

**As Reported by the Senate Judiciary--Criminal Justice Committee**

**128th General Assembly**

**Regular Session**

**2009-2010**

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

**Senator Hughes**

**Cosponsors: Senators Schaffer, Wagoner, Grendell**

—

**A B I L L**

To amend sections 1547.11, 2919.25, 2929.13, 4506.17, 1  
4511.19, 4765.37, 4765.38, and 4765.39 and to 2  
enact section 2927.15 of the Revised Code to 3  
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, and to permit 10  
emergency medical technicians to withdraw blood 11  
for the purposes of the watercraft or vehicle OVI 12  
law or the commercial motor vehicle law. 13

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

**Section 1.** That sections 1547.11, 2919.25, 2929.13, 4506.17, 14  
4511.19, 4765.37, 4765.38, and 4765.39 be amended and section 15  
2927.15 of the Revised Code be enacted to read as follows: 16

**Sec. 1547.11.** (A) No person shall operate or be in physical 17  
control of any vessel underway or shall manipulate any water skis, 18  
aquaplane, or similar device on the waters in this state if, at 19

the time of the operation, control, or manipulation, any of the 20  
following applies: 21

(1) The person is under the influence of alcohol, a drug of 22  
abuse, or a combination of them. 23

(2) The person has a concentration of eight-hundredths of one 24  
per cent or more by weight of alcohol per unit volume in the 25  
person's whole blood. 26

(3) The person has a concentration of ninety-six-thousandths 27  
of one per cent or more by weight per unit volume of alcohol in 28  
the person's blood serum or plasma. 29

(4) The person has a concentration of eleven-hundredths of 30  
one gram or more by weight of alcohol per one hundred milliliters 31  
of the person's urine. 32

(5) The person has a concentration of eight-hundredths of one 33  
gram or more by weight of alcohol per two hundred ten liters of 34  
the person's breath. 35

(6) Except as provided in division (H) of this section, the 36  
person has a concentration of any of the following controlled 37  
substances or metabolites of a controlled substance in the 38  
person's whole blood, blood serum or plasma, or urine that equals 39  
or exceeds any of the following: 40

(a) The person has a concentration of amphetamine in the 41  
person's urine of at least five hundred nanograms of amphetamine 42  
per milliliter of the person's urine or has a concentration of 43  
amphetamine in the person's whole blood or blood serum or plasma 44  
of at least one hundred nanograms of amphetamine per milliliter of 45  
the person's whole blood or blood serum or plasma. 46

(b) The person has a concentration of cocaine in the person's 47  
urine of at least one hundred fifty nanograms of cocaine per 48  
milliliter of the person's urine or has a concentration of cocaine 49

in the person's whole blood or blood serum or plasma of at least 50  
fifty nanograms of cocaine per milliliter of the person's whole 51  
blood or blood serum or plasma. 52

(c) The person has a concentration of cocaine metabolite in 53  
the person's urine of at least one hundred fifty nanograms of 54  
cocaine metabolite per milliliter of the person's urine or has a 55  
concentration of cocaine metabolite in the person's whole blood or 56  
blood serum or plasma of at least fifty nanograms of cocaine 57  
metabolite per milliliter of the person's whole blood or blood 58  
serum or plasma. 59

(d) The person has a concentration of heroin in the person's 60  
urine of at least two thousand nanograms of heroin per milliliter 61  
of the person's urine or has a concentration of heroin in the 62  
person's whole blood or blood serum or plasma of at least fifty 63  
nanograms of heroin per milliliter of the person's whole blood or 64  
blood serum or plasma. 65

(e) The person has a concentration of heroin metabolite 66  
(6-monoacetyl morphine) in the person's urine of at least ten 67  
nanograms of heroin metabolite (6-monoacetyl morphine) per 68  
milliliter of the person's urine or has a concentration of heroin 69  
metabolite (6-monoacetyl morphine) in the person's whole blood or 70  
blood serum or plasma of at least ten nanograms of heroin 71  
metabolite (6-monoacetyl morphine) per milliliter of the person's 72  
whole blood or blood serum or plasma. 73

(f) The person has a concentration of L.S.D. in the person's 74  
urine of at least twenty-five nanograms of L.S.D. per milliliter 75  
of the person's urine or has a concentration of L.S.D. in the 76  
person's whole blood or blood serum or plasma of at least ten 77  
nanograms of L.S.D. per milliliter of the person's whole blood or 78  
blood serum or plasma. 79

(g) The person has a concentration of marihuana in the 80

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

(h) The state board of pharmacy has adopted a rule pursuant 86  
to section 4729.041 of the Revised Code that specifies the amount 87  
of salvia divinorum and the amount of salvinorin A that constitute 88  
concentrations of salvia divinorum and salvinorin A in a person's 89  
urine, in a person's whole blood, or in a person's blood serum or 90  
plasma at or above which the person is impaired for purposes of 91  
operating or being in physical control of any vessel underway or 92  
manipulating any water skis, aquaplane, or similar device on the 93  
waters of this state, the rule is in effect, and the person has a 94  
concentration of salvia divinorum or salvinorin A of at least that 95  
amount so specified by rule in the person's urine, in the person's 96  
whole blood, or in the person's blood serum or plasma. 97

(i) Either of the following applies: 98

(i) The person is under the influence of alcohol, a drug of 99  
abuse, or a combination of them, and, as measured by gas 100  
chromatography mass spectrometry, the person has a concentration 101  
of marihuana metabolite in the person's urine of at least fifteen 102  
nanograms of marihuana metabolite per milliliter of the person's 103  
urine or has a concentration of marihuana metabolite in the 104  
person's whole blood or blood serum or plasma of at least five 105  
nanograms of marihuana metabolite per milliliter of the person's 106  
whole blood or blood serum or plasma. 107

(ii) As measured by gas chromatography mass spectrometry, the 108  
person has a concentration of marihuana metabolite in the person's 109  
urine of at least thirty-five nanograms of marihuana metabolite 110  
per milliliter of the person's urine or has a concentration of 111  
marihuana metabolite in the person's whole blood or blood serum or 112

plasma of at least fifty nanograms of marihuana metabolite per 113  
milliliter of the person's whole blood or blood serum or plasma. 114

(j) The person has a concentration of methamphetamine in the 115  
person's urine of at least five hundred nanograms of 116  
methamphetamine per milliliter of the person's urine or has a 117  
concentration of methamphetamine in the person's whole blood or 118  
blood serum or plasma of at least one hundred nanograms of 119  
methamphetamine per milliliter of the person's whole blood or 120  
blood serum or plasma. 121

(k) The person has a concentration of phencyclidine in the 122  
person's urine of at least twenty-five nanograms of phencyclidine 123  
per milliliter of the person's urine or has a concentration of 124  
phencyclidine in the person's whole blood or blood serum or plasma 125  
of at least ten nanograms of phencyclidine per milliliter of the 126  
person's whole blood or blood serum or plasma. 127

(B) No person under twenty-one years of age shall operate or 128  
be in physical control of any vessel underway or shall manipulate 129  
any water skis, aquaplane, or similar device on the waters in this 130  
state if, at the time of the operation, control, or manipulation, 131  
any of the following applies: 132

(1) The person has a concentration of at least two-hundredths 133  
of one per cent, but less than eight-hundredths of one per cent by 134  
weight per unit volume of alcohol in the person's whole blood. 135

(2) The person has a concentration of at least 136  
three-hundredths of one per cent but less than 137  
ninety-six-thousandths of one per cent by weight per unit volume 138  
of alcohol in the person's blood serum or plasma. 139

(3) The person has a concentration of at least twenty-eight 140  
one-thousandths of one gram, but less than eleven-hundredths of 141  
one gram by weight of alcohol per one hundred milliliters of the 142  
person's urine. 143

(4) The person has a concentration of at least two-hundredths 144  
of one gram, but less than eight-hundredths of one gram by weight 145  
of alcohol per two hundred ten liters of the person's breath. 146

(C) In any proceeding arising out of one incident, a person 147  
may be charged with a violation of division (A)(1) and a violation 148  
of division (B)(1), (2), (3), or (4) of this section, but the 149  
person shall not be convicted of more than one violation of those 150  
divisions. 151

(D)(1)(a) In any criminal prosecution or juvenile court 152  
proceeding for a violation of division (A) or (B) of this section 153  
or for an equivalent offense that is watercraft-related, the 154  
result of any test of any blood or urine withdrawn and analyzed at 155  
any health care provider, as defined in section 2317.02 of the 156  
Revised Code, may be admitted with expert testimony to be 157  
considered with any other relevant and competent evidence in 158  
determining the guilt or innocence of the defendant. 159

(b) In any criminal prosecution or juvenile court proceeding 160  
for a violation of division (A) or (B) of this section or for an 161  
equivalent offense that is watercraft-related, the court may admit 162  
evidence on the concentration of alcohol, drugs of abuse, 163  
controlled substances, metabolites of a controlled substance, or a 164  
combination of them in the defendant's or child's whole blood, 165  
blood serum or plasma, urine, or breath at the time of the alleged 166  
violation as shown by chemical analysis of the substance 167  
withdrawn, or specimen taken within three hours of the time of the 168  
alleged violation. The three-hour time limit specified in this 169  
division regarding the admission of evidence does not extend or 170  
affect the two-hour time limit specified in division (C) of 171  
section 1547.111 of the Revised Code as the maximum period of time 172  
during which a person may consent to a chemical test or tests as 173  
described in that section. The court may admit evidence on the 174  
concentration of alcohol, drugs of abuse, or a combination of them 175

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

The whole blood, blood serum or plasma, urine, or breath 191  
withdrawn under division (D)(1)(b) of this section shall be 192  
analyzed in accordance with methods approved by the director of 193  
health by an individual possessing a valid permit issued by the 194  
director pursuant to section 3701.143 of the Revised Code. 195

(2) In a criminal prosecution or juvenile court proceeding 196  
for a violation of division (A) of this section or for an 197  
equivalent offense that is watercraft-related, if there was at the 198  
time the bodily substance was taken a concentration of less than 199  
the applicable concentration of alcohol specified for a violation 200  
of division (A)(2), (3), (4), or (5) of this section or less than 201  
the applicable concentration of a listed controlled substance or a 202  
listed metabolite of a controlled substance specified for a 203  
violation of division (A)(6) of this section, that fact may be 204  
considered with other competent evidence in determining the guilt 205  
or innocence of the defendant or in making an adjudication for the 206  
child. This division does not limit or affect a criminal 207

prosecution or juvenile court proceeding for a violation of 208  
division (B) of this section or for a violation of a prohibition 209  
that is substantially equivalent to that division. 210

(3) Upon the request of the person who was tested, the 211  
results of the chemical test shall be made available to the person 212  
or the person's attorney immediately upon completion of the test 213  
analysis. 214

If the chemical test was administered pursuant to division 215  
(D)(1)(b) of this section, the person tested may have a physician, 216  
a registered nurse, or a qualified technician, chemist, or 217  
phlebotomist of the person's own choosing administer a chemical 218  
test or tests in addition to any administered at the direction of 219  
a law enforcement officer, and shall be so advised. The failure or 220  
inability to obtain an additional test by a person shall not 221  
preclude the admission of evidence relating to the test or tests 222  
taken at the direction of a law enforcement officer. 223

(E)(1) In any criminal prosecution or juvenile court 224  
proceeding for a violation of division (A) or (B) of this section, 225  
of a municipal ordinance relating to operating or being in 226  
physical control of any vessel underway or to manipulating any 227  
water skis, aquaplane, or similar device on the waters of this 228  
state while under the influence of alcohol, a drug of abuse, or a 229  
combination of them, or of a municipal ordinance relating to 230  
operating or being in physical control of any vessel underway or 231  
to manipulating any water skis, aquaplane, or similar device on 232  
the waters of this state with a prohibited concentration of 233  
alcohol, a controlled substance, or a metabolite of a controlled 234  
substance in the whole blood, blood serum or plasma, breath, or 235  
urine, if a law enforcement officer has administered a field 236  
sobriety test to the operator or person found to be in physical 237  
control of the vessel underway involved in the violation or the 238  
person manipulating the water skis, aquaplane, or similar device 239

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

(a) The officer may testify concerning the results of the 251  
field sobriety test so administered. 252

(b) The prosecution may introduce the results of the field 253  
sobriety test so administered as evidence in any proceedings in 254  
the criminal prosecution or juvenile court proceeding. 255

(c) If testimony is presented or evidence is introduced under 256  
division (E)(1)(a) or (b) of this section and if the testimony or 257  
evidence is admissible under the Rules of Evidence, the court 258  
shall admit the testimony or evidence, and the trier of fact shall 259  
give it whatever weight the trier of fact considers to be 260  
appropriate. 261

(2) Division (E)(1) of this section does not limit or 262  
preclude a court, in its determination of whether the arrest of a 263  
person was supported by probable cause or its determination of any 264  
other matter in a criminal prosecution or juvenile court 265  
proceeding of a type described in that division, from considering 266  
evidence or testimony that is not otherwise disallowed by division 267  
(E)(1) of this section. 268

(F)(1) Subject to division (F)(3) of this section, in any 269  
criminal prosecution or juvenile court proceeding for a violation 270

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

(a) The signature, under oath, of any person who performed 281  
the analysis; 282

(b) Any findings as to the identity and quantity of alcohol, 283  
a drug of abuse, a controlled substance, a metabolite of a 284  
controlled substance, or a combination of them that was found; 285

