

As Reported by the Senate Judiciary--Criminal Justice Committee

128th General Assembly

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Sub. S. B. No. 58

Senator Hughes

Cosponsors: Senators Schaffer, Wagoner, Grendell

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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 1177
the person's urine of at least one hundred fifty nanograms of 1178
cocaine metabolite per milliliter of the person's urine or has a 1179
concentration of cocaine metabolite in the person's whole blood or 1180
blood serum or plasma of at least fifty nanograms of cocaine 1181
metabolite per milliliter of the person's whole blood or blood 1182
serum or plasma. 1183

(iv) The person has a concentration of heroin in the person's 1184
urine of at least two thousand nanograms of heroin per milliliter 1185
of the person's urine or has a concentration of heroin in the 1186
person's whole blood or blood serum or plasma of at least fifty 1187
nanograms of heroin per milliliter of the person's whole blood or 1188
blood serum or plasma. 1189

(v) The person has a concentration of heroin metabolite 1190
(6-monoacetyl morphine) in the person's urine of at least ten 1191
nanograms of heroin metabolite (6-monoacetyl morphine) per 1192
milliliter of the person's urine or has a concentration of heroin 1193
metabolite (6-monoacetyl morphine) in the person's whole blood or 1194
blood serum or plasma of at least ten nanograms of heroin 1195
metabolite (6-monoacetyl morphine) per milliliter of the person's 1196
whole blood or blood serum or plasma. 1197

(vi) The person has a concentration of L.S.D. in the person's 1198
urine of at least twenty-five nanograms of L.S.D. per milliliter 1199
of the person's urine or a concentration of L.S.D. in the person's 1200
whole blood or blood serum or plasma of at least ten nanograms of 1201
L.S.D. per milliliter of the person's whole blood or blood serum 1202
or plasma. 1203

(vii) The person has a concentration of marihuana in the 1204
person's urine of at least ten nanograms of marihuana per 1205
milliliter of the person's urine or has a concentration of 1206
marihuana in the person's whole blood or blood serum or plasma of 1207
at least two nanograms of marihuana per milliliter of the person's 1208

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.

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.

(2) In a criminal prosecution or juvenile court proceeding

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.

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(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.

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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

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

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

that shall be not less than six months and not more than thirty 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
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(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
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(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
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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
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(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
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(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
Section 2. 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