notice, 1336  
shall conduct a hearing to determine whether the disqualification 1337  
order is supported by reliable evidence. The registrar shall adopt 1338  
rules to implement this division. 1339

(M) Any person who is disqualified from operating a 1340  
commercial motor vehicle under this section may apply to the 1341  
registrar for a driver's license to operate a motor vehicle other 1342  
than a commercial motor vehicle, provided the person's commercial 1343  
driver's license is not otherwise suspended. A person whose 1344  
commercial driver's license is suspended shall not apply to the 1345  
registrar for or receive a driver's license under Chapter 4507. of 1346  
the Revised Code during the period of suspension. 1347

(N) Whoever violates division (H) of this section is guilty 1348  
of a misdemeanor of the first degree. 1349

(O) As used in this section, "emergency medical 1350  
technician-intermediate" and "emergency medical 1351  
technician-paramedic" have the same meanings as in section 4765.01 1352  
of the Revised Code. 1353

**Sec. 4511.19.** (A)(1) No person shall operate any vehicle, 1354  
streetcar, or trackless trolley within this state, if, at the time 1355  
of the operation, any of the following apply: 1356

(a) The person is under the influence of alcohol, a drug of 1357  
abuse, or a combination of them. 1358

(b) The person has a concentration of eight-hundredths of one 1359  
per cent or more but less than seventeen-hundredths of one per 1360  
cent by weight per unit volume of alcohol in the person's whole 1361  
blood. 1362

(c) The person has a concentration of ninety-six-thousandths 1363  
of one per cent or more but less than two hundred four-thousandths 1364  
of one per cent by weight per unit volume of alcohol in the 1365  
person's blood serum or plasma. 1366

(d) The person has a concentration of eight-hundredths of one 1367  
gram or more but less than seventeen-hundredths of one gram by 1368  
weight of alcohol per two hundred ten liters of the person's 1369  
breath. 1370

(e) The person has a concentration of eleven-hundredths of 1371  
one gram or more but less than two hundred 1372  
thirty-eight-thousandths of one gram by weight of alcohol per one 1373  
hundred milliliters of the person's urine. 1374

(f) The person has a concentration of seventeen-hundredths of 1375  
one per cent or more by weight per unit volume of alcohol in the 1376  
person's whole blood. 1377

(g) The person has a concentration of two hundred 1378  
four-thousandths of one per cent or more by weight per unit volume 1379  
of alcohol in the person's blood serum or plasma. 1380

(h) The person has a concentration of seventeen-hundredths of 1381  
one gram or more by weight of alcohol per two hundred ten liters 1382  
of the person's breath. 1383

(i) The person has a concentration of two hundred 1384  
thirty-eight-thousandths of one gram or more by weight of alcohol 1385  
per one hundred milliliters of the person's urine. 1386

(j) Except as provided in division (K) of this section, the 1387  
person has a concentration of any of the following controlled 1388  
substances or metabolites of a controlled substance in the 1389  
person's whole blood, blood serum or plasma, or urine that equals 1390  
or exceeds any of the following: 1391

(i) The person has a concentration of amphetamine in the 1392

person's urine of at least five hundred nanograms of amphetamine 1393  
per milliliter of the person's urine or has a concentration of 1394  
amphetamine in the person's whole blood or blood serum or plasma 1395  
of at least one hundred nanograms of amphetamine per milliliter of 1396  
the person's whole blood or blood serum or plasma. 1397

(ii) The person has a concentration of cocaine in the 1398  
person's urine of at least one hundred fifty nanograms of cocaine 1399  
per milliliter of the person's urine or has a concentration of 1400  
cocaine in the person's whole blood or blood serum or plasma of at 1401  
least fifty nanograms of cocaine per milliliter of the person's 1402  
whole blood or blood serum or plasma. 1403

(iii) The person has a concentration of cocaine metabolite in 1404  
the person's urine of at least one hundred fifty nanograms of 1405  
cocaine metabolite per milliliter of the person's urine or has a 1406  
concentration of cocaine metabolite in the person's whole blood or 1407  
blood serum or plasma of at least fifty nanograms of cocaine 1408  
metabolite per milliliter of the person's whole blood or blood 1409  
serum or plasma. 1410

(iv) The person has a concentration of heroin in the person's 1411  
urine of at least two thousand nanograms of heroin per milliliter 1412  
of the person's urine or has a concentration of heroin in the 1413  
person's whole blood or blood serum or plasma of at least fifty 1414  
nanograms of heroin per milliliter of the person's whole blood or 1415  
blood serum or plasma. 1416

(v) The person has a concentration of heroin metabolite 1417  
(6-monoacetyl morphine) in the person's urine of at least ten 1418  
nanograms of heroin metabolite (6-monoacetyl morphine) per 1419  
milliliter of the person's urine or has a concentration of heroin 1420  
metabolite (6-monoacetyl morphine) in the person's whole blood or 1421  
blood serum or plasma of at least ten nanograms of heroin 1422  
metabolite (6-monoacetyl morphine) per milliliter of the person's 1423  
whole blood or blood serum or plasma. 1424

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

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

(viii) Either of the following applies:

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

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

(ix) 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 1456  
concentration of methamphetamine in the person's whole blood or 1457  
blood serum or plasma of at least one hundred nanograms of 1458  
methamphetamine per milliliter of the person's whole blood or 1459  
blood serum or plasma. 1460

(x) The person has a concentration of phencyclidine in the 1461  
person's urine of at least twenty-five nanograms of phencyclidine 1462  
per milliliter of the person's urine or has a concentration of 1463  
phencyclidine in the person's whole blood or blood serum or plasma 1464  
of at least ten nanograms of phencyclidine per milliliter of the 1465  
person's whole blood or blood serum or plasma. 1466

(xi) The state board of pharmacy has adopted a rule pursuant 1467  
to section 4729.041 of the Revised Code that specifies the amount 1468  
of salvia divinorum and the amount of salvinorin A that constitute 1469  
concentrations of salvia divinorum and salvinorin A in a person's 1470  
urine, in a person's whole blood, or in a person's blood serum or 1471  
plasma at or above which the person is impaired for purposes of 1472  
operating any vehicle, streetcar, or trackless trolley within this 1473  
state, the rule is in effect, and the person has a concentration 1474  
of salvia divinorum or salvinorin A of at least that amount so 1475  
specified by rule in the person's urine, in the person's whole 1476  
blood, or in the person's blood serum or plasma. 1477

(2) No person who, within twenty years of the conduct 1478  
described in division (A)(2)(a) of this section, previously has 1479  
been convicted of or pleaded guilty to a violation of this 1480  
division, a violation of division (A)(1) or (B) of this section, 1481  
or any other equivalent offense shall do both of the following: 1482

(a) Operate any vehicle, streetcar, or trackless trolley 1483  
within this state while under the influence of alcohol, a drug of 1484  
abuse, or a combination of them; 1485