(c) A copy of a notarized statement by the laboratory 286  
director or a designee of the director that contains the name of 287  
each certified analyst or test performer involved with the report, 288  
the analyst's or test performer's employment relationship with the 289  
laboratory that issued the report, and a notation that performing 290  
an analysis of the type involved is part of the analyst's or test 291  
performer's regular duties; 292

(d) An outline of the analyst's or test performer's 293  
education, training, and experience in performing the type of 294  
analysis involved and a certification that the laboratory 295  
satisfies appropriate quality control standards in general and, in 296  
this particular analysis, under rules of the department of health. 297

(2) Notwithstanding any other provision of law regarding the 298  
admission of evidence, a report of the type described in division 299  
(F)(1) of this section is not admissible against the defendant or 300  
child to whom it pertains in any proceeding, other than a 301

preliminary hearing or a grand jury proceeding, unless the 302  
prosecutor has served a copy of the report on the defendant's or 303  
child's attorney or, if the defendant or child has no attorney, on 304  
the defendant or child. 305

(3) A report of the type described in division (F)(1) of this 306  
section shall not be prima-facie evidence of the contents, 307  
identity, or amount of any substance if, within seven days after 308  
the defendant or child to whom the report pertains or the 309  
defendant's or child's attorney receives a copy of the report, the 310  
defendant or child or the defendant's or child's attorney demands 311  
the testimony of the person who signed the report. The judge in 312  
the case may extend the seven-day time limit in the interest of 313  
justice. 314

(G) Except as otherwise provided in this division, any 315  
physician, registered nurse, emergency medical technician, or 316  
qualified technician, chemist, or phlebotomist who withdraws blood 317  
from a person pursuant to this section or section 1547.111 of the 318  
Revised Code, and a hospital, first-aid station, or clinic at 319  
which blood is withdrawn from a person pursuant to this section or 320  
section 1547.111 of the Revised Code, is immune from criminal and 321  
civil liability based upon a claim of assault and battery or any 322  
other claim that is not a claim of malpractice, for any act 323  
performed in withdrawing blood from the person. The immunity 324  
provided in this division also extends to an emergency medical 325  
service organization that employs an emergency medical technician 326  
who withdraws blood under this section. The immunity provided in 327  
this division is not available to a person who withdraws blood if 328  
the person engages in willful or wanton misconduct. 329

(H) Division (A)(6) of this section does not apply to a 330  
person who operates or is in physical control of a vessel underway 331  
or manipulates any water skis, aquaplane, or similar device while 332  
the person has a concentration of a listed controlled substance or 333

a listed metabolite of a controlled substance in the person's 334  
whole blood, blood serum or plasma, or urine that equals or 335  
exceeds the amount specified in that division, if both of the 336  
following apply: 337

(1) The person obtained the controlled substance pursuant to 338  
a prescription issued by a licensed health professional authorized 339  
to prescribe drugs. 340

(2) The person injected, ingested, or inhaled the controlled 341  
substance in accordance with the health professional's directions. 342

(I) As used in this section and section 1547.111 of the 343  
Revised Code: 344

(1) "Equivalent offense" has the same meaning as in section 345  
4511.181 of the Revised Code. 346

(2) "National highway traffic safety administration" has the 347  
same meaning as in section 4511.19 of the Revised Code. 348

(3) "Operate" means that a vessel is being used on the waters 349  
in this state when the vessel is not securely affixed to a dock or 350  
to shore or to any permanent structure to which the vessel has the 351  
right to affix or that a vessel is not anchored in a designated 352  
anchorage area or boat camping area that is established by the 353  
United States coast guard, this state, or a political subdivision 354  
and in which the vessel has the right to anchor. 355

(4) "Controlled substance" and "marihuana" have the same 356  
meanings as in section 3719.01 of the Revised Code. 357

(5) "Cocaine" and "L.S.D." have the same meanings as in 358  
section 2925.01 of the Revised Code. 359

(6) "Equivalent offense that is watercraft-related" means an 360  
equivalent offense that is one of the following: 361

(a) A violation of division (A) or (B) of this section; 362

(b) A violation of a municipal ordinance prohibiting a person 363

from operating or being in physical control of any vessel underway 364  
or from manipulating any water skis, aquaplane, or similar device 365  
on the waters of this state while under the influence of alcohol, 366  
a drug of abuse, or a combination of them or prohibiting a person 367  
from operating or being in physical control of any vessel underway 368  
or from manipulating any water skis, aquaplane, or similar device 369  
on the waters of this state with a prohibited concentration of 370  
alcohol, a controlled substance, or a metabolite of a controlled 371  
substance in the whole blood, blood serum or plasma, breath, or 372  
urine; 373

(c) A violation of an existing or former municipal ordinance, 374  
law of another state, or law of the United States that is 375  
substantially equivalent to division (A) or (B) of this section; 376

(d) A violation of a former law of this state that was 377  
substantially equivalent to division (A) or (B) of this section. 378

**Sec. 2919.25.** (A) No person shall knowingly cause or attempt 379  
to cause physical harm to a family or household member. 380

(B) No person shall recklessly cause serious physical harm to 381  
a family or household member. 382

(C) No person, by threat of force, shall knowingly cause a 383  
family or household member to believe that the offender will cause 384  
imminent physical harm to the family or household member. 385

(D)(1) Whoever violates this section is guilty of domestic 386  
violence, and the court shall sentence the offender as provided in 387  
divisions (D)(2) to (6) of this section. 388

(2) Except as otherwise provided in division (D)(3) to (5) of 389  
this section, a violation of division (C) of this section is a 390  
misdemeanor of the fourth degree, and a violation of division (A) 391  
or (B) of this section is a misdemeanor of the first degree. 392

(3) Except as otherwise provided in division (D)(4) of this 393

section, if the offender previously has pleaded guilty to or been 394  
convicted of domestic violence, a violation of an existing or 395  
former municipal ordinance or law of this or any other state or 396  
the United States that is substantially similar to domestic 397  
violence, a violation of section 2903.14, 2909.06, 2909.07, 398  
2911.12, 2911.211, or 2919.22 of the Revised Code if the victim of 399  
the violation was a family or household member at the time of the 400  
violation, a violation of an existing or former municipal 401  
ordinance or law of this or any other state or the United States 402  
that is substantially similar to any of those sections if the 403  
victim of the violation was a family or household member at the 404  
time of the commission of the violation, or any offense of 405  
violence if the victim of the offense was a family or household 406  
member at the time of the commission of the offense, a violation 407  
of division (A) or (B) of this section is a felony of the fourth 408  
degree, and, if the offender knew that the victim of the violation 409  
was pregnant at the time of the violation, the court shall impose 410  
a mandatory prison term on the offender pursuant to division 411  
~~(A)~~(D)(6) of this section, and a violation of division (C) of this 412  
section is a misdemeanor of the second degree. 413

(4) If the offender previously has pleaded guilty to or been 414  
convicted of two or more offenses of domestic violence or two or 415  
more violations or offenses of the type described in division 416  
(D)(3) of this section involving a person who was a family or 417  
household member at the time of the violations or offenses, a 418  
violation of division (A) or (B) of this section is a felony of 419  
the third degree, and, if the offender knew that the victim of the 420  
violation was pregnant at the time of the violation, the court 421  
shall impose a mandatory prison term on the offender pursuant to 422  
division ~~(A)~~(D)(6) of this section, and a violation of division 423  
(C) of this section is a misdemeanor of the first degree. 424

(5) Except as otherwise provided in division (D)(3) or (4) of 425

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

(6) If division ~~(A)~~(D)(3), (4), or (5) of this section 433  
requires the court that sentences an offender for a violation of 434  
division (A) or (B) of this section to impose a mandatory prison 435  
term on the offender pursuant to this division, the court shall 436  
impose the mandatory prison term as follows: 437

(a) If the violation of division (A) or (B) of this section 438  
is a felony of the fourth or fifth degree, except as otherwise 439  
provided in division ~~(A)~~(D)(6)(b) or (c) of this section, the 440  
court shall impose a mandatory prison term on the offender of at 441  
least six months. 442

(b) If the violation of division (A) or (B) of this section 443  
is a felony of the fifth degree and the offender, in committing 444  
the violation, caused serious physical harm to the pregnant 445  
woman's unborn or caused the termination of the pregnant woman's 446  
pregnancy, the court shall impose a mandatory prison term on the 447  
offender of twelve months. 448

(c) If the violation of division (A) or (B) of this section 449  
is a felony of the fourth degree and the offender, in committing 450  
the violation, caused serious physical harm to the pregnant 451  
woman's unborn or caused the termination of the pregnant woman's 452  
pregnancy, the court shall impose a mandatory prison term on the 453  
offender of at least twelve months. 454

(d) If the violation of division (A) or (B) of this section 455  
is a felony of the third degree, except as otherwise provided in 456

division ~~(A)~~(D)(6)(e) of this section and notwithstanding the 457  
range of prison terms prescribed in section 2929.14 of the Revised 458  
Code for a felony of the third degree, the court shall impose a 459  
mandatory prison term on the offender of either a definite term of 460  
six months or one of the prison terms prescribed in section 461  
2929.14 of the Revised Code for felonies of the third degree. 462

463

(e) If the violation of division (A) or (B) of this section 464  
is a felony of the third degree and the offender, in committing 465  
the violation, caused serious physical harm to the pregnant 466  
woman's unborn or caused the termination of the pregnant woman's 467  
pregnancy, notwithstanding the range of prison terms prescribed in 468  
section 2929.14 of the Revised Code for a felony of the third 469  
degree, the court shall impose a mandatory prison term on the 470  
offender of either a definite term of one year or one of the 471  
prison terms prescribed in section 2929.14 of the Revised Code for 472  
felonies of the third degree. 473

(E) Notwithstanding any provision of law to the contrary, no 474  
court or unit of state or local government shall charge any fee, 475  
cost, deposit, or money in connection with the filing of charges 476  
against a person alleging that the person violated this section or 477  
a municipal ordinance substantially similar to this section or in 478  
connection with the prosecution of any charges so filed. 479

(F) As used in this section and sections 2919.251 and 2919.26 480  
of the Revised Code: 481

(1) "Family or household member" means any of the following: 482

(a) Any of the following who is residing or has resided with 483  
the offender: 484

(i) A spouse, a person living as a spouse, or a former spouse 485  
of the offender; 486

(ii) A parent or a child of the offender, or another person 487

related by consanguinity or affinity to the offender; 488

(iii) A parent or a child of a spouse, person living as a 489  
spouse, or former spouse of the offender, or another person 490  
related by consanguinity or affinity to a spouse, person living as 491  
a spouse, or former spouse of the offender. 492

(b) The natural parent of any child of whom the offender is 493  
the other natural parent or is the putative other natural parent. 494

(2) "Person living as a spouse" means a person who is living 495  
or has lived with the offender in a common law marital 496  
relationship, who otherwise is cohabiting with the offender, or 497  
who otherwise has cohabited with the offender within five years 498  
prior to the date of the alleged commission of the act in 499  
question. 500

(3) "Pregnant woman's unborn" has the same meaning as "such 501  
other person's unborn," as set forth in section 2903.09 of the 502  
Revised Code, as it relates to the pregnant woman. Division (C) of 503  
that section applies regarding the use of the term in this 504  
section, except that the second and third sentences of division 505  
(C)(1) of that section shall be construed for purposes of this 506  
section as if they included a reference to this section in the 507  
listing of Revised Code sections they contain. 508

(4) "Termination of the pregnant woman's pregnancy" has the 509  
same meaning as "unlawful termination of another's pregnancy," as 510  
set forth in section 2903.09 of the Revised Code, as it relates to 511  
the pregnant woman. Division (C) of that section applies regarding 512  
the use of the term in this section, except that the second and 513  
third sentences of division (C)(1) of that section shall be 514  
construed for purposes of this section as if they included a 515  
reference to this section in the listing of Revised Code sections 516  
they contain. 517

Sec. 2927.15. (A) No person shall knowingly collect any 518  
blood, urine, tissue, or other bodily substance of another person 519  
without privilege or consent to do so. 520

(B)(1) Division (A) of this section does not apply to any of 521  
the following: 522

(a) The collection of any bodily substance of a person by a 523  
law enforcement officer, or by another person pursuant to the 524  
direction or advice of a law enforcement officer, for purposes of 525  
a chemical test or tests of the substance under division (A)(1) of 526  
section 1547.111 or division (A)(2) of section 4511.191 of the 527  
Revised Code to determine the alcohol, drug, controlled substance, 528  
metabolite of a controlled substance, or combination content of 529  
the bodily substance; 530

(b) The collection of any bodily substance of a person by a 531  
peace officer, or by another person pursuant to the direction or 532  
advice of a peace officer, for purposes of a test or tests of the 533  
substance as provided in division (A) of section 4506.17 of the 534  
Revised Code to determine the person's alcohol concentration or 535  
the presence of any controlled substance or metabolite of a 536  
controlled substance. 537

(2) Division (B)(1) of this section shall not be construed as 538  
implying that the persons identified in divisions (B)(1)(a) and 539  
(b) of this section do not have privilege to collect the bodily 540  
substance of another person as described in those divisions or as 541  
limiting the definition of "privilege" set forth in section 542  
2901.01 of the Revised Code. 543

(C) Whoever violates division (A) of this section is guilty 544  
of unlawful collection of a bodily substance. Except as otherwise 545  
provided in this division, unlawful collection of a bodily 546  
substance is a misdemeanor of the first degree. If the offender 547  
previously has been convicted of or pleaded guilty to a violation 548

of division (A) of this section, unlawful collection of a bodily 549  
substance is a felony of the fifth degree. 550

