

As Introduced

**129th General Assembly
Regular Session
2011-2012**

H. B. No. 160

Representatives Celeste, Antonio

**Cosponsors: Representatives Blair, Hagan, R., Murray, Lundy, Foley,
Garland, Ramos, Yuko, Heard, Letson, Boose, Williams**

—

A B I L L

To amend sections 120.03, 120.06, 120.14, 120.16, 1
120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 2
1901.183, 2152.13, 2152.67, 2301.20, 2313.37, 3
2701.07, 2901.02, 2909.24, 2929.02, 2929.13, 4
2929.14, 2941.14, 2941.148, 2941.401, 2941.43, 5
2941.51, 2945.06, 2945.21, 2945.25, 2945.38, 6
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 7
2953.21, 2953.23, 2953.71, 2953.72, 2953.81, 8
2967.05, 2967.13, 2967.193, 2971.03, 2971.07, 9
5120.61, and 5919.16 and to repeal sections 10
109.97, 120.35, 2929.021, 2929.022, 2929.023, 11
2929.024, 2929.03, 2929.04, 2929.05, 2929.06, 12
2947.08, 2949.02, 2949.03, 2949.21, 2949.22, 13
2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 14
2949.29, 2949.31, and 2967.08 of the Revised Code 15
to abolish the death penalty and to declare an 16
emergency. 17

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

Section 1. That sections 120.03, 120.06, 120.14, 120.16, 18
120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 1901.183, 2152.13, 19

2152.67, 2301.20, 2313.37, 2701.07, 2901.02, 2909.24, 2929.02, 20
2929.13, 2929.14, 2941.14, 2941.148, 2941.401, 2941.43, 2941.51, 21
2945.06, 2945.21, 2945.25, 2945.38, 2949.02, 2949.03, 2953.02, 22
2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 2953.71, 23
2953.72, 2953.81, 2967.05, 2967.13, 2967.193, 2971.03, 2971.07, 24
5120.61, and 5919.16 of the Revised Code be amended to read as 25
follows: 26

Sec. 120.03. (A) The Ohio public defender commission shall 27
appoint the state public defender, who shall serve at the pleasure 28
of the commission. 29

(B) The Ohio public defender commission shall establish rules 30
for the conduct of the offices of the county and joint county 31
public defenders and for the conduct of county appointed counsel 32
systems in the state. These rules shall include, but are not 33
limited to, the following: 34

(1) Standards of indigency and minimum qualifications for 35
legal representation by a public defender or appointed counsel. In 36
establishing standards of indigency and determining who is 37
eligible for legal representation by a public defender or 38
appointed counsel, the commission shall consider an indigent 39
person to be an individual who at the time ~~his~~ the person's need 40
is determined is unable to provide for the payment of an attorney 41
and all other necessary expenses of representation. Release on 42
bail shall not prevent a person from being determined to be 43
indigent. 44

(2) Standards for the hiring of outside counsel; 45

(3) Standards for contracts by a public defender with law 46
schools, legal aid societies, and nonprofit organizations for 47
providing counsel; 48

(4) Standards for the qualifications, training, and size of 49

the legal and supporting staff for a public defender, facilities, 50
and other requirements needed to maintain and operate an office of 51
a public defender; 52

(5) Minimum caseload standards; 53

(6) Procedures for the assessment and collection of the costs 54
of legal representation that is provided by public defenders or 55
appointed counsel; 56

(7) Standards and guidelines for determining whether a client 57
is able to make an up-front contribution toward the cost of ~~his~~ 58
the client's legal representation; 59

(8) Procedures for the collection of up-front contributions 60
from clients who are able to contribute toward the cost of their 61
legal representation, as determined pursuant to the standards and 62
guidelines developed under division (B)(7) of this section. All of 63
such up-front contributions shall be paid into the appropriate 64
county fund. 65

(9) Standards for contracts between a board of county 66
commissioners, a county public defender commission, or a joint 67
county public defender commission and a municipal corporation for 68
the legal representation of indigent persons charged with 69
violations of the ordinances of the municipal corporation. 70

(C) The Ohio public defender commission shall adopt rules 71
prescribing minimum qualifications of counsel appointed pursuant 72
to this chapter or appointed by the courts. ~~Without limiting its~~ 73
~~general authority to prescribe different qualifications for~~ 74
~~different categories of appointed counsel, the commission shall~~ 75
~~prescribe, by rule, special qualifications for counsel and~~ 76
~~eo counsel appointed in capital cases.~~ 77

(D) In administering the office of the Ohio public defender 78
commission: 79

(1) The commission shall do the following:	80
(a) Approve an annual operating budget;	81
(b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders' offices.	82 83 84 85 86
(2) The commission may do the following:	87
(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses;	88 89 90
(b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons;	91 92 93
(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons.	94 95 96
(E) There is hereby established in the state treasury the public defender training fund for the deposit of fees received by the Ohio public defender commission from educational seminars, and the sale of publications, on topics concerning criminal law and procedure. Expenditures from this fund shall be made only for the operation of activities authorized by division (D)(2)(c) of this section.	97 98 99 100 101 102 103
(F)(1) In accordance with sections 109.02, 109.07, and 109.361 to 109.366 of the Revised Code, but subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio public defender commission, the state public defender, assistant state public defenders, and other employees of the commission or	104 105 106 107 108 109

the state public defender. 110

(2) Subject to division (E) of section 120.06 of the Revised 111
Code, the attorney general shall represent or provide for the 112
representation of attorneys described in division (C) of section 113
120.41 of the Revised Code in malpractice or other civil actions 114
or proceedings that arise from alleged actions or omissions 115
related to responsibilities derived pursuant to this chapter, or 116
in civil actions that are based upon alleged violations of the 117
constitution or statutes of the United States, including section 118
1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 119
42 U.S.C.A. 1983, as amended, and that arise from alleged actions 120
or omissions related to responsibilities derived pursuant to this 121
chapter. For purposes of the representation, sections 109.361 to 122
109.366 of the Revised Code shall apply to an attorney described 123
in division (C) of section 120.41 of the Revised Code as if ~~he~~ the 124
attorney were an officer or employee, as defined in section 109.36 125
of the Revised Code, and the Ohio public defender commission or 126
the state public defender, whichever contracted with the attorney, 127
shall be considered ~~his~~ the attorney's employer. 128

Sec. 120.06. (A)(1) The state public defender, when 129
designated by the court or requested by a county public defender 130
or joint county public defender, may provide legal representation 131
in all courts throughout the state to indigent adults and 132
juveniles who are charged with the commission of an offense or act 133
for which the penalty or any possible adjudication includes the 134
potential loss of liberty. 135

(2) The state public defender may provide legal 136
representation to any indigent person who, while incarcerated in 137
any state correctional institution, is charged with a felony 138
offense, for which the penalty or any possible adjudication that 139
may be imposed by a court upon conviction includes the potential 140

loss of liberty. 141

(3) The state public defender may provide legal 142
representation to any person incarcerated in any correctional 143
institution of the state, in any matter in which the person 144
asserts the person is unlawfully imprisoned or detained. 145

(4) The state public defender, in any case in which the state 146
public defender has provided legal representation or is requested 147
to do so by a county public defender or joint county public 148
defender, may provide legal representation on appeal. 149

(5) The state public defender, when designated by the court 150
or requested by a county public defender, joint county public 151
defender, or the director of rehabilitation and correction, shall 152
provide legal representation in parole and probation revocation 153
matters or matters relating to the revocation of community control 154
or post-release control under a community control sanction or 155
post-release control sanction, unless the state public defender 156
finds that the alleged parole or probation violator or alleged 157
violator of a community control sanction or post-release control 158
sanction has the financial capacity to retain the alleged 159
violator's own counsel. 160

(6) If the state public defender contracts with a county 161
public defender commission, a joint county public defender 162
commission, or a board of county commissioners for the provision 163
of services, under authority of division (C)(7) of section 120.04 164
of the Revised Code, the state public defender shall provide legal 165
representation in accordance with the contract. 166

(B) The state public defender shall not be required to 167
prosecute any appeal, postconviction remedy, or other proceeding 168
pursuant to division (A)(3), (4), or (5) of this section, unless 169
the state public defender first is satisfied that there is 170
arguable merit to the proceeding. 171

(C) A court may appoint counsel or allow an indigent person 172
to select the indigent's own personal counsel to assist the state 173
public defender as co-counsel when the interests of justice so 174
require. When co-counsel is appointed to assist the state public 175
defender, the co-counsel shall receive any compensation that the 176
court may approve, not to exceed the amounts provided for in 177
section 2941.51 of the Revised Code. 178

(D)(1) When the state public defender is designated by the 179
court or requested by a county public defender or joint county 180
public defender to provide legal representation for an indigent 181
person in any case, other than pursuant to a contract entered into 182
under authority of division (C)(7) of section 120.04 of the 183
Revised Code, the state public defender shall send to the county 184
in which the case is filed a bill detailing the actual cost of the 185
representation that separately itemizes legal fees and expenses. 186
The county, upon receipt of an itemized bill from the state public 187
defender pursuant to this division, shall pay the state public 188
defender each of the following amounts: 189

(a) For the amount identified as legal fees in the itemized 190
bill, one hundred per cent of the amount identified as legal fees 191
less the state reimbursement rate as calculated by the state 192
public defender pursuant to section 120.34 of the Revised Code for 193
the month the case terminated, as set forth in the itemized bill; 194

(b) For the amount identified as expenses in the itemized 195
bill, one hundred per cent. 196

(2) Upon payment of the itemized bill under division (D)(1) 197
of this section, the county may submit the cost of the expenses, 198
excluding legal fees, to the state public defender for 199
reimbursement pursuant to section 120.33 of the Revised Code. 200

(3) When the state public defender provides investigation or 201
mitigation services to private appointed counsel or to a county or 202

joint county public defender as approved by the appointing court, 203
other than pursuant to a contract entered into under authority of 204
division (C)(7) of section 120.04 of the Revised Code, the state 205
public defender shall send to the county in which the case is 206
filed a bill itemizing the actual cost of the services provided. 207
The county, upon receipt of an itemized bill from the state public 208
defender pursuant to this division, shall pay one hundred per cent 209
of the amount as set forth in the itemized bill. Upon payment of 210
the itemized bill received pursuant to this division, the county 211
may submit the cost of the investigation and mitigation services 212
to the state public defender for reimbursement pursuant to section 213
120.33 of the Revised Code. 214

(4) There is hereby created in the state treasury the county 215
representation fund for the deposit of moneys received from 216
counties under this division. All moneys credited to the fund 217
shall be used by the state public defender to provide legal 218
representation for indigent persons when designated by the court 219
or requested by a county or joint county public defender or to 220
provide investigation or mitigation services, including 221
investigation or mitigation services to private appointed counsel 222
or a county or joint county public defender, as approved by the 223
court. 224

(E)(1) Notwithstanding any contrary provision of sections 225
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 226
that pertains to representation by the attorney general, an 227
assistant attorney general, or special counsel of an officer or 228
employee, as defined in section 109.36 of the Revised Code, or of 229
an entity of state government, the state public defender may elect 230
to contract with, and to have the state pay pursuant to division 231
(E)(2) of this section for the services of, private legal counsel 232
to represent the Ohio public defender commission, the state public 233
defender, assistant state public defenders, other employees of the 234

commission or the state public defender, and attorneys described 235
in division (C) of section 120.41 of the Revised Code in a 236
malpractice or other civil action or proceeding that arises from 237
alleged actions or omissions related to responsibilities derived 238
pursuant to this chapter, or in a civil action that is based upon 239
alleged violations of the constitution or statutes of the United 240
States, including section 1983 of Title 42 of the United States 241
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 242
arises from alleged actions or omissions related to 243
responsibilities derived pursuant to this chapter, if the state 244
public defender determines, in good faith, that the defendant in 245
the civil action or proceeding did not act manifestly outside the 246
scope of the defendant's employment or official responsibilities, 247
with malicious purpose, in bad faith, or in a wanton or reckless 248
manner. If the state public defender elects not to contract 249
pursuant to this division for private legal counsel in a civil 250
action or proceeding, then, in accordance with sections 109.02, 251
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 252
attorney general shall represent or provide for the representation 253
of the Ohio public defender commission, the state public defender, 254
assistant state public defenders, other employees of the 255
commission or the state public defender, or attorneys described in 256
division (C) of section 120.41 of the Revised Code in the civil 257
action or proceeding. 258

(2)(a) Subject to division (E)(2)(b) of this section, payment 259
from the state treasury for the services of private legal counsel 260
with whom the state public defender has contracted pursuant to 261
division (E)(1) of this section shall be accomplished only through 262
the following procedure: 263

(i) The private legal counsel shall file with the attorney 264
general a copy of the contract; a request for an award of legal 265
fees, court costs, and expenses earned or incurred in connection 266

with the defense of the Ohio public defender commission, the state public defender, an assistant state public defender, an employee, or an attorney in a specified civil action or proceeding; a written itemization of those fees, costs, and expenses, including the signature of the state public defender and the state public defender's attestation that the fees, costs, and expenses were earned or incurred pursuant to division (E)(1) of this section to the best of the state public defender's knowledge and information; a written statement whether the fees, costs, and expenses are for all legal services to be rendered in connection with that defense, are only for legal services rendered to the date of the request and additional legal services likely will have to be provided in connection with that defense, or are for the final legal services rendered in connection with that defense; a written statement indicating whether the private legal counsel previously submitted a request for an award under division (E)(2) of this section in connection with that defense and, if so, the date and the amount of each award granted; and, if the fees, costs, and expenses are for all legal services to be rendered in connection with that defense or are for the final legal services rendered in connection with that defense, a certified copy of any judgment entry in the civil action or proceeding or a signed copy of any settlement agreement entered into between the parties to the civil action or proceeding.

(ii) Upon receipt of a request for an award of legal fees, court costs, and expenses and the requisite supportive documentation described in division (E)(2)(a)(i) of this section, the attorney general shall review the request and documentation; determine whether any of the limitations specified in division (E)(2)(b) of this section apply to the request; and, if an award of legal fees, court costs, or expenses is permissible after applying the limitations, prepare a document awarding legal fees, court costs, or expenses to the private legal counsel. The

document shall name the private legal counsel as the recipient of 300
the award; specify the total amount of the award as determined by 301
the attorney general; itemize the portions of the award that 302
represent legal fees, court costs, and expenses; specify any 303
limitation applied pursuant to division (E)(2)(b) of this section 304
to reduce the amount of the award sought by the private legal 305
counsel; state that the award is payable from the state treasury 306
pursuant to division (E)(2)(a)(iii) of this section; and be 307
approved by the inclusion of the signatures of the attorney 308
general, the state public defender, and the private legal counsel. 309

(iii) The attorney general shall forward a copy of the 310
document prepared pursuant to division (E)(2)(a)(ii) of this 311
section to the director of budget and management. The award of 312
legal fees, court costs, or expenses shall be paid out of the 313
state public defender's appropriations, to the extent there is a 314
sufficient available balance in those appropriations. If the state 315
public defender does not have a sufficient available balance in 316
the state public defender's appropriations to pay the entire award 317
of legal fees, court costs, or expenses, the director shall make 318
application for a transfer of appropriations out of the emergency 319
purposes account or any other appropriation for emergencies or 320
contingencies in an amount equal to the portion of the award that 321
exceeds the sufficient available balance in the state public 322
defender's appropriations. A transfer of appropriations out of the 323
emergency purposes account or any other appropriation for 324
emergencies or contingencies shall be authorized if there are 325
sufficient moneys greater than the sum total of then pending 326
emergency purposes account requests, or requests for releases from 327
the other appropriation. If a transfer of appropriations out of 328
the emergency purposes account or other appropriation for 329
emergencies or contingencies is made to pay an amount equal to the 330
portion of the award that exceeds the sufficient available balance 331
in the state public defender's appropriations, the director shall 332

cause the payment to be made to the private legal counsel. If 333
sufficient moneys do not exist in the emergency purposes account 334
or other appropriation for emergencies or contingencies to pay an 335
amount equal to the portion of the award that exceeds the 336
sufficient available balance in the state public defender's 337
appropriations, the private legal counsel shall request the 338
general assembly to make an appropriation sufficient to pay an 339
amount equal to the portion of the award that exceeds the 340
sufficient available balance in the state public defender's 341
appropriations, and no payment in that amount shall be made until 342
the appropriation has been made. The private legal counsel shall 343
make the request during the current biennium and during each 344
succeeding biennium until a sufficient appropriation is made. 345

(b) An award of legal fees, court costs, and expenses 346
pursuant to division (E) of this section is subject to the 347
following limitations: 348

(i) The maximum award or maximum aggregate of a series of 349
awards of legal fees, court costs, and expenses to the private 350
legal counsel in connection with the defense of the Ohio public 351
defender commission, the state public defender, an assistant state 352
public defender, an employee, or an attorney in a specified civil 353
action or proceeding shall not exceed fifty thousand dollars. 354

(ii) The private legal counsel shall not be awarded legal 355
fees, court costs, or expenses to the extent the fees, costs, or 356
expenses are covered by a policy of malpractice or other 357
insurance. 358

(iii) The private legal counsel shall be awarded legal fees 359
and expenses only to the extent that the fees and expenses are 360
reasonable in light of the legal services rendered by the private 361
legal counsel in connection with the defense of the Ohio public 362
defender commission, the state public defender, an assistant state 363
public defender, an employee, or an attorney in a specified civil 364

action or proceeding. 365

(c) If, pursuant to division (E)(2)(a) of this section, the 366
attorney general denies a request for an award of legal fees, 367
court costs, or expenses to private legal counsel because of the 368
application of a limitation specified in division (E)(2)(b) of 369
this section, the attorney general shall notify the private legal 370
counsel in writing of the denial and of the limitation applied. 371

(d) If, pursuant to division (E)(2)(c) of this section, a 372
private legal counsel receives a denial of an award notification 373
or if a private legal counsel refuses to approve a document under 374
division (E)(2)(a)(ii) of this section because of the proposed 375
application of a limitation specified in division (E)(2)(b) of 376
this section, the private legal counsel may commence a civil 377
action against the attorney general in the court of claims to 378
prove the private legal counsel's entitlement to the award sought, 379
to prove that division (E)(2)(b) of this section does not prohibit 380
or otherwise limit the award sought, and to recover a judgment for 381
the amount of the award sought. A civil action under division 382
(E)(2)(d) of this section shall be commenced no later than two 383
years after receipt of a denial of award notification or, if the 384
private legal counsel refused to approve a document under division 385
(E)(2)(a)(ii) of this section because of the proposed application 386
of a limitation specified in division (E)(2)(b) of this section, 387
no later than two years after the refusal. Any judgment of the 388
court of claims in favor of the private legal counsel shall be 389
paid from the state treasury in accordance with division (E)(2)(a) 390
of this section. 391

~~(F) If a court appoints the office of the state public 392
defender to represent a petitioner in a postconviction relief 393
proceeding under section 2953.21 of the Revised Code, the 394
petitioner has received a sentence of death, and the proceeding 395
relates to that sentence, all of the attorneys who represent the 396~~

~~petitioner in the proceeding pursuant to the appointment, whether 397
an assistant state public defender, the state public defender, or 398
another attorney, shall be certified under Rule 20 of the Rules of 399
Superintendence for the Courts of Ohio to represent indigent 400
defendants charged with or convicted of an offense for which the 401
death penalty can be or has been imposed. 402~~

~~(G) As used in this section: 403~~

~~(1) "Community control sanction" has the same meaning as in 404
section 2929.01 of the Revised Code. 405~~

~~(2) "Post-release control sanction" has the same meaning as 406
in section 2967.01 of the Revised Code. 407~~

Sec. 120.14. (A)(1) Except as provided in division (A)(2) of 408
this section, the county public defender commission shall appoint 409
the county public defender and may remove ~~him~~ the county public 410
defender from office only for good cause. 411

(2) If a county public defender commission contracts with the 412
state public defender or with one or more nonprofit organizations 413
for the state public defender or the organizations to provide all 414
of the services that the county public defender is required or 415
permitted to provide by this chapter, the commission shall not 416
appoint a county public defender. 417

(B) The commission shall determine the qualifications and 418
size of the supporting staff and facilities and other requirements 419
needed to maintain and operate the office of the county public 420
defender. 421

(C) In administering the office of county public defender, 422
the commission shall: 423

(1) Recommend to the county commissioners an annual operating 424
budget which is subject to the review, amendment, and approval of 425
the board of county commissioners; 426

(2)(a) Make an annual report to the county commissioners and 427
the Ohio public defender commission on the operation of the county 428
public defender's office, ~~including complete and detailed~~ 429
~~information on finances and costs that separately states costs and~~ 430
~~expenses that are reimbursable under section 120.35 of the Revised~~ 431
~~Code,~~ and any other data and information requested by the state 432
public defender; 433

(b) Make monthly reports relating to reimbursement and 434
associated case data pursuant to the rules of the Ohio public 435
defender commission to the board of county commissioners and the 436
Ohio public defender commission on the total costs of the public 437
defender's office. 438

(3) Cooperate with the Ohio public defender commission in 439
maintaining the standards established by rules of the Ohio public 440
defender commission pursuant to divisions (B) and (C) of section 441
120.03 of the Revised Code, and cooperate with the state public 442
defender in ~~his~~ the state public defender's programs providing 443
technical aid and assistance to county systems. 444

(D) The commission may accept the services of volunteer 445
workers and consultants at no compensation except reimbursement 446
for actual and necessary expenses. 447

(E) The commission may contract with any municipal 448
corporation, within the county served by the county public 449
defender, for the county public defender to provide legal 450
representation for indigent persons who are charged with a 451
violation of the ordinances of the municipal corporation. 452

(F) A county public defender commission, with the approval of 453
the board of county commissioners regarding all provisions that 454
pertain to the financing of defense counsel for indigent persons, 455
may contract with the state public defender or with any nonprofit 456
organization, the primary purpose of which is to provide legal 457

representation to indigent persons, for the state public defender 458
or the organization to provide all or any part of the services 459
that a county public defender is required or permitted to provide 460
by this chapter. A contract entered into pursuant to this division 461
may provide for payment for the services provided on a per case, 462
hourly, or fixed contract basis. The state public defender and any 463
nonprofit organization that contracts with a county public 464
defender commission pursuant to this division shall do all of the 465
following: 466

(1) Comply with all standards established by the rules of the 467
Ohio public defender commission; 468

(2) Comply with all standards established by the state public 469
defender; 470

(3) Comply with all statutory duties and other laws 471
applicable to county public defenders. 472

Sec. 120.16. (A)(1) The county public defender shall provide 473
legal representation to indigent adults and juveniles who are 474
charged with the commission of an offense or act that is a 475
violation of a state statute and for which the penalty or any 476
possible adjudication includes the potential loss of liberty and 477
in postconviction proceedings as defined in this section. 478

(2) The county public defender may provide legal 479
representation to indigent adults and juveniles charged with the 480
violation of an ordinance of a municipal corporation for which the 481
penalty or any possible adjudication includes the potential loss 482
of liberty, if the county public defender commission has 483
contracted with the municipal corporation to provide legal 484
representation for indigent persons charged with a violation of an 485
ordinance of the municipal corporation. 486

(B) The county public defender shall provide the legal 487

representation authorized by division (A) of this section at every 488
stage of the proceedings following arrest, detention, service of 489
summons, or indictment. 490

(C) The county public defender may request the state public 491
defender to prosecute any appeal or other remedy before or after 492
conviction that the county public defender decides is in the 493
interests of justice, and may provide legal representation in 494
parole and probation revocation matters and matters relating to 495
the revocation of community control or post-release control under 496
a community control sanction or post-release control sanction. 497

(D) The county public defender shall not be required to 498
prosecute any appeal, postconviction remedy, or other proceeding, 499
unless the county public defender is first satisfied there is 500
arguable merit to the proceeding. 501

(E) Nothing in this section shall prevent a court from 502
appointing counsel other than the county public defender or from 503
allowing an indigent person to select the indigent person's own 504
personal counsel to represent the indigent person. A court may 505
also appoint counsel or allow an indigent person to select the 506
indigent person's own personal counsel to assist the county public 507
defender as co-counsel when the interests of justice so require. 508

(F) Information as to the right to legal representation by 509
the county public defender or assigned counsel shall be afforded 510
to an accused person immediately upon arrest, when brought before 511
a magistrate, or when formally charged, whichever occurs first. 512

(G) ~~If a court appoints the office of the county public 513
defender to represent a petitioner in a postconviction relief 514
proceeding under section 2953.21 of the Revised Code, the 515
petitioner has received a sentence of death, and the proceeding 516
relates to that sentence, all of the attorneys who represent the 517
petitioner in the proceeding pursuant to the appointment, whether 518~~

~~an assistant county public defender or the county public defender,~~ 519
~~shall be certified under Rule 20 of the Rules of Superintendence~~ 520
~~for the Courts of Ohio to represent indigent defendants charged~~ 521
~~with or convicted of an offense for which the death penalty can be~~ 522
~~or has been imposed.~~ 523

~~(H)~~ As used in this section: 524

(1) "Community control sanction" has the same meaning as in 525
section 2929.01 of the Revised Code. 526

(2) "Post-release control sanction" has the same meaning as 527
in section 2967.01 of the Revised Code. 528

Sec. 120.18. (A) The county public defender commission's 529
report to the board of county commissioners shall be audited by 530
the county auditor. The board of county commissioners, after 531
review and approval of the audited report, may then certify it to 532
the state public defender for reimbursement. If a request for the 533
reimbursement of any operating expenditure incurred by a county 534
public defender office is not received by the state public 535
defender within sixty days after the end of the calendar month in 536
which the expenditure is incurred, the state public defender shall 537
not pay the requested reimbursement, unless the county has 538
requested, and the state public defender has granted, an extension 539
of the sixty-day time limit. Each request for reimbursement shall 540
include a certification by the county public defender that the 541
persons provided representation by the county public defender's 542
office during the period covered by the report were indigent and, 543
for each person provided representation during that period, a 544
financial disclosure form completed by the person on a form 545
prescribed by the state public defender. The state public defender 546
shall also review the report and, in accordance with the 547
standards, guidelines, and maximums established pursuant to 548
divisions (B)(7) and (8) of section 120.04 of the Revised Code, 549

prepare a voucher for fifty per cent of the total cost of each 550
county public defender's office for the period of time covered by 551
the certified report ~~and a voucher for fifty per cent of the costs~~ 552
~~and expenses that are reimbursable under section 120.35 of the~~ 553
~~Revised Code, if any,~~ or, if the amount of money appropriated by 554
the general assembly to reimburse counties for the operation of 555
county public defender offices, joint county public defender 556
offices, and county appointed counsel systems is not sufficient to 557
pay fifty per cent of the total cost of all of the offices and 558
systems, for the lesser amount required by section 120.34 of the 559
Revised Code. For the purposes of this section, "total cost" means 560
total expenses minus ~~costs and expenses reimbursable under section~~ 561
~~120.35 of the Revised Code~~ and any funds received by the county 562
public defender commission pursuant to a contract, except a 563
contract entered into with a municipal corporation pursuant to 564
division (E) of section 120.14 of the Revised Code, gift, or 565
grant. 566

(B) If the county public defender fails to maintain the 567
standards for the conduct of the office established by rules of 568
the Ohio public defender commission pursuant to divisions (B) and 569
(C) of section 120.03 or the standards established by the state 570
public defender pursuant to division (B)(7) of section 120.04 of 571
the Revised Code, the Ohio public defender commission shall notify 572
the county public defender commission and the board of county 573
commissioners of the county that the county public defender has 574
failed to comply with its rules or the standards of the state 575
public defender. Unless the county public defender commission or 576
the county public defender corrects the conduct of the county 577
public defender's office to comply with the rules and standards 578
within ninety days after the date of the notice, the state public 579
defender may deny payment of all or part of the county's 580
reimbursement from the state provided for in division (A) of this 581
section. 582

Sec. 120.24. (A)(1) Except as provided in division (A)(2) of 583
this section, the joint county public defender commission shall 584
appoint the joint county public defender and may remove ~~him~~ the 585
joint county public defender from office only for good cause. 586

(2) If a joint county public defender commission contracts 587
with the state public defender or with one or more nonprofit 588
organizations for the state public defender or the organizations 589
to provide all of the services that the joint county public 590
defender is required or permitted to provide by this chapter, the 591
commission shall not appoint a joint county public defender. 592

(B) The commission shall determine the qualifications and 593
size of the supporting staff and facilities and other requirements 594
needed to maintain and operate the office. 595

(C) In administering the office of joint county public 596
defender, the commission shall: 597

(1) Recommend to the boards of county commissioners in the 598
district an annual operating budget which is subject to the 599
review, amendment, and approval of the boards of county 600
commissioners in the district; 601

(2)(a) Make an annual report to the boards of county 602
commissioners in the district and the Ohio public defender 603
commission on the operation of the public defender's office, 604
~~including complete and detailed information on finances and costs~~ 605
~~that separately states costs and expenses that are reimbursable~~ 606
~~under section 120.35 of the Revised Code,~~ and such other data and 607
information requested by the state public defender; 608

(b) Make monthly reports relating to reimbursement and 609
associated case data pursuant to the rules of the Ohio public 610
defender commission to the boards of county commissioners in the 611
district and the Ohio public defender commission on the total 612

costs of the public defender's office. 613

(3) Cooperate with the Ohio public defender commission in 614
maintaining the standards established by rules of the Ohio public 615
defender commission pursuant to divisions (B) and (C) of section 616
120.03 of the Revised Code, and cooperate with the state public 617
defender in ~~his~~ the state public defender's programs providing 618
technical aid and assistance to county systems. 619

(D) The commission may accept the services of volunteer 620
workers and consultants at no compensation except reimbursement 621
for actual and necessary expenses. 622