(b) Subsequent to being arrested for operating the vehicle, 1486



streetcar, or trackless trolley as described in division (A)(2)(a) 1487  
of this section, being asked by a law enforcement officer to 1488  
submit to a chemical test or tests under section 4511.191 of the 1489  
Revised Code, and being advised by the officer in accordance with 1490  
section 4511.192 of the Revised Code of the consequences of the 1491  
person's refusal or submission to the test or tests, refuse to 1492  
submit to the test or tests. 1493

(B) No person under twenty-one years of age shall operate any 1494  
vehicle, streetcar, or trackless trolley within this state, if, at 1495  
the time of the operation, any of the following apply: 1496

(1) The person has a concentration of at least two-hundredths 1497  
of one per cent but less than eight-hundredths of one per cent by 1498  
weight per unit volume of alcohol in the person's whole blood. 1499

(2) The person has a concentration of at least 1500  
three-hundredths of one per cent but less than 1501  
ninety-six-thousandths of one per cent by weight per unit volume 1502  
of alcohol in the person's blood serum or plasma. 1503

(3) The person has a concentration of at least two-hundredths 1504  
of one gram but less than eight-hundredths of one gram by weight 1505  
of alcohol per two hundred ten liters of the person's breath. 1506

(4) The person has a concentration of at least twenty-eight 1507  
one-thousandths of one gram but less than eleven-hundredths of one 1508  
gram by weight of alcohol per one hundred milliliters of the 1509  
person's urine. 1510

(C) In any proceeding arising out of one incident, a person 1511  
may be charged with a violation of division (A)(1)(a) or (A)(2) 1512  
and a violation of division (B)(1), (2), or (3) of this section, 1513  
but the person may not be convicted of more than one violation of 1514  
these divisions. 1515

(D)(1)(a) In any criminal prosecution or juvenile court 1516  
proceeding for a violation of division (A)(1)(a) of this section 1517

or for an equivalent offense that is vehicle-related, the result 1518  
of any test of any blood or urine withdrawn and analyzed at any 1519  
health care provider, as defined in section 2317.02 of the Revised 1520  
Code, may be admitted with expert testimony to be considered with 1521  
any other relevant and competent evidence in determining the guilt 1522  
or innocence of the defendant. 1523

(b) In any criminal prosecution or juvenile court proceeding 1524  
for a violation of division (A) or (B) of this section or for an 1525  
equivalent offense that is vehicle-related, the court may admit 1526  
evidence on the concentration of alcohol, drugs of abuse, 1527  
controlled substances, metabolites of a controlled substance, or a 1528  
combination of them in the defendant's whole blood, blood serum or 1529  
plasma, breath, urine, or other bodily substance at the time of 1530  
the alleged violation as shown by chemical analysis of the 1531  
substance withdrawn within three hours of the time of the alleged 1532  
violation. The three-hour time limit specified in this division 1533  
regarding the admission of evidence does not extend or affect the 1534  
two-hour time limit specified in division (A) of section 4511.192 1535  
of the Revised Code as the maximum period of time during which a 1536  
person may consent to a chemical test or tests as described in 1537  
that section. The court may admit evidence on the concentration of 1538  
alcohol, drugs of abuse, or a combination of them as described in 1539  
this division when a person submits to a blood, breath, urine, or 1540  
other bodily substance test at the request of a law enforcement 1541  
officer under section 4511.191 of the Revised Code or a blood or 1542  
urine sample is obtained pursuant to a search warrant. Only a 1543  
physician, a registered nurse, an emergency medical 1544  
technician-intermediate, an emergency medical 1545  
technician-paramedic, or a qualified technician, chemist, or 1546  
phlebotomist shall withdraw a blood sample for the purpose of 1547  
determining the alcohol, drug, controlled substance, metabolite of 1548  
a controlled substance, or combination content of the whole blood, 1549  
blood serum, or blood plasma. This limitation does not apply to 1550

the taking of breath or urine specimens. A person authorized to 1551  
withdraw blood under this division may refuse to withdraw blood 1552  
under this division, if in that person's opinion, the physical 1553  
welfare of the person would be endangered by the withdrawing of 1554  
blood. 1555

The bodily substance withdrawn under division (D)(1)(b) of 1556  
this section shall be analyzed in accordance with methods approved 1557  
by the director of health by an individual possessing a valid 1558  
permit issued by the director pursuant to section 3701.143 of the 1559  
Revised Code. 1560

(c) As used in division (D)(1)(b) of this section, "emergency 1561  
medical technician-intermediate" and "emergency medical 1562  
technician-paramedic" have the same meanings as in section 4765.01 1563  
of the Revised Code. 1564

(2) In a criminal prosecution or juvenile court proceeding 1565  
for a violation of division (A) of this section or for an 1566  
equivalent offense that is vehicle-related, if there was at the 1567  
time the bodily substance was withdrawn a concentration of less 1568  
than the applicable concentration of alcohol specified in 1569  
divisions (A)(1)(b), (c), (d), and (e) of this section or less 1570  
than the applicable concentration of a listed controlled substance 1571  
or a listed metabolite of a controlled substance specified for a 1572  
violation of division (A)(1)(j) of this section, that fact may be 1573  
considered with other competent evidence in determining the guilt 1574  
or innocence of the defendant. This division does not limit or 1575  
affect a criminal prosecution or juvenile court proceeding for a 1576  
violation of division (B) of this section or for an equivalent 1577  
offense that is substantially equivalent to that division. 1578

(3) Upon the request of the person who was tested, the 1579  
results of the chemical test shall be made available to the person 1580  
or the person's attorney, immediately upon the completion of the 1581  
chemical test analysis. 1582

If the chemical test was obtained pursuant to division 1583  
(D)(1)(b) of this section, the person tested may have a physician, 1584  
a registered nurse, or a qualified technician, chemist, or 1585  
phlebotomist of the person's own choosing administer a chemical 1586  
test or tests, at the person's expense, in addition to any 1587  
administered at the request of a law enforcement officer. If the 1588  
person was under arrest as described in division (A)(5) of section 1589  
4511.191 of the Revised Code, the arresting officer shall advise 1590  
the person at the time of the arrest that the person may have an 1591  
independent chemical test taken at the person's own expense. If 1592  
the person was under arrest other than described in division 1593  
(A)(5) of section 4511.191 of the Revised Code, the form to be 1594  
read to the person to be tested, as required under section 1595  
4511.192 of the Revised Code, shall state that the person may have 1596  
an independent test performed at the person's expense. The failure 1597  
or inability to obtain an additional chemical test by a person 1598  
shall not preclude the admission of evidence relating to the 1599  
chemical test or tests taken at the request of a law enforcement 1600  
officer. 1601