**Sec. 2929.13.** (A) Except as provided in division (E), (F), or 551  
(G) of this section and unless a specific sanction is required to 552  
be imposed or is precluded from being imposed pursuant to law, a 553  
court that imposes a sentence upon an offender for a felony may 554  
impose any sanction or combination of sanctions on the offender 555  
that are provided in sections 2929.14 to 2929.18 of the Revised 556  
Code. The sentence shall not impose an unnecessary burden on state 557  
or local government resources. 558

If the offender is eligible to be sentenced to community 559  
control sanctions, the court shall consider the appropriateness of 560  
imposing a financial sanction pursuant to section 2929.18 of the 561  
Revised Code or a sanction of community service pursuant to 562  
section 2929.17 of the Revised Code as the sole sanction for the 563  
offense. Except as otherwise provided in this division, if the 564  
court is required to impose a mandatory prison term for the 565  
offense for which sentence is being imposed, the court also shall 566  
impose any financial sanction pursuant to section 2929.18 of the 567  
Revised Code that is required for the offense and may impose any 568  
other financial sanction pursuant to that section but may not 569  
impose any additional sanction or combination of sanctions under 570  
section 2929.16 or 2929.17 of the Revised Code. 571

If the offender is being sentenced for a fourth degree felony 572  
OVI offense or for a third degree felony OVI offense, in addition 573  
to the mandatory term of local incarceration or the mandatory 574  
prison term required for the offense by division (G)(1) or (2) of 575  
this section, the court shall impose upon the offender a mandatory 576  
fine in accordance with division (B)(3) of section 2929.18 of the 577  
Revised Code and may impose whichever of the following is 578  
applicable: 579

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

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

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

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

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

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

(d) The offender held a public office or position of trust and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring

those committing it to justice; or the offender's professional 611  
reputation or position facilitated the offense or was likely to 612  
influence the future conduct of others. 613

(e) The offender committed the offense for hire or as part of 614  
an organized criminal activity. 615

(f) The offense is a sex offense that is a fourth or fifth 616  
degree felony violation of section 2907.03, 2907.04, 2907.05, 617  
2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the 618  
Revised Code. 619

(g) The offender at the time of the offense was serving, or 620  
the offender previously had served, a prison term. 621

(h) The offender committed the offense while under a 622  
community control sanction, while on probation, or while released 623  
from custody on a bond or personal recognizance. 624

(i) The offender committed the offense while in possession of 625  
a firearm. 626

(2)(a) If the court makes a finding described in division 627  
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 628  
section and if the court, after considering the factors set forth 629  
in section 2929.12 of the Revised Code, finds that a prison term 630  
is consistent with the purposes and principles of sentencing set 631  
forth in section 2929.11 of the Revised Code and finds that the 632  
offender is not amenable to an available community control 633  
sanction, the court shall impose a prison term upon the offender. 634

(b) Except as provided in division (E), (F), or (G) of this 635  
section, if the court does not make a finding described in 636  
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 637  
this section and if the court, after considering the factors set 638  
forth in section 2929.12 of the Revised Code, finds that a 639  
community control sanction or combination of community control 640  
sanctions is consistent with the purposes and principles of 641

sentencing set forth in section 2929.11 of the Revised Code, the 642  
court shall impose a community control sanction or combination of 643  
community control sanctions upon the offender. 644

(C) Except as provided in division (D), (E), (F), or (G) of 645  
this section, in determining whether to impose a prison term as a 646  
sanction for a felony of the third degree or a felony drug offense 647  
that is a violation of a provision of Chapter 2925. of the Revised 648  
Code and that is specified as being subject to this division for 649  
purposes of sentencing, the sentencing court shall comply with the 650  
purposes and principles of sentencing under section 2929.11 of the 651  
Revised Code and with section 2929.12 of the Revised Code. 652

(D)(1) Except as provided in division (E) or (F) of this 653  
section, for a felony of the first or second degree, for a felony 654  
drug offense that is a violation of any provision of Chapter 655  
2925., 3719., or 4729. of the Revised Code for which a presumption 656  
in favor of a prison term is specified as being applicable, and 657  
for a violation of division (A)(4) or (B) of section 2907.05 of 658  
the Revised Code for which a presumption in favor of a prison term 659  
is specified as being applicable, it is presumed that a prison 660  
term is necessary in order to comply with the purposes and 661  
principles of sentencing under section 2929.11 of the Revised 662  
Code. Division (D)(2) of this section does not apply to a 663  
presumption established under this division for a violation of 664  
division (A)(4) of section 2907.05 of the Revised Code. 665

(2) Notwithstanding the presumption established under 666  
division (D)(1) of this section for the offenses listed in that 667  
division other than a violation of division (A)(4) or (B) of 668  
section 2907.05 of the Revised Code, the sentencing court may 669  
impose a community control sanction or a combination of community 670  
control sanctions instead of a prison term on an offender for a 671  
felony of the first or second degree or for a felony drug offense 672  
that is a violation of any provision of Chapter 2925., 3719., or 673

4729. of the Revised Code for which a presumption in favor of a 674  
prison term is specified as being applicable if it makes both of 675  
the following findings: 676

(a) A community control sanction or a combination of 677  
community control sanctions would adequately punish the offender 678  
and protect the public from future crime, because the applicable 679  
factors under section 2929.12 of the Revised Code indicating a 680  
lesser likelihood of recidivism outweigh the applicable factors 681  
under that section indicating a greater likelihood of recidivism. 682

(b) A community control sanction or a combination of 683  
community control sanctions would not demean the seriousness of 684  
the offense, because one or more factors under section 2929.12 of 685  
the Revised Code that indicate that the offender's conduct was 686  
less serious than conduct normally constituting the offense are 687  
applicable, and they outweigh the applicable factors under that 688  
section that indicate that the offender's conduct was more serious 689  
than conduct normally constituting the offense. 690

(E)(1) Except as provided in division (F) of this section, 691  
for any drug offense that is a violation of any provision of 692  
Chapter 2925. of the Revised Code and that is a felony of the 693  
third, fourth, or fifth degree, the applicability of a presumption 694  
under division (D) of this section in favor of a prison term or of 695  
division (B) or (C) of this section in determining whether to 696  
impose a prison term for the offense shall be determined as 697  
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 698  
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 699  
Revised Code, whichever is applicable regarding the violation. 700

(2) If an offender who was convicted of or pleaded guilty to 701  
a felony violates the conditions of a community control sanction 702  
imposed for the offense solely by reason of producing positive 703  
results on a drug test, the court, as punishment for the violation 704  
of the sanction, shall not order that the offender be imprisoned 705

unless the court determines on the record either of the following: 706

(a) The offender had been ordered as a sanction for the 707  
felony to participate in a drug treatment program, in a drug 708  
education program, or in narcotics anonymous or a similar program, 709  
and the offender continued to use illegal drugs after a reasonable 710  
period of participation in the program. 711

(b) The imprisonment of the offender for the violation is 712  
consistent with the purposes and principles of sentencing set 713  
forth in section 2929.11 of the Revised Code. 714

(3) A court that sentences an offender for a drug abuse 715  
offense that is a felony of the third, fourth, or fifth degree may 716  
require that the offender be assessed by a properly credentialed 717  
professional within a specified period of time. The court shall 718  
require the professional to file a written assessment of the 719  
offender with the court. If the offender is eligible for a 720  
community control sanction and after considering the written 721  
assessment, the court may impose a community control sanction that 722  
includes treatment and recovery support services authorized by 723  
section 3793.02 of the Revised Code. If the court imposes 724  
treatment and recovery support services as a community control 725  
sanction, the court shall direct the level and type of treatment 726  
and recovery support services after considering the assessment and 727  
recommendation of treatment and recovery support services 728  
providers. 729

(F) Notwithstanding divisions (A) to (E) of this section, the 730  
court shall impose a prison term or terms under sections 2929.02 731  
to 2929.06, section 2929.14, section 2929.142, or section 2971.03 732  
of the Revised Code and except as specifically provided in section 733  
2929.20 or 2967.191 of the Revised Code or when parole is 734  
authorized for the offense under section 2967.13 of the Revised 735  
Code shall not reduce the term or terms pursuant to section 736  
2929.20, section 2967.193, or any other provision of Chapter 2967. 737

or Chapter 5120. of the Revised Code for any of the following	738
offenses:	739
(1) Aggravated murder when death is not imposed or murder;	740
(2) Any rape, regardless of whether force was involved and	741
regardless of the age of the victim, or an attempt to commit rape	742
if, had the offender completed the rape that was attempted, the	743
offender would have been guilty of a violation of division	744
(A)(1)(b) of section 2907.02 of the Revised Code and would be	745
sentenced under section 2971.03 of the Revised Code;	746
(3) Gross sexual imposition or sexual battery, if the victim	747
is less than thirteen years of age and if any of the following	748
applies:	749
(a) Regarding gross sexual imposition, the offender	750
previously was convicted of or pleaded guilty to rape, the former	751
offense of felonious sexual penetration, gross sexual imposition,	752
or sexual battery, and the victim of the previous offense was less	753
than thirteen years of age;	754
(b) Regarding gross sexual imposition, the offense was	755
committed on or after August 3, 2006, and evidence other than the	756
testimony of the victim was admitted in the case corroborating the	757
violation.	758
(c) Regarding sexual battery, either of the following	759
applies:	760
(i) The offense was committed prior to August 3, 2006, the	761
offender previously was convicted of or pleaded guilty to rape,	762
the former offense of felonious sexual penetration, or sexual	763
battery, and the victim of the previous offense was less than	764
thirteen years of age.	765
(ii) The offense was committed on or after August 3, 2006.	766
(4) A felony violation of section 2903.04, 2903.06, 2903.08,	767

2903.11, 2903.12, 2903.13, or 2907.07 of the Revised Code if the section requires the imposition of a prison term;

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

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

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

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

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

to a person. 799

(8) Any offense, other than a violation of section 2923.12 of 800  
the Revised Code, that is a felony, if the offender had a firearm 801  
on or about the offender's person or under the offender's control 802  
while committing the felony, with respect to a portion of the 803  
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 804  
of the Revised Code for having the firearm; 805

(9) Any offense of violence that is a felony, if the offender 806  
wore or carried body armor while committing the felony offense of 807  
violence, with respect to the portion of the sentence imposed 808  
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 809  
Code for wearing or carrying the body armor; 810

(10) Corrupt activity in violation of section 2923.32 of the 811  
Revised Code when the most serious offense in the pattern of 812  
corrupt activity that is the basis of the offense is a felony of 813  
the first degree; 814

(11) Any violent sex offense or designated homicide, assault, 815  
or kidnapping offense if, in relation to that offense, the 816  
offender is adjudicated a sexually violent predator; 817

(12) A violation of division (A)(1) or (2) of section 2921.36 818  
of the Revised Code, or a violation of division (C) of that 819  
section involving an item listed in division (A)(1) or (2) of that 820  
section, if the offender is an officer or employee of the 821  
department of rehabilitation and correction; 822

(13) A violation of division (A)(1) or (2) of section 2903.06 823  
of the Revised Code if the victim of the offense is a peace 824  
officer, as defined in section 2935.01 of the Revised Code, or an 825  
investigator of the bureau of criminal identification and 826  
investigation, as defined in section 2903.11 of the Revised Code, 827  
with respect to the portion of the sentence imposed pursuant to 828  
division (D)(5) of section 2929.14 of the Revised Code; 829

(14) A violation of division (A)(1) or (2) of section 2903.06 830  
of the Revised Code if the offender has been convicted of or 831  
pleaded guilty to three or more violations of division (A) or (B) 832  
of section 4511.19 of the Revised Code or an equivalent offense, 833  
as defined in section 2941.1415 of the Revised Code, or three or 834  
more violations of any combination of those divisions and 835  
offenses, with respect to the portion of the sentence imposed 836  
pursuant to division (D)(6) of section 2929.14 of the Revised 837  
Code; 838

(15) Kidnapping, in the circumstances specified in section 839  
2971.03 of the Revised Code and when no other provision of 840  
division (F) of this section applies; 841

(16) Kidnapping, abduction, compelling prostitution, 842  
promoting prostitution, engaging in a pattern of corrupt activity, 843  
illegal use of a minor in a nudity-oriented material or 844  
performance in violation of division (A)(1) or (2) of section 845  
2907.323 of the Revised Code, or endangering children in violation 846  
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 847  
the Revised Code, if the offender is convicted of or pleads guilty 848  
to a specification as described in section 2941.1422 of the 849  
Revised Code that was included in the indictment, count in the 850  
indictment, or information charging the offense; 851

(17) A felony violation of division (A) or (B) of section 852  
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 853  
that section, and division ~~(A)~~(D)(6) of that section, require the 854  
imposition of a prison term; 855

(18) A felony violation of section 2903.11, 2903.12, or 856  
2903.13 of the Revised Code, if the victim of the offense was a 857  
woman that the offender knew was pregnant at the time of the 858  
violation, with respect to a portion of the sentence imposed 859  
pursuant to division (D)(8) of section 2929.14 of the Revised 860  
Code. 861

