

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 332

Senator Kearney

Cosponsor: Senator Turner

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A B I L L

To amend sections 2152.17, 2152.72, 2929.14, and 1
5103.0319 and to enact section 2941.1424 of the 2
Revised Code to require the imposition of a 3
ten-year prison term upon a person who discharges 4
a firearm while committing an offense and causes 5
injury or death to a child. 6

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

Section 1. That sections 2152.17, 2152.72, 2929.14, and 7
5103.0319 be amended and section 2941.1424 of the Revised Code be 8
enacted to read as follows: 9

Sec. 2152.17. (A) Subject to division (D) of this section, if 10
a child is adjudicated a delinquent child for committing an act, 11
other than a violation of section 2923.12 of the Revised Code, 12
that would be a felony if committed by an adult and if the court 13
determines that, if the child was an adult, the child would be 14
guilty of a specification of the type set forth in section 15
2941.141, 2941.144, 2941.145, 2941.146, 2941.1412, 2941.1414, ~~or~~ 16
2941.1415, or 2941.1424 of the Revised Code, in addition to any 17
commitment or other disposition the court imposes for the 18
underlying delinquent act, all of the following apply: 19

(1) If the court determines that the child would be guilty of a specification of the type set forth in section 2941.141 of the Revised Code, the court may commit the child to the department of youth services for the specification for a definite period of up to one year.

(2) If the court determines that the child would be guilty of a specification of the type set forth in section 2941.145 of the Revised Code or if the delinquent act is a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and the court determines that the child would be guilty of a specification of the type set forth in section 2941.1415 of the Revised Code, the court shall commit the child to the department of youth services for the specification for a definite period of not less than one and not more than three years, and the court also shall commit the child to the department for the underlying delinquent act under sections 2152.11 to 2152.16 of the Revised Code.

(3) If the court determines that the child would be guilty of a specification of the type set forth in section 2941.144, 2941.146, ~~or 2941.1412,~~ or 2941.1424 of the Revised Code or if the delinquent act is a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and the court determines that the child would be guilty of a specification of the type set forth in section 2941.1414 of the Revised Code, the court shall commit the child to the department of youth services for the specification for a definite period of not less than one and not more than five years, and the court also shall commit the child to the department for the underlying delinquent act under sections 2152.11 to 2152.16 of the Revised Code.

(B)(1) If a child is adjudicated a delinquent child for committing an act, other than a violation of section 2923.12 of the Revised Code, that would be a felony if committed by an adult, if the court determines that the child is complicit in another

person's conduct that is of such a nature that the other person 52
would be guilty of a specification of the type set forth in 53
section 2941.141, 2941.144, 2941.145, or 2941.146 of the Revised 54
Code if the other person was an adult, if the other person's 55
conduct relates to the child's underlying delinquent act, and if 56
the child did not furnish, use, or dispose of any firearm that was 57
involved with the underlying delinquent act or with the other 58
person's specification-related conduct, in addition to any other 59
disposition the court imposes for the underlying delinquent act, 60
the court may commit the child to the department of youth services 61
for the specification for a definite period of not more than one 62
year, subject to division (D)(2) of this section. 63

(2) Except as provided in division (B)(1) of this section, 64
division (A) of this section also applies to a child who is an 65
accomplice regarding a firearm specification of the type set forth 66
in section 2941.1412, 2941.1414, ~~or 2941.1415~~, or 2941.1424 of the 67
Revised Code to the same extent the firearm specifications would 68
apply to an adult accomplice in a criminal proceeding. 69

(C) If a child is adjudicated a delinquent child for 70
committing an act that would be aggravated murder, murder, or a 71
first, second, or third degree felony offense of violence if 72
committed by an adult and if the court determines that, if the 73
child was an adult, the child would be guilty of a specification 74
of the type set forth in section 2941.142 of the Revised Code in 75
relation to the act for which the child was adjudicated a 76
delinquent child, the court shall commit the child for the 77
specification to the legal custody of the department of youth 78
services for institutionalization in a secure facility for a 79
definite period of not less than one and not more than three 80
years, subject to division (D)(2) of this section, and the court 81
also shall commit the child to the department for the underlying 82
delinquent act. 83

(D)(1) If the child is adjudicated a delinquent child for 84
committing an act that would be an offense of violence that is a 85
felony if committed by an adult and is committed to the legal 86
custody of the department of youth services pursuant to division 87
(A)(1) of section 2152.16 of the Revised Code and if the court 88
determines that the child, if the child was an adult, would be 89
guilty of a specification of the type set forth in section 90
2941.1411 of the Revised Code in relation to the act for which the 91
child was adjudicated a delinquent child, the court may commit the 92
child to the custody of the department of youth services for 93
institutionalization in a secure facility for up to two years, 94
subject to division (D)(2) of this section. 95