(E) The commission may contract with any municipal 623
corporation, within the counties served by the joint county public 624
defender, for the joint county public defender to provide legal 625
representation for indigent persons who are charged with a 626
violation of the ordinances of the municipal corporation. 627

(F) A joint county public defender commission, with the 628
approval of each participating board of county commissioners 629
regarding all provisions that pertain to the financing of defense 630
counsel for indigent persons, may contract with the state public 631
defender or with any nonprofit organization, the primary purpose 632
of which is to provide legal representation to indigent persons, 633
for the state public defender or the organization to provide all 634
or any part of the services that a joint county public defender is 635
required or permitted to provide by this chapter. A contract 636
entered into pursuant to this division may provide for payment for 637
the services provided on a per case, hourly, or fixed contract 638
basis. The state public defender and any nonprofit organization 639
that contracts with a joint county public defender commission 640
pursuant to this division shall do all of the following: 641

(1) Comply with all standards established by the rules of the 642
Ohio public defender commission; 643

(2) Comply with all standards established by the Ohio public defender; 644
645

(3) Comply with all statutory duties and other laws applicable to joint county public defenders. 646
647

Sec. 120.26. (A)(1) The joint county public defender shall provide legal representation to indigent adults and juveniles who are charged with the commission of an offense or act that is a violation of a state statute and for which the penalty or any possible adjudication includes the potential loss of liberty and in postconviction proceedings as defined in this section. 648
649
650
651
652
653

(2) The joint county public defender may provide legal representation to indigent adults and juveniles charged with the violation of an ordinance of a municipal corporation for which the penalty or any possible adjudication includes the potential loss of liberty, if the joint county public defender commission has contracted with the municipal corporation to provide legal representation for indigent persons charged with a violation of an ordinance of the municipal corporation. 654
655
656
657
658
659
660
661

(B) The joint county public defender shall provide the legal representation authorized by division (A) of this section at every stage of the proceedings following arrest, detention, service of summons, or indictment. 662
663
664
665

(C) The joint county public defender may request the Ohio public defender to prosecute any appeal or other remedy before or after conviction that the joint county public defender decides is in the interests of justice and may provide legal representation in parole and probation revocation matters and matters relating to the revocation of community control or post-release control under a community control sanction or post-release control sanction. 666
667
668
669
670
671
672

(D) The joint county public defender shall not be required to 673

prosecute any appeal, postconviction remedy, or other proceeding, 674
unless the joint county public defender is first satisfied that 675
there is arguable merit to the proceeding. 676

(E) Nothing in this section shall prevent a court from 677
appointing counsel other than the joint county public defender or 678
from allowing an indigent person to select the indigent person's 679
own personal counsel to represent the indigent person. A court may 680
also appoint counsel or allow an indigent person to select the 681
indigent person's own personal counsel to assist the joint county 682
public defender as co-counsel when the interests of justice so 683
require. 684

(F) Information as to the right to legal representation by 685
the joint county public defender or assigned counsel shall be 686
afforded to an accused person immediately upon arrest, when 687
brought before a magistrate, or when formally charged, whichever 688
occurs first. 689

~~(G) If a court appoints the office of the joint county public 690
defender to represent a petitioner in a postconviction relief 691
proceeding under section 2953.21 of the Revised Code, the 692
petitioner has received a sentence of death, and the proceeding 693
relates to that sentence, all of the attorneys who represent the 694
petitioner in the proceeding pursuant to the appointment, whether 695
an assistant joint county defender or the joint county public 696
defender, shall be certified under Rule 20 of the Rules of 697
Superintendence for the Courts of Ohio to represent indigent 698
defendants charged with or convicted of an offense for which the 699
death penalty can be or has been imposed. 700~~

~~(H) As used in this section: 701~~

(1) "Community control sanction" has the same meaning as in 702
section 2929.01 of the Revised Code. 703

(2) "Post-release control sanction" has the same meaning as 704

in section 2967.01 of the Revised Code. 705

Sec. 120.28. (A) The joint county public defender 706
commission's report to the joint board of county commissioners 707
shall be audited by the fiscal officer of the district. The joint 708
board of county commissioners, after review and approval of the 709
audited report, may then certify it to the state public defender 710
for reimbursement. If a request for the reimbursement of any 711
operating expenditure incurred by a joint county public defender 712
office is not received by the state public defender within sixty 713
days after the end of the calendar month in which the expenditure 714
is incurred, the state public defender shall not pay the requested 715
reimbursement, unless the joint board of county commissioners has 716
requested, and the state public defender has granted, an extension 717
of the sixty-day time limit. Each request for reimbursement shall 718
include a certification by the joint county public defender that 719
all persons provided representation by the joint county public 720
defender's office during the period covered by the request were 721
indigent and, for each person provided representation during that 722
period, a financial disclosure form completed by the person on a 723
form prescribed by the state public defender. The state public 724
defender shall also review the report and, in accordance with the 725
standards, guidelines, and maximums established pursuant to 726
divisions (B)(7) and (8) of section 120.04 of the Revised Code, 727
prepare a voucher for fifty per cent of the total cost of each 728
joint county public defender's office for the period of time 729
covered by the certified report ~~and a voucher for fifty per cent~~ 730
~~of the costs and expenses that are reimbursable under section~~ 731
~~120.35 of the Revised Code, if any,~~ or, if the amount of money 732
appropriated by the general assembly to reimburse counties for the 733
operation of county public defender offices, joint county public 734
defender offices, and county appointed counsel systems is not 735
sufficient to pay fifty per cent of the total cost of all of the 736

offices and systems, for the lesser amount required by section 737
120.34 of the Revised Code. For purposes of this section, "total 738
cost" means total expenses minus ~~costs and expenses reimbursable~~ 739
~~under section 120.35 of the Revised Code~~ and any funds received by 740
the joint county public defender commission pursuant to a 741
contract, except a contract entered into with a municipal 742
corporation pursuant to division (E) of section 120.24 of the 743
Revised Code, gift, or grant. Each county in the district shall be 744
entitled to a share of such state reimbursement in proportion to 745
the percentage of the total cost it has agreed to pay. 746

(B) If the joint county public defender fails to maintain the 747
standards for the conduct of the office established by the rules 748
of the Ohio public defender commission pursuant to divisions (B) 749
and (C) of section 120.03 or the standards established by the 750
state public defender pursuant to division (B)(7) of section 751
120.04 of the Revised Code, the Ohio public defender commission 752
shall notify the joint county public defender commission and the 753
board of county commissioners of each county in the district that 754
the joint county public defender has failed to comply with its 755
rules or the standards of the state public defender. Unless the 756
joint public defender commission or the joint county public 757
defender corrects the conduct of the joint county public 758
defender's office to comply with the rules and standards within 759
ninety days after the date of the notice, the state public 760
defender may deny all or part of the counties' reimbursement from 761
the state provided for in division (A) of this section. 762

Sec. 120.33. (A) In lieu of using a county public defender or 763
joint county public defender to represent indigent persons in the 764
proceedings set forth in division (A) of section 120.16 of the 765
Revised Code, the board of county commissioners of any county may 766
adopt a resolution to pay counsel who are either personally 767
selected by the indigent person or appointed by the court. The 768

resolution shall include those provisions the board of county 769
commissioners considers necessary to provide effective 770
representation of indigent persons in any proceeding for which 771
counsel is provided under this section. The resolution shall 772
include provisions for contracts with any municipal corporation 773
under which the municipal corporation shall reimburse the county 774
for counsel appointed to represent indigent persons charged with 775
violations of the ordinances of the municipal corporation. 776

(1) In a county that adopts a resolution to pay counsel, an 777
indigent person shall have the right to do either of the 778
following: 779

(a) To select the person's own personal counsel to represent 780
the person in any proceeding included within the provisions of the 781
resolution; 782

(b) To request the court to appoint counsel to represent the 783
person in such a proceeding. 784

(2) The court having jurisdiction over the proceeding in a 785
county that adopts a resolution to pay counsel shall, after 786
determining that the person is indigent and entitled to legal 787
representation under this section, do either of the following: 788

(a) By signed journal entry recorded on its docket, enter the 789
name of the lawyer selected by the indigent person as counsel of 790
record; 791

(b) Appoint counsel for the indigent person if the person has 792
requested the court to appoint counsel and, by signed journal 793
entry recorded on its dockets, enter the name of the lawyer 794
appointed for the indigent person as counsel of record. 795

(3) The board of county commissioners shall establish a 796
schedule of fees by case or on an hourly basis to be paid to 797
counsel for legal services provided pursuant to a resolution 798
adopted under this section. Prior to establishing the schedule, 799

the board of county commissioners shall request the bar 800
association or associations of the county to submit a proposed 801
schedule. The schedule submitted shall be subject to the review, 802
amendment, and approval of the board of county commissioners. 803

(4) Counsel selected by the indigent person or appointed by 804
the court at the request of an indigent person in a county that 805
adopts a resolution to pay counsel, except for counsel appointed 806
to represent a person charged with any violation of an ordinance 807
of a municipal corporation that has not contracted with the county 808
commissioners for the payment of appointed counsel, shall be paid 809
by the county and shall receive the compensation and expenses the 810
court approves. Each request for payment shall be accompanied by a 811
financial disclosure form and an affidavit of indigency that are 812
completed by the indigent person on forms prescribed by the state 813
public defender. Compensation and expenses shall not exceed the 814
amounts fixed by the board of county commissioners in the schedule 815
adopted pursuant to division (A)(3) of this section. No court 816
shall approve compensation and expenses that exceed the amount 817
fixed pursuant to division (A)(3) of this section. 818

The fees and expenses approved by the court shall not be 819
taxed as part of the costs and shall be paid by the county. 820
However, if the person represented has, or may reasonably be 821
expected to have, the means to meet some part of the cost of the 822
services rendered to the person, the person shall pay the county 823
an amount that the person reasonably can be expected to pay. 824
Pursuant to section 120.04 of the Revised Code, the county shall 825
pay to the state public defender a percentage of the payment 826
received from the person in an amount proportionate to the 827
percentage of the costs of the person's case that were paid to the 828
county by the state public defender pursuant to this section. The 829
money paid to the state public defender shall be credited to the 830
client payment fund created pursuant to division (B)(5) of section 831

120.04 of the Revised Code. 832

The county auditor shall draw a warrant on the county 833
treasurer for the payment of counsel in the amount fixed by the 834
court, plus the expenses the court fixes and certifies to the 835
auditor. The county auditor shall report periodically, but not 836
less than annually, to the board of county commissioners and to 837
the state public defender the amounts paid out pursuant to the 838
approval of the court. The board of county commissioners, after 839
review and approval of the auditor's report, or the county 840
auditor, with permission from and notice to the board of county 841
commissioners, may then certify it to the state public defender 842
for reimbursement. The state public defender may pay a requested 843
reimbursement only if the request for reimbursement is accompanied 844
by a financial disclosure form and an affidavit of indigency 845
completed by the indigent person on forms prescribed by the state 846
public defender or if the court certifies by electronic signature 847
as prescribed by the state public defender that a financial 848
disclosure form and affidavit of indigency have been completed by 849
the indigent person and are available for inspection. If a request 850
for the reimbursement of the cost of counsel in any case is not 851
received by the state public defender within ninety days after the 852
end of the calendar month in which the case is finally disposed of 853
by the court, unless the county has requested and the state public 854
defender has granted an extension of the ninety-day limit, the 855
state public defender shall not pay the requested reimbursement. 856
The state public defender shall also review the report and, in 857
accordance with the standards, guidelines, and maximums 858
established pursuant to divisions (B)(7) and (8) of section 120.04 859
of the Revised Code, prepare a voucher for fifty per cent of the 860
total cost of each county appointed counsel system in the period 861
of time covered by the certified report ~~and a voucher for fifty~~ 862
~~per cent of the costs and expenses that are reimbursable under~~ 863
~~section 120.35 of the Revised Code, if any,~~ or, if the amount of 864

money appropriated by the general assembly to reimburse counties 865
for the operation of county public defender offices, joint county 866
public defender offices, and county appointed counsel systems is 867
not sufficient to pay fifty per cent of the total cost of all of 868
the offices and systems ~~other than costs and expenses that are~~ 869
~~reimbursable under section 120.35 of the Revised Code~~, for the 870
lesser amount required by section 120.34 of the Revised Code. 871

(5) If any county appointed counsel system fails to maintain 872
the standards for the conduct of the system established by the 873
rules of the Ohio public defender commission pursuant to divisions 874
(B) and (C) of section 120.03 or the standards established by the 875
state public defender pursuant to division (B)(7) of section 876
120.04 of the Revised Code, the Ohio public defender commission 877
shall notify the board of county commissioners of the county that 878
the county appointed counsel system has failed to comply with its 879
rules or the standards of the state public defender. Unless the 880
board of county commissioners corrects the conduct of its 881
appointed counsel system to comply with the rules and standards 882
within ninety days after the date of the notice, the state public 883
defender may deny all or part of the county's reimbursement from 884
the state provided for in division (A)(4) of this section. 885

(B) In lieu of using a county public defender or joint county 886
public defender to represent indigent persons in the proceedings 887
set forth in division (A) of section 120.16 of the Revised Code, 888
and in lieu of adopting the resolution and following the procedure 889
described in division (A) of this section, the board of county 890
commissioners of any county may contract with the state public 891
defender for the state public defender's legal representation of 892
indigent persons. A contract entered into pursuant to this 893
division may provide for payment for the services provided on a 894
per case, hourly, or fixed contract basis. 895

~~(C) If a court appoints an attorney pursuant to this section 896~~

~~to represent a petitioner in a postconviction relief proceeding 897
under section 2953.21 of the Revised Code, the petitioner has 898
received a sentence of death, and the proceeding relates to that 899
sentence, the attorney who represents the petitioner in the 900
proceeding pursuant to the appointment shall be certified under 901
Rule 20 of the Rules of Superintendence for the Courts of Ohio to 902
represent indigent defendants charged with or convicted of an 903
offense for which the death penalty can be or has been imposed. 904~~

Sec. 120.34. The total amount of money paid to all counties 905
in any fiscal year pursuant to sections 120.18, 120.28, and 120.33 906
of the Revised Code for the reimbursement of a percentage of the 907
counties' cost of operating county public defender offices, joint 908
county public defender offices, and county appointed counsel 909
systems shall not exceed the total amount appropriated for that 910
fiscal year by the general assembly for the reimbursement of the 911
counties for the operation of the offices and systems. If the 912
amount appropriated by the general assembly in any fiscal year is 913
insufficient to pay fifty per cent of the total cost in the fiscal 914
year of all county public defender offices, all joint county 915
public defender offices, and all county appointed counsel systems, 916
the amount of money paid in that fiscal year pursuant to sections 917
120.18, 120.28, and 120.33 of the Revised Code to each county for 918
the fiscal year shall be reduced proportionately so that each 919
county is paid an equal percentage of its total cost in the fiscal 920
year for operating its county public defender system, its joint 921
county public defender system, and its county appointed counsel 922
system. 923

~~The total amount of money paid to all counties in any fiscal 924
year pursuant to section 120.35 of the Revised Code for the 925
reimbursement of a percentage of the counties' costs and expenses 926
of conducting the defense in capital cases shall not exceed the 927
total amount appropriated for that fiscal year by the general 928~~

~~assembly for the reimbursement of the counties for conducting the 929
defense in capital cases. If the amount appropriated by the 930
general assembly in any fiscal year is insufficient to pay fifty 931
per cent of the counties' total costs and expenses of conducting 932
the defense in capital cases in the fiscal year, the amount of 933
money paid in that fiscal year pursuant to section 120.35 of the 934
Revised Code to each county for the fiscal year shall be reduced 935
proportionately so that each county is paid an equal percentage of 936
its costs and expenses of conducting the defense in capital cases 937
in the fiscal year. 938~~

If any county receives an amount of money pursuant to section 939
120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code that is 940
in excess of the amount of reimbursement it is entitled to receive 941
pursuant to this section, the state public defender shall request 942
the board of county commissioners to return the excess payment and 943
the board of county commissioners, upon receipt of the request, 944
shall direct the appropriate county officer to return the excess 945
payment to the state. 946

Within thirty days of the end of each fiscal quarter, the 947
state public defender shall provide to the office of budget and 948
management and the ~~legislative budget office of the~~ legislative 949
service commission an estimate of the amount of money that will be 950
required for the balance of the fiscal year to make the payments 951
required by sections 120.18, 120.28, and 120.33, ~~and 120.35~~ of the 952
Revised Code. 953

Sec. 1901.183. In addition to jurisdiction otherwise granted 954
in this chapter, the environmental division of a municipal court 955
shall have jurisdiction within its territory in all of the 956
following actions or proceedings and to perform all of the 957
following functions: 958

(A) Notwithstanding any monetary limitations in section 959

1901.17 of the Revised Code, in all actions and proceedings for 960
the sale of real or personal property under lien of a judgment of 961
the environmental division of the municipal court, or a lien for 962
machinery, material, fuel furnished, or labor performed, 963
irrespective of amount, and, in those cases, the environmental 964
division may proceed to foreclose and marshal all liens and all 965
vested or contingent rights, to appoint a receiver, and to render 966
personal judgment irrespective of amount in favor of any party; 967

(B) When in aid of execution of a judgment of the 968
environmental division of the municipal court, in all actions for 969
the foreclosure of a mortgage on real property given to secure the 970
payment of money, or the enforcement of a specific lien for money 971
or other encumbrance or charge on real property, when the real 972
property is situated within the territory, and, in those cases, 973
the environmental division may proceed to foreclose all liens and 974
all vested and contingent rights and proceed to render judgments, 975
and make findings and orders, between the parties, in the same 976
manner and to the same extent as in similar cases in the court of 977
common pleas; 978

(C) When in aid of execution of a judgment of the 979
environmental division of the municipal court, in all actions for 980
the recovery of real property situated within the territory to the 981
same extent as courts of common pleas have jurisdiction; 982

(D) In all actions for injunction to prevent or terminate 983
violations of the ordinances and regulations of any municipal 984
corporation within its territory enacted or promulgated under the 985
police power of that municipal corporation pursuant to Section 3 986
of Article XVIII, Ohio Constitution, over which the court of 987
common pleas has or may have jurisdiction, and, in those cases, 988
the environmental division of the municipal court may proceed to 989
render judgments, and make findings and orders, in the same manner 990
and to the same extent as in similar cases in the court of common 991

pleas;	992
(E) In all actions for injunction to prevent or terminate	993
violations of the resolutions and regulations of any political	994
subdivision within its territory enacted or promulgated under the	995
power of that political subdivision pursuant to Article X of the	996
Ohio Constitution, over which the court of common pleas has or may	997
have jurisdiction, and, in those cases, the environmental division	998
of the municipal court may proceed to render judgments, and make	999
findings and orders, in the same manner and to the same extent as	1000
in similar cases in the court of common pleas;	1001
(F) In any civil action to enforce any provision of Chapter	1002
3704., 3714., 3734., 3737., 3767., or 6111. of the Revised Code	1003
over which the court of common pleas has or may have jurisdiction,	1004
and, in those actions, the environmental division of the municipal	1005
court may proceed to render judgments, and make findings and	1006
orders, in the same manner and to the same extent as in similar	1007
actions in the court of common pleas;	1008
(G) In all actions and proceedings in the nature of	1009
creditors' bills, and in aid of execution to subject the interests	1010
of a judgment debtor in real or personal property to the payment	1011
of a judgment of the division, and, in those actions and	1012
proceedings, the environmental division may proceed to marshal and	1013
foreclose all liens on the property irrespective of the amount of	1014
the lien, and all vested or contingent rights in the property;	1015
(H) Concurrent jurisdiction with the court of common pleas of	1016
all criminal actions or proceedings related to the pollution of	1017
the air, ground, or water within the territory of the	1018
environmental division of the municipal court, for which a	1019
sentence of death cannot be imposed under Chapter 2903. of the	1020
Revised Code;	1021
(I) In any review or appeal of any final order of any	1022

administrative officer, agency, board, department, tribunal, 1023
commission, or other instrumentality that relates to a local 1024
building, housing, air pollution, sanitation, health, fire, 1025
zoning, or safety code, ordinance, or regulation, in the same 1026
manner and to the same extent as in similar appeals in the court 1027
of common pleas. 1028

Sec. 2152.13. (A) A juvenile court may impose a serious 1029
youthful offender dispositional sentence on a child only if the 1030
prosecuting attorney of the county in which the delinquent act 1031
allegedly occurred initiates the process against the child in 1032
accordance with this division, and the child is an alleged 1033
delinquent child who is eligible for the dispositional sentence. 1034
The prosecuting attorney may initiate the process in any of the 1035
following ways: 1036

(1) Obtaining an indictment of the child as a serious 1037
youthful offender; 1038

(2) The child waives the right to indictment, charging the 1039
child in a bill of information as a serious youthful offender; 1040

(3) Until an indictment or information is obtained, 1041
requesting a serious youthful offender dispositional sentence in 1042
the original complaint alleging that the child is a delinquent 1043
child; 1044

(4) Until an indictment or information is obtained, if the 1045
original complaint does not request a serious youthful offender 1046
dispositional sentence, filing with the juvenile court a written 1047
notice of intent to seek a serious youthful offender dispositional 1048
sentence within twenty days after the later of the following, 1049
unless the time is extended by the juvenile court for good cause 1050
shown: 1051

(a) The date of the child's first juvenile court hearing 1052

regarding the complaint; 1053

(b) The date the juvenile court determines not to transfer 1054
the case under section 2152.12 of the Revised Code. 1055

After a written notice is filed under division (A)(4) of this 1056
section, the juvenile court shall serve a copy of the notice on 1057
the child and advise the child of the prosecuting attorney's 1058
intent to seek a serious youthful offender dispositional sentence 1059
in the case. 1060

(B) If an alleged delinquent child is not indicted or charged 1061
by information as described in division (A)(1) or (2) of this 1062
section and if a notice or complaint as described in division 1063
(A)(3) or (4) of this section indicates that the prosecuting 1064
attorney intends to pursue a serious youthful offender 1065
dispositional sentence in the case, the juvenile court shall hold 1066
a preliminary hearing to determine if there is probable cause that 1067
the child committed the act charged and is by age eligible for, or 1068
required to receive, a serious youthful offender dispositional 1069
sentence. 1070

(C)(1) A child for whom a serious youthful offender 1071
dispositional sentence is sought has the right to a grand jury 1072
determination of probable cause that the child committed the act 1073
charged and that the child is eligible by age for a serious 1074
youthful offender dispositional sentence. The grand jury may be 1075
impaneled by the court of common pleas or the juvenile court. 1076

Once a child is indicted, or charged by information or the 1077
juvenile court determines that the child is eligible for a serious 1078
youthful offender dispositional sentence, the child is entitled to 1079
an open and speedy trial by jury in juvenile court and to be 1080
provided with a transcript of the proceedings. The time within 1081
which the trial is to be held under Title XXIX of the Revised Code 1082
commences on whichever of the following dates is applicable: 1083

(a) If the child is indicted or charged by information, on 1084
the date of the filing of the indictment or information. 1085

(b) If the child is charged by an original complaint that 1086
requests a serious youthful offender dispositional sentence, on 1087
the date of the filing of the complaint. 1088

(c) If the child is not charged by an original complaint that 1089
requests a serious youthful offender dispositional sentence, on 1090
the date that the prosecuting attorney files the written notice of 1091
intent to seek a serious youthful offender dispositional sentence. 1092

(2) If the child is detained awaiting adjudication, upon 1093
indictment or being charged by information, the child has the same 1094
right to bail as an adult charged with the offense the alleged 1095
delinquent act would be if committed by an adult. Except as 1096
provided in division (D) of section 2152.14 of the Revised Code, 1097
all provisions of Title XXIX of the Revised Code and the Criminal 1098
Rules shall apply in the case and to the child. The juvenile court 1099
shall afford the child all rights afforded a person who is 1100
prosecuted for committing a crime including the right to counsel 1101
and the right to raise the issue of competency. The child may not 1102
waive the right to counsel. 1103

(D)(1) If a child is adjudicated a delinquent child for 1104
committing an act under circumstances that require the juvenile 1105
court to impose upon the child a serious youthful offender 1106
dispositional sentence under section 2152.11 of the Revised Code, 1107
all of the following apply: 1108

(a) The juvenile court shall impose upon the child a sentence 1109
available for the violation, as if the child were an adult, under 1110
Chapter 2929. of the Revised Code, except that the juvenile court 1111
shall not impose on the child a sentence of ~~death or~~ life 1112
imprisonment without parole. 1113

(b) The juvenile court also shall impose upon the child one 1114

or more traditional juvenile dispositions under sections 2152.16, 1115
2152.19, and 2152.20, and, if applicable, section 2152.17 of the 1116
Revised Code. 1117

(c) The juvenile court shall stay the adult portion of the 1118
serious youthful offender dispositional sentence pending the 1119
successful completion of the traditional juvenile dispositions 1120
imposed. 1121

(2)(a) If a child is adjudicated a delinquent child for 1122
committing an act under circumstances that allow, but do not 1123
require, the juvenile court to impose on the child a serious 1124
youthful offender dispositional sentence under section 2152.11 of 1125
the Revised Code, all of the following apply: 1126

(i) If the juvenile court on the record makes a finding that, 1127
given the nature and circumstances of the violation and the 1128
history of the child, the length of time, level of security, and 1129
types of programming and resources available in the juvenile 1130
system alone are not adequate to provide the juvenile court with a 1131
reasonable expectation that the purposes set forth in section 1132
2152.01 of the Revised Code will be met, the juvenile court may 1133
impose upon the child a sentence available for the violation, as 1134
if the child were an adult, under Chapter 2929. of the Revised 1135
Code, except that the juvenile court shall not impose on the child 1136
a sentence of ~~death or~~ life imprisonment without parole. 1137

(ii) If a sentence is imposed under division (D)(2)(a)(i) of 1138
this section, the juvenile court also shall impose upon the child 1139
one or more traditional juvenile dispositions under sections 1140
2152.16, 2152.19, and 2152.20 and, if applicable, section 2152.17 1141
of the Revised Code. 1142

(iii) The juvenile court shall stay the adult portion of the 1143
serious youthful offender dispositional sentence pending the 1144
successful completion of the traditional juvenile dispositions 1145

imposed. 1146

(b) If the juvenile court does not find that a sentence 1147
should be imposed under division (D)(2)(a)(i) of this section, the 1148
juvenile court may impose one or more traditional juvenile 1149
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 1150
applicable, section 2152.17 of the Revised Code. 1151

(3) A child upon whom a serious youthful offender 1152
dispositional sentence is imposed under division (D)(1) or (2) of 1153
this section has a right to appeal under division (A)(1), (3), 1154
(4), (5), or (6) of section 2953.08 of the Revised Code the adult 1155
portion of the serious youthful offender dispositional sentence 1156
when any of those divisions apply. The child may appeal the adult 1157
portion, and the court shall consider the appeal as if the adult 1158
portion were not stayed. 1159

Sec. 2152.67. Any adult who is arrested or charged under any 1160
provision in this chapter and who is charged with a crime may 1161
demand a trial by jury, or the juvenile judge upon the judge's own 1162
motion may call a jury. A demand for a jury trial shall be made in 1163
writing in not less than three days before the date set for trial, 1164
or within three days after counsel has been retained, whichever is 1165
later. Sections 2945.17 and 2945.23 to 2945.36 of the Revised 1166
Code, relating to the drawing and impaneling of jurors in criminal 1167
cases in the court of common pleas, ~~other than in capital cases,~~ 1168
shall apply to a jury trial under this section. The compensation 1169
of jurors and costs of the clerk and sheriff shall be taxed and 1170
paid in the same manner as in criminal cases in the court of 1171
common pleas. 1172

Sec. 2301.20. Upon the trial of a civil or criminal action in 1173
the court of common pleas, if either party to the action or ~~his~~ 1174
either party's attorney requests the services of a shorthand 1175

reporter, the trial judge shall grant the request, or may order a 1176
full report of the testimony or other proceedings. In either case, 1177
the shorthand reporter shall take accurate shorthand notes of the 1178
oral testimony or other oral proceedings. The notes shall be filed 1179
in the office of the official shorthand reporter and carefully 1180
preserved for ~~either of the following periods of time:~~ 1181

~~(A) If the action is not a capital case, the notes shall be 1182
preserved for the period of time specified by the court of common 1183
pleas, which period of time shall not be longer than the period of 1184
time that the other records of the particular action are required 1185
to be kept:~~ 1186

~~(B) If the action is a capital case, the notes shall be 1187
preserved for the longer of ten years or until the final 1188
disposition of the action. 1189~~

Sec. 2313.37. (A) In the trial in the court of common pleas 1190
of any civil case when it appears to the judge presiding that the 1191
trial is likely to be protracted, upon direction of the judge 1192
after the jury has been impaneled and sworn, an additional or 1193
alternate juror shall be selected in the same manner as the 1194
regular jurors in the case were selected, but each party is 1195
entitled to two peremptory challenges as to the alternate juror. 1196

(B) In all criminal cases, the selection of alternate jurors 1197
shall be made pursuant to Criminal Rule 24. 1198

(C) The additional or alternate jurors selected shall be 1199
sworn and seated near the regular jurors, with equal opportunity 1200
for seeing and hearing the proceedings and shall attend at all 1201
times upon the trial with regular jurors and shall obey all orders 1202
and admonitions of the court to the jury, and when the regular 1203
jurors are ordered kept together in a criminal case, the alternate 1204
jurors shall be kept with them. The additional or alternate jurors 1205
shall be liable as regular jurors for failure to attend the trial 1206

or to obey any order or admonition of the court to the jury, shall 1207
receive the same compensation as other jurors, and except as 1208
provided in this section shall be discharged upon the final 1209
submission of the case to the jury. 1210