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

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

(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G)(1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years 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 shall impose upon the offender a mandatory prison

term of sixty days or one hundred twenty days as specified in 894  
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 895  
if the offender has not been convicted of and has not pleaded 896  
guilty to a specification of that type. The court shall not reduce 897  
the term pursuant to section 2929.20, 2967.193, or any other 898  
provision of the Revised Code. The offender shall serve the one-, 899  
two-, three-, four-, or five-year mandatory prison term 900  
consecutively to and prior to the prison term imposed for the 901  
underlying offense and consecutively to any other mandatory prison 902  
term imposed in relation to the offense. In no case shall an 903  
offender who once has been sentenced to a mandatory term of local 904  
incarceration pursuant to division (G)(1) of this section for a 905  
fourth degree felony OVI offense be sentenced to another mandatory 906  
term of local incarceration under that division for any violation 907  
of division (A) of section 4511.19 of the Revised Code. In 908  
addition to the mandatory prison term described in division (G)(2) 909  
of this section, the court may sentence the offender to a 910  
community control sanction under section 2929.16 or 2929.17 of the 911  
Revised Code, but the offender shall serve the prison term prior 912  
to serving the community control sanction. The department of 913  
rehabilitation and correction may place an offender sentenced to a 914  
mandatory prison term under this division in an intensive program 915  
prison established pursuant to section 5120.033 of the Revised 916  
Code if the department gave the sentencing judge prior notice of 917  
its intent to place the offender in an intensive program prison 918  
established under that section and if the judge did not notify the 919  
department that the judge disapproved the placement. Upon the 920  
establishment of the initial intensive program prison pursuant to 921  
section 5120.033 of the Revised Code that is privately operated 922  
and managed by a contractor pursuant to a contract entered into 923  
under section 9.06 of the Revised Code, both of the following 924  
apply: 925

(a) The department of rehabilitation and correction shall 926

make a reasonable effort to ensure that a sufficient number of 927  
offenders sentenced to a mandatory prison term under this division 928  
are placed in the privately operated and managed prison so that 929  
the privately operated and managed prison has full occupancy. 930

(b) Unless the privately operated and managed prison has full 931  
occupancy, the department of rehabilitation and correction shall 932  
not place any offender sentenced to a mandatory prison term under 933  
this division in any intensive program prison established pursuant 934  
to section 5120.033 of the Revised Code other than the privately 935  
operated and managed prison. 936

(H) If an offender is being sentenced for a sexually oriented 937  
offense or child-victim oriented offense that is a felony 938  
committed on or after January 1, 1997, the judge shall require the 939  
offender to submit to a DNA specimen collection procedure pursuant 940  
to section 2901.07 of the Revised Code. 941

(I) If an offender is being sentenced for a sexually oriented 942  
offense or a child-victim oriented offense committed on or after 943  
January 1, 1997, the judge shall include in the sentence a summary 944  
of the offender's duties imposed under sections 2950.04, 2950.041, 945  
2950.05, and 2950.06 of the Revised Code and the duration of the 946  
duties. The judge shall inform the offender, at the time of 947  
sentencing, of those duties and of their duration. If required 948  
under division (A)(2) of section 2950.03 of the Revised Code, the 949  
judge shall perform the duties specified in that section, or, if 950  
required under division (A)(6) of section 2950.03 of the Revised 951  
Code, the judge shall perform the duties specified in that 952  
division. 953

(J)(1) Except as provided in division (J)(2) of this section, 954  
when considering sentencing factors under this section in relation 955  
to an offender who is convicted of or pleads guilty to an attempt 956  
to commit an offense in violation of section 2923.02 of the 957  
Revised Code, the sentencing court shall consider the factors 958

applicable to the felony category of the violation of section 959  
2923.02 of the Revised Code instead of the factors applicable to 960  
the felony category of the offense attempted. 961

(2) When considering sentencing factors under this section in 962  
relation to an offender who is convicted of or pleads guilty to an 963  
attempt to commit a drug abuse offense for which the penalty is 964  
determined by the amount or number of unit doses of the controlled 965  
substance involved in the drug abuse offense, the sentencing court 966  
shall consider the factors applicable to the felony category that 967  
the drug abuse offense attempted would be if that drug abuse 968  
offense had been committed and had involved an amount or number of 969  
unit doses of the controlled substance that is within the next 970  
lower range of controlled substance amounts than was involved in 971  
the attempt. 972

(K) As used in this section, "drug abuse offense" has the 973  
same meaning as in section 2925.01 of the Revised Code. 974

(L) At the time of sentencing an offender for any sexually 975  
oriented offense, if the offender is a tier III sex 976  
offender/child-victim offender relative to that offense and the 977  
offender does not serve a prison term or jail term, the court may 978  
require that the offender be monitored by means of a global 979  
positioning device. If the court requires such monitoring, the 980  
cost of monitoring shall be borne by the offender. If the offender 981  
is indigent, the cost of compliance shall be paid by the crime 982  
victims reparations fund. 983

**Sec. 4506.17.** (A) Any person who holds a commercial driver's 984  
license or operates a commercial motor vehicle requiring a 985  
commercial driver's license within this state shall be deemed to 986  
have given consent to a test or tests of the person's whole blood, 987  
blood serum or plasma, breath, or urine for the purpose of 988  
determining the person's alcohol concentration or the presence of 989

any controlled substance or a metabolite of a controlled 990  
substance. 991

(B) A test or tests as provided in division (A) of this 992  
section may be administered at the direction of a peace officer 993  
having reasonable ground to stop or detain the person and, after 994  
investigating the circumstances surrounding the operation of the 995  
commercial motor vehicle, also having reasonable ground to believe 996  
the person was driving the commercial vehicle while having a 997  
measurable or detectable amount of alcohol or of a controlled 998  
substance or a metabolite of a controlled substance in the 999  
person's whole blood, blood serum or plasma, breath, or urine. Any 1000  
such test shall be given within two hours of the time of the 1001  
alleged violation. 1002

(C) A person requested to submit to a test under division (A) 1003  
of this section shall be advised by the peace officer requesting 1004  
the test that a refusal to submit to the test will result in the 1005  
person immediately being placed out-of-service for a period of 1006  
twenty-four hours and being disqualified from operating a 1007  
commercial motor vehicle for a period of not less than one year, 1008  
and that the person is required to surrender the person's 1009  
commercial driver's license to the peace officer. 1010

(D) If a person refuses to submit to a test after being 1011  
warned as provided in division (C) of this section or submits to a 1012  
test that discloses the presence of a controlled substance or a 1013  
metabolite of a controlled substance, an alcohol concentration of 1014  
four-hundredths of one per cent or more by whole blood or breath, 1015  
an alcohol concentration of forty-eight-thousandths of one per 1016  
cent or more by blood serum or blood plasma, or an alcohol 1017  
concentration of fifty-six-thousandths of one per cent or more by 1018  
urine, the person immediately shall surrender the person's 1019  
commercial driver's license to the peace officer. The peace 1020

officer shall forward the license, together with a sworn report, 1021  
to the registrar of motor vehicles certifying that the test was 1022  
requested pursuant to division (A) of this section and that the 1023  
person either refused to submit to testing or submitted to a test 1024  
that disclosed the presence of a controlled substance or a 1025  
metabolite of a controlled substance or a prohibited alcohol 1026  
concentration. The form and contents of the report required by 1027  
this section shall be established by the registrar by rule, but 1028  
shall contain the advice to be read to the driver and a statement 1029  
to be signed by the driver acknowledging that the driver has been 1030  
read the advice and that the form was shown to the driver. 1031

(E) Upon receipt of a sworn report from a peace officer as 1032  
provided in division (D) of this section, the registrar shall 1033  
disqualify the person named in the report from driving a 1034  
commercial motor vehicle for the period described below: 1035

(1) Upon a first incident, one year; 1036

(2) Upon an incident of refusal or of a prohibited 1037  
concentration of alcohol, a controlled substance, or a metabolite 1038  
of a controlled substance after one or more previous incidents of 1039  
either refusal or of a prohibited concentration of alcohol, a 1040  
controlled substance, or a metabolite of a controlled substance, 1041  
the person shall be disqualified for life or such lesser period as 1042  
prescribed by rule by the registrar. 1043

(F) A test of a person's whole blood or a person's blood 1044  
serum or plasma given under this section shall comply with the 1045  
applicable provisions of division (D) of section 4511.19 of the 1046  
Revised Code and any physician, registered nurse, emergency 1047  
medical technician, or qualified technician, chemist, or 1048  
phlebotomist who withdraws whole blood or blood serum or plasma 1049  
from a person under this section, and any hospital, first-aid 1050  
station, clinic, or other facility at which whole blood or blood 1051  
serum or plasma is withdrawn from a person pursuant to this 1052

section, is immune from criminal liability, and from civil 1053  
liability that is based upon a claim of assault and battery or 1054  
based upon any other claim of malpractice, for any act performed 1055  
in withdrawing whole blood or blood serum or plasma from the 1056  
person. The immunity provided in this division also extends to an 1057  
emergency medical service organization that employs an emergency 1058  
medical technician who withdraws blood under this section. 1059

(G) When a person submits to a test under this section, the 1060  
results of the test, at the person's request, shall be made 1061  
available to the person, the person's attorney, or the person's 1062  
agent, immediately upon completion of the chemical test analysis. 1063  
The person also may have an additional test administered by a 1064  
physician, a registered nurse, or a qualified technician, chemist, 1065  
or phlebotomist of the person's own choosing as provided in 1066  
division (D) of section 4511.19 of the Revised Code for tests 1067  
administered under that section, and the failure to obtain such a 1068  
test has the same effect as in that division. 1069

(H) No person shall refuse to immediately surrender the 1070  
person's commercial driver's license to a peace officer when 1071  
required to do so by this section. 1072

(I) A peace officer issuing an out-of-service order or 1073  
receiving a commercial driver's license surrendered under this 1074  
section may remove or arrange for the removal of any commercial 1075  
motor vehicle affected by the issuance of that order or the 1076  
surrender of that license. 1077

(J)(1) Except for civil actions arising out of the operation 1078  
of a motor vehicle and civil actions in which the state is a 1079  
plaintiff, no peace officer of any law enforcement agency within 1080  
this state is liable in compensatory damages in any civil action 1081  
that arises under the Revised Code or common law of this state for 1082  
an injury, death, or loss to person or property caused in the 1083  
performance of official duties under this section and rules 1084

adopted under this section, unless the officer's actions were 1085  
manifestly outside the scope of the officer's employment or 1086  
official responsibilities, or unless the officer acted with 1087  
malicious purpose, in bad faith, or in a wanton or reckless 1088  
manner. 1089

(2) Except for civil actions that arise out of the operation 1090  
of a motor vehicle and civil actions in which the state is a 1091  
plaintiff, no peace officer of any law enforcement agency within 1092  
this state is liable in punitive or exemplary damages in any civil 1093  
action that arises under the Revised Code or common law of this 1094  
state for any injury, death, or loss to person or property caused 1095  
in the performance of official duties under this section of the 1096  
Revised Code and rules adopted under this section, unless the 1097  
officer's actions were manifestly outside the scope of the 1098  
officer's employment or official responsibilities, or unless the 1099  
officer acted with malicious purpose, in bad faith, or in a wanton 1100  
or reckless manner. 1101

(K) When disqualifying a driver, the registrar shall cause 1102  
the records of the bureau of motor vehicles to be updated to 1103  
reflect the disqualification within ten days after it occurs. 1104

(L) The registrar immediately shall notify a driver who is 1105  
subject to disqualification of the disqualification, of the length 1106  
of the disqualification, and that the driver may request a hearing 1107  
within thirty days of the mailing of the notice to show cause why 1108  
the driver should not be disqualified from operating a commercial 1109  
motor vehicle. If a request for such a hearing is not made within 1110  
thirty days of the mailing of the notice, the order of 1111  
disqualification is final. The registrar may designate hearing 1112  
examiners who, after affording all parties reasonable notice, 1113  
shall conduct a hearing to determine whether the disqualification 1114  
order is supported by reliable evidence. The registrar shall adopt 1115  
rules to implement this division. 1116

(M) Any person who is disqualified from operating a 1117  
commercial motor vehicle under this section may apply to the 1118  
registrar for a driver's license to operate a motor vehicle other 1119  
than a commercial motor vehicle, provided the person's commercial 1120  
driver's license is not otherwise suspended. A person whose 1121  
commercial driver's license is suspended shall not apply to the 1122  
registrar for or receive a driver's license under Chapter 4507. of 1123  
the Revised Code during the period of suspension. 1124

(N) Whoever violates division (H) of this section is guilty 1125  
of a misdemeanor of the first degree. 1126

**Sec. 4511.19.** (A)(1) No person shall operate any vehicle, 1127  
streetcar, or trackless trolley within this state, if, at the time 1128  
of the operation, any of the following apply: 1129

(a) The person is under the influence of alcohol, a drug of 1130  
abuse, or a combination of them. 1131

(b) The person has a concentration of eight-hundredths of one 1132  
per cent or more but less than seventeen-hundredths of one per 1133  
cent by weight per unit volume of alcohol in the person's whole 1134  
blood. 1135

(c) The person has a concentration of ninety-six-thousandths 1136  
of one per cent or more but less than two hundred four-thousandths 1137  
of one per cent by weight per unit volume of alcohol in the 1138  
person's blood serum or plasma. 1139

(d) The person has a concentration of eight-hundredths of one 1140  
gram or more but less than seventeen-hundredths of one gram by 1141  
weight of alcohol per two hundred ten liters of the person's 1142  
breath. 1143