(2) A court that imposes a period of commitment under 96
division (A) of this section is not precluded from imposing an 97
additional period of commitment under division (C) or (D)(1) of 98
this section, a court that imposes a period of commitment under 99
division (C) of this section is not precluded from imposing an 100
additional period of commitment under division (A) or (D)(1) of 101
this section, and a court that imposes a period of commitment 102
under division (D)(1) of this section is not precluded from 103
imposing an additional period of commitment under division (A) or 104
(C) of this section. 105

(E) The court shall not commit a child to the legal custody 106
of the department of youth services for a specification pursuant 107
to this section for a period that exceeds five years for any one 108
delinquent act. Any commitment imposed pursuant to division (A), 109
(B), (C), or (D)(1) of this section shall be in addition to, and 110
shall be served consecutively with and prior to, a period of 111
commitment ordered under this chapter for the underlying 112
delinquent act, and each commitment imposed pursuant to division 113
(A), (B), (C), or (D)(1) of this section shall be in addition to, 114
and shall be served consecutively with, any other period of 115

commitment imposed under those divisions. If a commitment is 116
imposed under division (A) or (B) of this section and a commitment 117
also is imposed under division (C) of this section, the period 118
imposed under division (A) or (B) of this section shall be served 119
prior to the period imposed under division (C) of this section. 120

In each case in which a court makes a disposition under this 121
section, the court retains control over the commitment for the 122
entire period of the commitment. 123

The total of all the periods of commitment imposed for any 124
specification under this section and for the underlying offense 125
shall not exceed the child's attainment of twenty-one years of 126
age. 127

(F) If a child is adjudicated a delinquent child for 128
committing two or more acts that would be felonies if committed by 129
an adult and if the court entering the delinquent child 130
adjudication orders the commitment of the child for two or more of 131
those acts to the legal custody of the department of youth 132
services for institutionalization in a secure facility pursuant to 133
section 2152.13 or 2152.16 of the Revised Code, the court may 134
order that all of the periods of commitment imposed under those 135
sections for those acts be served consecutively in the legal 136
custody of the department of youth services, provided that those 137
periods of commitment shall be in addition to and commence 138
immediately following the expiration of a period of commitment 139
that the court imposes pursuant to division (A), (B), (C), or 140
(D)(1) of this section. A court shall not commit a delinquent 141
child to the legal custody of the department of youth services 142
under this division for a period that exceeds the child's 143
attainment of twenty-one years of age. 144

Sec. 2152.72. (A) This section applies only to a child who is 145
or previously has been adjudicated a delinquent child for an act 146

to which any of the following applies:	147
(1) The act is a violation of section 2903.01, 2903.02,	148
2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2907.02, 2907.03, or	149
2907.05 of the Revised Code.	150
(2) The act is a violation of section 2923.01 of the Revised	151
Code and involved an attempt to commit aggravated murder or	152
murder.	153
(3) The act would be a felony if committed by an adult, and	154
the court determined that the child, if an adult, would be guilty	155
of a specification found in section 2941.141, 2941.144, or	156
2941.145, <u>or 2941.1424</u> of the Revised Code or in another section	157
of the Revised Code that relates to the possession or use of a	158
firearm during the commission of the act for which the child was	159
adjudicated a delinquent child.	160
(4) The act would be an offense of violence that is a felony	161
if committed by an adult, and the court determined that the child,	162
if an adult, would be guilty of a specification found in section	163
2941.1411 of the Revised Code or in another section of the Revised	164
Code that relates to the wearing or carrying of body armor during	165
the commission of the act for which the child was adjudicated a	166
delinquent child.	167
(B)(1) Except as provided in division (E) of this section, a	168
public children services agency, private child placing agency,	169
private noncustodial agency, or court, the department of youth	170
services, or another private or government entity shall not place	171
a child in a certified foster home or for adoption until it	172
provides the foster caregivers or prospective adoptive parents	173
with all of the following:	174
(a) A written report describing the child's social history;	175
(b) A written report describing all the acts committed by the	176
child the entity knows of that resulted in the child being	177

adjudicated a delinquent child and the disposition made by the court, unless the records pertaining to the acts have been sealed pursuant to section 2151.356 of the Revised Code;

(c) A written report describing any other violent act committed by the child of which the entity is aware;

(d) The substantial and material conclusions and recommendations of any psychiatric or psychological examination conducted on the child or, if no psychological or psychiatric examination of the child is available, the substantial and material conclusions and recommendations of an examination to detect mental and emotional disorders conducted in compliance with the requirements of Chapter 4757. of the Revised Code by an independent social worker, social worker, professional clinical counselor, or professional counselor licensed under that chapter. The entity shall not provide any part of a psychological, psychiatric, or mental and emotional disorder examination to the foster caregivers or prospective adoptive parents other than the substantial and material conclusions.