(D) If before the final submission of the case to the jury, 1211
~~which in capital cases includes any hearing required under~~ 1212
~~division (D) of section 2929.03 of the Revised Code,~~ a regular 1213
juror becomes unable to perform ~~his~~ official duties, 1214
incapacitated, or disqualified, ~~he~~ the regular juror may be 1215
discharged by the judge, in which case, or if a regular juror 1216
dies, upon the order of the judge, an additional or alternate 1217
juror, in the order in which called, shall become one of the jury 1218
and serve in all respects as though selected as an original juror. 1219

Sec. 2701.07. When, in the opinion of the court, the business 1220
thereof so requires, each court of common pleas, court of appeals, 1221
and, in counties having at the last or any future federal census 1222
more than seventy thousand inhabitants, the probate court, may 1223
appoint one or more constables to preserve order, attend the 1224
assignment of cases in counties where more than two judges of the 1225
court of common pleas regularly hold court at the same time, and 1226
discharge such other duties as the court requires. When so 1227
directed by the court, each constable has the same powers as 1228
sheriffs to call and impanel jurors, ~~except in capital cases.~~ 1229

Sec. 2901.02. As used in the Revised Code: 1230

(A) Offenses include aggravated murder, murder, felonies of 1231
the first, second, third, fourth, and fifth degree, misdemeanors 1232
of the first, second, third, and fourth degree, minor 1233
misdemeanors, and offenses not specifically classified. 1234

(B) ~~Aggravated murder when the indictment or the count in the~~ 1235
~~indictment charging aggravated murder contains one or more~~ 1236

specifications of aggravating circumstances listed in division (A)	1237
of section 2929.04 of Revised Code, and any other offense for	1238
which death may be imposed as a penalty, is a capital offense.	1239
(C) Aggravated murder and murder are felonies.	1240
(D) <u>(C)</u> Regardless of the penalty that may be imposed, any	1241
offense specifically classified as a felony is a felony, and any	1242
offense specifically classified as a misdemeanor is a misdemeanor.	1243
(E) <u>(D)</u> Any offense not specifically classified is a felony if	1244
imprisonment for more than one year may be imposed as a penalty.	1245
(F) <u>(E)</u> Any offense not specifically classified is a	1246
misdemeanor if imprisonment for not more than one year may be	1247
imposed as a penalty.	1248
(G) <u>(F)</u> Any offense not specifically classified is a minor	1249
misdemeanor if the only penalty that may be imposed is one of the	1250
following:	1251
(1) For an offense committed prior to the effective date of	1252
this amendment <u>January 1, 2004</u> , a fine not exceeding one hundred	1253
dollars;	1254
(2) For an offense committed on or after the effective date	1255
of this amendment <u>January 1, 2004</u> , a fine not exceeding one	1256
hundred fifty dollars, community service under division (C) of	1257
section 2929.27 of the Revised Code, or a financial sanction other	1258
than a fine under section 2929.28 of the Revised Code.	1259
Sec. 2909.24. (A) No person shall commit a specified offense	1260
with purpose to do any of the following:	1261
(1) Intimidate or coerce a civilian population;	1262
(2) Influence the policy of any government by intimidation or	1263
coercion;	1264
(3) Affect the conduct of any government by the specified	1265

offense. 1266

(B)(1) Whoever violates this section is guilty of terrorism. 1267

(2) Except as otherwise provided in divisions (B)(3) and (4) 1268
of this section, terrorism is an offense one degree higher than 1269
the most serious underlying specified offense the defendant 1270
committed. 1271

(3) If the most serious underlying specified offense the 1272
defendant committed is a felony of the first degree or murder, the 1273
person shall be sentenced to life imprisonment without parole. 1274

(4) If the most serious underlying specified offense the 1275
defendant committed is aggravated murder, the offender shall be 1276
sentenced to life imprisonment without parole ~~or death pursuant to~~ 1277
~~sections 2929.02 to 2929.06 of the Revised Code.~~ 1278

(5) Section 2909.25 of the Revised Code applies regarding an 1279
offender who is convicted of or pleads guilty to a violation of 1280
this section. 1281

Sec. 2929.02. (A) ~~Whoever~~ Except as otherwise provided in 1282
division (C) of this section, whoever is convicted of or pleads 1283
guilty to aggravated murder in violation of section 2903.01 of the 1284
Revised Code shall ~~suffer death or be imprisoned for life, as~~ 1285
~~determined pursuant to sections 2929.022, 2929.03, and 2929.04 of~~ 1286
~~the Revised Code, except that no person who raises the matter of~~ 1287
~~age pursuant to section 2929.023 of the Revised Code and who is~~ 1288
~~not found to have been eighteen years of age or older at the time~~ 1289
~~of the commission of the offense shall suffer death. In addition,~~ 1290
~~the offender may be fined an amount fixed by the court, but not~~ 1291
~~more than twenty five thousand dollars~~ sentenced to life 1292
imprisonment with parole eligibility after serving twenty full 1293
years of imprisonment, life imprisonment with parole eligibility 1294
after serving thirty full years of imprisonment, or life 1295

imprisonment without parole. 1296

(B)(1) Except as otherwise provided in division ~~(B)(2)~~ or ~~(3)~~(C) of this section, whoever is convicted of or pleads guilty to murder in violation of section 2903.02 of the Revised Code shall be imprisoned for an indefinite term of fifteen years to life. 1297
1298
1299
1300
1301

~~(2)~~(C)(1) Except as otherwise provided in division ~~(B)~~(3)(C)(2) of this section, if a person is convicted of or pleads guilty to aggravated murder in violation of section 2903.01 of the Revised Code or to murder in violation of section 2903.02 of the Revised Code, the victim of the offense was less than thirteen years of age, and the offender also is convicted of or pleads guilty to a sexual motivation specification that was included in the indictment, count in the indictment, or information charging the offense, the court shall impose an indefinite prison term of thirty years to life pursuant to division (B)(3) of section 2971.03 of the Revised Code. 1302
1303
1304
1305
1306
1307
1308
1309
1310
1311
1312

~~(3)~~(2) If a person is convicted of or pleads guilty to aggravated murder in violation of section 2903.01 of the Revised Code or to murder in violation of section 2903.02 of the Revised Code and also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information that charged the murder, the court shall impose upon the offender a term of life imprisonment without parole that shall be served pursuant to section 2971.03 of the Revised Code. 1313
1314
1315
1316
1317
1318
1319
1320
1321
1322

~~(4)~~(D) In addition to the prison term imposed under this section, the offender may be fined an amount fixed by the court, but not more than twenty-five thousand dollars for aggravated murder or fifteen thousand dollars for murder. 1323
1324
1325
1326

~~(C)~~(E) The court shall not impose a fine or fines for 1327
aggravated murder or murder ~~which~~ that, in the aggregate and to 1328
the extent not suspended by the court, exceeds the amount ~~which~~ 1329
that the offender is or will be able to pay by the method and 1330
within the time allowed without undue hardship to the offender or 1331
to the dependents of the offender, or will prevent the offender 1332
from making reparation for the victim's wrongful death. 1333

~~(D)~~(F)(1) In addition to any other sanctions imposed for a 1334
violation of section 2903.01 or 2903.02 of the Revised Code, if 1335
the offender used a motor vehicle as the means to commit the 1336
violation, the court shall impose upon the offender a class two 1337
suspension of the offender's driver's license, commercial driver's 1338
license, temporary instruction permit, probationary license, or 1339
nonresident operating privilege as specified in division (A)(2) of 1340
section 4510.02 of the Revised Code. 1341

(2) As used in division ~~(D)~~(F) of this section, "motor 1342
vehicle" has the same meaning as in section 4501.01 of the Revised 1343
Code. 1344

(G) Capital punishment is hereby abolished. A trial court 1345
that sentenced an offender to death prior to the effective date of 1346
this amendment shall conduct a hearing to resentence the offender. 1347
At the resentencing hearing, the court shall impose upon the 1348
offender a sentence of life imprisonment without parole. 1349

Sec. 2929.13. (A) Except as provided in division (E), (F), or 1350
(G) of this section and unless a specific sanction is required to 1351
be imposed or is precluded from being imposed pursuant to law, a 1352
court that imposes a sentence upon an offender for a felony may 1353
impose any sanction or combination of sanctions on the offender 1354
that are provided in sections 2929.14 to 2929.18 of the Revised 1355
Code. The sentence shall not impose an unnecessary burden on state 1356
or local government resources. 1357

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

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

(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 reputation or position facilitated the offense or was likely to influence the future conduct of others.

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

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

(g) The offender at the time of the offense was serving, or

the offender previously had served, a prison term. 1420

(h) The offender committed the offense while under a 1421
community control sanction, while on probation, or while released 1422
from custody on a bond or personal recognizance. 1423

(i) The offender committed the offense while in possession of 1424
a firearm. 1425

(2)(a) If the court makes a finding described in division 1426
(B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of this 1427
section and if the court, after considering the factors set forth 1428
in section 2929.12 of the Revised Code, finds that a prison term 1429
is consistent with the purposes and principles of sentencing set 1430
forth in section 2929.11 of the Revised Code and finds that the 1431
offender is not amenable to an available community control 1432
sanction, the court shall impose a prison term upon the offender. 1433

(b) Except as provided in division (E), (F), or (G) of this 1434
section, if the court does not make a finding described in 1435
division (B)(1)(a), (b), (c), (d), (e), (f), (g), (h), or (i) of 1436
this section and if the court, after considering the factors set 1437
forth in section 2929.12 of the Revised Code, finds that a 1438
community control sanction or combination of community control 1439
sanctions is consistent with the purposes and principles of 1440
sentencing set forth in section 2929.11 of the Revised Code, the 1441
court shall impose a community control sanction or combination of 1442
community control sanctions upon the offender. 1443

(C) Except as provided in division (D), (E), (F), or (G) of 1444
this section, in determining whether to impose a prison term as a 1445
sanction for a felony of the third degree or a felony drug offense 1446
that is a violation of a provision of Chapter 2925. of the Revised 1447
Code and that is specified as being subject to this division for 1448
purposes of sentencing, the sentencing court shall comply with the 1449
purposes and principles of sentencing under section 2929.11 of the 1450

Revised Code and with section 2929.12 of the Revised Code. 1451

(D)(1) Except as provided in division (E) or (F) of this 1452
section, for a felony of the first or second degree, for a felony 1453
drug offense that is a violation of any provision of Chapter 1454
2925., 3719., or 4729. of the Revised Code for which a presumption 1455
in favor of a prison term is specified as being applicable, and 1456
for a violation of division (A)(4) or (B) of section 2907.05 of 1457
the Revised Code for which a presumption in favor of a prison term 1458
is specified as being applicable, it is presumed that a prison 1459
term is necessary in order to comply with the purposes and 1460
principles of sentencing under section 2929.11 of the Revised 1461
Code. Division (D)(2) of this section does not apply to a 1462
presumption established under this division for a violation of 1463
division (A)(4) of section 2907.05 of the Revised Code. 1464

(2) Notwithstanding the presumption established under 1465
division (D)(1) of this section for the offenses listed in that 1466
division other than a violation of division (A)(4) or (B) of 1467
section 2907.05 of the Revised Code, the sentencing court may 1468
impose a community control sanction or a combination of community 1469
control sanctions instead of a prison term on an offender for a 1470
felony of the first or second degree or for a felony drug offense 1471
that is a violation of any provision of Chapter 2925., 3719., or 1472
4729. of the Revised Code for which a presumption in favor of a 1473
prison term is specified as being applicable if it makes both of 1474
the following findings: 1475

(a) A community control sanction or a combination of 1476
community control sanctions would adequately punish the offender 1477
and protect the public from future crime, because the applicable 1478
factors under section 2929.12 of the Revised Code indicating a 1479
lesser likelihood of recidivism outweigh the applicable factors 1480
under that section indicating a greater likelihood of recidivism. 1481

(b) A community control sanction or a combination of 1482

community control sanctions would not demean the seriousness of 1483
the offense, because one or more factors under section 2929.12 of 1484
the Revised Code that indicate that the offender's conduct was 1485
less serious than conduct normally constituting the offense are 1486
applicable, and they outweigh the applicable factors under that 1487
section that indicate that the offender's conduct was more serious 1488
than conduct normally constituting the offense. 1489

(E)(1) Except as provided in division (F) of this section, 1490
for any drug offense that is a violation of any provision of 1491
Chapter 2925. of the Revised Code and that is a felony of the 1492
third, fourth, or fifth degree, the applicability of a presumption 1493
under division (D) of this section in favor of a prison term or of 1494
division (B) or (C) of this section in determining whether to 1495
impose a prison term for the offense shall be determined as 1496
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1497
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 1498
Revised Code, whichever is applicable regarding the violation. 1499

(2) If an offender who was convicted of or pleaded guilty to 1500
a felony violates the conditions of a community control sanction 1501
imposed for the offense solely by reason of producing positive 1502
results on a drug test, the court, as punishment for the violation 1503
of the sanction, shall not order that the offender be imprisoned 1504
unless the court determines on the record either of the following: 1505

(a) The offender had been ordered as a sanction for the 1506
felony to participate in a drug treatment program, in a drug 1507
education program, or in narcotics anonymous or a similar program, 1508
and the offender continued to use illegal drugs after a reasonable 1509
period of participation in the program. 1510

(b) The imprisonment of the offender for the violation is 1511
consistent with the purposes and principles of sentencing set 1512
forth in section 2929.11 of the Revised Code. 1513

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

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

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

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

(3) Gross sexual imposition or sexual battery, if the victim 1546
is less than thirteen years of age and if any of the following 1547
applies: 1548

(a) Regarding gross sexual imposition, the offender 1549
previously was convicted of or pleaded guilty to rape, the former 1550
offense of felonious sexual penetration, gross sexual imposition, 1551
or sexual battery, and the victim of the previous offense was less 1552
than thirteen years of age; 1553

(b) Regarding gross sexual imposition, the offense was 1554
committed on or after August 3, 2006, and evidence other than the 1555
testimony of the victim was admitted in the case corroborating the 1556
violation. 1557

(c) Regarding sexual battery, either of the following 1558
applies: 1559

(i) The offense was committed prior to August 3, 2006, the 1560
offender previously was convicted of or pleaded guilty to rape, 1561
the former offense of felonious sexual penetration, or sexual 1562
battery, and the victim of the previous offense was less than 1563
thirteen years of age. 1564

(ii) The offense was committed on or after August 3, 2006. 1565

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 1566
2903.11, 2903.12, 2903.13, or 2907.07 of the Revised Code if the 1567
section requires the imposition of a prison term; 1568

(5) A first, second, or third degree felony drug offense for 1569
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1570
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 1571
4729.99 of the Revised Code, whichever is applicable regarding the 1572
violation, requires the imposition of a mandatory prison term; 1573

(6) Any offense that is a first or second degree felony and 1574
that is not set forth in division (F)(1), (2), (3), or (4) of this 1575

section, if the offender previously was convicted of or pleaded 1576
guilty to aggravated murder, murder, any first or second degree 1577
felony, or an offense under an existing or former law of this 1578
state, another state, or the United States that is or was 1579
substantially equivalent to one of those offenses; 1580

(7) Any offense that is a third degree felony and either is a 1581
violation of section 2903.04 of the Revised Code or an attempt to 1582
commit a felony of the second degree that is an offense of 1583
violence and involved an attempt to cause serious physical harm to 1584
a person or that resulted in serious physical harm to a person if 1585
the offender previously was convicted of or pleaded guilty to any 1586
of the following offenses: 1587

(a) Aggravated murder, murder, involuntary manslaughter, 1588
rape, felonious sexual penetration as it existed under section 1589
2907.12 of the Revised Code prior to September 3, 1996, a felony 1590
of the first or second degree that resulted in the death of a 1591
person or in physical harm to a person, or complicity in or an 1592
attempt to commit any of those offenses; 1593

(b) An offense under an existing or former law of this state, 1594
another state, or the United States that is or was substantially 1595
equivalent to an offense listed in division (F)(7)(a) of this 1596
section that resulted in the death of a person or in physical harm 1597
to a person. 1598

(8) Any offense, other than a violation of section 2923.12 of 1599
the Revised Code, that is a felony, if the offender had a firearm 1600
on or about the offender's person or under the offender's control 1601
while committing the felony, with respect to a portion of the 1602
sentence imposed pursuant to division (D)(1)(a) of section 2929.14 1603
of the Revised Code for having the firearm; 1604

(9) Any offense of violence that is a felony, if the offender 1605
wore or carried body armor while committing the felony offense of 1606

violence, with respect to the portion of the sentence imposed 1607
pursuant to division (D)(1)(d) of section 2929.14 of the Revised 1608
Code for wearing or carrying the body armor; 1609

(10) Corrupt activity in violation of section 2923.32 of the 1610
Revised Code when the most serious offense in the pattern of 1611
corrupt activity that is the basis of the offense is a felony of 1612
the first degree; 1613

(11) Any violent sex offense or designated homicide, assault, 1614
or kidnapping offense if, in relation to that offense, the 1615
offender is adjudicated a sexually violent predator; 1616

(12) A violation of division (A)(1) or (2) of section 2921.36 1617
of the Revised Code, or a violation of division (C) of that 1618
section involving an item listed in division (A)(1) or (2) of that 1619
section, if the offender is an officer or employee of the 1620
department of rehabilitation and correction; 1621

(13) A violation of division (A)(1) or (2) of section 2903.06 1622
of the Revised Code if the victim of the offense is a peace 1623
officer, as defined in section 2935.01 of the Revised Code, or an 1624
investigator of the bureau of criminal identification and 1625
investigation, as defined in section 2903.11 of the Revised Code, 1626
with respect to the portion of the sentence imposed pursuant to 1627
division (D)(5) of section 2929.14 of the Revised Code; 1628

(14) A violation of division (A)(1) or (2) of section 2903.06 1629
of the Revised Code if the offender has been convicted of or 1630
pleaded guilty to three or more violations of division (A) or (B) 1631
of section 4511.19 of the Revised Code or an equivalent offense, 1632
as defined in section 2941.1415 of the Revised Code, or three or 1633
more violations of any combination of those divisions and 1634
offenses, with respect to the portion of the sentence imposed 1635
pursuant to division (D)(6) of section 2929.14 of the Revised 1636
Code; 1637

(15) Kidnapping, in the circumstances specified in section 1638
2971.03 of the Revised Code and when no other provision of 1639
division (F) of this section applies; 1640

(16) Kidnapping, abduction, compelling prostitution, 1641
promoting prostitution, engaging in a pattern of corrupt activity, 1642
illegal use of a minor in a nudity-oriented material or 1643
performance in violation of division (A)(1) or (2) of section 1644
2907.323 of the Revised Code, or endangering children in violation 1645
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 1646
the Revised Code, if the offender is convicted of or pleads guilty 1647
to a specification as described in section 2941.1422 of the 1648
Revised Code that was included in the indictment, count in the 1649
indictment, or information charging the offense; 1650

(17) A felony violation of division (A) or (B) of section 1651
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 1652
that section, and division (D)(6) of that section, require the 1653
imposition of a prison term; 1654

(18) A felony violation of section 2903.11, 2903.12, or 1655
2903.13 of the Revised Code, if the victim of the offense was a 1656
woman that the offender knew was pregnant at the time of the 1657
violation, with respect to a portion of the sentence imposed 1658
pursuant to division (D)(8) of section 2929.14 of the Revised 1659
Code. 1660

(G) Notwithstanding divisions (A) to (E) of this section, if 1661
an offender is being sentenced for a fourth degree felony OVI 1662
offense or for a third degree felony OVI offense, the court shall 1663
impose upon the offender a mandatory term of local incarceration 1664
or a mandatory prison term in accordance with the following: 1665

(1) If the offender is being sentenced for a fourth degree 1666
felony OVI offense and if the offender has not been convicted of 1667
and has not pleaded guilty to a specification of the type 1668

described in section 2941.1413 of the Revised Code, the court may 1669
impose upon the offender a mandatory term of local incarceration 1670
of sixty days or one hundred twenty days as specified in division 1671
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 1672
not reduce the term pursuant to section 2929.20, 2967.193, or any 1673
other provision of the Revised Code. The court that imposes a 1674
mandatory term of local incarceration under this division shall 1675
specify whether the term is to be served in a jail, a 1676
community-based correctional facility, a halfway house, or an 1677
alternative residential facility, and the offender shall serve the 1678
term in the type of facility specified by the court. A mandatory 1679
term of local incarceration imposed under division (G)(1) of this 1680
section is not subject to any other Revised Code provision that 1681
pertains to a prison term except as provided in division (A)(1) of 1682
this section. 1683

(2) If the offender is being sentenced for a third degree 1684
felony OVI offense, or if the offender is being sentenced for a 1685
fourth degree felony OVI offense and the court does not impose a 1686
mandatory term of local incarceration under division (G)(1) of 1687
this section, the court shall impose upon the offender a mandatory 1688
prison term of one, two, three, four, or five years if the 1689
offender also is convicted of or also pleads guilty to a 1690
specification of the type described in section 2941.1413 of the 1691
Revised Code or shall impose upon the offender a mandatory prison 1692
term of sixty days or one hundred twenty days as specified in 1693
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 1694
if the offender has not been convicted of and has not pleaded 1695
guilty to a specification of that type. The court shall not reduce 1696
the term pursuant to section 2929.20, 2967.193, or any other 1697
provision of the Revised Code. The offender shall serve the one-, 1698
two-, three-, four-, or five-year mandatory prison term 1699
consecutively to and prior to the prison term imposed for the 1700
underlying offense and consecutively to any other mandatory prison 1701

term imposed in relation to the offense. In no case shall an 1702
offender who once has been sentenced to a mandatory term of local 1703
incarceration pursuant to division (G)(1) of this section for a 1704
fourth degree felony OVI offense be sentenced to another mandatory 1705
term of local incarceration under that division for any violation 1706
of division (A) of section 4511.19 of the Revised Code. In 1707
addition to the mandatory prison term described in division (G)(2) 1708
of this section, the court may sentence the offender to a 1709
community control sanction under section 2929.16 or 2929.17 of the 1710
Revised Code, but the offender shall serve the prison term prior 1711
to serving the community control sanction. The department of 1712
rehabilitation and correction may place an offender sentenced to a 1713
mandatory prison term under this division in an intensive program 1714
prison established pursuant to section 5120.033 of the Revised 1715
Code if the department gave the sentencing judge prior notice of 1716
its intent to place the offender in an intensive program prison 1717
established under that section and if the judge did not notify the 1718
department that the judge disapproved the placement. Upon the 1719
establishment of the initial intensive program prison pursuant to 1720
section 5120.033 of the Revised Code that is privately operated 1721
and managed by a contractor pursuant to a contract entered into 1722
under section 9.06 of the Revised Code, both of the following 1723
apply: 1724

(a) The department of rehabilitation and correction shall 1725
make a reasonable effort to ensure that a sufficient number of 1726
offenders sentenced to a mandatory prison term under this division 1727
are placed in the privately operated and managed prison so that 1728
the privately operated and managed prison has full occupancy. 1729

(b) Unless the privately operated and managed prison has full 1730
occupancy, the department of rehabilitation and correction shall 1731
not place any offender sentenced to a mandatory prison term under 1732
this division in any intensive program prison established pursuant 1733

to section 5120.033 of the Revised Code other than the privately 1734
operated and managed prison. 1735

(H) If an offender is being sentenced for a sexually oriented 1736
offense or child-victim oriented offense that is a felony 1737
committed on or after January 1, 1997, the judge shall require the 1738
offender to submit to a DNA specimen collection procedure pursuant 1739
to section 2901.07 of the Revised Code. 1740

(I) If an offender is being sentenced for a sexually oriented 1741
offense or a child-victim oriented offense committed on or after 1742
January 1, 1997, the judge shall include in the sentence a summary 1743
of the offender's duties imposed under sections 2950.04, 2950.041, 1744
2950.05, and 2950.06 of the Revised Code and the duration of the 1745
duties. The judge shall inform the offender, at the time of 1746
sentencing, of those duties and of their duration. If required 1747
under division (A)(2) of section 2950.03 of the Revised Code, the 1748
judge shall perform the duties specified in that section, or, if 1749
required under division (A)(6) of section 2950.03 of the Revised 1750
Code, the judge shall perform the duties specified in that 1751
division. 1752

(J)(1) Except as provided in division (J)(2) of this section, 1753
when considering sentencing factors under this section in relation 1754
to an offender who is convicted of or pleads guilty to an attempt 1755
to commit an offense in violation of section 2923.02 of the 1756
Revised Code, the sentencing court shall consider the factors 1757
applicable to the felony category of the violation of section 1758
2923.02 of the Revised Code instead of the factors applicable to 1759
the felony category of the offense attempted. 1760

(2) When considering sentencing factors under this section in 1761
relation to an offender who is convicted of or pleads guilty to an 1762
attempt to commit a drug abuse offense for which the penalty is 1763
determined by the amount or number of unit doses of the controlled 1764
substance involved in the drug abuse offense, the sentencing court 1765

shall consider the factors applicable to the felony category that 1766
the drug abuse offense attempted would be if that drug abuse 1767
offense had been committed and had involved an amount or number of 1768
unit doses of the controlled substance that is within the next 1769
lower range of controlled substance amounts than was involved in 1770
the attempt. 1771

(K) As used in this section, "drug abuse offense" has the 1772
same meaning as in section 2925.01 of the Revised Code. 1773

(L) At the time of sentencing an offender for any sexually 1774
oriented offense, if the offender is a tier III sex 1775
offender/child-victim offender relative to that offense and the 1776
offender does not serve a prison term or jail term, the court may 1777
require that the offender be monitored by means of a global 1778
positioning device. If the court requires such monitoring, the 1779
cost of monitoring shall be borne by the offender. If the offender 1780
is indigent, the cost of compliance shall be paid by the crime 1781
victims reparations fund. 1782

Sec. 2929.14. (A) Except as provided in division (C), (D)(1), 1783
(D)(2), (D)(3), (D)(4), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), 1784
(J), or (L) of this section or in division (D)(6) of section 1785
2919.25 of the Revised Code and except in relation to an offense 1786
for which a sentence of ~~death~~ or life imprisonment is to be 1787
imposed, if the court imposing a sentence upon an offender for a 1788
felony elects or is required to impose a prison term on the 1789
offender pursuant to this chapter, the court shall impose a 1790
definite prison term that shall be one of the following: 1791

(1) For a felony of the first degree, the prison term shall 1792
be three, four, five, six, seven, eight, nine, or ten years. 1793

(2) For a felony of the second degree, the prison term shall 1794
be two, three, four, five, six, seven, or eight years. 1795

(3) For a felony of the third degree, the prison term shall 1796
be one, two, three, four, or five years. 1797

(4) For a felony of the fourth degree, the prison term shall 1798
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 1799
fourteen, fifteen, sixteen, seventeen, or eighteen months. 1800

(5) For a felony of the fifth degree, the prison term shall 1801
be six, seven, eight, nine, ten, eleven, or twelve months. 1802

(B) Except as provided in division (C), (D)(1), (D)(2), 1803
(D)(3), (D)(5), (D)(6), (D)(7), (D)(8), (G), (I), (J), or (L) of 1804
this section, in section 2907.02, 2907.05, or 2919.25 of the 1805
Revised Code, or in Chapter 2925. of the Revised Code, if the 1806
court imposing a sentence upon an offender for a felony elects or 1807
is required to impose a prison term on the offender, the court 1808
shall impose the shortest prison term authorized for the offense 1809
pursuant to division (A) of this section, unless one or more of 1810
the following applies: 1811

(1) The offender was serving a prison term at the time of the 1812
offense, or the offender previously had served a prison term. 1813

(2) The court finds on the record that the shortest prison 1814
term will demean the seriousness of the offender's conduct or will 1815
not adequately protect the public from future crime by the 1816
offender or others. 1817

(C) Except as provided in division (D)(7), (D)(8), (G), or 1818
(L) of this section, in section 2919.25 of the Revised Code, or in 1819
Chapter 2925. of the Revised Code, the court imposing a sentence 1820
upon an offender for a felony may impose the longest prison term 1821
authorized for the offense pursuant to division (A) of this 1822
section only upon offenders who committed the worst forms of the 1823
offense, upon offenders who pose the greatest likelihood of 1824
committing future crimes, upon certain major drug offenders under 1825
division (D)(3) of this section, and upon certain repeat violent 1826

offenders in accordance with division (D)(2) of this section. 1827

(D)(1)(a) Except as provided in division (D)(1)(e) of this 1828
section, if an offender who is convicted of or pleads guilty to a 1829
felony also is convicted of or pleads guilty to a specification of 1830
the type described in section 2941.141, 2941.144, or 2941.145 of 1831
the Revised Code, the court shall impose on the offender one of 1832
the following prison terms: 1833

(i) A prison term of six years if the specification is of the 1834
type described in section 2941.144 of the Revised Code that 1835
charges the offender with having a firearm that is an automatic 1836
firearm or that was equipped with a firearm muffler or silencer on 1837
or about the offender's person or under the offender's control 1838
while committing the felony; 1839

(ii) A prison term of three years if the specification is of 1840
the type described in section 2941.145 of the Revised Code that 1841
charges the offender with having a firearm on or about the 1842
offender's person or under the offender's control while committing 1843
the offense and displaying the firearm, brandishing the firearm, 1844
indicating that the offender possessed the firearm, or using it to 1845
facilitate the offense; 1846

(iii) A prison term of one year if the specification is of 1847
the type described in section 2941.141 of the Revised Code that 1848
charges the offender with having a firearm on or about the 1849
offender's person or under the offender's control while committing 1850
the felony. 1851

(b) If a court imposes a prison term on an offender under 1852
division (D)(1)(a) of this section, the prison term shall not be 1853
reduced pursuant to section 2929.20, section 2967.193, or any 1854
other provision of Chapter 2967. or Chapter 5120. of the Revised 1855
Code. Except as provided in division (D)(1)(g) of this section, a 1856
court shall not impose more than one prison term on an offender 1857

under division (D)(1)(a) of this section for felonies committed as 1858
part of the same act or transaction. 1859