(e) The person has a concentration of eleven-hundredths of 1144  
one gram or more but less than two hundred 1145  
thirty-eight-thousandths of one gram by weight of alcohol per one 1146

hundred milliliters of the person's urine. 1147

(f) The person has a concentration of seventeen-hundredths of 1148  
one per cent or more by weight per unit volume of alcohol in the 1149  
person's whole blood. 1150

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

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

(i) The person has a concentration of two hundred 1157  
thirty-eight-thousandths of one gram or more by weight of alcohol 1158  
per one hundred milliliters of the person's urine. 1159

(j) Except as provided in division (K) of this section, the 1160  
person has a concentration of any of the following controlled 1161  
substances or metabolites of a controlled substance in the 1162  
person's whole blood, blood serum or plasma, or urine that equals 1163  
or exceeds any of the following: 1164

(i) The person has a concentration of amphetamine in the 1165  
person's urine of at least five hundred nanograms of amphetamine 1166  
per milliliter of the person's urine or has a concentration of 1167  
amphetamine in the person's whole blood or blood serum or plasma 1168  
of at least one hundred nanograms of amphetamine per milliliter of 1169  
the person's whole blood or blood serum or plasma. 1170

(ii) The person has a concentration of cocaine in the 1171  
person's urine of at least one hundred fifty nanograms of cocaine 1172  
per milliliter of the person's urine or has a concentration of 1173  
cocaine in the person's whole blood or blood serum or plasma of at 1174  
least fifty nanograms of cocaine per milliliter of the person's 1175  
whole blood or blood serum or plasma. 1176

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

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

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

(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. 1209

(viii) Either of the following applies: 1210

(I) The person is under the influence of alcohol, a drug of 1211  
abuse, or a combination of them, and, as measured by gas 1212  
chromatography mass spectrometry, the person has a concentration 1213  
of marihuana metabolite in the person's urine of at least fifteen 1214  
nanograms of marihuana metabolite per milliliter of the person's 1215  
urine or has a concentration of marihuana metabolite in the 1216  
person's whole blood or blood serum or plasma of at least five 1217  
nanograms of marihuana metabolite per milliliter of the person's 1218  
whole blood or blood serum or plasma. 1219

(II) As measured by gas chromatography mass spectrometry, the 1220  
person has a concentration of marihuana metabolite in the person's 1221  
urine of at least thirty-five nanograms of marihuana metabolite 1222  
per milliliter of the person's urine or has a concentration of 1223  
marihuana metabolite in the person's whole blood or blood serum or 1224  
plasma of at least fifty nanograms of marihuana metabolite per 1225  
milliliter of the person's whole blood or blood serum or plasma. 1226

(ix) The person has a concentration of methamphetamine in the 1227  
person's urine of at least five hundred nanograms of 1228  
methamphetamine per milliliter of the person's urine or has a 1229  
concentration of methamphetamine in the person's whole blood or 1230  
blood serum or plasma of at least one hundred nanograms of 1231  
methamphetamine per milliliter of the person's whole blood or 1232  
blood serum or plasma. 1233

(x) The person has a concentration of phencyclidine in the 1234  
person's urine of at least twenty-five nanograms of phencyclidine 1235  
per milliliter of the person's urine or has a concentration of 1236  
phencyclidine in the person's whole blood or blood serum or plasma 1237  
of at least ten nanograms of phencyclidine per milliliter of the 1238  
person's whole blood or blood serum or plasma. 1239

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

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

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

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

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

(1) The person has a concentration of at least two-hundredths

of one per cent but less than eight-hundredths of one per cent by 1271  
weight per unit volume of alcohol in the person's whole blood. 1272

(2) The person has a concentration of at least 1273  
three-hundredths of one per cent but less than 1274  
ninety-six-thousandths of one per cent by weight per unit volume 1275  
of alcohol in the person's blood serum or plasma. 1276

(3) The person has a concentration of at least two-hundredths 1277  
of one gram but less than eight-hundredths of one gram by weight 1278  
of alcohol per two hundred ten liters of the person's breath. 1279

(4) The person has a concentration of at least twenty-eight 1280  
one-thousandths of one gram but less than eleven-hundredths of one 1281  
gram by weight of alcohol per one hundred milliliters of the 1282  
person's urine. 1283

(C) In any proceeding arising out of one incident, a person 1284  
may be charged with a violation of division (A)(1)(a) or (A)(2) 1285  
and a violation of division (B)(1), (2), or (3) of this section, 1286  
but the person may not be convicted of more than one violation of 1287  
these divisions. 1288

(D)(1)(a) In any criminal prosecution or juvenile court 1289  
proceeding for a violation of division (A)(1)(a) of this section 1290  
or for an equivalent offense that is vehicle-related, the result 1291  
of any test of any blood or urine withdrawn and analyzed at any 1292  
health care provider, as defined in section 2317.02 of the Revised 1293  
Code, may be admitted with expert testimony to be considered with 1294  
any other relevant and competent evidence in determining the guilt 1295  
or innocence of the defendant. 1296

(b) In any criminal prosecution or juvenile court proceeding 1297  
for a violation of division (A) or (B) of this section or for an 1298  
equivalent offense that is vehicle-related, the court may admit 1299  
evidence on the concentration of alcohol, drugs of abuse, 1300  
controlled substances, metabolites of a controlled substance, or a 1301

combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this division regarding the admission of evidence does not extend or affect the two-hour time limit specified in division (A) of section 4511.192 of the Revised Code as the maximum period of time during which a person may consent to a chemical test or tests as described in that section. The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this division when a person submits to a blood, breath, urine, or other bodily substance test at the request of a law enforcement officer under section 4511.191 of the Revised Code or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician, or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

1302  
1303  
1304  
1305  
1306  
1307  
1308  
1309  
1310  
1311  
1312  
1313  
1314  
1315  
1316  
1317  
1318  
1319  
1320  
1321  
1322  
1323  
1324  
1325  
1326  
1327

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

1328  
1329  
1330  
1331  
1332

(2) In a criminal prosecution or juvenile court proceeding

1333

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

1334  
1335  
1336  
1337  
1338  
1339  
1340  
1341  
1342  
1343  
1344  
1345  
1346  
1347

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

1348  
1349  
1350  
1351

If the chemical test was obtained pursuant to division  
(D)(1)(b) of this section, the person tested may have a physician,  
a registered nurse, or a qualified technician, chemist, or  
phlebotomist of the person's own choosing administer a chemical  
test or tests, at the person's expense, in addition to any  
administered at the request of a law enforcement officer. If the  
person was under arrest as described in division (A)(5) of section  
4511.191 of the Revised Code, the arresting officer shall advise  
the person at the time of the arrest that the person may have an  
independent chemical test taken at the person's own expense. If  
the person was under arrest other than described in division  
(A)(5) of section 4511.191 of the Revised Code, the form to be  
read to the person to be tested, as required under section  
4511.192 of the Revised Code, shall state that the person may have

1352  
1353  
1354  
1355  
1356  
1357  
1358  
1359  
1360  
1361  
1362  
1363  
1364  
1365

an independent test performed at the person's expense. The failure 1366  
or inability to obtain an additional chemical test by a person 1367  
shall not preclude the admission of evidence relating to the 1368  
chemical test or tests taken at the request of a law enforcement 1369  
officer. 1370

(4)(a) As used in divisions (D)(4)(b) and (c) of this 1371  
section, "national highway traffic safety administration" means 1372  
the national highway traffic safety administration established as 1373  
an administration of the United States department of 1374  
transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105. 1375

(b) In any criminal prosecution or juvenile court proceeding 1376  
for a violation of division (A) or (B) of this section, of a 1377  
municipal ordinance relating to operating a vehicle while under 1378  
the influence of alcohol, a drug of abuse, or alcohol and a drug 1379  
of abuse, or of a municipal ordinance relating to operating a 1380  
vehicle with a prohibited concentration of alcohol, a controlled 1381  
substance, or a metabolite of a controlled substance in the whole 1382  
blood, blood serum or plasma, breath, or urine, if a law 1383  
enforcement officer has administered a field sobriety test to the 1384  
operator of the vehicle involved in the violation and if it is 1385  
shown by clear and convincing evidence that the officer 1386  
administered the test in substantial compliance with the testing 1387  
standards for any reliable, credible, and generally accepted field 1388  
sobriety tests that were in effect at the time the tests were 1389  
administered, including, but not limited to, any testing standards 1390  
then in effect that were set by the national highway traffic 1391  
safety administration, all of the following apply: 1392

(i) The officer may testify concerning the results of the 1393  
field sobriety test so administered. 1394

(ii) The prosecution may introduce the results of the field 1395  
sobriety test so administered as evidence in any proceedings in 1396  
the criminal prosecution or juvenile court proceeding. 1397

(iii) If testimony is presented or evidence is introduced 1398  
under division (D)(4)(b)(i) or (ii) of this section and if the 1399  
testimony or evidence is admissible under the Rules of Evidence, 1400  
the court shall admit the testimony or evidence and the trier of 1401  
fact shall give it whatever weight the trier of fact considers to 1402  
be appropriate. 1403

(c) Division (D)(4)(b) of this section does not limit or 1404  
preclude a court, in its determination of whether the arrest of a 1405  
person was supported by probable cause or its determination of any 1406  
other matter in a criminal prosecution or juvenile court 1407  
proceeding of a type described in that division, from considering 1408  
evidence or testimony that is not otherwise disallowed by division 1409  
(D)(4)(b) of this section. 1410

(E)(1) Subject to division (E)(3) of this section, in any 1411  
criminal prosecution or juvenile court proceeding for a violation 1412  
of division (A)(1)(b), (c), (d), (e), (f), (g), (h), (i), or (j) 1413  
or (B)(1), (2), (3), or (4) of this section or for an equivalent 1414  
offense that is substantially equivalent to any of those 1415  
divisions, a laboratory report from any laboratory personnel 1416  
issued a permit by the department of health authorizing an 1417  
analysis as described in this division that contains an analysis 1418  
of the whole blood, blood serum or plasma, breath, urine, or other 1419  
bodily substance tested and that contains all of the information 1420  
specified in this division shall be admitted as prima-facie 1421  
evidence of the information and statements that the report 1422  
contains. The laboratory report shall contain all of the 1423  
following: 1424

(a) The signature, under oath, of any person who performed 1425  
the analysis; 1426

(b) Any findings as to the identity and quantity of alcohol, 1427  
a drug of abuse, a controlled substance, a metabolite of a 1428  
controlled substance, or a combination of them that was found; 1429

(c) A copy of a notarized statement by the laboratory 1430  
director or a designee of the director that contains the name of 1431  
each certified analyst or test performer involved with the report, 1432  
the analyst's or test performer's employment relationship with the 1433  
laboratory that issued the report, and a notation that performing 1434  
an analysis of the type involved is part of the analyst's or test 1435  
performer's regular duties; 1436

(d) An outline of the analyst's or test performer's 1437  
education, training, and experience in performing the type of 1438  
analysis involved and a certification that the laboratory 1439  
satisfies appropriate quality control standards in general and, in 1440  
this particular analysis, under rules of the department of health. 1441

(2) Notwithstanding any other provision of law regarding the 1442  
admission of evidence, a report of the type described in division 1443  
(E)(1) of this section is not admissible against the defendant to 1444  
whom it pertains in any proceeding, other than a preliminary 1445  
hearing or a grand jury proceeding, unless the prosecutor has 1446  
served a copy of the report on the defendant's attorney or, if the 1447  
defendant has no attorney, on the defendant. 1448

(3) A report of the type described in division (E)(1) of this 1449  
section shall not be prima-facie evidence of the contents, 1450  
identity, or amount of any substance if, within seven days after 1451  
the defendant to whom the report pertains or the defendant's 1452  
attorney receives a copy of the report, the defendant or the 1453  
defendant's attorney demands the testimony of the person who 1454  
signed the report. The judge in the case may extend the seven-day 1455  
time limit in the interest of justice. 1456

(F) Except as otherwise provided in this division, any 1457  
physician, registered nurse, or qualified technician, chemist, or 1458  
phlebotomist who withdraws blood from a person pursuant to this 1459  
section or section 4511.191 or 4511.192 of the Revised Code, and 1460  
any hospital, first-aid station, or clinic at which blood is 1461

withdrawn from a person pursuant to this section or section 1462  
4511.191 or 4511.192 of the Revised Code, is immune from criminal 1463  
liability and civil liability based upon a claim of assault and 1464  
battery or any other claim that is not a claim of malpractice, for 1465  
any act performed in withdrawing blood from the person. The 1466  
immunity provided in this division also extends to an emergency 1467  
medical service organization that employs an emergency medical 1468  
technician who withdraws blood under this section. The immunity 1469  
provided in this division is not available to a person who 1470  
withdraws blood if the person engages in willful or wanton 1471  
misconduct. 1472

(G)(1) Whoever violates any provision of divisions (A)(1)(a) 1473  
to (i) or (A)(2) of this section is guilty of operating a vehicle 1474  
under the influence of alcohol, a drug of abuse, or a combination 1475  
of them. Whoever violates division (A)(1)(j) of this section is 1476  
guilty of operating a vehicle while under the influence of a 1477  
listed controlled substance or a listed metabolite of a controlled 1478  
substance. The court shall sentence the offender for either 1479  
offense under Chapter 2929. of the Revised Code, except as 1480  
otherwise authorized or required by divisions (G)(1)(a) to (e) of 1481  
this section: 1482