(4)(a) As used in divisions (D)(4)(b) and (c) of this 1602  
section, "national highway traffic safety administration" means 1603  
the national highway traffic safety administration established as 1604  
an administration of the United States department of 1605  
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 1606

(b) In any criminal prosecution or juvenile court proceeding 1607  
for a violation of division (A) or (B) of this section, of a 1608  
municipal ordinance relating to operating a vehicle while under 1609  
the influence of alcohol, a drug of abuse, or alcohol and a drug 1610  
of abuse, or of a municipal ordinance relating to operating a 1611  
vehicle with a prohibited concentration of alcohol, a controlled 1612  
substance, or a metabolite of a controlled substance in the whole 1613  
blood, blood serum or plasma, breath, or urine, if a law 1614

enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

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

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

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

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

(E)(1) Subject to division (E)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) or (B)(1), (2), (3), or (4) of this section or for an equivalent

offense that is substantially equivalent to any of those 1646  
divisions, a laboratory report from any laboratory personnel 1647  
issued a permit by the department of health authorizing an 1648  
analysis as described in this division that contains an analysis 1649  
of the whole blood, blood serum or plasma, breath, urine, or other 1650  
bodily substance tested and that contains all of the information 1651  
specified in this division shall be admitted as prima-facie 1652  
evidence of the information and statements that the report 1653  
contains. The laboratory report shall contain all of the 1654  
following: 1655

(a) The signature, under oath, of any person who performed 1656  
the analysis; 1657

(b) Any findings as to the identity and quantity of alcohol, 1658  
a drug of abuse, a controlled substance, a metabolite of a 1659  
controlled substance, or a combination of them that was found; 1660

(c) A copy of a notarized statement by the laboratory 1661  
director or a designee of the director that contains the name of 1662  
each certified analyst or test performer involved with the report, 1663  
the analyst's or test performer's employment relationship with the 1664  
laboratory that issued the report, and a notation that performing 1665  
an analysis of the type involved is part of the analyst's or test 1666  
performer's regular duties; 1667

(d) An outline of the analyst's or test performer's 1668  
education, training, and experience in performing the type of 1669  
analysis involved and a certification that the laboratory 1670  
satisfies appropriate quality control standards in general and, in 1671  
this particular analysis, under rules of the department of health. 1672

(2) Notwithstanding any other provision of law regarding the 1673  
admission of evidence, a report of the type described in division 1674  
(E)(1) of this section is not admissible against the defendant to 1675  
whom it pertains in any proceeding, other than a preliminary 1676

hearing or a grand jury proceeding, unless the prosecutor has 1677  
served a copy of the report on the defendant's attorney or, if the 1678  
defendant has no attorney, on the defendant. 1679

(3) A report of the type described in division (E)(1) of this 1680  
section shall not be prima-facie evidence of the contents, 1681  
identity, or amount of any substance if, within seven days after 1682  
the defendant to whom the report pertains or the defendant's 1683  
attorney receives a copy of the report, the defendant or the 1684  
defendant's attorney demands the testimony of the person who 1685  
signed the report. The judge in the case may extend the seven-day 1686  
time limit in the interest of justice. 1687

(F) Except as otherwise provided in this division, any 1688  
physician, registered nurse, emergency medical 1689  
technician-intermediate, emergency medical technician-paramedic, 1690  
or qualified technician, chemist, or phlebotomist who withdraws 1691  
blood from a person pursuant to this section or section 4511.191 1692  
or 4511.192 of the Revised Code, and any hospital, first-aid 1693  
station, or clinic at which blood is withdrawn from a person 1694  
pursuant to this section or section 4511.191 or 4511.192 of the 1695  
Revised Code, is immune from criminal liability and civil 1696  
liability based upon a claim of assault and battery or any other 1697  
claim that is not a claim of malpractice, for any act performed in 1698  
withdrawing blood from the person. The immunity provided in this 1699  
division also extends to an emergency medical service organization 1700  
that employs an emergency medical technician-intermediate or 1701  
emergency medical technician-paramedic who withdraws blood under 1702  
this section. The immunity provided in this division is not 1703  
available to a person who withdraws blood if the person engages in 1704  
willful or wanton misconduct. 1705

As used in this division, "emergency medical 1706  
technician-intermediate" and "emergency medical 1707  
technician-paramedic" have the same meanings as in section 4765.01 1708

of the Revised Code. 1709

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 1710  
to (i) or (A)(2) of this section is guilty of operating a vehicle 1711  
under the influence of alcohol, a drug of abuse, or a combination 1712  
of them. Whoever violates division (A)(1)(j) of this section is 1713  
guilty of operating a vehicle while under the influence of a 1714  
listed controlled substance or a listed metabolite of a controlled 1715  
substance. The court shall sentence the offender for either 1716  
offense under Chapter 2929. of the Revised Code, except as 1717  
otherwise authorized or required by divisions (G)(1)(a) to (e) of 1718  
this section: 1719

(a) Except as otherwise provided in division (G)(1)(b), (c), 1720  
(d), or (e) of this section, the offender is guilty of a 1721  
misdemeanor of the first degree, and the court shall sentence the 1722  
offender to all of 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 jail term of three consecutive days. As used in this 1726  
division, three consecutive days means seventy-two consecutive 1727  
hours. The court may sentence an offender to both an intervention 1728  
program and a jail term. The court may impose a jail term in 1729  
addition to the three-day mandatory jail term or intervention 1730  
program. However, in no case shall the cumulative jail term 1731  
imposed for the offense exceed six months. 1732

The court may suspend the execution of the three-day jail 1733  
term under this division if the court, in lieu of that suspended 1734  
term, places the offender under a community control sanction 1735  
pursuant to section 2929.25 of the Revised Code and requires the 1736  
offender to attend, for three consecutive days, a drivers' 1737  
intervention program certified under section 3793.10 of the 1738  
Revised Code. The court also may suspend the execution of any part 1739  
of the three-day jail term under this division if it places the 1740



offender under a community control sanction pursuant to section 1741  
2929.25 of the Revised Code for part of the three days, requires 1742  
the offender to attend for the suspended part of the term a 1743  
drivers' intervention program so certified, and sentences the 1744  
offender to a jail term equal to the remainder of the three 1745  
consecutive days that the offender does not spend attending the 1746  
program. The court may require the offender, as a condition of 1747  
community control and in addition to the required attendance at a 1748  
drivers' intervention program, to attend and satisfactorily 1749  
complete any treatment or education programs that comply with the 1750  
minimum standards adopted pursuant to Chapter 3793. of the Revised 1751  
Code by the director of alcohol and drug addiction services that 1752  
the operators of the drivers' intervention program determine that 1753  
the offender should attend and to report periodically to the court 1754  
on the offender's progress in the programs. The court also may 1755  
impose on the offender any other conditions of community control 1756  
that it considers necessary. 1757