(c) Except as provided in division (D)(1)(e) of this section, 1860
if an offender who is convicted of or pleads guilty to a violation 1861
of section 2923.161 of the Revised Code or to a felony that 1862
includes, as an essential element, purposely or knowingly causing 1863
or attempting to cause the death of or physical harm to another, 1864
also is convicted of or pleads guilty to a specification of the 1865
type described in section 2941.146 of the Revised Code that 1866
charges the offender with committing the offense by discharging a 1867
firearm from a motor vehicle other than a manufactured home, the 1868
court, after imposing a prison term on the offender for the 1869
violation of section 2923.161 of the Revised Code or for the other 1870
felony offense under division (A), (D)(2), or (D)(3) of this 1871
section, shall impose an additional prison term of five years upon 1872
the offender that shall not be reduced pursuant to section 1873
2929.20, section 2967.193, or any other provision of Chapter 2967. 1874
or Chapter 5120. of the Revised Code. A court shall not impose 1875
more than one additional prison term on an offender under division 1876
(D)(1)(c) of this section for felonies committed as part of the 1877
same act or transaction. If a court imposes an additional prison 1878
term on an offender under division (D)(1)(c) of this section 1879
relative to an offense, the court also shall impose a prison term 1880
under division (D)(1)(a) of this section relative to the same 1881
offense, provided the criteria specified in that division for 1882
imposing an additional prison term are satisfied relative to the 1883
offender and the offense. 1884

(d) If an offender who is convicted of or pleads guilty to an 1885
offense of violence that is a felony also is convicted of or 1886
pleads guilty to a specification of the type described in section 1887
2941.1411 of the Revised Code that charges the offender with 1888
wearing or carrying body armor while committing the felony offense 1889

of violence, the court shall impose on the offender a prison term 1890
of two years. The prison term so imposed shall not be reduced 1891
pursuant to section 2929.20, section 2967.193, or any other 1892
provision of Chapter 2967. or Chapter 5120. of the Revised Code. A 1893
court shall not impose more than one prison term on an offender 1894
under division (D)(1)(d) of this section for felonies committed as 1895
part of the same act or transaction. If a court imposes an 1896
additional prison term under division (D)(1)(a) or (c) of this 1897
section, the court is not precluded from imposing an additional 1898
prison term under division (D)(1)(d) of this section. 1899

(e) The court shall not impose any of the prison terms 1900
described in division (D)(1)(a) of this section or any of the 1901
additional prison terms described in division (D)(1)(c) of this 1902
section upon an offender for a violation of section 2923.12 or 1903
2923.123 of the Revised Code. The court shall not impose any of 1904
the prison terms described in division (D)(1)(a) or (b) of this 1905
section upon an offender for a violation of section 2923.122 that 1906
involves a deadly weapon that is a firearm other than a dangerous 1907
ordnance, section 2923.16, or section 2923.121 of the Revised 1908
Code. The court shall not impose any of the prison terms described 1909
in division (D)(1)(a) of this section or any of the additional 1910
prison terms described in division (D)(1)(c) of this section upon 1911
an offender for a violation of section 2923.13 of the Revised Code 1912
unless all of the following apply: 1913

(i) The offender previously has been convicted of aggravated 1914
murder, murder, or any felony of the first or second degree. 1915

(ii) Less than five years have passed since the offender was 1916
released from prison or post-release control, whichever is later, 1917
for the prior offense. 1918

(f) If an offender is convicted of or pleads guilty to a 1919
felony that includes, as an essential element, causing or 1920
attempting to cause the death of or physical harm to another and 1921

also is convicted of or pleads guilty to a specification of the 1922
type described in section 2941.1412 of the Revised Code that 1923
charges the offender with committing the offense by discharging a 1924
firearm at a peace officer as defined in section 2935.01 of the 1925
Revised Code or a corrections officer, as defined in section 1926
2941.1412 of the Revised Code, the court, after imposing a prison 1927
term on the offender for the felony offense under division (A), 1928
(D)(2), or (D)(3) of this section, shall impose an additional 1929
prison term of seven years upon the offender that shall not be 1930
reduced pursuant to section 2929.20, section 2967.193, or any 1931
other provision of Chapter 2967. or Chapter 5120. of the Revised 1932
Code. If an offender is convicted of or pleads guilty to two or 1933
more felonies that include, as an essential element, causing or 1934
attempting to cause the death or physical harm to another and also 1935
is convicted of or pleads guilty to a specification of the type 1936
described under division (D)(1)(f) of this section in connection 1937
with two or more of the felonies of which the offender is 1938
convicted or to which the offender pleads guilty, the sentencing 1939
court shall impose on the offender the prison term specified under 1940
division (D)(1)(f) of this section for each of two of the 1941
specifications of which the offender is convicted or to which the 1942
offender pleads guilty and, in its discretion, also may impose on 1943
the offender the prison term specified under that division for any 1944
or all of the remaining specifications. If a court imposes an 1945
additional prison term on an offender under division (D)(1)(f) of 1946
this section relative to an offense, the court shall not impose a 1947
prison term under division (D)(1)(a) or (c) of this section 1948
relative to the same offense. 1949

(g) If an offender is convicted of or pleads guilty to two or 1950
more felonies, if one or more of those felonies ~~is~~ are aggravated 1951
murder, murder, attempted aggravated murder, attempted murder, 1952
aggravated robbery, felonious assault, or rape, and if the 1953
offender is convicted of or pleads guilty to a specification of 1954

the type described under division (D)(1)(a) of this section in 1955
connection with two or more of the felonies, the sentencing court 1956
shall impose on the offender the prison term specified under 1957
division (D)(1)(a) of this section for each of the two most 1958
serious specifications of which the offender is convicted or to 1959
which the offender pleads guilty and, in its discretion, also may 1960
impose on the offender the prison term specified under that 1961
division for any or all of the remaining specifications. 1962

(2)(a) If division (D)(2)(b) of this section does not apply, 1963
the court may impose on an offender, in addition to the longest 1964
prison term authorized or required for the offense, an additional 1965
definite prison term of one, two, three, four, five, six, seven, 1966
eight, nine, or ten years if all of the following criteria are 1967
met: 1968

(i) The offender is convicted of or pleads guilty to a 1969
specification of the type described in section 2941.149 of the 1970
Revised Code that the offender is a repeat violent offender. 1971

(ii) The offense of which the offender currently is convicted 1972
or to which the offender currently pleads guilty is aggravated 1973
murder and the court does not impose a sentence of ~~death or~~ life 1974
imprisonment without parole, murder, terrorism and the court does 1975
not impose a sentence of life imprisonment without parole, any 1976
felony of the first degree that is an offense of violence and the 1977
court does not impose a sentence of life imprisonment without 1978
parole, or any felony of the second degree that is an offense of 1979
violence and the trier of fact finds that the offense involved an 1980
attempt to cause or a threat to cause serious physical harm to a 1981
person or resulted in serious physical harm to a person. 1982

(iii) The court imposes the longest prison term for the 1983
offense that is not life imprisonment without parole. 1984

(iv) The court finds that the prison terms imposed pursuant 1985

to division (D)(2)(a)(iii) of this section and, if applicable, 1986
division (D)(1) or (3) of this section are inadequate to punish 1987
the offender and protect the public from future crime, because the 1988
applicable factors under section 2929.12 of the Revised Code 1989
indicating a greater likelihood of recidivism outweigh the 1990
applicable factors under that section indicating a lesser 1991
likelihood of recidivism. 1992

(v) The court finds that the prison terms imposed pursuant to 1993
division (D)(2)(a)(iii) of this section and, if applicable, 1994
division (D)(1) or (3) of this section are demeaning to the 1995
seriousness of the offense, because one or more of the factors 1996
under section 2929.12 of the Revised Code indicating that the 1997
offender's conduct is more serious than conduct normally 1998
constituting the offense are present, and they outweigh the 1999
applicable factors under that section indicating that the 2000
offender's conduct is less serious than conduct normally 2001
constituting the offense. 2002

(b) The court shall impose on an offender the longest prison 2003
term authorized or required for the offense and shall impose on 2004
the offender an additional definite prison term of one, two, 2005
three, four, five, six, seven, eight, nine, or ten years if all of 2006
the following criteria are met: 2007

(i) The offender is convicted of or pleads guilty to a 2008
specification of the type described in section 2941.149 of the 2009
Revised Code that the offender is a repeat violent offender. 2010

(ii) The offender within the preceding twenty years has been 2011
convicted of or pleaded guilty to three or more offenses described 2012
in division (CC)(1) of section 2929.01 of the Revised Code, 2013
including all offenses described in that division of which the 2014
offender is convicted or to which the offender pleads guilty in 2015
the current prosecution and all offenses described in that 2016
division of which the offender previously has been convicted or to 2017

which the offender previously pleaded guilty, whether prosecuted 2018
together or separately. 2019

(iii) The offense or offenses of which the offender currently 2020
is convicted or to which the offender currently pleads guilty is 2021
aggravated murder and the court does not impose a sentence of 2022
~~death or~~ life imprisonment without parole, murder, terrorism and 2023
the court does not impose a sentence of life imprisonment without 2024
parole, any felony of the first degree that is an offense of 2025
violence and the court does not impose a sentence of life 2026
imprisonment without parole, or any felony of the second degree 2027
that is an offense of violence and the trier of fact finds that 2028
the offense involved an attempt to cause or a threat to cause 2029
serious physical harm to a person or resulted in serious physical 2030
harm to a person. 2031

(c) For purposes of division (D)(2)(b) of this section, two 2032
or more offenses committed at the same time or as part of the same 2033
act or event shall be considered one offense, and that one offense 2034
shall be the offense with the greatest penalty. 2035

(d) A sentence imposed under division (D)(2)(a) or (b) of 2036
this section shall not be reduced pursuant to section 2929.20 or 2037
section 2967.193, or any other provision of Chapter 2967. or 2038
Chapter 5120. of the Revised Code. The offender shall serve an 2039
additional prison term imposed under this section consecutively to 2040
and prior to the prison term imposed for the underlying offense. 2041

(e) When imposing a sentence pursuant to division (D)(2)(a) 2042
or (b) of this section, the court shall state its findings 2043
explaining the imposed sentence. 2044

(3)(a) Except when an offender commits a violation of section 2045
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 2046
the violation is life imprisonment or commits a violation of 2047
section 2903.02 of the Revised Code, if the offender commits a 2048

violation of section 2925.03 or 2925.11 of the Revised Code and 2049
that section classifies the offender as a major drug offender and 2050
requires the imposition of a ten-year prison term on the offender, 2051
if the offender commits a felony violation of section 2925.02, 2052
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 2053
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 2054
division (C) of section 4729.51, or division (J) of section 2055
4729.54 of the Revised Code that includes the sale, offer to sell, 2056
or possession of a schedule I or II controlled substance, with the 2057
exception of marihuana, and the court imposing sentence upon the 2058
offender finds that the offender is guilty of a specification of 2059
the type described in section 2941.1410 of the Revised Code 2060
charging that the offender is a major drug offender, if the court 2061
imposing sentence upon an offender for a felony finds that the 2062
offender is guilty of corrupt activity with the most serious 2063
offense in the pattern of corrupt activity being a felony of the 2064
first degree, or if the offender is guilty of an attempted 2065
violation of section 2907.02 of the Revised Code and, had the 2066
offender completed the violation of section 2907.02 of the Revised 2067
Code that was attempted, the offender would have been subject to a 2068
sentence of life imprisonment or life imprisonment without parole 2069
for the violation of section 2907.02 of the Revised Code, the 2070
court shall impose upon the offender for the felony violation a 2071
ten-year prison term that cannot be reduced pursuant to section 2072
2929.20 or Chapter 2967. or 5120. of the Revised Code. 2073

(b) The court imposing a prison term on an offender under 2074
division (D)(3)(a) of this section may impose an additional prison 2075
term of one, two, three, four, five, six, seven, eight, nine, or 2076
ten years, if the court, with respect to the term imposed under 2077
division (D)(3)(a) of this section and, if applicable, divisions 2078
(D)(1) and (2) of this section, makes both of the findings set 2079
forth in divisions (D)(2)(a)(iv) and (v) of this section. 2080

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (D)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (D)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (D)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local

incarceration, the court may impose a prison term as described in 2114
division (A)(1) of that section. 2115

(5) If an offender is convicted of or pleads guilty to a 2116
violation of division (A)(1) or (2) of section 2903.06 of the 2117
Revised Code and also is convicted of or pleads guilty to a 2118
specification of the type described in section 2941.1414 of the 2119
Revised Code that charges that the victim of the offense is a 2120
peace officer, as defined in section 2935.01 of the Revised Code, 2121
or an investigator of the bureau of criminal identification and 2122
investigation, as defined in section 2903.11 of the Revised Code, 2123
the court shall impose on the offender a prison term of five 2124
years. If a court imposes a prison term on an offender under 2125
division (D)(5) of this section, the prison term shall not be 2126
reduced pursuant to section 2929.20, section 2967.193, or any 2127
other provision of Chapter 2967. or Chapter 5120. of the Revised 2128
Code. A court shall not impose more than one prison term on an 2129
offender under division (D)(5) of this section for felonies 2130
committed as part of the same act. 2131

(6) If an offender is convicted of or pleads guilty to a 2132
violation of division (A)(1) or (2) of section 2903.06 of the 2133
Revised Code and also is convicted of or pleads guilty to a 2134
specification of the type described in section 2941.1415 of the 2135
Revised Code that charges that the offender previously has been 2136
convicted of or pleaded guilty to three or more violations of 2137
division (A) or (B) of section 4511.19 of the Revised Code or an 2138
equivalent offense, as defined in section 2941.1415 of the Revised 2139
Code, or three or more violations of any combination of those 2140
divisions and offenses, the court shall impose on the offender a 2141
prison term of three years. If a court imposes a prison term on an 2142
offender under division (D)(6) of this section, the prison term 2143
shall not be reduced pursuant to section 2929.20, section 2144
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 2145

of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(6) of this section for felonies committed as part of the same act.

(7)(a) If an offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the court shall impose on the offender a mandatory prison term that is one of the following:

(i) If the offense is a felony of the first degree, a definite prison term of not less than five years and not greater than ten years;

(ii) If the offense is a felony of the second or third degree, a definite prison term of not less than three years and not greater than the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code;

(iii) If the offense is a felony of the fourth or fifth degree, a definite prison term that is the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code.

(b) The prison term imposed under division (D)(7)(a) of this section shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. of the Revised Code. A court shall not impose more than one prison term on an offender under division (D)(7)(a) of this section for felonies committed as part of the same act, scheme, or plan.

(8) If an offender is convicted of or pleads guilty to a felony violation of section 2903.11, 2903.12, or 2903.13 of the

Revised Code and also is convicted of or pleads guilty to a 2177
specification of the type described in section 2941.1423 of the 2178
Revised Code that charges that the victim of the violation was a 2179
woman whom the offender knew was pregnant at the time of the 2180
violation, notwithstanding the range of prison terms prescribed in 2181
division (A) of this section for felonies of the same degree as 2182
the violation, the court shall impose on the offender a mandatory 2183
prison term that is either a definite prison term of six months or 2184
one of the prison terms prescribed in section 2929.14 of the 2185
Revised Code for felonies of the same degree as the violation. 2186

(E)(1)(a) Subject to division (E)(1)(b) of this section, if a 2187
mandatory prison term is imposed upon an offender pursuant to 2188
division (D)(1)(a) of this section for having a firearm on or 2189
about the offender's person or under the offender's control while 2190
committing a felony, if a mandatory prison term is imposed upon an 2191
offender pursuant to division (D)(1)(c) of this section for 2192
committing a felony specified in that division by discharging a 2193
firearm from a motor vehicle, or if both types of mandatory prison 2194
terms are imposed, the offender shall serve any mandatory prison 2195
term imposed under either division consecutively to any other 2196
mandatory prison term imposed under either division or under 2197
division (D)(1)(d) of this section, consecutively to and prior to 2198
any prison term imposed for the underlying felony pursuant to 2199
division (A), (D)(2), or (D)(3) of this section or any other 2200
section of the Revised Code, and consecutively to any other prison 2201
term or mandatory prison term previously or subsequently imposed 2202
upon the offender. 2203

(b) If a mandatory prison term is imposed upon an offender 2204
pursuant to division (D)(1)(d) of this section for wearing or 2205
carrying body armor while committing an offense of violence that 2206
is a felony, the offender shall serve the mandatory term so 2207
imposed consecutively to any other mandatory prison term imposed 2208

under that division or under division (D)(1)(a) or (c) of this 2209
section, consecutively to and prior to any prison term imposed for 2210
the underlying felony under division (A), (D)(2), or (D)(3) of 2211
this section or any other section of the Revised Code, and 2212
consecutively to any other prison term or mandatory prison term 2213
previously or subsequently imposed upon the offender. 2214

(c) If a mandatory prison term is imposed upon an offender 2215
pursuant to division (D)(1)(f) of this section, the offender shall 2216
serve the mandatory prison term so imposed consecutively to and 2217
prior to any prison term imposed for the underlying felony under 2218
division (A), (D)(2), or (D)(3) of this section or any other 2219
section of the Revised Code, and consecutively to any other prison 2220
term or mandatory prison term previously or subsequently imposed 2221
upon the offender. 2222

(d) If a mandatory prison term is imposed upon an offender 2223
pursuant to division (D)(7) or (8) of this section, the offender 2224
shall serve the mandatory prison term so imposed consecutively to 2225
any other mandatory prison term imposed under that division or 2226
under any other provision of law and consecutively to any other 2227
prison term or mandatory prison term previously or subsequently 2228
imposed upon the offender. 2229

(2) If an offender who is an inmate in a jail, prison, or 2230
other residential detention facility violates section 2917.02, 2231
2917.03, 2921.34, or 2921.35 of the Revised Code, if an offender 2232
who is under detention at a detention facility commits a felony 2233
violation of section 2923.131 of the Revised Code, or if an 2234
offender who is an inmate in a jail, prison, or other residential 2235
detention facility or is under detention at a detention facility 2236
commits another felony while the offender is an escapee in 2237
violation of section 2921.34 of the Revised Code, any prison term 2238
imposed upon the offender for one of those violations shall be 2239
served by the offender consecutively to the prison term or term of 2240

imprisonment the offender was serving when the offender committed 2241
that offense and to any other prison term previously or 2242
subsequently imposed upon the offender. 2243

(3) If a prison term is imposed for a violation of division 2244
(B) of section 2911.01 of the Revised Code, a violation of 2245
division (A) of section 2913.02 of the Revised Code in which the 2246
stolen property is a firearm or dangerous ordnance, or a felony 2247
violation of division (B) of section 2921.331 of the Revised Code, 2248
the offender shall serve that prison term consecutively to any 2249
other prison term or mandatory prison term previously or 2250
subsequently imposed upon the offender. 2251

(4) If multiple prison terms are imposed on an offender for 2252
convictions of multiple offenses, the court may require the 2253
offender to serve the prison terms consecutively if the court 2254
finds that the consecutive service is necessary to protect the 2255
public from future crime or to punish the offender and that 2256
consecutive sentences are not disproportionate to the seriousness 2257
of the offender's conduct and to the danger the offender poses to 2258
the public, and if the court also finds any of the following: 2259

(a) The offender committed one or more of the multiple 2260
offenses while the offender was awaiting trial or sentencing, was 2261
under a sanction imposed pursuant to section 2929.16, 2929.17, or 2262
2929.18 of the Revised Code, or was under post-release control for 2263
a prior offense. 2264

(b) At least two of the multiple offenses were committed as 2265
part of one or more courses of conduct, and the harm caused by two 2266
or more of the multiple offenses so committed was so great or 2267
unusual that no single prison term for any of the offenses 2268
committed as part of any of the courses of conduct adequately 2269
reflects the seriousness of the offender's conduct. 2270

(c) The offender's history of criminal conduct demonstrates 2271

that consecutive sentences are necessary to protect the public 2272
from future crime by the offender. 2273

(5) If a mandatory prison term is imposed upon an offender 2274
pursuant to division (D)(5) or (6) of this section, the offender 2275
shall serve the mandatory prison term consecutively to and prior 2276
to any prison term imposed for the underlying violation of 2277
division (A)(1) or (2) of section 2903.06 of the Revised Code 2278
pursuant to division (A) of this section or section 2929.142 of 2279
the Revised Code. If a mandatory prison term is imposed upon an 2280
offender pursuant to division (D)(5) of this section, and if a 2281
mandatory prison term also is imposed upon the offender pursuant 2282
to division (D)(6) of this section in relation to the same 2283
violation, the offender shall serve the mandatory prison term 2284
imposed pursuant to division (D)(5) of this section consecutively 2285
to and prior to the mandatory prison term imposed pursuant to 2286
division (D)(6) of this section and consecutively to and prior to 2287
any prison term imposed for the underlying violation of division 2288
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 2289
division (A) of this section or section 2929.142 of the Revised 2290
Code. 2291

(6) When consecutive prison terms are imposed pursuant to 2292
division (E)(1), (2), (3), (4), or (5) or division (J)(1) or (2) 2293
of this section, the term to be served is the aggregate of all of 2294
the terms so imposed. 2295

(F)(1) If a court imposes a prison term for a felony of the 2296
first degree, for a felony of the second degree, for a felony sex 2297
offense, or for a felony of the third degree that is not a felony 2298
sex offense and in the commission of which the offender caused or 2299
threatened to cause physical harm to a person, it shall include in 2300
the sentence a requirement that the offender be subject to a 2301
period of post-release control after the offender's release from 2302
imprisonment, in accordance with that division. If a court imposes 2303

a sentence including a prison term of a type described in this 2304
division on or after July 11, 2006, the failure of a court to 2305
include a post-release control requirement in the sentence 2306
pursuant to this division does not negate, limit, or otherwise 2307
affect the mandatory period of post-release control that is 2308
required for the offender under division (B) of section 2967.28 of 2309
the Revised Code. Section 2929.191 of the Revised Code applies if, 2310
prior to July 11, 2006, a court imposed a sentence including a 2311
prison term of a type described in this division and failed to 2312
include in the sentence pursuant to this division a statement 2313
regarding post-release control. 2314

(2) If a court imposes a prison term for a felony of the 2315
third, fourth, or fifth degree that is not subject to division 2316
(F)(1) of this section, it shall include in the sentence a 2317
requirement that the offender be subject to a period of 2318
post-release control after the offender's release from 2319
imprisonment, in accordance with that division, if the parole 2320
board determines that a period of post-release control is 2321
necessary. Section 2929.191 of the Revised Code applies if, prior 2322
to July 11, 2006, a court imposed a sentence including a prison 2323
term of a type described in this division and failed to include in 2324
the sentence pursuant to this division a statement regarding 2325
post-release control. 2326

(G) The court shall impose sentence upon the offender in 2327
accordance with section 2971.03 of the Revised Code, and Chapter 2328
2971. of the Revised Code applies regarding the prison term or 2329
term of life imprisonment without parole imposed upon the offender 2330
and the service of that term of imprisonment if any of the 2331
following apply: 2332

(1) A person is convicted of or pleads guilty to a violent 2333
sex offense or a designated homicide, assault, or kidnapping 2334
offense, and, in relation to that offense, the offender is 2335

adjudicated a sexually violent predator. 2336

(2) A person is convicted of or pleads guilty to a violation 2337
of division (A)(1)(b) of section 2907.02 of the Revised Code 2338
committed on or after January 2, 2007, and either the court does 2339
not impose a sentence of life without parole when authorized 2340
pursuant to division (B) of section 2907.02 of the Revised Code, 2341
or division (B) of section 2907.02 of the Revised Code provides 2342
that the court shall not sentence the offender pursuant to section 2343
2971.03 of the Revised Code. 2344

(3) A person is convicted of or pleads guilty to attempted 2345
rape committed on or after January 2, 2007, and a specification of 2346
the type described in section 2941.1418, 2941.1419, or 2941.1420 2347
of the Revised Code. 2348

(4) A person is convicted of or pleads guilty to a violation 2349
of section 2905.01 of the Revised Code committed on or after 2350
January 1, 2008, and that section requires the court to sentence 2351
the offender pursuant to section 2971.03 of the Revised Code. 2352

(5) A person is convicted of or pleads guilty to aggravated 2353
murder committed on or after January 1, 2008, and division 2354
~~(A)(2)(b)(ii) of section 2929.022, division (A)(1)(c),~~ 2355
~~(C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or~~ 2356
~~(E)(1)(d) of section 2929.03, or division (A) or (B)(C) of section~~ 2357
~~2929.06~~ 2929.02 of the Revised Code requires the court to sentence 2358
the offender pursuant to division (B)(3) of section 2971.03 of the 2359
Revised Code. 2360

(6) A person is convicted of or pleads guilty to murder 2361
committed on or after January 1, 2008, and division ~~(B)(2)(C)(1)~~ 2362
of section 2929.02 of the Revised Code requires the court to 2363
sentence the offender pursuant to section 2971.03 of the Revised 2364
Code. 2365

(H) If a person who has been convicted of or pleaded guilty 2366

to a felony is sentenced to a prison term or term of imprisonment 2367
under this section, ~~sections section~~ 2929.02 ~~to 2929.06 of the~~ 2368
~~Revised Code, section~~ 2929.142 ~~of the Revised Code, section or~~ 2369
2971.03 of the Revised Code, or any other provision of law, 2370
section 5120.163 of the Revised Code applies regarding the person 2371
while the person is confined in a state correctional institution. 2372

(I) If an offender who is convicted of or pleads guilty to a 2373
felony that is an offense of violence also is convicted of or 2374
pleads guilty to a specification of the type described in section 2375
2941.142 of the Revised Code that charges the offender with having 2376
committed the felony while participating in a criminal gang, the 2377
court shall impose upon the offender an additional prison term of 2378
one, two, or three years. 2379

(J)(1) If an offender who is convicted of or pleads guilty to 2380
aggravated murder, murder, or a felony of the first, second, or 2381
third degree that is an offense of violence also is convicted of 2382
or pleads guilty to a specification of the type described in 2383
section 2941.143 of the Revised Code that charges the offender 2384
with having committed the offense in a school safety zone or 2385
towards a person in a school safety zone, the court shall impose 2386
upon the offender an additional prison term of two years. The 2387
offender shall serve the additional two years consecutively to and 2388
prior to the prison term imposed for the underlying offense. 2389

(2)(a) If an offender is convicted of or pleads guilty to a 2390
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 2391
of the Revised Code and to a specification of the type described 2392
in section 2941.1421 of the Revised Code and if the court imposes 2393
a prison term on the offender for the felony violation, the court 2394
may impose upon the offender an additional prison term as follows: 2395

(i) Subject to division (J)(2)(a)(ii) of this section, an 2396
additional prison term of one, two, three, four, five, or six 2397
months; 2398

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

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

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

section 5120.031 of the Revised Code or for placement in an 2431
intensive program prison under section 5120.032 of the Revised 2432
Code, disapprove placement of the offender in a program of shock 2433
incarceration or an intensive program prison of that nature, or 2434
make no recommendation on placement of the offender. In no case 2435
shall the department of rehabilitation and correction place the 2436
offender in a program or prison of that nature unless the 2437
department determines as specified in section 5120.031 or 5120.032 2438
of the Revised Code, whichever is applicable, that the offender is 2439
eligible for the placement. 2440

If the court disapproves placement of the offender in a 2441
program or prison of that nature, the department of rehabilitation 2442
and correction shall not place the offender in any program of 2443
shock incarceration or intensive program prison. 2444

If the court recommends placement of the offender in a 2445
program of shock incarceration or in an intensive program prison, 2446
and if the offender is subsequently placed in the recommended 2447
program or prison, the department shall notify the court of the 2448
placement and shall include with the notice a brief description of 2449
the placement. 2450

If the court recommends placement of the offender in a 2451
program of shock incarceration or in an intensive program prison 2452
and the department does not subsequently place the offender in the 2453
recommended program or prison, the department shall send a notice 2454
to the court indicating why the offender was not placed in the 2455
recommended program or prison. 2456

If the court does not make a recommendation under this 2457
division with respect to an offender and if the department 2458
determines as specified in section 5120.031 or 5120.032 of the 2459
Revised Code, whichever is applicable, that the offender is 2460
eligible for placement in a program or prison of that nature, the 2461
department shall screen the offender and determine if there is an 2462

available program of shock incarceration or an intensive program 2463
prison for which the offender is suited. If there is an available 2464
program of shock incarceration or an intensive program prison for 2465
which the offender is suited, the department shall notify the 2466
court of the proposed placement of the offender as specified in 2467
section 5120.031 or 5120.032 of the Revised Code and shall include 2468
with the notice a brief description of the placement. The court 2469
shall have ten days from receipt of the notice to disapprove the 2470
placement. 2471

(L) If a person is convicted of or pleads guilty to 2472
aggravated vehicular homicide in violation of division (A)(1) of 2473
section 2903.06 of the Revised Code and division (B)(2)(c) of that 2474
section applies, the person shall be sentenced pursuant to section 2475
2929.142 of the Revised Code. 2476

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 2477
murder, or voluntary or involuntary manslaughter, the manner in 2478
which, or the means by which the death was caused need not be set 2479
forth. 2480

~~(B) Imposition of the death penalty for aggravated murder is 2481
precluded unless the indictment or count in the indictment 2482
charging the offense specifies one or more of the aggravating 2483
circumstances listed in division (A) of section 2929.04 of the 2484
Revised Code. If more than one aggravating circumstance is 2485
specified to an indictment or count, each shall be in a separately 2486
numbered specification, and if an aggravating circumstance is 2487
specified to a count in an indictment containing more than one 2488
count, such specification shall be identified as to the count to 2489
which it applies. 2490~~

~~(C) A specification to an indictment or count in an 2491
indictment charging aggravated murder shall be stated at the end 2492
of the body of the indictment or count, and may be in 2493~~

~~substantially the following form:~~ 2494

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE 2495
FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand 2496
Jurors further find and specify that (set forth the applicable 2497
aggravating circumstance listed in divisions (A)(1) to (10) of 2498
section 2929.04 of the Revised Code. The aggravating circumstance 2499
may be stated in the words of the subdivision in which it appears, 2500
or in words sufficient to give the accused notice of the same)."~~ 2501

Sec. 2941.148. (A)(1) The application of Chapter 2971. of the 2502
Revised Code to an offender is precluded unless one of the 2503
following applies: 2504

(a) The offender is charged with a violent sex offense, and 2505
the indictment, count in the indictment, or information charging 2506
the violent sex offense also includes a specification that the 2507
offender is a sexually violent predator, or the offender is 2508
charged with a designated homicide, assault, or kidnapping 2509
offense, and the indictment, count in the indictment, or 2510
information charging the designated homicide, assault, or 2511
kidnapping offense also includes both a specification of the type 2512
described in section 2941.147 of the Revised Code and a 2513
specification that the offender is a sexually violent predator. 2514

(b) The offender is convicted of or pleads guilty to a 2515
violation of division (A)(1)(b) of section 2907.02 of the Revised 2516
Code committed on or after January 2, 2007, and division (B) of 2517
section 2907.02 of the Revised Code does not prohibit the court 2518
from sentencing the offender pursuant to section 2971.03 of the 2519
Revised Code. 2520

(c) The offender is convicted of or pleads guilty to 2521
attempted rape committed on or after January 2, 2007, and to a 2522
specification of the type described in section 2941.1418, 2523
2941.1419, or 2941.1420 of the Revised Code. 2524

(d) The offender is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code and to a specification of the type described in section 2941.147 of the Revised Code, and section 2905.01 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(e) The offender is convicted of or pleads guilty to aggravated murder and to a specification of the type described in section 2941.147 of the Revised Code, and division ~~(A)(2)(b)(ii)~~ of section ~~2929.022~~, division ~~(A)(1)(e)~~, ~~(C)(1)(a)(v)~~, ~~(C)(2)(a)(ii)~~, ~~(D)(2)(b)~~, ~~(D)(3)(a)(iv)~~, or ~~(E)(1)(d)~~ of section ~~2929.03~~, or division ~~(A)~~ or ~~(B)~~(C)(1) of section ~~2929.06~~ 2929.02 of the Revised Code requires a court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

(f) The offender is convicted of or pleads guilty to murder and to a specification of the type described in section 2941.147 of the Revised Code, and division ~~(B)(2)(C)(1)~~ of section 2929.02 of the Revised Code requires a court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(2) A specification required under division (A)(1)(a) of this section that an offender is a sexually violent predator shall be stated at the end of the body of the indictment, count, or information and shall be stated in substantially the following form:

"Specification (or, specification to the first count). The grand jury (or insert the person's or prosecuting attorney's name when appropriate) further find and specify that the offender is a sexually violent predator."