(a) Except as otherwise provided in division (G)(1)(b), (c), 1483  
(d), or (e) of this section, the offender is guilty of a 1484  
misdemeanor of the first degree, and the court shall sentence the 1485  
offender to all of the following: 1486

(i) If the sentence is being imposed for a violation of 1487  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1488  
mandatory jail term of three consecutive days. As used in this 1489  
division, three consecutive days means seventy-two consecutive 1490  
hours. The court may sentence an offender to both an intervention 1491  
program and a jail term. The court may impose a jail term in 1492  
addition to the three-day mandatory jail term or intervention 1493

program. However, in no case shall the cumulative jail term 1494  
imposed for the offense exceed six months. 1495

The court may suspend the execution of the three-day jail 1496  
term under this division if the court, in lieu of that suspended 1497  
term, places the offender under a community control sanction 1498  
pursuant to section 2929.25 of the Revised Code and requires the 1499  
offender to attend, for three consecutive days, a drivers' 1500  
intervention program certified under section 3793.10 of the 1501  
Revised Code. The court also may suspend the execution of any part 1502  
of the three-day jail term under this division if it places the 1503  
offender under a community control sanction pursuant to section 1504  
2929.25 of the Revised Code for part of the three days, requires 1505  
the offender to attend for the suspended part of the term a 1506  
drivers' intervention program so certified, and sentences the 1507  
offender to a jail term equal to the remainder of the three 1508  
consecutive days that the offender does not spend attending the 1509  
program. The court may require the offender, as a condition of 1510  
community control and in addition to the required attendance at a 1511  
drivers' intervention program, to attend and satisfactorily 1512  
complete any treatment or education programs that comply with the 1513  
minimum standards adopted pursuant to Chapter 3793. of the Revised 1514  
Code by the director of alcohol and drug addiction services that 1515  
the operators of the drivers' intervention program determine that 1516  
the offender should attend and to report periodically to the court 1517  
on the offender's progress in the programs. The court also may 1518  
impose on the offender any other conditions of community control 1519  
that it considers necessary. 1520

(ii) If the sentence is being imposed for a violation of 1521  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1522  
section, except as otherwise provided in this division, a 1523  
mandatory jail term of at least three consecutive days and a 1524  
requirement that the offender attend, for three consecutive days, 1525

a drivers' intervention program that is certified pursuant to 1526  
section 3793.10 of the Revised Code. As used in this division, 1527  
three consecutive days means seventy-two consecutive hours. If the 1528  
court determines that the offender is not conducive to treatment 1529  
in a drivers' intervention program, if the offender refuses to 1530  
attend a drivers' intervention program, or if the jail at which 1531  
the offender is to serve the jail term imposed can provide a 1532  
driver's intervention program, the court shall sentence the 1533  
offender to a mandatory jail term of at least six consecutive 1534  
days. 1535

The court may require the offender, under a community control 1536  
sanction imposed under section 2929.25 of the Revised Code, to 1537  
attend and satisfactorily complete any treatment or education 1538  
programs that comply with the minimum standards adopted pursuant 1539  
to Chapter 3793. of the Revised Code by the director of alcohol 1540  
and drug addiction services, in addition to the required 1541  
attendance at drivers' intervention program, that the operators of 1542  
the drivers' intervention program determine that the offender 1543  
should attend and to report periodically to the court on the 1544  
offender's progress in the programs. The court also may impose any 1545  
other conditions of community control on the offender that it 1546  
considers necessary. 1547

(iii) In all cases, a fine of not less than three hundred 1548  
seventy-five and not more than one thousand seventy-five dollars; 1549  
1550

(iv) In all cases, a class five license suspension of the 1551  
offender's driver's or commercial driver's license or permit or 1552  
nonresident operating privilege from the range specified in 1553  
division (A)(5) of section 4510.02 of the Revised Code. The court 1554  
may grant limited driving privileges relative to the suspension 1555  
under sections 4510.021 and 4510.13 of the Revised Code. 1556

(b) Except as otherwise provided in division (G)(1)(e) of 1557

this section, an offender who, within six years of the offense, 1558  
previously has been convicted of or pleaded guilty to one 1559  
violation of division (A) or (B) of this section or one other 1560  
equivalent offense is guilty of a misdemeanor of the first degree. 1561  
The court shall sentence the offender to all of the following: 1562

(i) If the sentence is being imposed for a violation of 1563  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1564  
mandatory jail term of ten consecutive days. The court shall 1565  
impose the ten-day mandatory jail term under this division unless, 1566  
subject to division (G)(3) of this section, it instead imposes a 1567  
sentence under that division consisting of both a jail term and a 1568  
term of house arrest with electronic monitoring, with continuous 1569  
alcohol monitoring, or with both electronic monitoring and 1570  
continuous alcohol monitoring. The court may impose a jail term in 1571  
addition to the ten-day mandatory jail term. The cumulative jail 1572  
term imposed for the offense shall not exceed six months. 1573

In addition to the jail term or the term of house arrest with 1574  
electronic monitoring or continuous alcohol monitoring or both 1575  
types of monitoring and jail term, the court shall require the 1576  
offender to be assessed by an alcohol and drug treatment program 1577  
that is authorized by section 3793.02 of the Revised Code, subject 1578  
to division (I) of this section, and shall order the offender to 1579  
follow the treatment recommendations of the program. The purpose 1580  
of the assessment is to determine the degree of the offender's 1581  
alcohol usage and to determine whether or not treatment is 1582  
warranted. Upon the request of the court, the program shall submit 1583  
the results of the assessment to the court, including all 1584  
treatment recommendations and clinical diagnoses related to 1585  
alcohol use. 1586

(ii) If the sentence is being imposed for a violation of 1587  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1588  
section, except as otherwise provided in this division, a 1589

mandatory jail term of twenty consecutive days. The court shall 1590  
impose the twenty-day mandatory jail term under this division 1591  
unless, subject to division (G)(3) of this section, it instead 1592  
imposes a sentence under that division consisting of both a jail 1593  
term and a term of house arrest with electronic monitoring, with 1594  
continuous alcohol monitoring, or with both electronic monitoring 1595  
and continuous alcohol monitoring. The court may impose a jail 1596  
term in addition to the twenty-day mandatory jail term. The 1597  
cumulative jail term imposed for the offense shall not exceed six 1598  
months. 1599

In addition to the jail term or the term of house arrest with 1600  
electronic monitoring or continuous alcohol monitoring or both 1601  
types of monitoring and jail term, the court shall require the 1602  
offender to be assessed by an alcohol and drug treatment program 1603  
that is authorized by section 3793.02 of the Revised Code, subject 1604  
to division (I) of this section, and shall order the offender to 1605  
follow the treatment recommendations of the program. The purpose 1606  
of the assessment is to determine the degree of the offender's 1607  
alcohol usage and to determine whether or not treatment is 1608  
warranted. Upon the request of the court, the program shall submit 1609  
the results of the assessment to the court, including all 1610  
treatment recommendations and clinical diagnoses related to 1611  
alcohol use. 1612

(iii) In all cases, notwithstanding the fines set forth in 1613  
Chapter 2929. of the Revised Code, a fine of not less than five 1614  
hundred twenty-five and not more than one thousand six hundred 1615  
twenty-five dollars; 1616

(iv) In all cases, a class four license suspension of the 1617  
offender's driver's license, commercial driver's license, 1618  
temporary instruction permit, probationary license, or nonresident 1619  
operating privilege from the range specified in division (A)(4) of 1620  
section 4510.02 of the Revised Code. The court may grant limited 1621

driving privileges relative to the suspension under sections 1622  
4510.021 and 4510.13 of the Revised Code. 1623

(v) In all cases, if the vehicle is registered in the 1624  
offender's name, immobilization of the vehicle involved in the 1625  
offense for ninety days in accordance with section 4503.233 of the 1626  
Revised Code and impoundment of the license plates of that vehicle 1627  
for ninety days. 1628

(c) Except as otherwise provided in division (G)(1)(e) of 1629  
this section, an offender who, within six years of the offense, 1630  
previously has been convicted of or pleaded guilty to two 1631  
violations of division (A) or (B) of this section or other 1632  
equivalent offenses is guilty of a misdemeanor. The court shall 1633  
sentence the offender to all of the following: 1634

(i) If the sentence is being imposed for a violation of 1635  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1636  
mandatory jail term of thirty consecutive days. The court shall 1637  
impose the thirty-day mandatory jail term under this division 1638  
unless, subject to division (G)(3) of this section, it instead 1639  
imposes a sentence under that division consisting of both a jail 1640  
term and a term of house arrest with electronic monitoring, with 1641  
continuous alcohol monitoring, or with both electronic monitoring 1642  
and continuous alcohol monitoring. The court may impose a jail 1643  
term in addition to the thirty-day mandatory jail term. 1644  
Notwithstanding the jail terms set forth in sections 2929.21 to 1645  
2929.28 of the Revised Code, the additional jail term shall not 1646  
exceed one year, and the cumulative jail term imposed for the 1647  
offense shall not exceed one year. 1648

(ii) If the sentence is being imposed for a violation of 1649  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1650  
section, a mandatory jail term of sixty consecutive days. The 1651  
court shall impose the sixty-day mandatory jail term under this 1652  
division unless, subject to division (G)(3) of this section, it 1653

instead imposes a sentence under that division consisting of both 1654  
a jail term and a term of house arrest with electronic monitoring, 1655  
with continuous alcohol monitoring, or with both electronic 1656  
monitoring and continuous alcohol monitoring. The court may impose 1657  
a jail term in addition to the sixty-day mandatory jail term. 1658  
Notwithstanding the jail terms set forth in sections 2929.21 to 1659  
2929.28 of the Revised Code, the additional jail term shall not 1660  
exceed one year, and the cumulative jail term imposed for the 1661  
offense shall not exceed one year. 1662

(iii) In all cases, notwithstanding the fines set forth in 1663  
Chapter 2929. of the Revised Code, a fine of not less than eight 1664  
hundred fifty and not more than two thousand seven hundred fifty 1665  
dollars; 1666

(iv) In all cases, a class three license suspension of the 1667  
offender's driver's license, commercial driver's license, 1668  
temporary instruction permit, probationary license, or nonresident 1669  
operating privilege from the range specified in division (A)(3) of 1670  
section 4510.02 of the Revised Code. The court may grant limited 1671  
driving privileges relative to the suspension under sections 1672  
4510.021 and 4510.13 of the Revised Code. 1673

(v) In all cases, if the vehicle is registered in the 1674  
offender's name, criminal forfeiture of the vehicle involved in 1675  
the offense in accordance with section 4503.234 of the Revised 1676  
Code. Division (G)(6) of this section applies regarding any 1677  
vehicle that is subject to an order of criminal forfeiture under 1678  
this division. 1679

(vi) In all cases, the court shall order the offender to 1680  
participate in an alcohol and drug addiction program authorized by 1681  
section 3793.02 of the Revised Code, subject to division (I) of 1682  
this section, and shall order the offender to follow the treatment 1683  
recommendations of the program. The operator of the program shall 1684  
determine and assess the degree of the offender's alcohol 1685

dependency and shall make recommendations for treatment. Upon the request of the court, the program shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

(d) 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 three or four violations of division (A) or (B) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth 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 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 sixty consecutive days in accordance with division (G)(1) of section 2929.13 of the Revised Code or a mandatory prison term of sixty 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 sixty-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 1718  
Code, it also may sentence the offender to a definite prison term 1719  
that shall be not less than six months and not more than thirty 1720  
months and the prison terms shall be imposed as described in 1721  
division (G)(2) of section 2929.13 of the Revised Code. If the 1722  
court imposes a mandatory prison term or mandatory prison term and 1723  
additional prison term, in addition to the term or terms so 1724  
imposed, the court also may sentence the offender to a community 1725  
control sanction for the offense, but the offender shall serve all 1726  
of the prison terms so imposed prior to serving the community 1727  
control sanction. 1728

(ii) If the sentence is being imposed for a violation of 1729  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1730  
section, a mandatory prison term of one, two, three, four, or five 1731  
years as required by and in accordance with division (G)(2) of 1732  
section 2929.13 of the Revised Code if the offender also is 1733  
convicted of or also pleads guilty to a specification of the type 1734  
described in section 2941.1413 of the Revised Code or, in the 1735  
discretion of the court, either a mandatory term of local 1736  
incarceration of one hundred twenty consecutive days in accordance 1737  
with division (G)(1) of section 2929.13 of the Revised Code or a 1738  
mandatory prison term of one hundred twenty consecutive days in 1739  
accordance with division (G)(2) of that section if the offender is 1740  
not convicted of and does not plead guilty to a specification of 1741  
that type. If the court imposes a mandatory term of local 1742  
incarceration, it may impose a jail term in addition to the one 1743  
hundred twenty-day mandatory term, the cumulative total of the 1744  
mandatory term and the jail term for the offense shall not exceed 1745  
one year, and, except as provided in division (A)(1) of section 1746  
2929.13 of the Revised Code, no prison term is authorized for the 1747  
offense. If the court imposes a mandatory prison term, 1748  
notwithstanding division (A)(4) of section 2929.14 of the Revised 1749  
Code, it also may sentence the offender to a definite prison term 1750

that shall be not less than six months and not more than thirty 1751  
months and the prison terms shall be imposed as described in 1752  
division (G)(2) of section 2929.13 of the Revised Code. If the 1753  
court imposes a mandatory prison term or mandatory prison term and 1754  
additional prison term, in addition to the term or terms so 1755  
imposed, the court also may sentence the offender to a community 1756  
control sanction for the offense, but the offender shall serve all 1757  
of the prison terms so imposed prior to serving the community 1758  
control sanction. 1759