(ii) If the sentence is being imposed for a violation of 1758  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1759  
section, except as otherwise provided in this division, a 1760  
mandatory jail term of at least three consecutive days and a 1761  
requirement that the offender attend, for three consecutive days, 1762  
a drivers' intervention program that is certified pursuant to 1763  
section 3793.10 of the Revised Code. As used in this division, 1764  
three consecutive days means seventy-two consecutive hours. If the 1765  
court determines that the offender is not conducive to treatment 1766  
in a drivers' intervention program, if the offender refuses to 1767  
attend a drivers' intervention program, or if the jail at which 1768  
the offender is to serve the jail term imposed can provide a 1769  
driver's intervention program, the court shall sentence the 1770  
offender to a mandatory jail term of at least six consecutive 1771  
days. 1772

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

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

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

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

(i) If the sentence is being imposed for a violation of division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this division unless, subject to division (G)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a

term of house arrest with electronic monitoring, with continuous 1805  
alcohol monitoring, or with both electronic monitoring and 1806  
continuous alcohol monitoring. The court may impose a jail term in 1807  
addition to the ten-day mandatory jail term. The cumulative jail 1808  
term imposed for the offense shall not exceed six months. 1809

In addition to the jail term or the term of house arrest with 1810  
electronic monitoring or continuous alcohol monitoring or both 1811  
types of monitoring and jail term, the court shall require the 1812  
offender to be assessed by an alcohol and drug treatment program 1813  
that is authorized by section 3793.02 of the Revised Code, subject 1814  
to division (I) of this section, and shall order the offender to 1815  
follow the treatment recommendations of the program. The purpose 1816  
of the assessment is to determine the degree of the offender's 1817  
alcohol usage and to determine whether or not treatment is 1818  
warranted. Upon the request of the court, the program shall submit 1819  
the results of the assessment to the court, including all 1820  
treatment recommendations and clinical diagnoses related to 1821  
alcohol use. 1822

(ii) If the sentence is being imposed for a violation of 1823  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1824  
section, except as otherwise provided in this division, a 1825  
mandatory jail term of twenty consecutive days. The court shall 1826  
impose the twenty-day mandatory jail term under this division 1827  
unless, subject to division (G)(3) of this section, it instead 1828  
imposes a sentence under that division consisting of both a jail 1829  
term and a term of house arrest with electronic monitoring, with 1830  
continuous alcohol monitoring, or with both electronic monitoring 1831  
and continuous alcohol monitoring. The court may impose a jail 1832  
term in addition to the twenty-day mandatory jail term. The 1833  
cumulative jail term imposed for the offense shall not exceed six 1834  
months. 1835

In addition to the jail term or the term of house arrest with 1836

electronic monitoring or continuous alcohol monitoring or both 1837  
types of monitoring and jail term, the court shall require the 1838  
offender to be assessed by an alcohol and drug treatment program 1839  
that is authorized by section 3793.02 of the Revised Code, subject 1840  
to division (I) of this section, and shall order the offender to 1841  
follow the treatment recommendations of the program. The purpose 1842  
of the assessment is to determine the degree of the offender's 1843  
alcohol usage and to determine whether or not treatment is 1844  
warranted. Upon the request of the court, the program shall submit 1845  
the results of the assessment to the court, including all 1846  
treatment recommendations and clinical diagnoses related to 1847  
alcohol use. 1848

(iii) In all cases, notwithstanding the fines set forth in 1849  
Chapter 2929. of the Revised Code, a fine of not less than five 1850  
hundred twenty-five and not more than one thousand six hundred 1851  
twenty-five dollars; 1852

(iv) In all cases, a class four license suspension of the 1853  
offender's driver's license, commercial driver's license, 1854  
temporary instruction permit, probationary license, or nonresident 1855  
operating privilege from the range specified in division (A)(4) of 1856  
section 4510.02 of the Revised Code. The court may grant limited 1857  
driving privileges relative to the suspension under sections 1858  
4510.021 and 4510.13 of the Revised Code. 1859

(v) In all cases, if the vehicle is registered in the 1860  
offender's name, immobilization of the vehicle involved in the 1861  
offense for ninety days in accordance with section 4503.233 of the 1862  
Revised Code and impoundment of the license plates of that vehicle 1863  
for ninety days. 1864

(c) Except as otherwise provided in division (G)(1)(e) of 1865  
this section, an offender who, within six years of the offense, 1866  
previously has been convicted of or pleaded guilty to two 1867  
violations of division (A) or (B) of this section or other 1868

equivalent offenses is guilty of a misdemeanor. The court shall 1869  
sentence the offender to all of the following: 1870

(i) If the sentence is being imposed for a violation of 1871  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1872  
mandatory jail term of thirty consecutive days. The court shall 1873  
impose the thirty-day mandatory jail term under this division 1874  
unless, subject to division (G)(3) of this section, it instead 1875  
imposes a sentence under that division consisting of both a jail 1876  
term and a term of house arrest with electronic monitoring, with 1877  
continuous alcohol monitoring, or with both electronic monitoring 1878  
and continuous alcohol monitoring. The court may impose a jail 1879  
term in addition to the thirty-day mandatory jail term. 1880  
Notwithstanding the jail terms set forth in sections 2929.21 to 1881  
2929.28 of the Revised Code, the additional jail term shall not 1882  
exceed one year, and the cumulative jail term imposed for the 1883  
offense shall not exceed one year. 1884

(ii) If the sentence is being imposed for a violation of 1885  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1886  
section, a mandatory jail term of sixty consecutive days. The 1887  
court shall impose the sixty-day mandatory jail term under this 1888  
division unless, subject to division (G)(3) of this section, it 1889  
instead imposes a sentence under that division consisting of both 1890  
a jail term and a term of house arrest with electronic monitoring, 1891  
with continuous alcohol monitoring, or with both electronic 1892  
monitoring and continuous alcohol monitoring. The court may impose 1893  
a jail term in addition to the sixty-day mandatory jail term. 1894  
Notwithstanding the jail terms set forth in sections 2929.21 to 1895  
2929.28 of the Revised Code, the additional jail term shall not 1896  
exceed one year, and the cumulative jail term imposed for the 1897  
offense shall not exceed one year. 1898

(iii) In all cases, notwithstanding the fines set forth in 1899  
Chapter 2929. of the Revised Code, a fine of not less than eight 1900

hundred fifty and not more than two thousand seven hundred fifty 1901  
dollars; 1902

(iv) In all cases, a class three license suspension of the 1903  
offender's driver's license, commercial driver's license, 1904  
temporary instruction permit, probationary license, or nonresident 1905  
operating privilege from the range specified in division (A)(3) of 1906  
section 4510.02 of the Revised Code. The court may grant limited 1907  
driving privileges relative to the suspension under sections 1908  
4510.021 and 4510.13 of the Revised Code. 1909