(B) In determining for purposes of this section whether a person is a sexually violent predator, all of the factors set

forth in divisions (H)(1) to (6) of section 2971.01 of the Revised Code that apply regarding the person may be considered as evidence tending to indicate that it is likely that the person will engage in the future in one or more sexually violent offenses.

(C) As used in this section, "designated homicide, assault, or kidnapping offense," "violent sex offense," and "sexually violent predator" have the same meanings as in section 2971.01 of the Revised Code.

Sec. 2941.401. When a person has entered upon a term of imprisonment in a correctional institution of this state, and when during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the prisoner, ~~he~~ the prisoner shall be brought to trial within one hundred eighty days after ~~he~~ the prisoner causes to be delivered to the prosecuting attorney and the appropriate court in which the matter is pending, written notice of the place of ~~his~~ the prisoner's imprisonment and a request for a final disposition to be made of the matter, except that for good cause shown in open court, with the prisoner or ~~his~~ the prisoner's counsel present, the court may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the warden or superintendent having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time served and remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the adult parole authority relating to the prisoner.

The written notice and request for final disposition shall be given or sent by the prisoner to the warden or superintendent having custody of ~~him~~ the prisoner, who shall promptly forward it with the certificate to the appropriate prosecuting attorney and

court by registered or certified mail, return receipt requested. 2587

The warden or superintendent having custody of the prisoner 2588
shall promptly inform ~~him~~ the prisoner in writing of the source 2589
and contents of any untried indictment, information, or complaint 2590
against ~~him~~ the prisoner, concerning which the warden or 2591
superintendent has knowledge, and of ~~his~~ the prisoner's right to 2592
make a request for final disposition thereof. 2593

Escape from custody by the prisoner, subsequent to ~~his~~ the 2594
prisoner's execution of the request for final disposition, voids 2595
the request. 2596

If the action is not brought to trial within the time 2597
provided, subject to continuance allowed pursuant to this section, 2598
no court any longer has jurisdiction thereof, the indictment, 2599
information, or complaint is void, and the court shall enter an 2600
order dismissing the action with prejudice. 2601

This section does not apply to any person adjudged to be 2602
mentally ill or who is under sentence of life imprisonment ~~or~~ 2603
~~death, or to any prisoner under sentence of death.~~ 2604

Sec. 2941.43. If the convict referred to in section 2941.40 2605
of the Revised Code is acquitted, ~~he~~ the convict shall be 2606
forthwith returned by the sheriff to the state correctional 2607
institution to serve out the remainder of ~~his~~ the convict's 2608
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 2609
state correctional institution, ~~he~~ the convict shall be returned 2610
to the state correctional institution by the sheriff to serve ~~his~~ 2611
~~new~~ the convict's term. ~~If he is sentenced to death, the death~~ 2612
~~sentence shall be executed as if he were not under sentence of~~ 2613
~~imprisonment in a state correctional institution.~~ 2614

Sec. 2941.51. (A) Counsel appointed to a case or selected by 2615
an indigent person under division (E) of section 120.16 or 2616

division (E) of section 120.26 of the Revised Code, or otherwise 2617
appointed by the court, except for counsel appointed by the court 2618
to provide legal representation for a person charged with a 2619
violation of an ordinance of a municipal corporation, shall be 2620
paid for their services by the county the compensation and 2621
expenses that the trial court approves. Each request for payment 2622
shall be accompanied by a financial disclosure form and an 2623
affidavit of indigency that are completed by the indigent person 2624
on forms prescribed by the state public defender. Compensation and 2625
expenses shall not exceed the amounts fixed by the board of county 2626
commissioners pursuant to division (B) of this section. 2627

(B) The board of county commissioners shall establish a 2628
schedule of fees by case or on an hourly basis to be paid by the 2629
county for legal services provided by appointed counsel. Prior to 2630
establishing such schedule, the board shall request the bar 2631
association or associations of the county to submit a proposed 2632
schedule. The schedule submitted shall be subject to the review, 2633
amendment, and approval of the board of county commissioners. 2634

(C) In a case where counsel have been appointed to conduct an 2635
appeal under Chapter 120. of the Revised Code, such compensation 2636
shall be fixed by the court of appeals or the supreme court, as 2637
provided in divisions (A) and (B) of this section. 2638

(D) The fees and expenses approved by the court under this 2639
section shall not be taxed as part of the costs and shall be paid 2640
by the county. However, if the person represented has, or 2641
reasonably may be expected to have, the means to meet some part of 2642
the cost of the services rendered to the person, the person shall 2643
pay the county an amount that the person reasonably can be 2644
expected to pay. Pursuant to section 120.04 of the Revised Code, 2645
the county shall pay to the state public defender a percentage of 2646
the payment received from the person in an amount proportionate to 2647
the percentage of the costs of the person's case that were paid to 2648

the county by the state public defender pursuant to this section. 2649
The money paid to the state public defender shall be credited to 2650
the client payment fund created pursuant to division (B)(5) of 2651
section 120.04 of the Revised Code. 2652

(E) The county auditor shall draw a warrant on the county 2653
treasurer for the payment of such counsel in the amount fixed by 2654
the court, plus the expenses that the court fixes and certifies to 2655
the auditor. The county auditor shall report periodically, but not 2656
less than annually, to the board of county commissioners and to 2657
the Ohio public defender commission the amounts paid out pursuant 2658
to the approval of the court under this section, separately 2659
stating costs and expenses that are reimbursable under section 2660
120.35 of the Revised Code. The board, after review and approval 2661
of the auditor's report, may then certify it to the state public 2662
defender for reimbursement. The request for reimbursement shall be 2663
accompanied by a financial disclosure form completed by each 2664
indigent person for whom counsel was provided on a form prescribed 2665
by the state public defender. The state public defender shall 2666
review the report and, in accordance with the standards, 2667
guidelines, and maximums established pursuant to divisions (B)(7) 2668
and (8) of section 120.04 of the Revised Code, pay fifty per cent 2669
of the total cost, ~~other than costs and expenses that are~~ 2670
~~reimbursable under section 120.35 of the Revised Code, if any,~~ 2671
of paying appointed counsel in each county ~~and pay fifty per cent of~~ 2672
~~costs and expenses that are reimbursable under section 120.35 of~~ 2673
~~the Revised Code, if any,~~ to the board. 2674

(F) If any county system for paying appointed counsel fails 2675
to maintain the standards for the conduct of the system 2676
established by the rules of the Ohio public defender commission 2677
pursuant to divisions (B) and (C) of section 120.03 of the Revised 2678
Code or the standards established by the state public defender 2679
pursuant to division (B)(7) of section 120.04 of the Revised Code, 2680

the commission shall notify the board of county commissioners of 2681
the county that the county system for paying appointed counsel has 2682
failed to comply with its rules. Unless the board corrects the 2683
conduct of its appointed counsel system to comply with the rules 2684
within ninety days after the date of the notice, the state public 2685
defender may deny all or part of the county's reimbursement from 2686
the state provided for in this section. 2687

Sec. 2945.06. In any case in which a defendant waives his 2688
right to trial by jury and elects to be tried by the court under 2689
section 2945.05 of the Revised Code, any judge of the court in 2690
which the cause is pending shall proceed to hear, try, and 2691
determine the cause in accordance with the rules and in like 2692
manner as if the cause were being tried before a jury. ~~If the 2693
accused is charged with an offense punishable with death, he shall 2694
be tried by a court to be composed of three judges, consisting of 2695
the judge presiding at the time in the trial of criminal cases and 2696
two other judges to be designated by the presiding judge or chief 2697
justice of that court, and in case there is neither a presiding 2698
judge nor a chief justice, by the chief justice of the supreme 2699
court. The judges or a majority of them may decide all questions 2700
of fact and law arising upon the trial; however the accused shall 2701
not be found guilty or not guilty of any offense unless the judges 2702
unanimously find the accused guilty or not guilty. If the accused 2703
pleads guilty of aggravated murder, a court composed of three 2704
judges shall examine the witnesses, determine whether the accused 2705
is guilty of aggravated murder or any other offense, and pronounce 2706
sentence accordingly. The court shall follow the procedures 2707
contained in sections 2929.03 and 2929.04 of the Revised Code in 2708
all cases in which the accused is charged with an offense 2709
punishable by death. If in the composition of the court it is 2710
necessary that a judge from another county be assigned by the 2711
chief justice, the judge from another county shall be compensated 2712~~

~~for his services as provided by section 141.07 of the Revised Code.~~ 2713
2714

Sec. 2945.21. (A)(1) In criminal cases in which there is only one defendant, each party, in addition to the challenges for cause authorized by law, may peremptorily challenge three of the jurors in misdemeanor cases and four of the jurors in felony cases other than capital cases. If there is more than one defendant, each defendant may peremptorily challenge the same number of jurors as if ~~he~~ the defendant were the sole defendant. 2715
2716
2717
2718
2719
2720
2721

~~(2) Notwithstanding Criminal Rule 24, in capital cases in which there is only one defendant, each party, in addition to the challenges for cause authorized by law, may peremptorily challenge twelve of the jurors. If there is more than one defendant, each defendant may peremptorily challenge the same number of jurors as if he were the sole defendant.~~ 2722
2723
2724
2725
2726
2727

~~(3)~~ In any case in which there are multiple defendants, the prosecuting attorney may peremptorily challenge a number of jurors equal to the total number of peremptory challenges allowed to all of the defendants. 2728
2729
2730
2731

(B) If any indictments, informations, or complaints are consolidated for trial, the consolidated cases shall be considered, for purposes of exercising peremptory challenges, as though the defendants or offenses had been joined in the same indictment, information, or complaint. 2732
2733
2734
2735
2736

(C) The exercise of peremptory challenges authorized by this section shall be in accordance with the procedures of Criminal Rule 24. 2737
2738
2739

Sec. 2945.25. A person called as a juror in a criminal case may be challenged for the following causes: 2740
2741

(A) That ~~he~~ the person was a member of the grand jury that 2742

found the indictment in the case; 2743

(B) That ~~he~~ the person is possessed of a state of mind 2744
evincing enmity or bias toward the defendant or the state; but no 2745
person summoned as a juror shall be disqualified by reason of a 2746
previously formed or expressed opinion with reference to the guilt 2747
or innocence of the accused, if the court is satisfied, from 2748
examination of the juror or from other evidence, that ~~he~~ the juror 2749
will render an impartial verdict according to the law and the 2750
evidence submitted to the jury at the trial; 2751

~~(C) In the trial of a capital offense, that he unequivocally 2752
states that under no circumstances will he follow the instructions 2753
of a trial judge and consider fairly the imposition of a sentence 2754
of death in a particular case. A prospective juror's conscientious 2755
or religious opposition to the death penalty in and of itself is 2756
not grounds for a challenge for cause. All parties shall be given 2757
wide latitude in voir dire questioning in this regard. 2758~~

~~(D)~~ That ~~he~~ the person is related by consanguinity or 2759
affinity within the fifth degree to the person alleged to be 2760
injured or attempted to be injured by the offense charged, or to 2761
the person on whose complaint the prosecution was instituted, or 2762
to the defendant; 2763

~~(E)~~(D) That ~~he~~ the person served on a petit jury drawn in the 2764
same cause against the same defendant, and that jury was 2765
discharged after hearing the evidence or rendering a verdict on 2766
the evidence that was set aside; 2767

~~(F)~~(E) That ~~he~~ the person served as a juror in a civil case 2768
brought against the defendant for the same act; 2769

~~(G)~~(F) That ~~he~~ the person has been subpoenaed in good faith 2770
as a witness in the case; 2771

~~(H)~~(G) That ~~he~~ the person is a chronic alcoholic, or drug 2772
dependent person; 2773

~~(I)~~(H) That ~~he~~ the person has been convicted of a crime that 2774
by law disqualifies ~~him~~ the person from serving on a jury; 2775

~~(J)~~(I) That ~~he~~ the person has an action pending between ~~him~~ 2776
the person and the state or the defendant; 2777

~~(K)~~(J) That ~~he~~ the person or ~~his~~ the person's spouse is a 2778
party to another action then pending in any court in which an 2779
attorney in the cause then on trial is an attorney, either for or 2780
against ~~him~~ the person; 2781

~~(L)~~(K) That ~~he~~ the person is the person alleged to be injured 2782
or attempted to be injured by the offense charged, or is the 2783
person on whose complaint the prosecution was instituted, or the 2784
defendant; 2785

~~(M)~~(L) That ~~he~~ the person is the employer or employee, or the 2786
spouse, parent, son, or daughter of the employer or employee, or 2787
the counselor, agent, or attorney of any person included in 2788
division ~~(L)~~(K) of this section; 2789

~~(N)~~(M) That English is not ~~his~~ the person's native language, 2790
and ~~his~~ the person's knowledge of English is insufficient to 2791
permit ~~him~~ the person to understand the facts and law in the case; 2792

~~(O)~~(N) That ~~he~~ the person otherwise is unsuitable for any 2793
other cause to serve as a juror. 2794

The validity of each challenge listed in this section shall 2795
be determined by the court. 2796

Sec. 2945.38. (A) If the issue of a defendant's competence to 2797
stand trial is raised and if the court, upon conducting the 2798
hearing provided for in section 2945.37 of the Revised Code, finds 2799
that the defendant is competent to stand trial, the defendant 2800
shall be proceeded against as provided by law. If the court finds 2801
the defendant competent to stand trial and the defendant is 2802
receiving psychotropic drugs or other medication, the court may 2803

authorize the continued administration of the drugs or medication 2804
or other appropriate treatment in order to maintain the 2805
defendant's competence to stand trial, unless the defendant's 2806
attending physician advises the court against continuation of the 2807
drugs, other medication, or treatment. 2808

(B)(1)(a) If, after taking into consideration all relevant 2809
reports, information, and other evidence, the court finds that the 2810
defendant is incompetent to stand trial and that there is a 2811
substantial probability that the defendant will become competent 2812
to stand trial within one year if the defendant is provided with a 2813
course of treatment, the court shall order the defendant to 2814
undergo treatment. If the defendant has been charged with a felony 2815
offense and if, after taking into consideration all relevant 2816
reports, information, and other evidence, the court finds that the 2817
defendant is incompetent to stand trial, but the court is unable 2818
at that time to determine whether there is a substantial 2819
probability that the defendant will become competent to stand 2820
trial within one year if the defendant is provided with a course 2821
of treatment, the court shall order continuing evaluation and 2822
treatment of the defendant for a period not to exceed four months 2823
to determine whether there is a substantial probability that the 2824
defendant will become competent to stand trial within one year if 2825
the defendant is provided with a course of treatment. 2826

(b) The court order for the defendant to undergo treatment or 2827
continuing evaluation and treatment under division (B)(1)(a) of 2828
this section shall specify that the treatment or continuing 2829
evaluation and treatment shall occur at a facility operated by the 2830
department of mental health or the department of developmental 2831
disabilities, at a facility certified by either of those 2832
departments as being qualified to treat mental illness or mental 2833
retardation, at a public or private community mental health or 2834
mental retardation facility, or by a psychiatrist or another 2835

mental health or mental retardation professional. The order may 2836
restrict the defendant's freedom of movement as the court 2837
considers necessary. The prosecutor in the defendant's case shall 2838
send to the chief clinical officer of the hospital or facility, 2839
the managing officer of the institution, the director of the 2840
program, or the person to which the defendant is committed copies 2841
of relevant police reports and other background information that 2842
pertains to the defendant and is available to the prosecutor 2843
unless the prosecutor determines that the release of any of the 2844
information in the police reports or any of the other background 2845
information to unauthorized persons would interfere with the 2846
effective prosecution of any person or would create a substantial 2847
risk of harm to any person. 2848

In determining placement alternatives, the court shall 2849
consider the extent to which the person is a danger to the person 2850
and to others, the need for security, and the type of crime 2851
involved and shall order the least restrictive alternative 2852
available that is consistent with public safety and treatment 2853
goals. In weighing these factors, the court shall give preference 2854
to protecting public safety. 2855

(c) If the defendant is found incompetent to stand trial, if 2856
the chief clinical officer of the hospital or facility, the 2857
managing officer of the institution, the director of the program, 2858
or the person to which the defendant is committed for treatment or 2859
continuing evaluation and treatment under division (B)(1)(b) of 2860
this section determines that medication is necessary to restore 2861
the defendant's competency to stand trial, and if the defendant 2862
lacks the capacity to give informed consent or refuses medication, 2863
the chief clinical officer, managing officer, director, or person 2864
to which the defendant is committed for treatment or continuing 2865
evaluation and treatment may petition the court for authorization 2866
for the involuntary administration of medication. The court shall 2867

hold a hearing on the petition within five days of the filing of 2868
the petition if the petition was filed in a municipal court or a 2869
county court regarding an incompetent defendant charged with a 2870
misdemeanor or within ten days of the filing of the petition if 2871
the petition was filed in a court of common pleas regarding an 2872
incompetent defendant charged with a felony offense. Following the 2873
hearing, the court may authorize the involuntary administration of 2874
medication or may dismiss the petition. 2875

(2) If the court finds that the defendant is incompetent to 2876
stand trial and that, even if the defendant is provided with a 2877
course of treatment, there is not a substantial probability that 2878
the defendant will become competent to stand trial within one 2879
year, the court shall order the discharge of the defendant, unless 2880
upon motion of the prosecutor or on its own motion, the court 2881
either seeks to retain jurisdiction over the defendant pursuant to 2882
section 2945.39 of the Revised Code or files an affidavit in the 2883
probate court for the civil commitment of the defendant pursuant 2884
to Chapter 5122. or 5123. of the Revised Code alleging that the 2885
defendant is a mentally ill person subject to hospitalization by 2886
court order or a mentally retarded person subject to 2887
institutionalization by court order. If an affidavit is filed in 2888
the probate court, the trial court shall send to the probate court 2889
copies of all written reports of the defendant's mental condition 2890
that were prepared pursuant to section 2945.371 of the Revised 2891
Code. 2892

The trial court may issue the temporary order of detention 2893
that a probate court may issue under section 5122.11 or 5123.71 of 2894
the Revised Code, to remain in effect until the probable cause or 2895
initial hearing in the probate court. Further proceedings in the 2896
probate court are civil proceedings governed by Chapter 5122. or 2897
5123. of the Revised Code. 2898

(C) No defendant shall be required to undergo treatment, 2899

including any continuing evaluation and treatment, under division 2900
(B)(1) of this section for longer than whichever of the following 2901
periods is applicable: 2902

(1) One year, if the most serious offense with which the 2903
defendant is charged is one of the following offenses: 2904

(a) Aggravated murder, murder, or an offense of violence for 2905
which a sentence of ~~death~~ or life imprisonment may be imposed; 2906

(b) An offense of violence that is a felony of the first or 2907
second degree; 2908

(c) A conspiracy to commit, an attempt to commit, or 2909
complicity in the commission of an offense described in division 2910
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 2911
complicity is a felony of the first or second degree. 2912

(2) Six months, if the most serious offense with which the 2913
defendant is charged is a felony other than a felony described in 2914
division (C)(1) of this section; 2915

(3) Sixty days, if the most serious offense with which the 2916
defendant is charged is a misdemeanor of the first or second 2917
degree; 2918

(4) Thirty days, if the most serious offense with which the 2919
defendant is charged is a misdemeanor of the third or fourth 2920
degree, a minor misdemeanor, or an unclassified misdemeanor. 2921

(D) Any defendant who is committed pursuant to this section 2922
shall not voluntarily admit the defendant or be voluntarily 2923
admitted to a hospital or institution pursuant to section 5122.02, 2924
5122.15, 5123.69, or 5123.76 of the Revised Code. 2925

(E) Except as otherwise provided in this division, a 2926
defendant who is charged with an offense and is committed to a 2927
hospital or other institution by the court under this section 2928
shall not be granted unsupervised on-grounds movement, supervised 2929

off-grounds movement, or nonsecured status. The court may grant a 2930
defendant supervised off-grounds movement to obtain medical 2931
treatment or specialized habilitation treatment services if the 2932
person who supervises the treatment or the continuing evaluation 2933
and treatment of the defendant ordered under division (B)(1)(a) of 2934
this section informs the court that the treatment or continuing 2935
evaluation and treatment cannot be provided at the hospital or the 2936
institution to which the defendant is committed. The chief 2937
clinical officer of the hospital or the managing officer of the 2938
institution to which the defendant is committed or a designee of 2939
either of those persons may grant a defendant movement to a 2940
medical facility for an emergency medical situation with 2941
appropriate supervision to ensure the safety of the defendant, 2942
staff, and community during that emergency medical situation. The 2943
chief clinical officer of the hospital or the managing officer of 2944
the institution shall notify the court within twenty-four hours of 2945
the defendant's movement to the medical facility for an emergency 2946
medical situation under this division. 2947

(F) The person who supervises the treatment or continuing 2948
evaluation and treatment of a defendant ordered to undergo 2949
treatment or continuing evaluation and treatment under division 2950
(B)(1)(a) of this section shall file a written report with the 2951
court at the following times: 2952

(1) Whenever the person believes the defendant is capable of 2953
understanding the nature and objective of the proceedings against 2954
the defendant and of assisting in the defendant's defense; 2955

(2) For a felony offense, fourteen days before expiration of 2956
the maximum time for treatment as specified in division (C) of 2957
this section and fourteen days before the expiration of the 2958
maximum time for continuing evaluation and treatment as specified 2959
in division (B)(1)(a) of this section, and, for a misdemeanor 2960
offense, ten days before the expiration of the maximum time for 2961

treatment, as specified in division (C) of this section; 2962

(3) At a minimum, after each six months of treatment; 2963

(4) Whenever the person who supervises the treatment or 2964
continuing evaluation and treatment of a defendant ordered under 2965
division (B)(1)(a) of this section believes that there is not a 2966
substantial probability that the defendant will become capable of 2967
understanding the nature and objective of the proceedings against 2968
the defendant or of assisting in the defendant's defense even if 2969
the defendant is provided with a course of treatment. 2970

(G) A report under division (F) of this section shall contain 2971
the examiner's findings, the facts in reasonable detail on which 2972
the findings are based, and the examiner's opinion as to the 2973
defendant's capability of understanding the nature and objective 2974
of the proceedings against the defendant and of assisting in the 2975
defendant's defense. If, in the examiner's opinion, the defendant 2976
remains incapable of understanding the nature and objective of the 2977
proceedings against the defendant and of assisting in the 2978
defendant's defense and there is a substantial probability that 2979
the defendant will become capable of understanding the nature and 2980
objective of the proceedings against the defendant and of 2981
assisting in the defendant's defense if the defendant is provided 2982
with a course of treatment, if in the examiner's opinion the 2983
defendant remains mentally ill or mentally retarded, and if the 2984
maximum time for treatment as specified in division (C) of this 2985
section has not expired, the report also shall contain the 2986
examiner's recommendation as to the least restrictive treatment 2987
alternative that is consistent with the defendant's treatment 2988
needs for restoration to competency and with the safety of the 2989
community. The court shall provide copies of the report to the 2990
prosecutor and defense counsel. 2991

(H) If a defendant is committed pursuant to division (B)(1) 2992
of this section, within ten days after the treating physician of 2993

the defendant or the examiner of the defendant who is employed or 2994
retained by the treating facility advises that there is not a 2995
substantial probability that the defendant will become capable of 2996
understanding the nature and objective of the proceedings against 2997
the defendant or of assisting in the defendant's defense even if 2998
the defendant is provided with a course of treatment, within ten 2999
days after the expiration of the maximum time for treatment as 3000
specified in division (C) of this section, within ten days after 3001
the expiration of the maximum time for continuing evaluation and 3002
treatment as specified in division (B)(1)(a) of this section, 3003
within thirty days after a defendant's request for a hearing that 3004
is made after six months of treatment, or within thirty days after 3005
being advised by the treating physician or examiner that the 3006
defendant is competent to stand trial, whichever is the earliest, 3007
the court shall conduct another hearing to determine if the 3008
defendant is competent to stand trial and shall do whichever of 3009
the following is applicable: 3010

(1) If the court finds that the defendant is competent to 3011
stand trial, the defendant shall be proceeded against as provided 3012
by law. 3013

(2) If the court finds that the defendant is incompetent to 3014
stand trial, but that there is a substantial probability that the 3015
defendant will become competent to stand trial if the defendant is 3016
provided with a course of treatment, and the maximum time for 3017
treatment as specified in division (C) of this section has not 3018
expired, the court, after consideration of the examiner's 3019
recommendation, shall order that treatment be continued, may 3020
change the facility or program at which the treatment is to be 3021
continued, and shall specify whether the treatment is to be 3022
continued at the same or a different facility or program. 3023

(3) If the court finds that the defendant is incompetent to 3024
stand trial, if the defendant is charged with an offense listed in 3025

division (C)(1) of this section, and if the court finds that there 3026
is not a substantial probability that the defendant will become 3027
competent to stand trial even if the defendant is provided with a 3028
course of treatment, or if the maximum time for treatment relative 3029
to that offense as specified in division (C) of this section has 3030
expired, further proceedings shall be as provided in sections 3031
2945.39, 2945.401, and 2945.402 of the Revised Code. 3032

(4) If the court finds that the defendant is incompetent to 3033
stand trial, if the most serious offense with which the defendant 3034
is charged is a misdemeanor or a felony other than a felony listed 3035
in division (C)(1) of this section, and if the court finds that 3036
there is not a substantial probability that the defendant will 3037
become competent to stand trial even if the defendant is provided 3038
with a course of treatment, or if the maximum time for treatment 3039
relative to that offense as specified in division (C) of this 3040
section has expired, the court shall dismiss the indictment, 3041
information, or complaint against the defendant. A dismissal under 3042
this division is not a bar to further prosecution based on the 3043
same conduct. The court shall discharge the defendant unless the 3044
court or prosecutor files an affidavit in probate court for civil 3045
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 3046
If an affidavit for civil commitment is filed, the court may 3047
detain the defendant for ten days pending civil commitment. All of 3048
the following provisions apply to persons charged with a 3049
misdemeanor or a felony other than a felony listed in division 3050
(C)(1) of this section who are committed by the probate court 3051
subsequent to the court's or prosecutor's filing of an affidavit 3052
for civil commitment under authority of this division: 3053

(a) The chief clinical officer of the hospital or facility, 3054
the managing officer of the institution, the director of the 3055
program, or the person to which the defendant is committed or 3056
admitted shall do all of the following: 3057

(i) Notify the prosecutor, in writing, of the discharge of 3058
the defendant, send the notice at least ten days prior to the 3059
discharge unless the discharge is by the probate court, and state 3060
in the notice the date on which the defendant will be discharged; 3061

(ii) Notify the prosecutor, in writing, when the defendant is 3062
absent without leave or is granted unsupervised, off-grounds 3063
movement, and send this notice promptly after the discovery of the 3064
absence without leave or prior to the granting of the 3065
unsupervised, off-grounds movement, whichever is applicable; 3066

(iii) Notify the prosecutor, in writing, of the change of the 3067
defendant's commitment or admission to voluntary status, send the 3068
notice promptly upon learning of the change to voluntary status, 3069
and state in the notice the date on which the defendant was 3070
committed or admitted on a voluntary status. 3071