(iii) In all cases, notwithstanding section 2929.18 of the 1760  
Revised Code, a fine of not less than one thousand three hundred 1761  
fifty nor more than ten thousand five hundred dollars; 1762

(iv) In all cases, a class two license suspension of the 1763  
offender's driver's license, commercial driver's license, 1764  
temporary instruction permit, probationary license, or nonresident 1765  
operating privilege from the range specified in division (A)(2) of 1766  
section 4510.02 of the Revised Code. The court may grant limited 1767  
driving privileges relative to the suspension under sections 1768  
4510.021 and 4510.13 of the Revised Code. 1769

(v) In all cases, if the vehicle is registered in the 1770  
offender's name, criminal forfeiture of the vehicle involved in 1771  
the offense in accordance with section 4503.234 of the Revised 1772  
Code. Division (G)(6) of this section applies regarding any 1773  
vehicle that is subject to an order of criminal forfeiture under 1774  
this division. 1775

(vi) In all cases, the court shall order the offender to 1776  
participate in an alcohol and drug addiction program authorized by 1777  
section 3793.02 of the Revised Code, subject to division (I) of 1778  
this section, and shall order the offender to follow the treatment 1779  
recommendations of the program. The operator of the program shall 1780  
determine and assess the degree of the offender's alcohol 1781  
dependency and shall make recommendations for treatment. Upon the 1782

request of the court, the program shall submit the results of the 1783  
assessment to the court, including all treatment recommendations 1784  
and clinical diagnoses related to alcohol use. 1785

(vii) In all cases, if the court sentences the offender to a 1786  
mandatory term of local incarceration, in addition to the 1787  
mandatory term, the court, pursuant to section 2929.17 of the 1788  
Revised Code, may impose a term of house arrest with electronic 1789  
monitoring. The term shall not commence until after the offender 1790  
has served the mandatory term of local incarceration. 1791

(e) An offender who previously has been convicted of or 1792  
pleaded guilty to a violation of division (A) of this section that 1793  
was a felony, regardless of when the violation and the conviction 1794  
or guilty plea occurred, is guilty of a felony of the third 1795  
degree. The court shall sentence the offender to all of the 1796  
following: 1797

(i) If the offender is being sentenced for a violation of 1798  
division (A)(1)(a), (b), (c), (d), (e), or (j) of this section, a 1799  
mandatory prison term of one, two, three, four, or five years as 1800  
required by and in accordance with division (G)(2) of section 1801  
2929.13 of the Revised Code if the offender also is convicted of 1802  
or also pleads guilty to a specification of the type described in 1803  
section 2941.1413 of the Revised Code or a mandatory prison term 1804  
of sixty consecutive days in accordance with division (G)(2) of 1805  
section 2929.13 of the Revised Code if the offender is not 1806  
convicted of and does not plead guilty to a specification of that 1807  
type. The court may impose a prison term in addition to the 1808  
mandatory prison term. The cumulative total of a sixty-day 1809  
mandatory prison term and the additional prison term for the 1810  
offense shall not exceed five years. In addition to the mandatory 1811  
prison term or mandatory prison term and additional prison term 1812  
the court imposes, the court also may sentence the offender to a 1813  
community control sanction for the offense, but the offender shall 1814

serve all of the prison terms so imposed prior to serving the 1815  
community control sanction. 1816

(ii) If the sentence is being imposed for a violation of 1817  
division (A)(1)(f), (g), (h), or (i) or division (A)(2) of this 1818  
section, a mandatory prison term of one, two, three, four, or five 1819  
years as required by and in accordance with division (G)(2) of 1820  
section 2929.13 of the Revised Code if the offender also is 1821  
convicted of or also pleads guilty to a specification of the type 1822  
described in section 2941.1413 of the Revised Code or a mandatory 1823  
prison term of one hundred twenty consecutive days in accordance 1824  
with division (G)(2) of section 2929.13 of the Revised Code if the 1825  
offender is not convicted of and does not plead guilty to a 1826  
specification of that type. The court may impose a prison term in 1827  
addition to the mandatory prison term. The cumulative total of a 1828  
one hundred twenty-day mandatory prison term and the additional 1829  
prison term for the offense shall not exceed five years. In 1830  
addition to the mandatory prison term or mandatory prison term and 1831  
additional prison term the court imposes, the court also may 1832  
sentence the offender to a community control sanction for the 1833  
offense, but the offender shall serve all of the prison terms so 1834  
imposed prior to serving the community control sanction. 1835

(iii) In all cases, notwithstanding section 2929.18 of the 1836  
Revised Code, a fine of not less than one thousand three hundred 1837  
fifty nor more than ten thousand five hundred dollars; 1838

(iv) In all cases, a class two license suspension of the 1839  
offender's driver's license, commercial driver's license, 1840  
temporary instruction permit, probationary license, or nonresident 1841  
operating privilege from the range specified in division (A)(2) of 1842  
section 4510.02 of the Revised Code. The court may grant limited 1843  
driving privileges relative to the suspension under sections 1844  
4510.021 and 4510.13 of the Revised Code. 1845

(v) In all cases, if the vehicle is registered in the 1846

offender's name, criminal forfeiture of the vehicle involved in 1847  
the offense in accordance with section 4503.234 of the Revised 1848  
Code. Division (G)(6) of this section applies regarding any 1849  
vehicle that is subject to an order of criminal forfeiture under 1850  
this division. 1851

(vi) In all cases, the court shall order the offender to 1852  
participate in an alcohol and drug addiction program authorized by 1853  
section 3793.02 of the Revised Code, subject to division (I) of 1854  
this section, and shall order the offender to follow the treatment 1855  
recommendations of the program. The operator of the program shall 1856  
determine and assess the degree of the offender's alcohol 1857  
dependency and shall make recommendations for treatment. Upon the 1858  
request of the court, the program shall submit the results of the 1859  
assessment to the court, including all treatment recommendations 1860  
and clinical diagnoses related to alcohol use. 1861

(2) An offender who is convicted of or pleads guilty to a 1862  
violation of division (A) of this section and who subsequently 1863  
seeks reinstatement of the driver's or occupational driver's 1864  
license or permit or nonresident operating privilege suspended 1865  
under this section as a result of the conviction or guilty plea 1866  
shall pay a reinstatement fee as provided in division (F)(2) of 1867  
section 4511.191 of the Revised Code. 1868

(3) If an offender is sentenced to a jail term under division 1869  
(G)(1)(b)(i) or (ii) or (G)(1)(c)(i) or (ii) of this section and 1870  
if, within sixty days of sentencing of the offender, the court 1871  
issues a written finding on the record that, due to the 1872  
unavailability of space at the jail where the offender is required 1873  
to serve the term, the offender will not be able to begin serving 1874  
that term within the sixty-day period following the date of 1875  
sentencing, the court may impose an alternative sentence under 1876  
this division that includes a term of house arrest with electronic 1877  
monitoring, with continuous alcohol monitoring, or with both 1878

electronic monitoring and continuous alcohol monitoring. 1879

As an alternative to a mandatory jail term of ten consecutive 1880  
days required by division (G)(1)(b)(i) of this section, the court, 1881  
under this division, may sentence the offender to five consecutive 1882  
days in jail and not less than eighteen consecutive days of house 1883  
arrest with electronic monitoring, with continuous alcohol 1884  
monitoring, or with both electronic monitoring and continuous 1885  
alcohol monitoring. The cumulative total of the five consecutive 1886  
days in jail and the period of house arrest with electronic 1887  
monitoring, continuous alcohol monitoring, or both types of 1888  
monitoring shall not exceed six months. The five consecutive days 1889  
in jail do not have to be served prior to or consecutively to the 1890  
period of house arrest. 1891

As an alternative to the mandatory jail term of twenty 1892  
consecutive days required by division (G)(1)(b)(ii) of this 1893  
section, the court, under this division, may sentence the offender 1894  
to ten consecutive days in jail and not less than thirty-six 1895  
consecutive days of house arrest with electronic monitoring, with 1896  
continuous alcohol monitoring, or with both electronic monitoring 1897  
and continuous alcohol monitoring. The cumulative total of the ten 1898  
consecutive days in jail and the period of house arrest with 1899  
electronic monitoring, continuous alcohol monitoring, or both 1900  
types of monitoring shall not exceed six months. The ten 1901  
consecutive days in jail do not have to be served prior to or 1902  
consecutively to the period of house arrest. 1903

As an alternative to a mandatory jail term of thirty 1904  
consecutive days required by division (G)(1)(c)(i) of this 1905  
section, the court, under this division, may sentence the offender 1906  
to fifteen consecutive days in jail and not less than fifty-five 1907  
consecutive days of house arrest with electronic monitoring, with 1908  
continuous alcohol monitoring, or with both electronic monitoring 1909  
and continuous alcohol monitoring. The cumulative total of the 1910

fifteen consecutive days in jail and the period of house arrest 1911  
with electronic monitoring, continuous alcohol monitoring, or both 1912  
types of monitoring shall not exceed one year. The fifteen 1913  
consecutive days in jail do not have to be served prior to or 1914  
consecutively to the period of house arrest. 1915

As an alternative to the mandatory jail term of sixty 1916  
consecutive days required by division (G)(1)(c)(ii) of this 1917  
section, the court, under this division, may sentence the offender 1918  
to thirty consecutive days in jail and not less than one hundred 1919  
ten consecutive days of house arrest with electronic monitoring, 1920  
with continuous alcohol monitoring, or with both electronic 1921  
monitoring and continuous alcohol monitoring. The cumulative total 1922  
of the thirty consecutive days in jail and the period of house 1923  
arrest with electronic monitoring, continuous alcohol monitoring, 1924  
or both types of monitoring shall not exceed one year. The thirty 1925  
consecutive days in jail do not have to be served prior to or 1926  
consecutively to the period of house arrest. 1927

(4) If an offender's driver's or occupational driver's 1928  
license or permit or nonresident operating privilege is suspended 1929  
under division (G) of this section and if section 4510.13 of the 1930  
Revised Code permits the court to grant limited driving 1931  
privileges, the court may grant the limited driving privileges in 1932  
accordance with that section. If division (A)(7) of that section 1933  
requires that the court impose as a condition of the privileges 1934  
that the offender must display on the vehicle that is driven 1935  
subject to the privileges restricted license plates that are 1936  
issued under section 4503.231 of the Revised Code, except as 1937  
provided in division (B) of that section, the court shall impose 1938  
that condition as one of the conditions of the limited driving 1939  
privileges granted to the offender, except as provided in division 1940  
(B) of section 4503.231 of the Revised Code. 1941

(5) Fines imposed under this section for a violation of 1942

division (A) of this section shall be distributed as follows: 1943

(a) Twenty-five dollars of the fine imposed under division 1944  
(G)(1)(a)(iii), thirty-five dollars of the fine imposed under 1945  
division (G)(1)(b)(iii), one hundred twenty-three dollars of the 1946  
fine imposed under division (G)(1)(c)(iii), and two hundred ten 1947  
dollars of the fine imposed under division (G)(1)(d)(iii) or 1948  
(e)(iii) of this section shall be paid to an enforcement and 1949  
education fund established by the legislative authority of the law 1950  
enforcement agency in this state that primarily was responsible 1951  
for the arrest of the offender, as determined by the court that 1952  
imposes the fine. The agency shall use this share to pay only 1953  
those costs it incurs in enforcing this section or a municipal OVI 1954  
ordinance and in informing the public of the laws governing the 1955  
operation of a vehicle while under the influence of alcohol, the 1956  
dangers of the operation of a vehicle under the influence of 1957  
alcohol, and other information relating to the operation of a 1958  
vehicle under the influence of alcohol and the consumption of 1959  
alcoholic beverages. 1960

(b) Fifty dollars of the fine imposed under division 1961  
(G)(1)(a)(iii) of this section shall be paid to the political 1962  
subdivision that pays the cost of housing the offender during the 1963  
offender's term of incarceration. If the offender is being 1964  
sentenced for a violation of division (A)(1)(a), (b), (c), (d), 1965  
(e), or (j) of this section and was confined as a result of the 1966  
offense prior to being sentenced for the offense but is not 1967  
sentenced to a term of incarceration, the fifty dollars shall be 1968  
paid to the political subdivision that paid the cost of housing 1969  
the offender during that period of confinement. The political 1970  
subdivision shall use the share under this division to pay or 1971  
reimburse incarceration or treatment costs it incurs in housing or 1972  
providing drug and alcohol treatment to persons who violate this 1973  
section or a municipal OVI ordinance, costs of any immobilizing or 1974

disabling device used on the offender's vehicle, and costs of 1975  
electronic house arrest equipment needed for persons who violate 1976  
this section. 1977

(c) Twenty-five dollars of the fine imposed under division 1978  
(G)(1)(a)(iii) and fifty dollars of the fine imposed under 1979  
division (G)(1)(b)(iii) of this section shall be deposited into 1980  
the county or municipal indigent drivers' alcohol treatment fund 1981  
under the control of that court, as created by the county or 1982  
municipal corporation under division (F) of section 4511.191 of 1983  
the Revised Code. 1984

(d) One hundred fifteen dollars of the fine imposed under 1985  
division (G)(1)(b)(iii), two hundred seventy-seven dollars of the 1986  
fine imposed under division (G)(1)(c)(iii), and four hundred forty 1987  
dollars of the fine imposed under division (G)(1)(d)(iii) or 1988  
(e)(iii) of this section shall be paid to the political 1989  
subdivision that pays the cost of housing the offender during the 1990  
offender's term of incarceration. The political subdivision shall 1991  
use this share to pay or reimburse incarceration or treatment 1992  
costs it incurs in housing or providing drug and alcohol treatment 1993  
to persons who violate this section or a municipal OVI ordinance, 1994  
costs for any immobilizing or disabling device used on the 1995  
offender's vehicle, and costs of electronic house arrest equipment 1996  
needed for persons who violate this section. 1997

(e) Fifty dollars of the fine imposed under divisions 1998  
(G)(1)(a)(iii), (G)(1)(b)(iii), (G)(1)(c)(iii), (G)(1)(d)(iii), 1999  
and (G)(1)(e)(iii) of this section shall be deposited into the 2000  
special projects fund of the court in which the offender was 2001  
convicted and that is established under division (E)(1) of section 2002  
2303.201, division (B)(1) of section 1901.26, or division (B)(1) 2003  
of section 1907.24 of the Revised Code, to be used exclusively to 2004  
cover the cost of immobilizing or disabling devices, including 2005  
certified ignition interlock devices, and remote alcohol 2006

monitoring devices for indigent offenders who are required by a judge to use either of these devices. If the court in which the offender was convicted does not have a special projects fund that is established under division (E)(1) of section 2303.201, division (B)(1) of section 1901.26, or division (B)(1) of section 1907.24 of the Revised Code, the fifty dollars shall be deposited into the indigent drivers interlock and alcohol monitoring fund under division (I) of section 4511.191 of the Revised Code.