(v) In all cases, if the vehicle is registered in the 1910  
offender's name, criminal forfeiture of the vehicle involved in 1911  
the offense in accordance with section 4503.234 of the Revised 1912  
Code. Division (G)(6) of this section applies regarding any 1913  
vehicle that is subject to an order of criminal forfeiture under 1914  
this division. 1915

(vi) In all cases, the court shall order the offender to 1916  
participate in an alcohol and drug addiction program authorized by 1917  
section 3793.02 of the Revised Code, subject to division (I) of 1918  
this section, and shall order the offender to follow the treatment 1919  
recommendations of the program. The operator of the program shall 1920  
determine and assess the degree of the offender's alcohol 1921  
dependency and shall make recommendations for treatment. Upon the 1922  
request of the court, the program shall submit the results of the 1923  
assessment to the court, including all treatment recommendations 1924  
and clinical diagnoses related to alcohol use. 1925

(d) Except as otherwise provided in division (G)(1)(e) of 1926  
this section, an offender who, within six years of the offense, 1927  
previously has been convicted of or pleaded guilty to three or 1928  
four violations of division (A) or (B) of this section or other 1929  
equivalent offenses or an offender who, within twenty years of the 1930  
offense, previously has been convicted of or pleaded guilty to 1931  
five or more violations of that nature is guilty of a felony of 1932

the fourth degree. The court shall sentence the offender to all of 1933  
the following: 1934

(i) If the sentence is being imposed for a violation of 1935  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1936  
mandatory prison term of one, two, three, four, or five years as 1937  
required by and in accordance with division (G)(2) of section 1938  
2929.13 of the Revised Code if the offender also is convicted of 1939  
or also pleads guilty to a specification of the type described in 1940  
section 2941.1413 of the Revised Code or, in the discretion of the 1941  
court, either a mandatory term of local incarceration of sixty 1942  
consecutive days in accordance with division (G)(1) of section 1943  
2929.13 of the Revised Code or a mandatory prison term of sixty 1944  
consecutive days in accordance with division (G)(2) of that 1945  
section if the offender is not convicted of and does not plead 1946  
guilty to a specification of that type. If the court imposes a 1947  
mandatory term of local incarceration, it may impose a jail term 1948  
in addition to the sixty-day mandatory term, the cumulative total 1949  
of the mandatory term and the jail term for the offense shall not 1950  
exceed one year, and, except as provided in division (A)(1) of 1951  
section 2929.13 of the Revised Code, no prison term is authorized 1952  
for the offense. If the court imposes a mandatory prison term, 1953  
notwithstanding division (A)(4) of section 2929.14 of the Revised 1954  
Code, it also may sentence the offender to a definite prison term 1955  
that shall be not less than six months and not more than thirty 1956  
months and the prison terms shall be imposed as described in 1957  
division (G)(2) of section 2929.13 of the Revised Code. If the 1958  
court imposes a mandatory prison term or mandatory prison term and 1959  
additional prison term, in addition to the term or terms so 1960  
imposed, the court also may sentence the offender to a community 1961  
control sanction for the offense, but the offender shall serve all 1962  
of the prison terms so imposed prior to serving the community 1963  
control sanction. 1964

(ii) If the sentence is being imposed for a violation of division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this section, a mandatory prison term of one, two, three, four, or five years as required by and in accordance with division (G)(2) of section 2929.13 of the Revised Code if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or, in the discretion of the court, either a mandatory term of local incarceration of one hundred twenty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of one hundred twenty consecutive days in accordance with division (G)(2) of that section if the offender is not convicted of and does not plead guilty to a specification of that type. If the court imposes a mandatory term of local incarceration, it may impose a jail term in addition to the one hundred twenty-day mandatory term, the cumulative total of the mandatory term and the jail term for the offense shall not exceed one year, and, except as provided in division (A)(1) of section 2929.13 of the Revised Code, no prison term is authorized for the offense. If the court imposes a mandatory prison term, notwithstanding division (A)(4) of section 2929.14 of the Revised Code, it also may sentence the offender to a definite prison term that shall be not less than six months and not more than thirty months and the prison terms shall be imposed as described in division (G)(2) of section 2929.13 of the Revised Code. If the court imposes a mandatory prison term or mandatory prison term and additional prison term, in addition to the term or terms so imposed, the court also may sentence the offender to a community control sanction for the offense, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(iii) In all cases, notwithstanding section 2929.18 of the Revised Code, a fine of not less than one thousand three hundred



fifty nor more than ten thousand five hundred dollars; 1998

(iv) In all cases, a class two license suspension of the 1999  
offender's driver's license, commercial driver's license, 2000  
temporary instruction permit, probationary license, or nonresident 2001  
operating privilege from the range specified in division (A)(2) of 2002  
section 4510.02 of the Revised Code. The court may grant limited 2003  
driving privileges relative to the suspension under sections 2004  
4510.021 and 4510.13 of the Revised Code. 2005

(v) In all cases, if the vehicle is registered in the 2006  
offender's name, criminal forfeiture of the vehicle involved in 2007  
the offense in accordance with section 4503.234 of the Revised 2008  
Code. Division (G)(6) of this section applies regarding any 2009  
vehicle that is subject to an order of criminal forfeiture under 2010  
this division. 2011

(vi) In all cases, the court shall order the offender to 2012  
participate in an alcohol and drug addiction program authorized by 2013  
section 3793.02 of the Revised Code, subject to division (I) of 2014  
this section, and shall order the offender to follow the treatment 2015  
recommendations of the program. The operator of the program shall 2016  
determine and assess the degree of the offender's alcohol 2017  
dependency and shall make recommendations for treatment. Upon the 2018  
request of the court, the program shall submit the results of the 2019  
assessment to the court, including all treatment recommendations 2020  
and clinical diagnoses related to alcohol use. 2021

(vii) In all cases, if the court sentences the offender to a 2022  
mandatory term of local incarceration, in addition to the 2023  
mandatory term, the court, pursuant to section 2929.17 of the 2024  
Revised Code, may impose a term of house arrest with electronic 2025  
monitoring. The term shall not commence until after the offender 2026  
has served the mandatory term of local incarceration. 2027

(e) An offender who previously has been convicted of or 2028

pleaded guilty to a violation of division (A) of this section that 2029  
was a felony, regardless of when the violation and the conviction 2030  
or guilty plea occurred, is guilty of a felony of the third 2031  
degree. The court shall sentence the offender to all of the 2032  
following: 2033