(b) Upon receiving notice that the defendant will be granted 3072
unsupervised, off-grounds movement, the prosecutor either shall 3073
re-indict the defendant or promptly notify the court that the 3074
prosecutor does not intend to prosecute the charges against the 3075
defendant. 3076

(I) If a defendant is convicted of a crime and sentenced to a 3077
jail or workhouse, the defendant's sentence shall be reduced by 3078
the total number of days the defendant is confined for evaluation 3079
to determine the defendant's competence to stand trial or 3080
treatment under this section and sections 2945.37 and 2945.371 of 3081
the Revised Code or by the total number of days the defendant is 3082
confined for evaluation to determine the defendant's mental 3083
condition at the time of the offense charged. 3084

Sec. 2949.02. (A) If a person is convicted of any bailable 3085
offense, including, but not limited to, a violation of an 3086
ordinance of a municipal corporation, in a municipal or county 3087
court or in a court of common pleas and if the person gives to the 3088

trial judge or magistrate a written notice of the person's 3089
intention to file or apply for leave to file an appeal to the 3090
court of appeals, the trial judge or magistrate may suspend, 3091
~~subject to division (A)(2)(b) of section 2953.09 of the Revised~~ 3092
~~Code,~~ execution of the sentence or judgment imposed for any fixed 3093
time that will give the person time either to prepare and file, or 3094
to apply for leave to file, the appeal. In all bailable cases, 3095
except as provided in division (B) of this section, the trial 3096
judge or magistrate may release the person on bail in accordance 3097
with Criminal Rule 46, and the bail shall at least be conditioned 3098
that the person will appeal without delay and abide by the 3099
judgment and sentence of the court. 3100

(B) Notwithstanding any provision of Criminal Rule 46 to the 3101
contrary, a trial judge of a court of common pleas shall not 3102
release on bail pursuant to division (A) of this section a person 3103
who is convicted of a bailable offense if the person is sentenced 3104
to imprisonment for life or if that offense is a violation of 3105
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2905.01, 3106
2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 2911.11 3107
of the Revised Code or is felonious sexual penetration in 3108
violation of former section 2907.12 of the Revised Code. 3109

(C) If a trial judge of a court of common pleas is prohibited 3110
by division (B) of this section from releasing on bail pursuant to 3111
division (A) of this section a person who is convicted of a 3112
bailable offense and not sentenced to imprisonment for life, the 3113
appropriate court of appeals or two judges of it, upon motion of 3114
such a person and for good cause shown, may release the person on 3115
bail in accordance with Appellate Rule 8 and Criminal Rule 46, and 3116
the bail shall at least be conditioned as described in division 3117
(A) of this section. 3118

Sec. 2949.03. If a judgment of conviction by a court of 3119

common pleas, municipal court, or county court is affirmed by a 3120
court of appeals and remanded to the trial court for execution of 3121
the sentence or judgment imposed, and the person so convicted 3122
gives notice of ~~his~~ the person's intention to file a notice of 3123
appeal to the supreme court, the trial court, on the filing of a 3124
motion by such person within three days after the rendition by the 3125
court of appeals of the judgment of affirmation, may further 3126
~~suspend, subject to division (A)(2)(b) of section 2953.09 of the~~ 3127
~~Revised Code,~~ the execution of the sentence or judgment imposed 3128
for a time sufficient to give such person an opportunity to file a 3129
notice of appeal to the supreme court, but the sentence or 3130
judgment imposed shall not be suspended more than thirty days for 3131
that purpose. 3132

Sec. 2953.02. In a ~~capital case in which a sentence of death~~ 3133
~~is imposed for an offense committed before January 1, 1995, and in~~ 3134
any ~~other~~ criminal case, including a conviction for the violation 3135
of an ordinance of a municipal corporation, the judgment or final 3136
order of a court of record inferior to the court of appeals may be 3137
reviewed in the court of appeals. A final order of an 3138
administrative officer or agency may be reviewed in the court of 3139
common pleas. A judgment or final order of the court of appeals 3140
involving a question arising under the Constitution of the United 3141
States or of this state may be appealed to the supreme court as a 3142
matter of right. This right of appeal from judgments and final 3143
orders of the court of appeals shall extend to ~~cases in which a~~ 3144
~~sentence of death is imposed for an offense committed before~~ 3145
~~January 1, 1995, and in which the death penalty has been affirmed,~~ 3146
felony cases in which the supreme court has directed the court of 3147
appeals to certify its record, and in all other criminal cases of 3148
public or general interest wherein the supreme court has granted a 3149
motion to certify the record of the court of appeals. In a ~~capital~~ 3150
~~case in which a sentence of death is imposed for an offense~~ 3151

~~committed on or after January 1, 1995, the judgment or final order~~ 3152
~~may be appealed from the trial court directly to the supreme court~~ 3153
~~as a matter of right.~~ The supreme court in criminal cases shall 3154
not be required to determine as to the weight of the evidence, 3155
~~except that, in cases in which a sentence of death is imposed for~~ 3156
~~an offense committed on or after January 1, 1995, and in which the~~ 3157
~~question of the weight of the evidence to support the judgment has~~ 3158
~~been raised on appeal, the supreme court shall determine as to the~~ 3159
~~weight of the evidence to support the judgment and shall determine~~ 3160
~~as to the weight of the evidence to support the sentence of death~~ 3161
~~as provided in section 2929.05 of the Revised Code.~~ 3162

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than an 3163
appeal from a mayor's court, the appellate court may affirm the 3164
judgment or reverse it, in whole or in part, or modify it, and 3165
order the accused to be discharged or grant a new trial. The 3166
appellate court may remand the accused for the sole purpose of 3167
correcting a sentence imposed contrary to law, provided that, on 3168
an appeal of a sentence imposed upon a person who is convicted of 3169
or pleads guilty to a felony that is brought under section 2953.08 3170
of the Revised Code, division (G) of that section applies to the 3171
court. If the judgment is reversed, the appellant shall recover 3172
from the appellee all court costs incurred to secure the reversal, 3173
including the cost of transcripts. ~~In capital cases, when the~~ 3174
~~judgment is affirmed and the day fixed for the execution is~~ 3175
~~passed, the appellate court shall appoint a day for it, and the~~ 3176
~~clerk of the appellate court shall issue a warrant under the seal~~ 3177
~~of the appellate court, to the sheriff of the proper county, or~~ 3178
~~the warden of the appropriate state correctional institution,~~ 3179
~~commanding the sheriff or warden to carry the sentence into~~ 3180
~~execution on the day so appointed. The sheriff or warden shall~~ 3181
~~execute and return the warrant as in other cases, and the clerk~~ 3182
~~shall record the warrant and return.~~ 3183

~~(B) As used in this section, "appellate court" means, for a case in which a sentence of death is imposed for an offense committed before January 1, 1995, both the court of appeals and the supreme court, and for a case in which a sentence of death is imposed for an offense committed on or after January 1, 1995, the supreme court.~~

Sec. 2953.08. (A) In addition to any other right to appeal and except as provided in division (D) of this section, a defendant who is convicted of or pleads guilty to a felony may appeal as a matter of right the sentence imposed upon the defendant on one of the following grounds:

(1) The sentence consisted of or included the maximum prison term allowed for the offense by division (A) of section 2929.14 or section 2929.142 of the Revised Code, the sentence was not imposed pursuant to division (D)(3)(b) of section 2929.14 of the Revised Code, the maximum prison term was not required for the offense pursuant to Chapter 2925. or any other provision of the Revised Code, and the court imposed the sentence under one of the following circumstances:

(a) The sentence was imposed for only one offense.

(b) The sentence was imposed for two or more offenses arising out of a single incident, and the court imposed the maximum prison term for the offense of the highest degree.

(2) The sentence consisted of or included a prison term, the offense for which it was imposed is a felony of the fourth or fifth degree or is a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, and the court did not specify at sentencing that it found one or more factors specified in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised

Code to apply relative to the defendant. If the court specifies 3215
that it found one or more of those factors to apply relative to 3216
the defendant, the defendant is not entitled under this division 3217
to appeal as a matter of right the sentence imposed upon the 3218
offender. 3219

(3) The person was convicted of or pleaded guilty to a 3220
violent sex offense or a designated homicide, assault, or 3221
kidnapping offense, was adjudicated a sexually violent predator in 3222
relation to that offense, and was sentenced pursuant to division 3223
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 3224
of the indefinite term imposed pursuant to division (A)(3) of 3225
section 2971.03 of the Revised Code is the longest term available 3226
for the offense from among the range of terms listed in section 3227
2929.14 of the Revised Code. As used in this division, "designated 3228
homicide, assault, or kidnapping offense" and "violent sex 3229
offense" have the same meanings as in section 2971.01 of the 3230
Revised Code. As used in this division, "adjudicated a sexually 3231
violent predator" has the same meaning as in section 2929.01 of 3232
the Revised Code, and a person is "adjudicated a sexually violent 3233
predator" in the same manner and the same circumstances as are 3234
described in that section. 3235

(4) The sentence is contrary to law. 3236

(5) The sentence consisted of an additional prison term of 3237
ten years imposed pursuant to division (D)(2)(a) of section 3238
2929.14 of the Revised Code. 3239

(6) The sentence consisted of an additional prison term of 3240
ten years imposed pursuant to division (D)(3)(b) of section 3241
2929.14 of the Revised Code. 3242

(B) In addition to any other right to appeal and except as 3243
provided in division (D) of this section, a prosecuting attorney, 3244
a city director of law, village solicitor, or similar chief legal 3245

officer of a municipal corporation, or the attorney general, if 3246
one of those persons prosecuted the case, may appeal as a matter 3247
of right a sentence imposed upon a defendant who is convicted of 3248
or pleads guilty to a felony or, in the circumstances described in 3249
division (B)(3) of this section the modification of a sentence 3250
imposed upon such a defendant, on any of the following grounds: 3251

(1) The sentence did not include a prison term despite a 3252
presumption favoring a prison term for the offense for which it 3253
was imposed, as set forth in section 2929.13 or Chapter 2925. of 3254
the Revised Code. 3255

(2) The sentence is contrary to law. 3256

(3) The sentence is a modification under section 2929.20 of 3257
the Revised Code of a sentence that was imposed for a felony of 3258
the first or second degree. 3259

(C)(1) In addition to the right to appeal a sentence granted 3260
under division (A) or (B) of this section, a defendant who is 3261
convicted of or pleads guilty to a felony may seek leave to appeal 3262
a sentence imposed upon the defendant on the basis that the 3263
sentencing judge has imposed consecutive sentences under division 3264
(E)(3) or (4) of section 2929.14 of the Revised Code and that the 3265
consecutive sentences exceed the maximum prison term allowed by 3266
division (A) of that section for the most serious offense of which 3267
the defendant was convicted. Upon the filing of a motion under 3268
this division, the court of appeals may grant leave to appeal the 3269
sentence if the court determines that the allegation included as 3270
the basis of the motion is true. 3271

(2) A defendant may seek leave to appeal an additional 3272
sentence imposed upon the defendant pursuant to division (D)(2)(a) 3273
or (b) of section 2929.14 of the Revised Code if the additional 3274
sentence is for a definite prison term that is longer than five 3275
years. 3276

(D)(1) A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge.

(2) Except as provided in division (C)(2) of this section, a sentence imposed upon a defendant is not subject to review under this section if the sentence is imposed pursuant to division (D)(2)(b) of section 2929.14 of the Revised Code. Except as otherwise provided in this division, a defendant retains all rights to appeal as provided under this chapter or any other provision of the Revised Code. A defendant has the right to appeal under this chapter or any other provision of the Revised Code the court's application of division (D)(2)(c) of section 2929.14 of the Revised Code.

(3) A sentence imposed for aggravated murder or murder pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised Code is not subject to review under this section.

(E) A defendant, prosecuting attorney, city director of law, village solicitor, or chief municipal legal officer shall file an appeal of a sentence under this section to a court of appeals within the time limits specified in Rule 4(B) of the Rules of Appellate Procedure, provided that if the appeal is pursuant to division (B)(3) of this section, the time limits specified in that rule shall not commence running until the court grants the motion that makes the sentence modification in question. A sentence appeal under this section shall be consolidated with any other appeal in the case. If no other appeal is filed, the court of appeals may review only the portions of the trial record that pertain to sentencing.

(F) On the appeal of a sentence under this section, the record to be reviewed shall include all of the following, as applicable:

(1) Any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed. An appellate court that reviews a presentence investigation report prepared pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in connection with the appeal of a sentence under this section shall comply with division (D)(3) of section 2951.03 of the Revised Code when the appellate court is not using the presentence investigation report, and the appellate court's use of a presentence investigation report of that nature in connection with the appeal of a sentence under this section does not affect the otherwise confidential character of the contents of that report as described in division (D)(1) of section 2951.03 of the Revised Code and does not cause that report to become a public record, as defined in section 149.43 of the Revised Code, following the appellate court's use of the report.

(2) The trial record in the case in which the sentence was imposed;

(3) Any oral or written statements made to or by the court at the sentencing hearing at which the sentence was imposed;

(4) Any written findings that the court was required to make in connection with the modification of the sentence pursuant to a judicial release under division (I) of section 2929.20 of the Revised Code.

(G)(1) If the sentencing court was required to make the findings required by division (B) or (D) of section 2929.13, division (D)(2)(e) or (E)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code relative to the imposition or modification of the sentence, and if the sentencing court failed to state the required findings on the record, the court hearing an appeal under division (A), (B), or (C) of this section shall remand the case to the sentencing court and instruct the

sentencing court to state, on the record, the required findings. 3341

(2) The court hearing an appeal under division (A), (B), or 3342
(C) of this section shall review the record, including the 3343
findings underlying the sentence or modification given by the 3344
sentencing court. 3345

The appellate court may increase, reduce, or otherwise modify 3346
a sentence that is appealed under this section or may vacate the 3347
sentence and remand the matter to the sentencing court for 3348
resentencing. The appellate court's standard for review is not 3349
whether the sentencing court abused its discretion. The appellate 3350
court may take any action authorized by this division if it 3351
clearly and convincingly finds either of the following: 3352

(a) That the record does not support the sentencing court's 3353
findings under division (B) or (D) of section 2929.13, division 3354
(D)(2)(e) or (E)(4) of section 2929.14, or division (I) of section 3355
2929.20 of the Revised Code, whichever, if any, is relevant; 3356

(b) That the sentence is otherwise contrary to law. 3357

(H) A judgment or final order of a court of appeals under 3358
this section may be appealed, by leave of court, to the supreme 3359
court. 3360

(I)(1) There is hereby established the felony sentence appeal 3361
cost oversight committee, consisting of eight members. One member 3362
shall be the chief justice of the supreme court or a 3363
representative of the court designated by the chief justice, one 3364
member shall be a member of the senate appointed by the president 3365
of the senate, one member shall be a member of the house of 3366
representatives appointed by the speaker of the house of 3367
representatives, one member shall be the director of budget and 3368
management or a representative of the office of budget and 3369
management designated by the director, one member shall be a judge 3370
of a court of appeals, court of common pleas, municipal court, or 3371

county court appointed by the chief justice of the supreme court, 3372
one member shall be the state public defender or a representative 3373
of the office of the state public defender designated by the state 3374
public defender, one member shall be a prosecuting attorney 3375
appointed by the Ohio prosecuting attorneys association, and one 3376
member shall be a county commissioner appointed by the county 3377
commissioners association of Ohio. No more than three of the 3378
appointed members of the committee may be members of the same 3379
political party. 3380

The president of the senate, the speaker of the house of 3381
representatives, the chief justice of the supreme court, the Ohio 3382
prosecuting attorneys association, and the county commissioners 3383
association of Ohio shall make the initial appointments to the 3384
committee of the appointed members no later than ninety days after 3385
July 1, 1996. Of those initial appointments to the committee, the 3386
members appointed by the speaker of the house of representatives 3387
and the Ohio prosecuting attorneys association shall serve a term 3388
ending two years after July 1, 1996, the member appointed by the 3389
chief justice of the supreme court shall serve a term ending three 3390
years after July 1, 1996, and the members appointed by the 3391
president of the senate and the county commissioners association 3392
of Ohio shall serve terms ending four years after July 1, 1996. 3393
Thereafter, terms of office of the appointed members shall be for 3394
four years, with each term ending on the same day of the same 3395
month as did the term that it succeeds. Members may be 3396
reappointed. Vacancies shall be filled in the same manner provided 3397
for original appointments. A member appointed to fill a vacancy 3398
occurring prior to the expiration of the term for which that 3399
member's predecessor was appointed shall hold office as a member 3400
for the remainder of the predecessor's term. An appointed member 3401
shall continue in office subsequent to the expiration date of that 3402
member's term until that member's successor takes office or until 3403
a period of sixty days has elapsed, whichever occurs first. 3404

If the chief justice of the supreme court, the director of
the office of budget and management, or the state public defender
serves as a member of the committee, that person's term of office
as a member shall continue for as long as that person holds office
as chief justice, director of the office of budget and management,
or state public defender. If the chief justice of the supreme
court designates a representative of the court to serve as a
member, the director of budget and management designates a
representative of the office of budget and management to serve as
a member, or the state public defender designates a representative
of the office of the state public defender to serve as a member,
the person so designated shall serve as a member of the commission
for as long as the official who made the designation holds office
as chief justice, director of the office of budget and management,
or state public defender or until that official revokes the
designation.

The chief justice of the supreme court or the representative
of the supreme court appointed by the chief justice shall serve as
chairperson of the committee. The committee shall meet within two
weeks after all appointed members have been appointed and shall
organize as necessary. Thereafter, the committee shall meet at
least once every six months or more often upon the call of the
chairperson or the written request of three or more members,
provided that the committee shall not meet unless moneys have been
appropriated to the judiciary budget administered by the supreme
court specifically for the purpose of providing financial
assistance to counties under division (I)(2) of this section and
the moneys so appropriated then are available for that purpose.

The members of the committee shall serve without
compensation, but, if moneys have been appropriated to the
judiciary budget administered by the supreme court specifically
for the purpose of providing financial assistance to counties

under division (I)(2) of this section, each member shall be 3437
reimbursed out of the moneys so appropriated that then are 3438
available for actual and necessary expenses incurred in the 3439
performance of official duties as a committee member. 3440

(2) The state criminal sentencing commission periodically 3441
shall provide to the felony sentence appeal cost oversight 3442
committee all data the commission collects pursuant to division 3443
(A)(5) of section 181.25 of the Revised Code. Upon receipt of the 3444
data from the state criminal sentencing commission, the felony 3445
sentence appeal cost oversight committee periodically shall review 3446
the data; determine whether any money has been appropriated to the 3447
judiciary budget administered by the supreme court specifically 3448
for the purpose of providing state financial assistance to 3449
counties in accordance with this division for the increase in 3450
expenses the counties experience as a result of the felony 3451
sentence appeal provisions set forth in this section or as a 3452
result of a postconviction relief proceeding brought under 3453
division (A)(2) of section 2953.21 of the Revised Code or an 3454
appeal of a judgment in that proceeding; if it determines that any 3455
money has been so appropriated, determine the total amount of 3456
moneys that have been so appropriated specifically for that 3457
purpose and that then are available for that purpose; and develop 3458
a recommended method of distributing those moneys to the counties. 3459
The committee shall send a copy of its recommendation to the 3460
supreme court. Upon receipt of the committee's recommendation, the 3461
supreme court shall distribute to the counties, based upon that 3462
recommendation, the moneys that have been so appropriated 3463
specifically for the purpose of providing state financial 3464
assistance to counties under this division and that then are 3465
available for that purpose. 3466

Sec. 2953.09. (A)(1) Upon filing an appeal in the supreme 3467
court, the execution of the sentence or judgment imposed in cases 3468

of felony is suspended. 3469

(2)(a) If a notice of appeal is filed pursuant to the Rules 3470
of Appellate Procedure by a defendant who is convicted in a 3471
municipal or county court or a court of common pleas of a felony 3472
or misdemeanor under the Revised Code or an ordinance of a 3473
municipal corporation, the filing of the notice of appeal does not 3474
suspend execution of the sentence or judgment imposed. However, 3475
consistent with divisions (A)(2)(b), (B), and (C) of this section, 3476
Appellate Rule 8, and Criminal Rule 46, the municipal or county 3477
court, court of common pleas, or court of appeals may suspend 3478
execution of the sentence or judgment imposed during the pendency 3479
of the appeal and shall determine whether that defendant is 3480
entitled to bail and the amount and nature of any bail that is 3481
required. The bail shall at least be conditioned that the 3482
defendant will prosecute the appeal without delay and abide by the 3483
judgment and sentence of the court. 3484

~~(b)(i) A court of common pleas or court of appeals may 3485
suspend the execution of a sentence of death imposed for an 3486
offense committed before January 1, 1995, only if no date for 3487
execution has been set by the supreme court, good cause is shown 3488
for the suspension, the defendant files a motion requesting the 3489
suspension, and notice has been given to the prosecuting attorney 3490
of the appropriate county. 3491~~

~~(ii) A court of common pleas may suspend the execution of a 3492
sentence of death imposed for an offense committed on or after 3493
January 1, 1995, only if no date for execution has been set by the 3494
supreme court, good cause is shown, the defendant files a motion 3495
requesting the suspension, and notice has been given to the 3496
prosecuting attorney of the appropriate county. 3497~~

~~(iii) A court of common pleas or court of appeals may suspend 3498
the execution of the sentence or judgment imposed for a felony in 3499
a capital case in which a sentence of death is not imposed only if 3500~~

~~no date for execution of the sentence has been set by the supreme 3501
court, good cause is shown for the suspension, the defendant files 3502
a motion requesting the suspension, and only after notice has been 3503
given to the prosecuting attorney of the appropriate county. 3504~~

(B) Notwithstanding any provision of Criminal Rule 46 to the 3505
contrary, a trial judge of a court of common pleas shall not 3506
release on bail pursuant to division (A)(2)(a) of this section a 3507
defendant who is convicted of a bailable offense if the defendant 3508
is sentenced to imprisonment for life or if that offense is a 3509
violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 3510
2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 3511
2911.11 of the Revised Code or is felonious sexual penetration in 3512
violation of former section 2907.12 of the Revised Code. 3513

(C) If a trial judge of a court of common pleas is prohibited 3514
by division (B) of this section from releasing on bail pursuant to 3515
division (A)(2)(a) of this section a defendant who is convicted of 3516
a bailable offense and not sentenced to imprisonment for life, the 3517
appropriate court of appeals or two judges of it, upon motion of 3518
the defendant and for good cause shown, may release the defendant 3519
on bail in accordance with division (A)(2) of this section. 3520

Sec. 2953.10. When an appeal is taken from a court of appeals 3521
to the supreme court, the supreme court has the same power and 3522
authority to suspend the execution of sentence during the pendency 3523
of the appeal and admit the defendant to bail as does the court of 3524
appeals unless another section of the Revised Code or the Rules of 3525
Practice of the Supreme Court specify a distinct bail or 3526
suspension of sentence authority. 3527

~~When an appeal in a case in which a sentence of death is 3528
imposed for an offense committed on or after January 1, 1995, is 3529
taken directly from the trial court to the supreme court, the 3530
supreme court has the same power and authority to suspend the 3531~~

~~execution of the sentence during the pendency of the appeal and 3532
admit the defendant to bail as does the court of appeals for cases 3533
in which a sentence of death is imposed for an offense committed 3534
before January 1, 1995, unless another section of the Revised Code 3535
or the Rules of Practice of the Supreme Court specify a distinct 3536
bail or suspension of sentence authority. 3537~~

Sec. 2953.21. (A)(1)(a) Any person who has been convicted of 3538
a criminal offense or adjudicated a delinquent child and who 3539
claims that there was such a denial or infringement of the 3540
person's rights as to render the judgment void or voidable under 3541
the Ohio Constitution or the Constitution of the United States, 3542
and any person who has been convicted of a criminal offense that 3543
is a felony and who is an offender for whom DNA testing that was 3544
performed under sections 2953.71 to 2953.81 of the Revised Code or 3545
under former section 2953.82 of the Revised Code and analyzed in 3546
the context of and upon consideration of all available admissible 3547
evidence related to the person's case as described in division (D) 3548
of section 2953.74 of the Revised Code provided results that 3549
establish, by clear and convincing evidence, actual innocence of 3550
that felony offense ~~or, if the person was sentenced to death,~~ 3551
~~establish, by clear and convincing evidence, actual innocence of~~ 3552
~~the aggravating circumstance or circumstances the person was found~~ 3553
~~guilty of committing and that is or are the basis of that sentence~~ 3554
~~of death,~~ may file a petition in the court that imposed sentence, 3555
stating the grounds for relief relied upon, and asking the court 3556
to vacate or set aside the judgment or sentence or to grant other 3557
appropriate relief. The petitioner may file a supporting affidavit 3558
and other documentary evidence in support of the claim for relief. 3559

(b) As used in division (A)(1)(a) of this section, "actual 3560
innocence" means that, had the results of the DNA testing 3561
conducted under sections 2953.71 to 2953.81 of the Revised Code or 3562
under former section 2953.82 of the Revised Code been presented at 3563

trial, and had those results been analyzed in the context of and 3564
upon consideration of all available admissible evidence related to 3565
the person's case as described in division (D) of section 2953.74 3566
of the Revised Code, no reasonable factfinder would have found the 3567
petitioner guilty of the offense of which the petitioner was 3568
convicted, ~~or, if the person was sentenced to death, no reasonable~~ 3569
~~factfinder would have found the petitioner guilty of the~~ 3570
~~aggravating circumstance or circumstances the petitioner was found~~ 3571
~~guilty of committing and that is or are the basis of that sentence~~ 3572
~~of death.~~ 3573

(c) As used in divisions (A)(1)(a) and (b) of this section, 3574
"former section 2953.82 of the Revised Code" means section 2953.82 3575
of the Revised Code as it existed prior to ~~the effective date of~~ 3576
~~this amendment~~ July 6, 2010. 3577

(2) Except as otherwise provided in section 2953.23 of the 3578
Revised Code, a petition under division (A)(1) of this section 3579
shall be filed no later than one hundred eighty days after the 3580
date on which the trial transcript is filed in the court of 3581
appeals in the direct appeal of the judgment of conviction or 3582
adjudication ~~or, if the direct appeal involves a sentence of~~ 3583
~~death, the date on which the trial transcript is filed in the~~ 3584
~~supreme court~~. If no appeal is taken, except as otherwise provided 3585
in section 2953.23 of the Revised Code, the petition shall be 3586
filed no later than one hundred eighty days after the expiration 3587
of the time for filing the appeal. 3588

(3) ~~In a petition filed under division (A) of this section, a~~ 3589
~~person who has been sentenced to death may ask the court to render~~ 3590
~~void or voidable the judgment with respect to the conviction of~~ 3591
~~aggravated murder or the specification of an aggravating~~ 3592
~~circumstance or the sentence of death.~~ 3593

~~(4)~~ A petitioner shall state in the original or amended 3594
petition filed under division (A) of this section all grounds for 3595

relief claimed by the petitioner. Except as provided in section 3596
2953.23 of the Revised Code, any ground for relief that is not so 3597
stated in the petition is waived. 3598

~~(5)~~(4) If the petitioner in a petition filed under division 3599
(A) of this section was convicted of or pleaded guilty to a 3600
felony, the petition may include a claim that the petitioner was 3601
denied the equal protection of the laws in violation of the Ohio 3602
Constitution or the United States Constitution because the 3603
sentence imposed upon the petitioner for the felony was part of a 3604
consistent pattern of disparity in sentencing by the judge who 3605
imposed the sentence, with regard to the petitioner's race, 3606
gender, ethnic background, or religion. If the supreme court 3607
adopts a rule requiring a court of common pleas to maintain 3608
information with regard to an offender's race, gender, ethnic 3609
background, or religion, the supporting evidence for the petition 3610
shall include, but shall not be limited to, a copy of that type of 3611
information relative to the petitioner's sentence and copies of 3612
that type of information relative to sentences that the same judge 3613
imposed upon other persons. 3614

(B) The clerk of the court in which the petition is filed 3615
shall docket the petition and bring it promptly to the attention 3616
of the court. The clerk of the court in which the petition is 3617
filed immediately shall forward a copy of the petition to the 3618
prosecuting attorney of that county. 3619

(C) The court shall consider a petition that is timely filed 3620
under division (A)(2) of this section even if a direct appeal of 3621
the judgment is pending. Before granting a hearing on a petition 3622
filed under division (A) of this section, the court shall 3623
determine whether there are substantive grounds for relief. In 3624
making such a determination, the court shall consider, in addition 3625
to the petition, the supporting affidavits, and the documentary 3626
evidence, all the files and records pertaining to the proceedings 3627

against the petitioner, including, but not limited to, the 3628
indictment, the court's journal entries, the journalized records 3629
of the clerk of the court, and the court reporter's transcript. 3630
The court reporter's transcript, if ordered and certified by the 3631
court, shall be taxed as court costs. If the court dismisses the 3632
petition, it shall make and file findings of fact and conclusions 3633
of law with respect to such dismissal. 3634

(D) Within ten days after the docketing of the petition, or 3635
within any further time that the court may fix for good cause 3636
shown, the prosecuting attorney shall respond by answer or motion. 3637
Within twenty days from the date the issues are raised, either 3638
party may move for summary judgment. The right to summary judgment 3639
shall appear on the face of the record. 3640

(E) Unless the petition and the files and records of the case 3641
show the petitioner is not entitled to relief, the court shall 3642
proceed to a prompt hearing on the issues even if a direct appeal 3643
of the case is pending. If the court notifies the parties that it 3644
has found grounds for granting relief, either party may request an 3645
appellate court in which a direct appeal of the judgment is 3646
pending to remand the pending case to the court. 3647