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

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

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

(7) As used in division (G) of this section, "electronic monitoring," "mandatory prison term," and "mandatory term of local incarceration" have the same meanings as in section 2929.01 of the

Revised Code. 2039

(H) Whoever violates division (B) of this section is guilty 2040  
of operating a vehicle after underage alcohol consumption and 2041  
shall be punished as follows: 2042

(1) Except as otherwise provided in division (H)(2) of this 2043  
section, the offender is guilty of a misdemeanor of the fourth 2044  
degree. In addition to any other sanction imposed for the offense, 2045  
the court shall impose a class six suspension of the offender's 2046  
driver's license, commercial driver's license, temporary 2047  
instruction permit, probationary license, or nonresident operating 2048  
privilege from the range specified in division (A)(6) of section 2049  
4510.02 of the Revised Code. 2050

(2) If, within one year of the offense, the offender 2051  
previously has been convicted of or pleaded guilty to one or more 2052  
violations of division (A) or (B) of this section or other 2053  
equivalent offenses, the offender is guilty of a misdemeanor of 2054  
the third degree. In addition to any other sanction imposed for 2055  
the offense, the court shall impose a class four suspension of the 2056  
offender's driver's license, commercial driver's license, 2057  
temporary instruction permit, probationary license, or nonresident 2058  
operating privilege from the range specified in division (A)(4) of 2059  
section 4510.02 of the Revised Code. 2060

(3) If the offender also is convicted of or also pleads 2061  
guilty to a specification of the type described in section 2062  
2941.1416 of the Revised Code and if the court imposes a jail term 2063  
for the violation of division (B) of this section, the court shall 2064  
impose upon the offender an additional definite jail term pursuant 2065  
to division (E) of section 2929.24 of the Revised Code. 2066

(I)(1) No court shall sentence an offender to an alcohol 2067  
treatment program under this section unless the treatment program 2068  
complies with the minimum standards for alcohol treatment programs 2069

adopted under Chapter 3793. of the Revised Code by the director of 2070  
alcohol and drug addiction services. 2071

(2) An offender who stays in a drivers' intervention program 2072  
or in an alcohol treatment program under an order issued under 2073  
this section shall pay the cost of the stay in the program. 2074  
However, if the court determines that an offender who stays in an 2075  
alcohol treatment program under an order issued under this section 2076  
is unable to pay the cost of the stay in the program, the court 2077  
may order that the cost be paid from the court's indigent drivers' 2078  
alcohol treatment fund. 2079

(J) If a person whose driver's or commercial driver's license 2080  
or permit or nonresident operating privilege is suspended under 2081  
this section files an appeal regarding any aspect of the person's 2082  
trial or sentence, the appeal itself does not stay the operation 2083  
of the suspension. 2084

(K) Division (A)(1)(j) of this section does not apply to a 2085  
person who operates a vehicle, streetcar, or trackless trolley 2086  
while the person has a concentration of a listed controlled 2087  
substance or a listed metabolite of a controlled substance in the 2088  
person's whole blood, blood serum or plasma, or urine that equals 2089  
or exceeds the amount specified in that division, if both of the 2090  
following apply: 2091

(1) The person obtained the controlled substance pursuant to 2092  
a prescription issued by a licensed health professional authorized 2093  
to prescribe drugs. 2094

(2) The person injected, ingested, or inhaled the controlled 2095  
substance in accordance with the health professional's directions. 2096

(L) The prohibited concentrations of a controlled substance 2097  
or a metabolite of a controlled substance listed in division 2098  
(A)(1)(j) of this section also apply in a prosecution of a 2099  
violation of division (D) of section 2923.16 of the Revised Code 2100

in the same manner as if the offender is being prosecuted for a 2101  
prohibited concentration of alcohol. 2102

(M) All terms defined in section 4510.01 of the Revised Code 2103  
apply to this section. If the meaning of a term defined in section 2104  
4510.01 of the Revised Code conflicts with the meaning of the same 2105  
term as defined in section 4501.01 or 4511.01 of the Revised Code, 2106  
the term as defined in section 4510.01 of the Revised Code applies 2107  
to this section. 2108

(N)(1) The Ohio Traffic Rules in effect on January 1, 2004, 2109  
as adopted by the supreme court under authority of section 2937.46 2110  
of the Revised Code, do not apply to felony violations of this 2111  
section. Subject to division (N)(2) of this section, the Rules of 2112  
Criminal Procedure apply to felony violations of this section. 2113

(2) If, on or after January 1, 2004, the supreme court 2114  
modifies the Ohio Traffic Rules to provide procedures to govern 2115  
felony violations of this section, the modified rules shall apply 2116  
to felony violations of this section. 2117

**Sec. 4765.37.** (A) An emergency medical technician-basic shall 2118  
perform the emergency medical services described in this section 2119  
in accordance with this chapter and any rules adopted under it by 2120  
the state board of emergency medical services. 2121

(B) An emergency medical technician-basic may operate, or be 2122  
responsible for operation of, an ambulance and may provide 2123  
emergency medical services to patients. In an emergency, an 2124  
EMT-basic may determine the nature and extent of illness or injury 2125  
and establish priority for required emergency medical services. An 2126  
EMT-basic may render emergency medical services such as opening 2127  
and maintaining an airway, giving positive pressure ventilation, 2128  
cardiac resuscitation, electrical interventions with automated 2129  
defibrillators to support or correct the cardiac function and 2130  
other methods determined by the board, controlling of hemorrhage, 2131

treatment of shock, immobilization of fractures, bandaging, 2132  
assisting in childbirth, management of mentally disturbed 2133  
patients, initial care of poison and burn patients, and 2134  
determining triage of adult and pediatric trauma victims. Where 2135  
patients must in an emergency be extricated from entrapment, an 2136  
EMT-basic may assess the extent of injury and render all possible 2137  
emergency medical services and protection to the entrapped 2138  
patient; provide light rescue services if an ambulance has not 2139  
been accompanied by a specialized unit; and after extrication, 2140  
provide additional care in sorting of the injured in accordance 2141  
with standard emergency procedures. 2142

(C) An EMT-basic may perform any other emergency medical 2143  
services approved pursuant to rules adopted under section 4765.11 2144  
of the Revised Code. The board shall determine whether the nature 2145  
of any such service requires that an EMT-basic receive 2146  
authorization prior to performing the service. 2147

(D)(1) Except as provided in division (D)(2) of this section, 2148  
if the board determines under division (C) of this section that a 2149  
service requires prior authorization, the service shall be 2150  
performed only pursuant to the written or verbal authorization of 2151  
a physician or of the cooperating physician advisory board, or 2152  
pursuant to an authorization transmitted through a direct 2153  
communication device by a physician or registered nurse designated 2154  
by a physician. 2155

(2) If communications fail during an emergency situation or 2156  
the required response time prohibits communication, an EMT-basic 2157  
may perform services subject to this division, if, in the judgment 2158  
of the EMT-basic, the life of the patient is in immediate danger. 2159  
Services performed under these circumstances shall be performed in 2160  
accordance with the protocols for triage of adult and pediatric 2161  
trauma victims established in rules adopted under sections 4765.11 2162  
and 4765.40 of the Revised Code and any applicable protocols 2163

adopted by the emergency medical service organization with which 2164  
the EMT-basic is affiliated. 2165

(E) In addition to providing emergency medical services, an 2166  
emergency medical technician-basic may withdraw blood as provided 2167  
under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. 2168  
An emergency medical technician-basic shall withdraw blood in 2169  
accordance with this chapter and any rules adopted under it by the 2170  
state board of emergency medical services. 2171

**Sec. 4765.38.** (A) An emergency medical 2172  
technician-intermediate shall perform the emergency medical 2173  
services described in this section in accordance with this chapter 2174  
and any rules adopted under it. 2175

(B) An EMT-I may do any of the following: 2176

(1) Establish and maintain an intravenous lifeline that has 2177  
been approved by a cooperating physician or physician advisory 2178  
board; 2179

(2) Perform cardiac monitoring; 2180

(3) Perform electrical interventions to support or correct 2181  
the cardiac function; 2182

(4) Administer epinephrine; 2183

(5) Determine triage of adult and pediatric trauma victims; 2184

(6) Perform any other emergency medical services approved 2185  
pursuant to rules adopted under section 4765.11 of the Revised 2186  
Code. 2187

(C)(1) Except as provided in division (C)(2) of this section, 2188  
the services described in division (B) of this section shall be 2189  
performed by an EMT-I only pursuant to the written or verbal 2190  
authorization of a physician or of the cooperating physician 2191  
advisory board, or pursuant to an authorization transmitted 2192

through a direct communication device by a physician or registered nurse designated by a physician. 2193  
2194

(2) If communications fail during an emergency situation or the required response time prohibits communication, an EMT-I may perform any of the services described in division (B) of this section, if, in the judgment of the EMT-I, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the EMT-I is affiliated. 2195  
2196  
2197  
2198  
2199  
2200  
2201  
2202  
2203  
2204

(D) In addition to providing emergency medical services, an emergency medical technician-intermediate may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-intermediate shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical services. 2205  
2206  
2207  
2208  
2209  
2210

**Sec. 4765.39.** (A) An emergency medical technician-paramedic shall perform the emergency medical services described in this section in accordance with this chapter and any rules adopted under it. 2211  
2212  
2213  
2214

(B) A paramedic may do any of the following: 2215

(1) Perform cardiac monitoring; 2216

(2) Perform electrical interventions to support or correct the cardiac function; 2217  
2218

(3) Perform airway procedures; 2219

(4) Perform relief of pneumothorax; 2220

(5) Administer appropriate drugs and intravenous fluids; 2221

(6) Determine triage of adult and pediatric trauma victims;	2222
(7) Perform any other emergency medical services, including life support or intensive care techniques, approved pursuant to rules adopted under section 4765.11 of the Revised Code.	2223 2224 2225
(C)(1) Except as provided in division (C)(2) of this section, the services described in division (B) of this section shall be performed by a paramedic only pursuant to the written or verbal authorization of a physician or of the cooperating physician advisory board, or pursuant to an authorization transmitted through a direct communication device by a physician or registered nurse designated by a physician.	2226 2227 2228 2229 2230 2231 2232
(2) If communications fail during an emergency situation or the required response time prohibits communication, a paramedic may perform any of the services described in division (B) of this section, if, in the paramedic's judgment, the life of the patient is in immediate danger. Services performed under these circumstances shall be performed in accordance with the protocols for triage of adult and pediatric trauma victims established in rules adopted under sections 4765.11 and 4765.40 of the Revised Code and any applicable protocols adopted by the emergency medical service organization with which the paramedic is affiliated.	2233 2234 2235 2236 2237 2238 2239 2240 2241 2242
<u>(D) In addition to providing emergency medical services, emergency medical technician-paramedic may withdraw blood as provided under sections 1547.11, 4506.17, and 4511.19 of the Revised Code. An emergency medical technician-paramedic shall withdraw blood in accordance with this chapter and any rules adopted under it by the state board of emergency medical services.</u>	2243 2244 2245 2246 2247 2248
<b>Section 2.</b> That existing sections 1547.11, 2919.25, 2929.13, 4506.17, 4511.19, 4765.37, 4765.38, and 4765.39 of the Revised Code are hereby repealed.	2249 2250 2251

**Section 3.** Section 2929.13 of the Revised Code is presented 2252  
in this act as a composite of the section as amended by both Am. 2253  
Sub. H.B. 130 and Am. Sub. H.B. 280 of the 127th General Assembly. 2254  
The General Assembly, applying the principle stated in division 2255  
(B) of section 1.52 of the Revised Code that amendments are to be 2256  
harmonized if reasonably capable of simultaneous operation, finds 2257  
that the composite is the resulting version of the section in 2258  
effect prior to the effective date of the section as presented in 2259  
this act. 2260