(i) If the offender is being sentenced for a violation of 2034  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 2035  
mandatory prison term of one, two, three, four, or five years as 2036  
required by and in accordance with division (G)(2) of section 2037  
2929.13 of the Revised Code if the offender also is convicted of 2038  
or also pleads guilty to a specification of the type described in 2039  
section 2941.1413 of the Revised Code or a mandatory prison term 2040  
of sixty consecutive days in accordance with division (G)(2) of 2041  
section 2929.13 of the Revised Code if the offender is not 2042  
convicted of and does not plead guilty to a specification of that 2043  
type. The court may impose a prison term in addition to the 2044  
mandatory prison term. The cumulative total of a sixty-day 2045  
mandatory prison term and the additional prison term for the 2046  
offense shall not exceed five years. In addition to the mandatory 2047  
prison term or mandatory prison term and additional prison term 2048  
the court imposes, the court also may sentence the offender to a 2049  
community control sanction for the offense, but the offender shall 2050  
serve all of the prison terms so imposed prior to serving the 2051  
community control sanction. 2052

(ii) If the sentence is being imposed for a violation of 2053  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 2054  
section, a mandatory prison term of one, two, three, four, or five 2055  
years as required by and in accordance with division (G)(2) of 2056  
section 2929.13 of the Revised Code if the offender also is 2057  
convicted of or also pleads guilty to a specification of the type 2058  
described in section 2941.1413 of the Revised Code or a mandatory 2059  
prison term of one hundred twenty consecutive days in accordance 2060

with division (G)(2) of section 2929.13 of the Revised Code if the  
offender is not convicted of and does not plead guilty to a  
specification of that type. The court may impose a prison term in  
addition to the mandatory prison term. The cumulative total of a  
one hundred twenty-day mandatory prison term and the additional  
prison term for the offense shall not exceed five years. In  
addition to the mandatory prison term or mandatory prison term and  
additional prison term the court imposes, the court also may  
sentence the offender to a community control sanction for the  
offense, but the offender shall serve all of the prison terms so  
imposed prior to serving the community control sanction.

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

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

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

(vi) In all cases, the court shall order the offender to  
participate in an alcohol and drug addiction program authorized by  
section 3793.02 of the Revised Code, subject to division (I) of  
this section, and shall order the offender to follow the treatment  
recommendations of the program. The operator of the program shall

determine and assess the degree of the offender's alcohol 2093  
dependency and shall make recommendations for treatment. Upon the 2094  
request of the court, the program shall submit the results of the 2095  
assessment to the court, including all treatment recommendations 2096  
and clinical diagnoses related to alcohol use. 2097

(2) An offender who is convicted of or pleads guilty to a 2098  
violation of division (A) of this section and who subsequently 2099  
seeks reinstatement of the driver's or occupational driver's 2100  
license or permit or nonresident operating privilege suspended 2101  
under this section as a result of the conviction or guilty plea 2102  
shall pay a reinstatement fee as provided in division (F)(2) of 2103  
section 4511.191 of the Revised Code. 2104

(3) If an offender is sentenced to a jail term under division 2105  
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 2106  
if, within sixty days of sentencing of the offender, the court 2107  
issues a written finding on the record that, due to the 2108  
unavailability of space at the jail where the offender is required 2109  
to serve the term, the offender will not be able to begin serving 2110  
that term within the sixty-day period following the date of 2111  
sentencing, the court may impose an alternative sentence under 2112  
this division that includes a term of house arrest with electronic 2113  
monitoring, with continuous alcohol monitoring, or with both 2114  
electronic monitoring and continuous alcohol monitoring. 2115

As an alternative to a mandatory jail term of ten consecutive 2116  
days required by division (G)(1)(b)(i) of this section, the court, 2117  
under this division, may sentence the offender to five consecutive 2118  
days in jail and not less than eighteen consecutive days of house 2119  
arrest with electronic monitoring, with continuous alcohol 2120  
monitoring, or with both electronic monitoring and continuous 2121  
alcohol monitoring. The cumulative total of the five consecutive 2122  
days in jail and the period of house arrest with electronic 2123  
monitoring, continuous alcohol monitoring, or both types of 2124

monitoring shall not exceed six months. The five consecutive days 2125  
in jail do not have to be served prior to or consecutively to the 2126  
period of house arrest. 2127

As an alternative to the mandatory jail term of twenty 2128  
consecutive days required by division (G)(1)(b)(ii) of this 2129  
section, the court, under this division, may sentence the offender 2130  
to ten consecutive days in jail and not less than thirty-six 2131  
consecutive days of house arrest with electronic monitoring, with 2132  
continuous alcohol monitoring, or with both electronic monitoring 2133  
and continuous alcohol monitoring. The cumulative total of the ten 2134  
consecutive days in jail and the period of house arrest with 2135  
electronic monitoring, continuous alcohol monitoring, or both 2136  
types of monitoring shall not exceed six months. The ten 2137  
consecutive days in jail do not have to be served prior to or 2138  
consecutively to the period of house arrest. 2139

As an alternative to a mandatory jail term of thirty 2140  
consecutive days required by division (G)(1)(c)(i) of this 2141  
section, the court, under this division, may sentence the offender 2142  
to fifteen consecutive days in jail and not less than fifty-five 2143  
consecutive days of house arrest with electronic monitoring, with 2144  
continuous alcohol monitoring, or with both electronic monitoring 2145  
and continuous alcohol monitoring. The cumulative total of the 2146  
fifteen consecutive days in jail and the period of house arrest 2147  
with electronic monitoring, continuous alcohol monitoring, or both 2148  
types of monitoring shall not exceed one year. The fifteen 2149  
consecutive days in jail do not have to be served prior to or 2150  
consecutively to the period of house arrest. 2151

As an alternative to the mandatory jail term of sixty 2152  
consecutive days required by division (G)(1)(c)(ii) of this 2153  
section, the court, under this division, may sentence the offender 2154  
to thirty consecutive days in jail and not less than one hundred 2155  
ten consecutive days of house arrest with electronic monitoring, 2156

with continuous alcohol monitoring, or with both electronic 2157  
monitoring and continuous alcohol monitoring. The cumulative total 2158  
of the thirty consecutive days in jail and the period of house 2159  
arrest with electronic monitoring, continuous alcohol monitoring, 2160  
or both types of monitoring shall not exceed one year. The thirty 2161  
consecutive days in jail do not have to be served prior to or 2162  
consecutively to the period of house arrest. 2163

(4) If an offender's driver's or occupational driver's 2164  
license or permit or nonresident operating privilege is suspended 2165  
under division (G) of this section and if section 4510.13 of the 2166  
Revised Code permits the court to grant limited driving 2167  
privileges, the court may grant the limited driving privileges in 2168  
accordance with that section. If division (A)(7) of that section 2169  
requires that the court impose as a condition of the privileges 2170  
that the offender must display on the vehicle that is driven 2171  
subject to the privileges restricted license plates that are 2172  
issued under section 4503.231 of the Revised Code, except as 2173  
provided in division (B) of that section, the court shall impose 2174  
that condition as one of the conditions of the limited driving 2175  
privileges granted to the offender, except as provided in division 2176  
(B) of section 4503.231 of the Revised Code. 2177