(F) At any time before the answer or motion is filed, the 3648
petitioner may amend the petition with or without leave or 3649
prejudice to the proceedings. The petitioner may amend the 3650
petition with leave of court at any time thereafter. 3651

(G) If the court does not find grounds for granting relief, 3652
it shall make and file findings of fact and conclusions of law and 3653
shall enter judgment denying relief on the petition. If no direct 3654
appeal of the case is pending and the court finds grounds for 3655
relief or if a pending direct appeal of the case has been remanded 3656
to the court pursuant to a request made pursuant to division (E) 3657
of this section and the court finds grounds for granting relief, 3658
it shall make and file findings of fact and conclusions of law and 3659

shall enter a judgment that vacates and sets aside the judgment in 3660
question, and, in the case of a petitioner who is a prisoner in 3661
custody, shall discharge or resentence the petitioner or grant a 3662
new trial as the court determines appropriate. The court also may 3663
make supplementary orders to the relief granted, concerning such 3664
matters as rearraignment, retrial, custody, and bail. If the trial 3665
court's order granting the petition is reversed on appeal and if 3666
the direct appeal of the case has been remanded from an appellate 3667
court pursuant to a request under division (E) of this section, 3668
the appellate court reversing the order granting the petition 3669
shall notify the appellate court in which the direct appeal of the 3670
case was pending at the time of the remand of the reversal and 3671
remand of the trial court's order. Upon the reversal and remand of 3672
the trial court's order granting the petition, regardless of 3673
whether notice is sent or received, the direct appeal of the case 3674
that was remanded is reinstated. 3675

~~(H) Upon the filing of a petition pursuant to division (A) of 3676
this section by a person sentenced to death, only the supreme 3677
court may stay execution of the sentence of death. 3678~~

~~(I)(1) If a person sentenced to death intends to file a 3679
petition under this section, the court shall appoint counsel to 3680
represent the person upon a finding that the person is indigent 3681
and that the person either accepts the appointment of counsel or 3682
is unable to make a competent decision whether to accept or reject 3683
the appointment of counsel. The court may decline to appoint 3684
counsel for the person only upon a finding, after a hearing if 3685
necessary, that the person rejects the appointment of counsel and 3686
understands the legal consequences of that decision or upon a 3687
finding that the person is not indigent. 3688~~

~~(2) The court shall not appoint as counsel under division 3689
(I)(1) of this section an attorney who represented the petitioner 3690
at trial in the case to which the petition relates unless the 3691~~

~~person and the attorney expressly request the appointment. The 3692
court shall appoint as counsel under division (I)(1) of this 3693
section only an attorney who is certified under Rule 20 of the 3694
Rules of Superintendence for the Courts of Ohio to represent 3695
indigent defendants charged with or convicted of an offense for 3696
which the death penalty can be or has been imposed. The 3697
ineffectiveness or incompetence of counsel during proceedings 3698
under this section does not constitute grounds for relief in a 3699
proceeding under this section, in an appeal of any action under 3700
this section, or in an application to reopen a direct appeal. 3701~~

~~(3) Division (I) of this section does not preclude attorneys 3702
who represent the state of Ohio from invoking the provisions of 28 3703
U.S.C. 154 with respect to capital cases that were pending in 3704
federal habeas corpus proceedings prior to July 1, 1996, insofar 3705
as the petitioners in those cases were represented in proceedings 3706
under this section by one or more counsel appointed by the court 3707
under this section or section 120.06, 120.16, 120.26, or 120.33 of 3708
the Revised Code and those appointed counsel meet the requirements 3709
of division (I)(2) of this section. 3710~~

~~(J) Subject to the appeal of a sentence for a felony that is 3711
authorized by section 2953.08 of the Revised Code, the remedy set 3712
forth in this section is the exclusive remedy by which a person 3713
may bring a collateral challenge to the validity of a conviction 3714
or sentence in a criminal case or to the validity of an 3715
adjudication of a child as a delinquent child for the commission 3716
of an act that would be a criminal offense if committed by an 3717
adult or the validity of a related order of disposition. 3718~~

Sec. 2953.23. (A) Whether a hearing is or is not held on a 3719
petition filed pursuant to section 2953.21 of the Revised Code, a 3720
court may not entertain a petition filed after the expiration of 3721
the period prescribed in division (A) of that section or a second 3722

petition or successive petitions for similar relief on behalf of a 3723
petitioner unless division (A)(1) or (2) of this section applies: 3724

(1) Both of the following apply: 3725

(a) Either the petitioner shows that the petitioner was 3726
unavoidably prevented from discovery of the facts upon which the 3727
petitioner must rely to present the claim for relief, or, 3728
subsequent to the period prescribed in division (A)(2) of section 3729
2953.21 of the Revised Code or to the filing of an earlier 3730
petition, the United States Supreme Court recognized a new federal 3731
or state right that applies retroactively to persons in the 3732
petitioner's situation, and the petition asserts a claim based on 3733
that right. 3734

(b) The petitioner shows by clear and convincing evidence 3735
that, but for constitutional error at trial, no reasonable 3736
factfinder would have found the petitioner guilty of the offense 3737
of which the petitioner was convicted ~~or, if the claim challenges~~ 3738
~~a sentence of death that, but for constitutional error at the~~ 3739
~~sentencing hearing, no reasonable factfinder would have found the~~ 3740
~~petitioner eligible for the death sentence.~~ 3741

(2) The petitioner was convicted of a felony, the petitioner 3742
is an offender for whom DNA testing was performed under sections 3743
2953.71 to 2953.81 of the Revised Code or under former section 3744
2953.82 of the Revised Code and analyzed in the context of and 3745
upon consideration of all available admissible evidence related to 3746
the inmate's case as described in division (D) of section 2953.74 3747
of the Revised Code, and the results of the DNA testing establish, 3748
by clear and convincing evidence, actual innocence of that felony 3749
offense ~~or, if the person was sentenced to death, establish, by~~ 3750
~~clear and convincing evidence, actual innocence of the aggravating~~ 3751
~~circumstance or circumstances the person was found guilty of~~ 3752
~~committing and that is or are the basis of that sentence of death.~~ 3753

As used in this division, "actual innocence" has the same 3754
meaning as in division (A)(1)(b) of section 2953.21 of the Revised 3755
Code, and "former section 2953.82 of the Revised Code" has the 3756
same meaning as in division (A)(1)(c) of section 2953.21 of the 3757
Revised Code. 3758

(B) An order awarding or denying relief sought in a petition 3759
filed pursuant to section 2953.21 of the Revised Code is a final 3760
judgment and may be appealed pursuant to Chapter 2953. of the 3761
Revised Code. 3762

Sec. 2953.71. As used in sections 2953.71 to 2953.83 of the 3763
Revised Code: 3764

(A) "Application" or "application for DNA testing" means a 3765
request through postconviction relief for the state to do DNA 3766
testing on biological material from the case in which the offender 3767
was convicted of the offense for which the offender is an eligible 3768
offender and is requesting the DNA testing under sections 2953.71 3769
to 2953.81 of the Revised Code. 3770

(B) "Biological material" means any product of a human body 3771
containing DNA. 3772

(C) "Chain of custody" means a record or other evidence that 3773
tracks a subject sample of biological material from the time the 3774
biological material was first obtained until the time it currently 3775
exists in its place of storage and, in relation to a DNA sample, a 3776
record or other evidence that tracks the DNA sample from the time 3777
it was first obtained until it currently exists in its place of 3778
storage. For purposes of this division, examples of when 3779
biological material or a DNA sample is first obtained include, but 3780
are not limited to, obtaining the material or sample at the scene 3781
of a crime, from a victim, from an offender, or in any other 3782
manner or time as is appropriate in the facts and circumstances 3783
present. 3784

(D) "Custodial agency" means the group or entity that has the responsibility to maintain biological material in question.

(E) "Custodian" means the person who is the primary representative of a custodial agency.

(F) "Eligible offender" means an offender who is eligible under division (C) of section 2953.72 of the Revised Code to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code.

(G) "Exclusion" or "exclusion result" means a result of DNA testing that scientifically precludes or forecloses the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the sentence of death or prison term was imposed upon the offender.

(H) "Extracting personnel" means medically approved personnel who are employed to physically obtain an offender's DNA specimen for purposes of DNA testing under sections 2953.71 to 2953.81 of the Revised Code.

(I) "Inclusion" or "inclusion result" means a result of DNA testing that scientifically cannot exclude, or that holds accountable, the subject offender as a contributor of biological material recovered from the crime scene or victim in question, in relation to the offense for which the offender is an eligible offender and for which the ~~sentence of death or~~ prison term was imposed upon the offender.

(J) "Inconclusive" or "inconclusive result" means a result of DNA testing that is rendered when a scientifically appropriate and definitive DNA analysis or result, or both, cannot be determined.

(K) "Offender" means a criminal offender who was sentenced by a court, or by a jury and a court, of this state.

(L) "Outcome determinative" means that had the results of DNA testing of the subject offender been presented at the trial of the subject offender requesting DNA testing and been found relevant and admissible with respect to the felony offense for which the offender is an eligible offender and is requesting the DNA testing, and had those results been analyzed in the context of and upon consideration of all available admissible evidence related to the offender's case as described in division (D) of section 2953.74 of the Revised Code, there is a strong probability that no reasonable factfinder would have found the offender guilty of that offense ~~or, if the offender was sentenced to death relative to that offense, would have found the offender guilty of the aggravating circumstance or circumstances the offender was found guilty of committing and that is or are the basis of that sentence of death.~~

(M) "Parent sample" means the biological material first obtained from a crime scene or a victim of an offense for which an offender is an eligible offender, and from which a sample will be presently taken to do a DNA comparison to the DNA of the subject offender under sections 2953.71 to 2953.81 of the Revised Code.

(N) "Prison" and "community control sanction" have the same meanings as in section 2929.01 of the Revised Code.

(O) "Prosecuting attorney" means the prosecuting attorney who, or whose office, prosecuted the case in which the subject offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing.

(P) "Prosecuting authority" means the prosecuting attorney or the attorney general.

(Q) "Reasonable diligence" means a degree of diligence that is comparable to the diligence a reasonable person would employ in searching for information regarding an important matter in the

person's own life. 3846

(R) "Testing authority" means a laboratory at which DNA 3847
testing will be conducted under sections 2953.71 to 2953.81 of the 3848
Revised Code. 3849

(S) "Parole" and "post-release control" have the same 3850
meanings as in section 2967.01 of the Revised Code. 3851

(T) "Sexually oriented offense" and "child-victim oriented 3852
offense" have the same meanings as in section 2950.01 of the 3853
Revised Code. 3854

(U) "Definitive DNA test" means a DNA test that clearly 3855
establishes that biological material from the perpetrator of the 3856
crime was recovered from the crime scene and also clearly 3857
establishes whether or not the biological material is that of the 3858
eligible offender. A prior DNA test is not definitive if the 3859
eligible offender proves by a preponderance of the evidence that 3860
because of advances in DNA technology there is a possibility of 3861
discovering new biological material from the perpetrator that the 3862
prior DNA test may have failed to discover. Prior testing may have 3863
been a prior "definitive DNA test" as to some biological evidence 3864
but may not have been a prior "definitive DNA test" as to other 3865
biological evidence. 3866

Sec. 2953.72. (A) Any eligible offender who wishes to request 3867
DNA testing under sections 2953.71 to 2953.81 of the Revised Code 3868
shall submit an application for the testing to the court of common 3869
pleas specified in section 2953.73 of the Revised Code, on a form 3870
prescribed by the attorney general for this purpose. The eligible 3871
offender shall submit the application in accordance with the 3872
procedures set forth in section 2953.73 of the Revised Code. The 3873
eligible offender shall specify on the application the offense or 3874
offenses for which the offender is an eligible offender and is 3875
requesting the DNA testing. Along with the application, the 3876

eligible offender shall submit an acknowledgment that is on a form 3877
prescribed by the attorney general for this purpose and that is 3878
signed by the offender. The acknowledgment shall set forth all of 3879
the following: 3880

(1) That sections 2953.71 to 2953.81 of the Revised Code 3881
contemplate applications for DNA testing of an eligible offender 3882
at a stage of a prosecution or case after the offender has been 3883
sentenced, that any exclusion or inclusion result of DNA testing 3884
rendered pursuant to those sections may be used by a party in any 3885
proceeding as described in section 2953.81 of the Revised Code, 3886
and that all requests for any DNA testing made at trial will 3887
continue to be handled by the prosecuting attorney in the case; 3888

(2) That the process of conducting postconviction DNA testing 3889
for an eligible offender under sections 2953.71 to 2953.81 of the 3890
Revised Code begins when the offender submits an application under 3891
section 2953.73 of the Revised Code and the acknowledgment 3892
described in this section; 3893

(3) That the eligible offender must submit the application 3894
and acknowledgment to the court of common pleas that heard the 3895
case in which the offender was convicted of the offense for which 3896
the offender is an eligible offender and is requesting the DNA 3897
testing; 3898

(4) That the state has established a set of criteria set 3899
forth in section 2953.74 of the Revised Code by which eligible 3900
offender applications for DNA testing will be screened and that a 3901
judge of a court of common pleas upon receipt of a properly filed 3902
application and accompanying acknowledgment will apply those 3903
criteria to determine whether to accept or reject the application; 3904

(5) That the results of DNA testing conducted under sections 3905
2953.71 to 2953.81 of the Revised Code will be provided as 3906
described in section 2953.81 of the Revised Code to all parties in 3907

the postconviction proceedings and will be reported to various courts;

(6) That, if DNA testing is conducted with respect to an offender under sections 2953.71 to 2953.81 of the Revised Code, the state will not offer the offender a retest if an inclusion result is achieved relative to the testing and that, if the state were to offer a retest after an inclusion result, the policy would create an atmosphere in which endless testing could occur and in which postconviction proceedings could be stalled for many years;

(7) That, if the court rejects an eligible offender's application for DNA testing because the offender does not satisfy the acceptance criteria described in division (A)(4) of this section, the court will not accept or consider subsequent applications;

(8) That the acknowledgment memorializes the provisions of sections 2953.71 to 2953.81 of the Revised Code with respect to the application of postconviction DNA testing to offenders, that those provisions do not give any offender any additional constitutional right that the offender did not already have, that the court has no duty or obligation to provide postconviction DNA testing to offenders, that the court of common pleas has the sole discretion subject to an appeal as described in this division to determine whether an offender is an eligible offender and whether an eligible offender's application for DNA testing satisfies the acceptance criteria described in division (A)(4) of this section and whether the application should be accepted or rejected, that if the court of common pleas rejects an eligible offender's application, the offender may ~~seek leave of the supreme court to appeal the rejection to that court if the offender was sentenced to death for the offense for which the offender is requesting the DNA testing and, if the offender was not sentenced to death for that offense, may~~ appeal the rejection to the court of appeals,

and that no determination otherwise made by the court of common 3940
pleas in the exercise of its discretion regarding the eligibility 3941
of an offender or regarding postconviction DNA testing under those 3942
provisions is reviewable by or appealable to any court; 3943

(9) That the manner in which sections 2953.71 to 2953.81 of 3944
the Revised Code with respect to the offering of postconviction 3945
DNA testing to offenders are carried out does not confer any 3946
constitutional right upon any offender, that the state has 3947
established guidelines and procedures relative to those provisions 3948
to ensure that they are carried out with both justice and 3949
efficiency in mind, and that an offender who participates in any 3950
phase of the mechanism contained in those provisions, including, 3951
but not limited to, applying for DNA testing and being rejected, 3952
having an application for DNA testing accepted and not receiving 3953
the test, or having DNA testing conducted and receiving 3954
unfavorable results, does not gain as a result of the 3955
participation any constitutional right to challenge, or, except as 3956
provided in division (A)(8) of this section, any right to any 3957
review or appeal of, the manner in which those provisions are 3958
carried out; 3959

(10) That the most basic aspect of sections 2953.71 to 3960
2953.81 of the Revised Code is that, in order for DNA testing to 3961
occur, there must be an offender sample against which other 3962
evidence may be compared, that, if an eligible offender's 3963
application is accepted but the offender subsequently refuses to 3964
submit to the collection of the sample of biological material from 3965
the offender or hinders the state from obtaining a sample of 3966
biological material from the offender, the goal of those 3967
provisions will be frustrated, and that an offender's refusal or 3968
hindrance shall cause the court to rescind its prior acceptance of 3969
the application for DNA testing for the offender and deny the 3970
application. 3971

(B) The attorney general shall prescribe a form to be used to make an application for DNA testing under division (A) of this section and section 2953.73 of the Revised Code and a form to be used to provide the acknowledgment described in division (A) of this section. The forms shall include all information described in division (A) of this section, spaces for an offender to insert all information necessary to complete the forms, including, but not limited to, specifying the offense or offenses for which the offender is an eligible offender and is requesting the DNA testing, and any other information or material the attorney general determines is necessary or relevant. The attorney general shall distribute copies of the prescribed forms to the department of rehabilitation and correction, the department shall ensure that each prison in which offenders are housed has a supply of copies of the forms, and the department shall ensure that copies of the forms are provided free of charge to any offender who requests them.

(C)(1) An offender is eligible to request DNA testing to be conducted under sections 2953.71 to 2953.81 of the Revised Code only if all of the following apply:

(a) The offense for which the offender claims to be an eligible offender is a felony, and the offender was convicted by a judge or jury of that offense.

(b) One of the following applies:

(i) The offender was sentenced to a prison term ~~or sentence of death~~ for the felony described in division (C)(1)(a) of this section, and the offender is in prison serving that prison term ~~or under that sentence of death~~, has been paroled or is on probation regarding that felony, is under post-release control regarding that felony, or has been released from that prison term and is under a community control sanction regarding that felony.

(ii) The offender was not sentenced to a prison term ~~or~~ 4003
~~sentence of death~~ for the felony described in division (C)(1)(a) 4004
of this section, but was sentenced to a community control sanction 4005
for that felony and is under that community control sanction. 4006

(iii) The felony described in division (C)(1)(a) of this 4007
section was a sexually oriented offense or child-victim oriented 4008
offense, and the offender has a duty to comply with sections 4009
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 4010
relative to that felony. 4011

(2) An offender is not an eligible offender under division 4012
(C)(1) of this section regarding any offense to which the offender 4013
pleaded guilty or no contest. 4014

(3) An offender is not an eligible offender under division 4015
(C)(1) of this section regarding any offense if the offender dies 4016
prior to submitting an application for DNA testing related to that 4017
offense under section 2953.73 of the Revised Code. 4018

Sec. 2953.81. If an eligible offender submits an application 4019
for DNA testing under section 2953.73 of the Revised Code and if 4020
DNA testing is performed based on that application, upon 4021
completion of the testing, all of the following apply: 4022

(A) The court or a designee of the court shall require the 4023
state to maintain the results of the testing and to maintain and 4024
preserve both the parent sample of the biological material used 4025
and the offender sample of the biological material used. The 4026
testing authority may be designated as the person to maintain the 4027
results of the testing or to maintain and preserve some or all of 4028
the samples, or both. The results of the testing remain state's 4029
evidence. The samples shall be preserved during the entire period 4030
of time for which the offender is imprisoned or confined relative 4031
to the sentence in question, is on parole or probation relative to 4032
that sentence, is under post-release control or a community 4033

control sanction relative to that sentence, or has a duty to 4034
comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of 4035
the Revised Code relative to that sentence. Additionally, if the 4036
prison term or confinement under the sentence in question expires, 4037
~~if the sentence in question is a sentence of death and the~~ 4038
~~offender is executed,~~ or if the parole or probation period, the 4039
period of post-release control, the community control sanction, or 4040
the duty to comply with sections 2950.04, 2950.041, 2950.05, and 4041
2950.06 of the Revised Code under the sentence in question ends, 4042
the samples shall be preserved for a reasonable period of time of 4043
not less than twenty-four months after the term or confinement 4044
expires, ~~the offender is executed,~~ or the parole or probation 4045
period, the period of post-release control, the community control 4046
sanction, or the duty to comply with sections 2950.04, 2950.041, 4047
2950.05, and 2950.06 of the Revised Code ends, whichever is 4048
applicable. The court shall determine the period of time that is 4049
reasonable for purposes of this division, provided that the period 4050
shall not be less than twenty-four months after the term or 4051
confinement expires, ~~the offender is executed,~~ or the parole or 4052
probation period, the period of post-release control, the 4053
community control sanction, or the duty to comply with sections 4054
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code ends, 4055
whichever is applicable. 4056

(B) The results of the testing are a public record. 4057

(C) The court or the testing authority shall provide a copy 4058
of the results of the testing to the prosecuting attorney, the 4059
attorney general, and the subject offender. 4060

(D) If the postconviction proceeding in question is pending 4061
at that time in a court of this state, the court of common pleas 4062
that decided the DNA application or the testing authority shall 4063
provide a copy of the results of the testing to any court of this 4064
state, and, if it is pending in a federal court, the court of 4065

common pleas that decided the DNA application or the testing 4066
authority shall provide a copy of the results of the testing to 4067
that federal court. 4068

(E) The testing authority shall provide a copy of the results 4069
of the testing to the court of common pleas that decided the DNA 4070
application. 4071

(F) The offender or the state may enter the results of the 4072
testing into any proceeding. 4073

Sec. 2967.05. (A) As used in this section: 4074

(1) "Imminent danger of death" means that the inmate has a 4075
medically diagnosable condition that will cause death to occur 4076
within a short period of time. 4077

As used in division (A)(1) of this section, "within a short 4078
period of time" means generally within six months. 4079

(2)(a) "Medically incapacitated" means any diagnosable 4080
medical condition, including mental dementia and severe, permanent 4081
medical or cognitive disability, that prevents the inmate from 4082
completing activities of daily living without significant 4083
assistance, that incapacitates the inmate to the extent that 4084
institutional confinement does not offer additional restrictions, 4085
that is likely to continue throughout the entire period of parole, 4086
and that is unlikely to improve noticeably. 4087

(b) "Medically incapacitated" does not include conditions 4088
related solely to mental illness unless the mental illness is 4089
accompanied by injury, disease, or organic defect. 4090

(3)(a) "Terminal illness" means a condition that satisfies 4091
all of the following criteria: 4092

(i) The condition is irreversible and incurable and is caused 4093
by disease, illness, or injury from which the inmate is unlikely 4094
to recover. 4095

(ii) In accordance with reasonable medical standards and a reasonable degree of medical certainty, the condition is likely to cause death to the inmate within twelve months.

(iii) Institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend.

(b) The department of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code to implement the definition of "terminal illness" in division (A)(3)(a) of this section.

(B) Upon the recommendation of the director of rehabilitation and correction, accompanied by a certificate of the attending physician that an inmate is terminally ill, medically incapacitated, or in imminent danger of death, the governor may order the inmate's release as if on parole, reserving the right to return the inmate to the institution pursuant to this section. If, subsequent to the inmate's release, the inmate's health improves so that the inmate is no longer terminally ill, medically incapacitated, or in imminent danger of death, the inmate shall be returned, by order of the governor, to the institution from which the inmate was released. If the inmate violates any rules or conditions applicable to the inmate, the inmate may be returned to an institution under the control of the department of rehabilitation and correction. The governor may direct the adult parole authority to investigate or cause to be investigated the inmate and make a recommendation in the manner set forth in section 2967.03 of the Revised Code. An inmate released under this section shall be subject to supervision by the adult parole authority in accordance with any recommendation of the adult parole authority that is approved by the governor. The adult parole authority shall adopt rules pursuant to section 119.03 of the Revised Code to establish the procedure for medical release of

an inmate when an inmate is terminally ill, medically 4128
incapacitated, or in imminent danger of death. 4129

(C) No inmate is eligible for release under this section if 4130
the inmate is serving ~~a death sentence~~, a sentence of life without 4131
parole, a sentence under Chapter 2971. of the Revised Code for a 4132
felony of the first or second degree, a sentence for aggravated 4133
murder or murder, or a mandatory prison term for an offense of 4134
violence or any specification described in Chapter 2941. of the 4135
Revised Code. 4136

Sec. 2967.13. (A) Except as provided in division (G) of this 4137
section, a prisoner serving a sentence of imprisonment for life 4138
for an offense committed on or after July 1, 1996, is not entitled 4139
to any earned credit under section 2967.193 of the Revised Code 4140
and becomes eligible for parole as follows: 4141

(1) If a sentence of imprisonment for life was imposed for 4142
the offense of murder, at the expiration of the prisoner's minimum 4143
term; 4144

(2) If a sentence of imprisonment for life with parole 4145
eligibility after serving twenty years of imprisonment was imposed 4146
pursuant to section 2929.02 or former section 2929.022 or 2929.03 4147
of the Revised Code, after serving a term of twenty years; 4148

(3) If a sentence of imprisonment for life with parole 4149
eligibility after serving twenty-five full years of imprisonment 4150
was imposed pursuant to former section 2929.022 or 2929.03 of the 4151
Revised Code, after serving a term of twenty-five full years; 4152

(4) If a sentence of imprisonment for life with parole 4153
eligibility after serving thirty full years of imprisonment was 4154
imposed pursuant to section 2929.02 or former section 2929.022 or 4155
2929.03 of the Revised Code, after serving a term of thirty full 4156
years; 4157

(5) If a sentence of imprisonment for life was imposed for rape, after serving a term of ten full years' imprisonment; 4158
4159

(6) If a sentence of imprisonment for life with parole eligibility after serving fifteen years of imprisonment was imposed for a violation of section 2927.24 of the Revised Code, after serving a term of fifteen years. 4160
4161
4162
4163

(B) Except as provided in division (G) of this section, a prisoner serving a sentence of imprisonment for life with parole eligibility after serving twenty years of imprisonment or a sentence of imprisonment for life with parole eligibility after serving twenty-five full years or thirty full years of imprisonment imposed pursuant to section 2929.02 or former section 2929.022 or 2929.03 of the Revised Code for an offense committed on or after July 1, 1996, consecutively to any other term of imprisonment, becomes eligible for parole after serving twenty years, twenty full years, or thirty full years, as applicable, as to each such sentence of life imprisonment, which shall not be reduced for earned credits under section 2967.193 of the Revised Code, plus the term or terms of the other sentences consecutively imposed or, if one of the other sentences is another type of life sentence with parole eligibility, the number of years before parole eligibility for that sentence. 4164
4165
4166
4167
4168
4169
4170
4171
4172
4173
4174
4175
4176
4177
4178
4179

(C) Except as provided in division (G) of this section, a prisoner serving consecutively two or more sentences in which an indefinite term of imprisonment is imposed becomes eligible for parole upon the expiration of the aggregate of the minimum terms of the sentences. 4180
4181
4182
4183
4184

(D) Except as provided in division (G) of this section, a prisoner serving a term of imprisonment who is described in division (A) of section 2967.021 of the Revised Code becomes eligible for parole as described in that division or, if the prisoner is serving a definite term of imprisonment, shall be 4185
4186
4187
4188
4189

released as described in that division. 4190

(E) A prisoner serving a sentence of life imprisonment 4191
without parole imposed pursuant to section 2907.02 or 2929.02 or 4192
former section 2929.03 or 2929.06 of the Revised Code is not 4193
eligible for parole and shall be imprisoned until death. 4194

(F) A prisoner serving a stated prison term shall be released 4195
in accordance with section 2967.28 of the Revised Code. 4196

(G) A prisoner serving a prison term or term of life 4197
imprisonment without parole imposed pursuant to section 2971.03 of 4198
the Revised Code never becomes eligible for parole during that 4199
term of imprisonment. 4200

Sec. 2967.193. (A) Except as provided in division (C) of this 4201
section or in section 2929.13, 2929.14, or 2967.13 of the Revised 4202
Code, a person confined in a state correctional institution may 4203
earn one day of credit as a deduction from the person's stated 4204
prison term for each full month during which the person 4205
productively participates in an education program, vocational 4206
training, employment in prison industries, treatment for substance 4207
abuse, treatment as a sex offender, or any other constructive 4208
program developed by the department with specific standards for 4209
performance by prisoners. At the end of each calendar month in 4210
which a prisoner productively participates in a program or 4211
activity listed in this division, the department of rehabilitation 4212
and correction shall deduct one day from the date on which the 4213
prisoner's stated prison term will expire. If the prisoner 4214
violates prison rules, the department may deny the prisoner a 4215
credit that otherwise could have been awarded to the prisoner or 4216
may withdraw one or more credits previously earned by the 4217
prisoner. 4218

If a prisoner is released before the expiration of the 4219
prisoner's stated prison term by reason of credit earned under 4220

this section, the department shall retain control of the prisoner 4221
by means of an appropriate post-release control sanction imposed 4222
by the parole board until the end of the stated prison term if the 4223
parole board imposes a post-release control sanction pursuant to 4224
section 2967.28 of the Revised Code. If the parole board is not 4225
required to impose a post-release control sanction under section 4226
2967.28 of the Revised Code, the parole board may elect not to 4227
impose a post-release control sanction on the prisoner. 4228

(B) The department of rehabilitation and correction shall 4229
adopt rules that specify the programs or activities for which 4230
credit may be earned under this section, the criteria for 4231
determining productive participation in the programs or activities 4232
and for awarding credit, and the criteria for denying or 4233
withdrawing previously earned credit as a result of a violation of 4234
prison rules. 4235

(C) No person who is serving a sentence of life imprisonment 4236
without parole imposed pursuant to section 2929.02 or former 4237
section 2929.03 or 2929.06 of the Revised Code or who is serving a 4238
prison term or a term of life imprisonment without parole imposed 4239
pursuant to section 2971.03 of the Revised Code shall be awarded 4240
any days of credit under division (A) of this section. 4241