(5) Fines imposed under this section for a violation of 2178  
division (A) of this section shall be distributed as follows: 2179

(a) Twenty-five dollars of the fine imposed under division 2180  
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 2181  
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 2182  
fine imposed under division (G)(1)(c)(iii), and two hundred ten 2183  
dollars of the fine imposed under division (G)(1)(d)(iii) or 2184  
(e)(iii) of this section shall be paid to an enforcement and 2185  
education fund established by the legislative authority of the law 2186  
enforcement agency in this state that primarily was responsible 2187  
for the arrest of the offender, as determined by the court that 2188

imposes the fine. The agency shall use this share to pay only 2189  
those costs it incurs in enforcing this section or a municipal OVI 2190  
ordinance and in informing the public of the laws governing the 2191  
operation of a vehicle while under the influence of alcohol, the 2192  
dangers of the operation of a vehicle under the influence of 2193  
alcohol, and other information relating to the operation of a 2194  
vehicle under the influence of alcohol and the consumption of 2195  
alcoholic beverages. 2196

(b) Fifty dollars of the fine imposed under division 2197  
(G)(1)(a)(iii) of this section shall be paid to the political 2198  
subdivision that pays the cost of housing the offender during the 2199  
offender's term of incarceration. If the offender is being 2200  
sentenced for a violation of division (A)(1)(a), (b), (c), (d), 2201  
(e), or (j) of this section and was confined as a result of the 2202  
offense prior to being sentenced for the offense but is not 2203  
sentenced to a term of incarceration, the fifty dollars shall be 2204  
paid to the political subdivision that paid the cost of housing 2205  
the offender during that period of confinement. The political 2206  
subdivision shall use the share under this division to pay or 2207  
reimburse incarceration or treatment costs it incurs in housing or 2208  
providing drug and alcohol treatment to persons who violate this 2209  
section or a municipal OVI ordinance, costs of any immobilizing or 2210  
disabling device used on the offender's vehicle, and costs of 2211  
electronic house arrest equipment needed for persons who violate 2212  
this section. 2213

(c) Twenty-five dollars of the fine imposed under division 2214  
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 2215  
division (G)(1)(b)(iii) of this section shall be deposited into 2216  
the county or municipal indigent drivers' alcohol treatment fund 2217  
under the control of that court, as created by the county or 2218  
municipal corporation under division (F) of section 4511.191 of 2219  
the Revised Code. 2220

(d) One hundred fifteen dollars of the fine imposed under 2221  
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 2222  
fine imposed under division (G)(1)(c)(iii), and four hundred forty 2223  
dollars of the fine imposed under division (G)(1)(d)(iii) or 2224  
(e)(iii) of this section shall be paid to the political 2225  
subdivision that pays the cost of housing the offender during the 2226  
offender's term of incarceration. The political subdivision shall 2227  
use this share to pay or reimburse incarceration or treatment 2228  
costs it incurs in housing or providing drug and alcohol treatment 2229  
to persons who violate this section or a municipal OVI ordinance, 2230  
costs for any immobilizing or disabling device used on the 2231  
offender's vehicle, and costs of electronic housearrest equipment 2232  
needed for persons who violate this section. 2233

(e) Fifty dollars of the fine imposed under divisions 2234  
(G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), 2235  
and (G)(1)(e)(iii) of this section shall be deposited into the 2236  
special projects fund of the court in which the offender was 2237  
convicted and that is established under division (E)(1) of section 2238  
2303.201, division (B)(1) of section 1901.26, or division (B)(1) 2239  
of section 1907.24 of the Revised Code, to be used exclusively to 2240  
cover the cost of immobilizing or disabling devices, including 2241  
certified ignition interlock devices, and remote alcohol 2242  
monitoring devices for indigent offenders who are required by a 2243  
judge to use either of these devices. If the court in which the 2244  
offender was convicted does not have a special projects fund that 2245  
is established under division (E)(1) of section 2303.201, division 2246  
(B)(1) of section 1901.26, or division (B)(1) of section 1907.24 2247  
of the Revised Code, the fifty dollars shall be deposited into the 2248  
indigent drivers interlock and alcohol monitoring fund under 2249  
division (I) of section 4511.191 of the Revised Code. 2250

(f) Seventy-five dollars of the fine imposed under division 2251  
(G)(1)(a)(iii), one hundred twenty-five dollars of the fine 2252



imposed under division (G)(1)(b)(iii), two hundred fifty dollars 2253  
of the fine imposed under division (G)(1)(c)(iii), and five 2254  
hundred dollars of the fine imposed under division (G)(1)(d)(iii) 2255  
or (e)(iii) of this section shall be transmitted to the treasurer 2256  
of state for deposit into the indigent defense support fund 2257  
established under section 120.08 of the Revised Code. 2258

(g) The balance of the fine imposed under division 2259  
(G)(1)(a)(iii), (b)(iii), (c)(iii), (d)(iii), or (e)(iii) of this 2260  
section shall be disbursed as otherwise provided by law. 2261

(6) If title to a motor vehicle that is subject to an order 2262  
of criminal forfeiture under division (G)(1)(c), (d), or (e) of 2263  
this section is assigned or transferred and division (B)(2) or (3) 2264  
of section 4503.234 of the Revised Code applies, in addition to or 2265  
independent of any other penalty established by law, the court may 2266  
fine the offender the value of the vehicle as determined by 2267  
publications of the national auto dealers association. The 2268  
proceeds of any fine so imposed shall be distributed in accordance 2269  
with division (C)(2) of that section. 2270

(7) As used in division (G) of this section, "electronic 2271  
monitoring," "mandatory prison term," and "mandatory term of local 2272  
incarceration" have the same meanings as in section 2929.01 of the 2273  
Revised Code. 2274

(H) Whoever violates division (B) of this section is guilty 2275  
of operating a vehicle after underage alcohol consumption and 2276  
shall be punished as follows: 2277

(1) Except as otherwise provided in division (H)(2) of this 2278  
section, the offender is guilty of a misdemeanor of the fourth 2279  
degree. In addition to any other sanction imposed for the offense, 2280  
the court shall impose a class six suspension of the offender's 2281  
driver's license, commercial driver's license, temporary 2282  
instruction permit, probationary license, or nonresident operating 2283

privilege from the range specified in division (A)(6) of section 2284  
4510.02 of the Revised Code. 2285

(2) If, within one year of the offense, the offender 2286  
previously has been convicted of or pleaded guilty to one or more 2287  
violations of division (A) or (B) of this section or other 2288  
equivalent offenses, the offender is guilty of a misdemeanor of 2289  
the third degree. In addition to any other sanction imposed for 2290  
the offense, the court shall impose a class four suspension of the 2291  
offender's driver's license, commercial driver's license, 2292  
temporary instruction permit, probationary license, or nonresident 2293  
operating privilege from the range specified in division (A)(4) of 2294  
section 4510.02 of the Revised Code. 2295

(3) If the offender also is convicted of or also pleads 2296  
guilty to a specification of the type described in section 2297  
2941.1416 of the Revised Code and if the court imposes a jail term 2298  
for the violation of division (B) of this section, the court shall 2299  
impose upon the offender an additional definite jail term pursuant 2300  
to division (E) of section 2929.24 of the Revised Code. 2301

(I)(1) No court shall sentence an offender to an alcohol 2302  
treatment program under this section unless the treatment program 2303  
complies with the minimum standards for alcohol treatment programs 2304  
adopted under Chapter 3793. of the Revised Code by the director of 2305  
alcohol and drug addiction services. 2306

(2) An offender who stays in a drivers' intervention program 2307  
or in an alcohol treatment program under an order issued under 2308  
this section shall pay the cost of the stay in the program. 2309  
However, if the court determines that an offender who stays in an 2310  
alcohol treatment program under an order issued under this section 2311  
is unable to pay the cost of the stay in the program, the court 2312  
may order that the cost be paid from the court's indigent drivers' 2313  
alcohol treatment fund. 2314

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

(K) Division (A)(1)(j) of this section does not apply to a person who operates a vehicle, streetcar, or trackless trolley 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:

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

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

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

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

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, as adopted by the supreme court under authority of section 2937.46

of the Revised Code, do not apply to felony violations of this 2346  
section. Subject to division (N)(2) of this section, the Rules of 2347  
Criminal Procedure apply to felony violations of this section. 2348

(2) If, on or after January 1, 2004, the supreme court 2349  
modifies the Ohio Traffic Rules to provide procedures to govern 2350  
felony violations of this section, the modified rules shall apply 2351  
to felony violations of this section. 2352

**Sec. 4765.38.** (A) An emergency medical 2353  
technician-intermediate shall perform the emergency medical 2354  
services described in this section in accordance with this chapter 2355  
and any rules adopted under it. 2356

(B) An EMT-I may do any of the following: 2357

(1) Establish and maintain an intravenous lifeline that has 2358  
been approved by a cooperating physician or physician advisory 2359  
board; 2360

(2) Perform cardiac monitoring; 2361

(3) Perform electrical interventions to support or correct 2362  
the cardiac function; 2363

(4) Administer epinephrine; 2364

(5) Determine triage of adult and pediatric trauma victims; 2365

(6) Perform any other emergency medical services approved 2366  
pursuant to rules adopted under section 4765.11 of the Revised 2367  
Code. 2368

(C)(1) Except as provided in division (C)(2) of this section, 2369  
the services described in division (B) of this section shall be 2370  
performed by an EMT-I only pursuant to the written or verbal 2371  
authorization of a physician or of the cooperating physician 2372  
advisory board, or pursuant to an authorization transmitted 2373  
through a direct communication device by a physician or registered 2374

nurse designated by a physician. 2375

(2) If communications fail during an emergency situation or 2376  
the required response time prohibits communication, an EMT-I may 2377  
perform any of the services described in division (B) of this 2378  
section, if, in the judgment of the EMT-I, the life of the patient 2379  
is in immediate danger. Services performed under these 2380  
circumstances shall be performed in accordance with the protocols 2381  
for triage of adult and pediatric trauma victims established in 2382  
rules adopted under sections 4765.11 and 4765.40 of the Revised 2383  
Code and any applicable protocols adopted by the emergency medical 2384  
service organization with which the EMT-I is affiliated. 2385

(D) In addition to, and in the course of, providing emergency 2386  
medical treatment, an emergency medical technician-intermediate 2387  
may withdraw blood as provided under sections 1547.11, 4506.17, 2388  
and 4511.19 of the Revised Code. An emergency medical 2389  
technician-intermediate shall withdraw blood in accordance with 2390  
this chapter and any rules adopted under it by the state board of 2391  
emergency medical services. 2392

**Sec. 4765.39.** (A) An emergency medical technician-paramedic 2393  
shall perform the emergency medical services described in this 2394  
section in accordance with this chapter and any rules adopted 2395  
under it. 2396

(B) A paramedic may do any of the following: 2397

(1) Perform cardiac monitoring; 2398

(2) Perform electrical interventions to support or correct 2399  
the cardiac function; 2400

(3) Perform airway procedures; 2401

(4) Perform relief of pneumothorax; 2402

(5) Administer appropriate drugs and intravenous fluids; 2403

(6) Determine triage of adult and pediatric trauma victims; 2404

(7) Perform any other emergency medical services, including 2405  
life support or intensive care techniques, approved pursuant to 2406  
rules adopted under section 4765.11 of the Revised Code. 2407

(C)(1) Except as provided in division (C)(2) of this section, 2408  
the services described in division (B) of this section shall be 2409  
performed by a paramedic only pursuant to the written or verbal 2410  
authorization of a physician or of the cooperating physician 2411  
advisory board, or pursuant to an authorization transmitted 2412  
through a direct communication device by a physician or registered 2413  
nurse designated by a physician. 2414

(2) If communications fail during an emergency situation or 2415  
the required response time prohibits communication, a paramedic 2416  
may perform any of the services described in division (B) of this 2417  
section, if, in the paramedic's judgment, the life of the patient 2418  
is in immediate danger. Services performed under these 2419  
circumstances shall be performed in accordance with the protocols 2420  
for triage of adult and pediatric trauma victims established in 2421  
rules adopted under sections 4765.11 and 4765.40 of the Revised 2422  
Code and any applicable protocols adopted by the emergency medical 2423  
service organization with which the paramedic is affiliated. 2424

(D) In addition to, and in the course of, providing emergency 2425  
medical treatment, emergency medical technician-paramedic may 2426  
withdraw blood as provided under sections 1547.11, 4506.17, and 2427  
4511.19 of the Revised Code. An emergency medical 2428  
technician-paramedic shall withdraw blood in accordance with this 2429  
chapter and any rules adopted under it by the state board of 2430  
emergency medical services. 2431

**Section 2.** That existing sections 109.561, 1547.11, 2919.25, 2432  
2929.13, 2933.82, 4506.17, 4511.19, 4765.38, and 4765.39 of the 2433  
Revised Code are hereby repealed. 2434

**Section 3.** Section 2929.13 of the Revised Code is presented 2435  
in this act as a composite of the section as amended by both Am. 2436  
Sub. H.B. 130 and Am. Sub. H.B. 280 of the 127th General Assembly. 2437  
The General Assembly, applying the principle stated in division 2438  
(B) of section 1.52 of the Revised Code that amendments are to be 2439  
harmonized if reasonably capable of simultaneous operation, finds 2440  
that the composite is the resulting version of the section in 2441  
effect prior to the effective date of the section as presented in 2442  
this act. 2443