Sec. 2971.03. (A) Notwithstanding divisions (A), (B), (C), 4242
and (F) of section 2929.14, section 2929.02, ~~2929.03, 2929.06, or~~ 4243
2929.13, or another section of the Revised Code, other than 4244
divisions (D) and (E) of section 2929.14 of the Revised Code, that 4245
authorizes or requires a specified prison term or a mandatory 4246
prison term for a person who is convicted of or pleads guilty to a 4247
felony or that specifies the manner and place of service of a 4248
prison term or term of imprisonment, the court shall impose a 4249
sentence upon a person who is convicted of or pleads guilty to a 4250
violent sex offense and who also is convicted of or pleads guilty 4251

to a sexually violent predator specification that was included in 4252
the indictment, count in the indictment, or information charging 4253
that offense, and upon a person who is convicted of or pleads 4254
guilty to a designated homicide, assault, or kidnapping offense 4255
and also is convicted of or pleads guilty to both a sexual 4256
motivation specification and a sexually violent predator 4257
specification that were included in the indictment, count in the 4258
indictment, or information charging that offense, as follows: 4259

(1) If the offense for which the sentence is being imposed is 4260
aggravated murder ~~and if the court does not impose upon the~~ 4261
~~offender a sentence of death~~, it shall impose upon the offender a 4262
term of life imprisonment without parole. ~~If the court sentences~~ 4263
~~the offender to death and the sentence of death is vacated,~~ 4264
~~overturned, or otherwise set aside, the court shall impose upon~~ 4265
~~the offender a term of life imprisonment without parole.~~ 4266

(2) If the offense for which the sentence is being imposed is 4267
murder; or if the offense is rape committed in violation of 4268
division (A)(1)(b) of section 2907.02 of the Revised Code when the 4269
offender purposely compelled the victim to submit by force or 4270
threat of force, when the victim was less than ten years of age, 4271
when the offender previously has been convicted of or pleaded 4272
guilty to either rape committed in violation of that division or a 4273
violation of an existing or former law of this state, another 4274
state, or the United States that is substantially similar to 4275
division (A)(1)(b) of section 2907.02 of the Revised Code, or when 4276
the offender during or immediately after the commission of the 4277
rape caused serious physical harm to the victim; or if the offense 4278
is an offense other than aggravated murder or murder for which a 4279
term of life imprisonment may be imposed, it shall impose upon the 4280
offender a term of life imprisonment without parole. 4281

(3)(a) Except as otherwise provided in division (A)(3)(b), 4282
(c), (d), or (e) or (A)(4) of this section, if the offense for 4283

which the sentence is being imposed is an offense other than 4284
aggravated murder, murder, or rape and other than an offense for 4285
which a term of life imprisonment may be imposed, it shall impose 4286
an indefinite prison term consisting of a minimum term fixed by 4287
the court from among the range of terms available as a definite 4288
term for the offense, but not less than two years, and a maximum 4289
term of life imprisonment. 4290

(b) Except as otherwise provided in division (A)(4) of this 4291
section, if the offense for which the sentence is being imposed is 4292
kidnapping that is a felony of the first degree, it shall impose 4293
an indefinite prison term as follows: 4294

(i) If the kidnapping is committed on or after ~~the effective~~ 4295
~~date of this amendment~~ January 1, 2008, and the victim of the 4296
offense is less than thirteen years of age, except as otherwise 4297
provided in this division, it shall impose an indefinite prison 4298
term consisting of a minimum term of fifteen years and a maximum 4299
term of life imprisonment. If the kidnapping is committed on or 4300
after ~~the effective date of this amendment~~ January 1, 2008, the 4301
victim of the offense is less than thirteen years of age, and the 4302
offender released the victim in a safe place unharmed, it shall 4303
impose an indefinite prison term consisting of a minimum term of 4304
ten years and a maximum term of life imprisonment. 4305

(ii) If the kidnapping is committed prior to ~~the effective~~ 4306
~~date of this amendment~~ January 1, 2008, or division (A)(3)(b)(i) 4307
of this section does not apply, it shall impose an indefinite term 4308
consisting of a minimum term fixed by the court that is not less 4309
than ten years and a maximum term of life imprisonment. 4310

(c) Except as otherwise provided in division (A)(4) of this 4311
section, if the offense for which the sentence is being imposed is 4312
kidnapping that is a felony of the second degree, it shall impose 4313
an indefinite prison term consisting of a minimum term fixed by 4314
the court that is not less than eight years, and a maximum term of 4315

life imprisonment. 4316

(d) Except as otherwise provided in division (A)(4) of this 4317
section, if the offense for which the sentence is being imposed is 4318
rape for which a term of life imprisonment is not imposed under 4319
division (A)(2) of this section or division (B) of section 2907.02 4320
of the Revised Code, it shall impose an indefinite prison term as 4321
follows: 4322

(i) If the rape is committed on or after January 2, 2007, in 4323
violation of division (A)(1)(b) of section 2907.02 of the Revised 4324
Code, it shall impose an indefinite prison term consisting of a 4325
minimum term of twenty-five years and a maximum term of life 4326
imprisonment. 4327

(ii) If the rape is committed prior to January 2, 2007, or 4328
the rape is committed on or after January 2, 2007, other than in 4329
violation of division (A)(1)(b) of section 2907.02 of the Revised 4330
Code, it shall impose an indefinite prison term consisting of a 4331
minimum term fixed by the court that is not less than ten years, 4332
and a maximum term of life imprisonment. 4333

(e) Except as otherwise provided in division (A)(4) of this 4334
section, if the offense for which sentence is being imposed is 4335
attempted rape, it shall impose an indefinite prison term as 4336
follows: 4337

(i) Except as otherwise provided in division (A)(3)(e)(ii), 4338
(iii), or (iv) of this section, it shall impose an indefinite 4339
prison term pursuant to division (A)(3)(a) of this section. 4340

(ii) If the attempted rape for which sentence is being 4341
imposed was committed on or after January 2, 2007, and if the 4342
offender also is convicted of or pleads guilty to a specification 4343
of the type described in section 2941.1418 of the Revised Code, it 4344
shall impose an indefinite prison term consisting of a minimum 4345
term of five years and a maximum term of twenty-five years. 4346

(iii) If the attempted rape for which sentence is being 4347
imposed was committed on or after January 2, 2007, and if the 4348
offender also is convicted of or pleads guilty to a specification 4349
of the type described in section 2941.1419 of the Revised Code, it 4350
shall impose an indefinite prison term consisting of a minimum 4351
term of ten years and a maximum of life imprisonment. 4352

(iv) If the attempted rape for which sentence is being 4353
imposed was committed on or after January 2, 2007, and if the 4354
offender also is convicted of or pleads guilty to a specification 4355
of the type described in section 2941.1420 of the Revised Code, it 4356
shall impose an indefinite prison term consisting of a minimum 4357
term of fifteen years and a maximum of life imprisonment. 4358

(4) For any offense for which the sentence is being imposed, 4359
if the offender previously has been convicted of or pleaded guilty 4360
to a violent sex offense and also to a sexually violent predator 4361
specification that was included in the indictment, count in the 4362
indictment, or information charging that offense, or previously 4363
has been convicted of or pleaded guilty to a designated homicide, 4364
assault, or kidnapping offense and also to both a sexual 4365
motivation specification and a sexually violent predator 4366
specification that were included in the indictment, count in the 4367
indictment, or information charging that offense, it shall impose 4368
upon the offender a term of life imprisonment without parole. 4369

(B)(1) Notwithstanding section 2929.13, division (A), (B), 4370
(C), or (F) of section 2929.14, or another section of the Revised 4371
Code other than division (B) of section 2907.02 or divisions (D) 4372
and (E) of section 2929.14 of the Revised Code that authorizes or 4373
requires a specified prison term or a mandatory prison term for a 4374
person who is convicted of or pleads guilty to a felony or that 4375
specifies the manner and place of service of a prison term or term 4376
of imprisonment, if a person is convicted of or pleads guilty to a 4377
violation of division (A)(1)(b) of section 2907.02 of the Revised 4378

Code committed on or after January 2, 2007, if division (A) of 4379
this section does not apply regarding the person, and if the court 4380
does not impose a sentence of life without parole when authorized 4381
pursuant to division (B) of section 2907.02 of the Revised Code, 4382
the court shall impose upon the person an indefinite prison term 4383
consisting of one of the following: 4384

(a) Except as otherwise required in division (B)(1)(b) or (c) 4385
of this section, a minimum term of ten years and a maximum term of 4386
life imprisonment. 4387

(b) If the victim was less than ten years of age, a minimum 4388
term of fifteen years and a maximum of life imprisonment. 4389

(c) If the offender purposely compels the victim to submit by 4390
force or threat of force, or if the offender previously has been 4391
convicted of or pleaded guilty to violating division (A)(1)(b) of 4392
section 2907.02 of the Revised Code or to violating an existing or 4393
former law of this state, another state, or the United States that 4394
is substantially similar to division (A)(1)(b) of that section, or 4395
if the offender during or immediately after the commission of the 4396
offense caused serious physical harm to the victim, a minimum term 4397
of twenty-five years and a maximum of life imprisonment. 4398

(2) Notwithstanding section 2929.13, division (A), (B), (C), 4399
or (F) of section 2929.14, or another section of the Revised Code 4400
other than divisions (D) and (E) of section 2929.14 of the Revised 4401
Code that authorizes or requires a specified prison term or a 4402
mandatory prison term for a person who is convicted of or pleads 4403
guilty to a felony or that specifies the manner and place of 4404
service of a prison term or term of imprisonment and except as 4405
otherwise provided in division (B) of section 2907.02 of the 4406
Revised Code, if a person is convicted of or pleads guilty to 4407
attempted rape committed on or after January 2, 2007, and if 4408
division (A) of this section does not apply regarding the person, 4409
the court shall impose upon the person an indefinite prison term 4410

consisting of one of the following: 4411

(a) If the person also is convicted of or pleads guilty to a 4412
specification of the type described in section 2941.1418 of the 4413
Revised Code, the court shall impose upon the person an indefinite 4414
prison term consisting of a minimum term of five years and a 4415
maximum term of twenty-five years. 4416

(b) If the person also is convicted of or pleads guilty to a 4417
specification of the type described in section 2941.1419 of the 4418
Revised Code, the court shall impose upon the person an indefinite 4419
prison term consisting of a minimum term of ten years and a 4420
maximum term of life imprisonment. 4421

(c) If the person also is convicted of or pleads guilty to a 4422
specification of the type described in section 2941.1420 of the 4423
Revised Code, the court shall impose upon the person an indefinite 4424
prison term consisting of a minimum term of fifteen years and a 4425
maximum term of life imprisonment. 4426

(3) Notwithstanding section 2929.13, division (A), (B), (C), 4427
or (F) of section 2929.14, or another section of the Revised Code 4428
other than divisions (D) and (E) of section 2929.14 of the Revised 4429
Code that authorizes or requires a specified prison term or a 4430
mandatory prison term for a person who is convicted of or pleads 4431
guilty to a felony or that specifies the manner and place of 4432
service of a prison term or term of imprisonment, if a person is 4433
convicted of or pleads guilty to an offense described in division 4434
(B)(3)(a), (b), (c), or (d) of this section committed on or after 4435
~~the effective date of this amendment~~ January 1, 2008, if the 4436
person also is convicted of or pleads guilty to a sexual 4437
motivation specification that was included in the indictment, 4438
count in the indictment, or information charging that offense, and 4439
if division (A) of this section does not apply regarding the 4440
person, the court shall impose upon the person an indefinite 4441
prison term consisting of one of the following: 4442

(a) An indefinite prison term consisting of a minimum of ten 4443
years and a maximum term of life imprisonment if the offense for 4444
which the sentence is being imposed is kidnapping, the victim of 4445
the offense is less than thirteen years of age, and the offender 4446
released the victim in a safe place unharmed; 4447

(b) An indefinite prison term consisting of a minimum of 4448
fifteen years and a maximum term of life imprisonment if the 4449
offense for which the sentence is being imposed is kidnapping when 4450
the victim of the offense is less than thirteen years of age and 4451
division (B)(3)(a) of this section does not apply; 4452

(c) An indefinite term consisting of a minimum of thirty 4453
years and a maximum term of life imprisonment if the offense for 4454
which the sentence is being imposed is aggravated murder, when the 4455
victim of the offense is less than thirteen years of age, a 4456
sentence of ~~death or~~ life imprisonment without parole is not 4457
imposed for the offense, and division ~~(A)(2)(b)(ii) of section~~ 4458
~~2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii),~~ 4459
~~(D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or~~ 4460
~~division (A) or (B)(C) of section 2929.06 2929.02~~ of the Revised 4461
Code requires that the sentence for the offense be imposed 4462
pursuant to this division; 4463

(d) An indefinite prison term consisting of a minimum of 4464
thirty years and a maximum term of life imprisonment if the 4465
offense for which the sentence is being imposed is murder when the 4466
victim of the offense is less than thirteen years of age. 4467

(C)(1) If the offender is sentenced to a prison term pursuant 4468
to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or 4469
(c), or (B)(3)(a), (b), (c), or (d) of this section, the parole 4470
board shall have control over the offender's service of the term 4471
during the entire term unless the parole board terminates its 4472
control in accordance with section 2971.04 of the Revised Code. 4473

(2) Except as provided in division (C)(3) of this section, an offender sentenced to a prison term or term of life imprisonment without parole pursuant to division (A) of this section shall serve the entire prison term or term of life imprisonment in a state correctional institution. The offender is not eligible for judicial release under section 2929.20 of the Revised Code.

(3) For a prison term imposed pursuant to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of this section, the court, in accordance with section 2971.05 of the Revised Code, may terminate the prison term or modify the requirement that the offender serve the entire term in a state correctional institution if all of the following apply:

(a) The offender has served at least the minimum term imposed as part of that prison term.

(b) The parole board, pursuant to section 2971.04 of the Revised Code, has terminated its control over the offender's service of that prison term.

(c) The court has held a hearing and found, by clear and convincing evidence, one of the following:

(i) In the case of termination of the prison term, that the offender is unlikely to commit a sexually violent offense in the future;

(ii) In the case of modification of the requirement, that the offender does not represent a substantial risk of physical harm to others.

(4) An offender who has been sentenced to a term of life imprisonment without parole pursuant to division (A)(1), (2), or (4) of this section shall not be released from the term of life imprisonment or be permitted to serve a portion of it in a place other than a state correctional institution.

(D) If a court sentences an offender to a prison term or term of life imprisonment without parole pursuant to division (A) of this section and the court also imposes on the offender one or more additional prison terms pursuant to division (D) of section 2929.14 of the Revised Code, all of the additional prison terms shall be served consecutively with, and prior to, the prison term or term of life imprisonment without parole imposed upon the offender pursuant to division (A) of this section.

(E) If the offender is convicted of or pleads guilty to two or more offenses for which a prison term or term of life imprisonment without parole is required to be imposed pursuant to division (A) of this section, divisions (A) to (D) of this section shall be applied for each offense. All minimum terms imposed upon the offender pursuant to division (A)(3) or (B) of this section for those offenses shall be aggregated and served consecutively, as if they were a single minimum term imposed under that division.

(F)(1) If an offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that offense, the conviction of or plea of guilty to the offense and the sexually violent predator specification automatically classifies the offender as a tier III sex offender/child-victim offender for purposes of Chapter 2950. of the Revised Code.

(2) If an offender is convicted of or pleads guilty to committing on or after January 2, 2007, a violation of division (A)(1)(b) of section 2907.02 of the Revised Code and either the

offender is sentenced under section 2971.03 of the Revised Code or 4536
a sentence of life without parole is imposed under division (B) of 4537
section 2907.02 of the Revised Code, the conviction of or plea of 4538
guilty to the offense automatically classifies the offender as a 4539
tier III sex offender/child-victim offender for purposes of 4540
Chapter 2950. of the Revised Code. 4541

(3) If a person is convicted of or pleads guilty to 4542
committing on or after January 2, 2007, attempted rape and also is 4543
convicted of or pleads guilty to a specification of the type 4544
described in section 2941.1418, 2941.1419, or 2941.1420 of the 4545
Revised Code, the conviction of or plea of guilty to the offense 4546
and the specification automatically classify the offender as a 4547
tier III sex offender/child-victim offender for purposes of 4548
Chapter 2950. of the Revised Code. 4549

(4) If a person is convicted of or pleads guilty to one of 4550
the offenses described in division (B)(3)(a), (b), (c), or (d) of 4551
this section and a sexual motivation specification related to the 4552
offense and the victim of the offense is less than thirteen years 4553
of age, the conviction of or plea of guilty to the offense 4554
automatically classifies the offender as a tier III sex 4555
offender/child-victim offender for purposes of Chapter 2950. of 4556
the Revised Code. 4557

Sec. 2971.07. (A) This chapter does not apply to any offender 4558
unless the offender is one of the following: 4559

(1) The offender is convicted of or pleads guilty to a 4560
violent sex offense and also is convicted of or pleads guilty to a 4561
sexually violent predator specification that was included in the 4562
indictment, count in the indictment, or information charging that 4563
offense. 4564

(2) The offender is convicted of or pleads guilty to a 4565
designated homicide, assault, or kidnapping offense and also is 4566

convicted of or pleads guilty to both a sexual motivation 4567
specification and a sexually violent predator specification that 4568
were included in the indictment, count in the indictment, or 4569
information charging that offense. 4570

(3) The offender is convicted of or pleads guilty to a 4571
violation of division (A)(1)(b) of section 2907.02 of the Revised 4572
Code committed on or after January 2, 2007, and the court does not 4573
sentence the offender to a term of life without parole pursuant to 4574
division (B) of section 2907.02 of the Revised Code or division 4575
(B) of that section prohibits the court from sentencing the 4576
offender pursuant to section 2971.03 of the Revised Code. 4577

(4) The offender is convicted of or pleads guilty to 4578
attempted rape committed on or after January 2, 2007, and also is 4579
convicted of or pleads guilty to a specification of the type 4580
described in section 2941.1418, 2941.1419, or 2941.1420 of the 4581
Revised Code. 4582

(5) The offender is convicted of or pleads guilty to a 4583
violation of section 2905.01 of the Revised Code and also is 4584
convicted of or pleads guilty to a sexual motivation specification 4585
that was included in the indictment, count in the indictment, or 4586
information charging that offense, and that section requires a 4587
court to sentence the offender pursuant to section 2971.03 of the 4588
Revised Code. 4589

(6) The offender is convicted of or pleads guilty to 4590
aggravated murder and also is convicted of or pleads guilty to a 4591
sexual motivation specification that was included in the 4592
indictment, count in the indictment, or information charging that 4593
offense, and ~~division (A)(2)(b)(ii) of section 2929.022, division~~ 4594
~~(A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv),~~ 4595
~~or (E)(1)(d) of section 2929.03, or division (A) or (B)(C) of~~ 4596
section ~~2929.06~~ 2929.02 of the Revised Code requires a court to 4597
sentence the offender pursuant to division (B)(3) of section 4598

2971.03 of the Revised Code. 4599

(7) The offender is convicted of or pleads guilty to murder 4600
and also is convicted of or pleads guilty to a sexual motivation 4601
specification that was included in the indictment, count in the 4602
indictment, or information charging that offense, and division 4603
~~(B)(2)~~(C) of section 2929.02 of the Revised Code requires a court 4604
to sentence the offender pursuant to section 2971.03 of the 4605
Revised Code. 4606

(B) This chapter does not limit or affect a court in imposing 4607
upon an offender described in divisions (A)(1) to (9) of this 4608
section any financial sanction under section 2929.18 or any other 4609
section of the Revised Code, or, except as specifically provided 4610
in this chapter, any other sanction that is authorized or required 4611
for the offense or violation by any other provision of law. 4612

(C) If an offender is sentenced to a prison term under 4613
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 4614
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 4615
Code and if, pursuant to section 2971.05 of the Revised Code, the 4616
court modifies the requirement that the offender serve the entire 4617
prison term in a state correctional institution or places the 4618
offender on conditional release that involves the placement of the 4619
offender under the supervision of the adult parole authority, 4620
authorized field officers of the authority who are engaged within 4621
the scope of their supervisory duties or responsibilities may 4622
search, with or without a warrant, the person of the offender, the 4623
place of residence of the offender, and a motor vehicle, another 4624
item of tangible or intangible personal property, or any other 4625
real property in which the offender has the express or implied 4626
permission of a person with a right, title, or interest to use, 4627
occupy, or possess if the field officer has reasonable grounds to 4628
believe that the offender is not abiding by the law or otherwise 4629
is not complying with the terms and conditions of the offender's 4630

modification or release. The authority shall provide each offender 4631
with a written notice that informs the offender that authorized 4632
field officers of the authority who are engaged within the scope 4633
of their supervisory duties or responsibilities may conduct those 4634
types of searches during the period of the modification or release 4635
if they have reasonable grounds to believe that the offender is 4636
not abiding by the law or otherwise is not complying with the 4637
terms and conditions of the offender's modification or release. 4638

Sec. 5120.61. (A)(1) Not later than ninety days after January 4639
1, 1997, the department of rehabilitation and correction shall 4640
adopt standards that it will use under this section to assess the 4641
following criminal offenders and may periodically revise the 4642
standards: 4643

(a) A criminal offender who is convicted of or pleads guilty 4644
to a violent sex offense or designated homicide, assault, or 4645
kidnapping offense and is adjudicated a sexually violent predator 4646
in relation to that offense; 4647

(b) A criminal offender who is convicted of or pleads guilty 4648
to a violation of division (A)(1)(b) of section 2907.02 of the 4649
Revised Code committed on or after January 2, 2007, and either who 4650
is sentenced under section 2971.03 of the Revised Code or upon 4651
whom a sentence of life without parole is imposed under division 4652
(B) of section 2907.02 of the Revised Code; 4653

(c) A criminal offender who is convicted of or pleads guilty 4654
to attempted rape committed on or after January 2, 2007, and a 4655
specification of the type described in section 2941.1418, 4656
2941.1419, or 2941.1420 of the Revised Code; 4657

(d) A criminal offender who is convicted of or pleads guilty 4658
to a violation of section 2905.01 of the Revised Code and also is 4659
convicted of or pleads guilty to a sexual motivation specification 4660
that was included in the indictment, count in the indictment, or 4661

information charging that offense, and who is sentenced pursuant 4662
to section 2971.03 of the Revised Code; 4663

(e) A criminal offender who is convicted of or pleads guilty 4664
to aggravated murder and also is convicted of or pleads guilty to 4665
a sexual motivation specification that was included in the 4666
indictment, count in the indictment, or information charging that 4667
offense, and who pursuant to division ~~(A)(2)(b)(ii) of section~~ 4668
~~2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii),~~ 4669
~~(D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or~~ 4670
~~division (A) or (B)(C) of section 2929.06~~ 2929.02 of the Revised 4671
Code is sentenced pursuant to division (B)(3) of section 2971.03 4672
of the Revised Code; 4673

(f) A criminal offender who is convicted of or pleads guilty 4674
to murder and also is convicted of or pleads guilty to a sexual 4675
motivation specification that was included in the indictment, 4676
count in the indictment, or information charging that offense, and 4677
who pursuant to division ~~(B)(2)(C)(1)~~ of section 2929.02 of the 4678
Revised Code is sentenced pursuant to section 2971.03 of the 4679
Revised Code. 4680

(2) When the department is requested by the parole board or 4681
the court to provide a risk assessment report of the offender 4682
under section 2971.04 or 2971.05 of the Revised Code, it shall 4683
assess the offender and complete the assessment as soon as 4684
possible after the offender has commenced serving the prison term 4685
or term of life imprisonment without parole imposed under division 4686
(A), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), 4687
(b), (c), or (d) of section 2971.03 of the Revised Code. 4688
Thereafter, the department shall update a risk assessment report 4689
pertaining to an offender as follows: 4690

(a) Periodically, in the discretion of the department, 4691
provided that each report shall be updated no later than two years 4692
after its initial preparation or most recent update; 4693

(b) Upon the request of the parole board for use in 4694
determining pursuant to section 2971.04 of the Revised Code 4695
whether it should terminate its control over an offender's service 4696
of a prison term imposed upon the offender under division (A)(3), 4697
(B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), 4698
(c), or (d) of section 2971.03 of the Revised Code; 4699

(c) Upon the request of the court. 4700

(3) After the department of rehabilitation and correction 4701
assesses an offender pursuant to division (A)(2) of this section, 4702
it shall prepare a report that contains its risk assessment for 4703
the offender or, if a risk assessment report previously has been 4704
prepared, it shall update the risk assessment report. 4705

(4) The department of rehabilitation and correction shall 4706
provide each risk assessment report that it prepares or updates 4707
pursuant to this section regarding an offender to all of the 4708
following: 4709

(a) The parole board for its use in determining pursuant to 4710
section 2971.04 of the Revised Code whether it should terminate 4711
its control over an offender's service of a prison term imposed 4712
upon the offender under division (A)(3), (B)(1)(a), (b), or (c), 4713
(B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 4714
2971.03 of the Revised Code, if the parole board has not 4715
terminated its control over the offender; 4716

(b) The court for use in determining, pursuant to section 4717
2971.05 of the Revised Code, whether to modify the requirement 4718
that the offender serve the entire prison term imposed upon the 4719
offender under division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), 4720
(b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of 4721
the Revised Code in a state correctional institution, whether to 4722
revise any modification previously made, or whether to terminate 4723
the prison term; 4724

(c) The prosecuting attorney who prosecuted the case, or the successor in office to that prosecuting attorney;	4725 4726
(d) The offender.	4727
(B) When the department of rehabilitation and correction provides a risk assessment report regarding an offender to the parole board or court pursuant to division (A)(4)(a) or (b) of this section, the department, prior to the parole board's or court's hearing, also shall provide to the offender or to the offender's attorney of record a copy of the report and a copy of any other relevant documents the department possesses regarding the offender that the department does not consider to be confidential.	4728 4729 4730 4731 4732 4733 4734 4735 4736
(C) As used in this section:	4737
(1) "Adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is "adjudicated a sexually violent predator" in the same manner and the same circumstances as are described in that section.	4738 4739 4740 4741
(2) "Designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code.	4742 4743 4744
Sec. 5919.16. (A) Commissioned and warrant officers in the Ohio national guard shall be discharged by the adjutant general upon either of the following:	4745 4746 4747
(1) The officer's resignation;	4748
(2) Approval of a board's recommendation for withdrawal of federal recognition by the chief of the national guard bureau.	4749 4750
(B) An officer also may be discharged under any of the following circumstances:	4751 4752
(1) Pursuant to other federal regulations;	4753

(2) If absent without leave for three months, upon 4754
recommendation of an efficiency board; 4755

(3) Pursuant to sentence by court-martial; 4756

(4) If the officer has been convicted of a crime classified 4757
as a felony as described in division (C) or (D) ~~or (E)~~ of section 4758
2901.02 of the Revised Code. 4759

Section 2. That existing sections 120.03, 120.06, 120.14, 4760
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 1901.183, 4761
2152.13, 2152.67, 2301.20, 2313.37, 2701.07, 2901.02, 2909.24, 4762
2929.02, 2929.13, 2929.14, 2941.14, 2941.148, 2941.401, 2941.43, 4763
2941.51, 2945.06, 2945.21, 2945.25, 2945.38, 2949.02, 2949.03, 4764
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 2953.21, 2953.23, 4765
2953.71, 2953.72, 2953.81, 2967.05, 2967.13, 2967.193, 2971.03, 4766
2971.07, 5120.61, and 5919.16 and sections 109.97, 120.35, 4767
2929.021, 2929.022, 2929.023, 2929.024, 2929.03, 2929.04, 2929.05, 4768
2929.06, 2947.08, 2949.21, 2949.22, 2949.24, 2949.25, 2949.26, 4769
2949.27, 2949.28, 2949.29, 2949.31, and 2967.08 of the Revised 4770
Code are hereby repealed. 4771

Section 3. (A) An offender whose sentence of death has been 4772
set aside, nullified, or vacated pursuant to section 2929.06 of 4773
the Revised Code as it existed immediately before the effective 4774
date of this act but who has not been resentenced under that 4775
section as of the effective date of this act shall be resentenced 4776
in accordance with that section as it existed immediately before 4777
the effective date of this act. 4778

(B) An offender who was sentenced to death before the 4779
effective date of this act shall have the same right to 4780
postconviction DNA testing as the offender had under sections 4781
2953.71 to 2953.81 of the Revised Code as they existed immediately 4782
before the effective date of this act or as they may hereafter be 4783

amended. 4784

(C) All reports and payments relating to capital cases that 4785
were required to be made under any provision of Chapter 120. or 4786
section 109.97 of the Revised Code as that provision existed 4787
immediately before the effective date of this act shall be made 4788
for the current calendar or fiscal year, as applicable, in 4789
accordance with that provision as it existed immediately before 4790
the effective date of this act. 4791

Section 4. This act is hereby declared to be an emergency 4792
measure necessary for the immediate preservation of the public 4793
peace, health, and safety. The reason for such necessity is to 4794
preserve life by preventing the execution of death sentences 4795
imposed before the effective date of this act but not yet carried 4796
out. Therefore, this act shall go into immediate effect. 4797

Section 5. Section 2929.14 of the Revised Code is presented 4798
in this act as a composite of the section as amended by both Am. 4799
Sub. H.B. 130 and Am. Sub. H.B. 280 of the 127th General Assembly. 4800
Section 2953.07 of the Revised Code is presented in this act as a 4801
composite of the section as amended by both Am. Sub. S.B. 2 and 4802
Am. Sub. S.B. 4 of the 121st General Assembly. Section 2967.193 of 4803
the Revised Code is presented in this act as a composite of the 4804
section as amended by both Am. Sub. S.B. 269 and Am. Sub. H.B. 180 4805
of the 121st General Assembly. The General Assembly, applying the 4806
principle stated in division (B) of section 1.52 of the Revised 4807
Code that amendments are to be harmonized if reasonably capable of 4808
simultaneous operation, finds that the composites are the 4809
resulting versions of these sections in effect prior to the 4810
effective dates of the sections as presented in this act. 4811