(2) Notwithstanding sections 2151.356 to 2151.358 of the Revised Code, if records of an adjudication that a child is a delinquent child have been sealed pursuant to those sections and an entity knows the records have been sealed, the entity shall provide the foster caregivers or prospective adoptive parents a written statement that the records of a prior adjudication have been sealed.

(C)(1) The entity that places the child in a certified foster home or for adoption shall conduct a psychological examination of the child unless either of the following applies:

(a) An entity is not required to conduct the examination if an examination was conducted no more than one year prior to the child's placement, and division (C)(1)(b) of this section does not

apply. 209

(b) An entity is not required to conduct the examination if a 210
foster caregiver seeks to adopt the foster caregiver's foster 211
child, and an examination was conducted no more than two years 212
prior to the date the foster caregiver seeks to adopt the child. 213

(2) No later than sixty days after placing the child, the 214
entity shall provide the foster caregiver or prospective adoptive 215
parents a written report detailing the substantial and material 216
conclusions and recommendations of the examination conducted 217
pursuant to this division. 218

(D)(1) Except as provided in divisions (D)(2) and (3) of this 219
section, the expenses of conducting the examinations and preparing 220
the reports and assessment required by division (B) or (C) of this 221
section shall be paid by the entity that places the child in the 222
certified foster home or for adoption. 223

(2) When a juvenile court grants temporary or permanent 224
custody of a child pursuant to any section of the Revised Code, 225
including section 2151.33, 2151.353, 2151.354, or 2152.19 of the 226
Revised Code, to a public children services agency or private 227
child placing agency, the court shall provide the agency the 228
information described in division (B) of this section, pay the 229
expenses of preparing that information, and, if a new examination 230
is required to be conducted, pay the expenses of conducting the 231
examination described in division (C) of this section. On receipt 232
of the information described in division (B) of this section, the 233
agency shall provide to the court written acknowledgment that the 234
agency received the information. The court shall keep the 235
acknowledgment and provide a copy to the agency. On the motion of 236
the agency, the court may terminate the order granting temporary 237
or permanent custody of the child to that agency, if the court 238
does not provide the information described in division (B) of this 239
section. 240

(3) If one of the following entities is placing a child in a certified foster home or for adoption with the assistance of or by contracting with a public children services agency, private child placing agency, or a private noncustodial agency, the entity shall provide the agency with the information described in division (B) of this section, pay the expenses of preparing that information, and, if a new examination is required to be conducted, pay the expenses of conducting the examination described in division (C) of this section:

(a) The department of youth services if the placement is pursuant to any section of the Revised Code including section 2152.22, 5139.06, 5139.07, 5139.38, or 5139.39 of the Revised Code;

(b) A juvenile court with temporary or permanent custody of a child pursuant to section 2151.354 or 2152.19 of the Revised Code;

(c) A public children services agency or private child placing agency with temporary or permanent custody of the child.

The agency receiving the information described in division (B) of this section shall provide the entity described in ~~division~~ divisions (D)(3)(a) to (c) of this section that sent the information written acknowledgment that the agency received the information and provided it to the foster caregivers or prospective adoptive parents. The entity shall keep the acknowledgment and provide a copy to the agency. An entity that places a child in a certified foster home or for adoption with the assistance of or by contracting with an agency remains responsible to provide the information described in division (B) of this section to the foster caregivers or prospective adoptive parents unless the entity receives written acknowledgment that the agency provided the information.

(E) If a child is placed in a certified foster home as a

result of an emergency removal of the child from home pursuant to 272
division (D) of section 2151.31 of the Revised Code, an emergency 273
change in the child's case plan pursuant to division (F)(3) of 274
section 2151.412 of the Revised Code, or an emergency placement by 275
the department of youth services pursuant to this chapter or 276
Chapter 5139. of the Revised Code, the entity that places the 277
child in the certified foster home shall provide the information 278
described in division (B) of this section no later than ninety-six 279
hours after the child is placed in the certified foster home. 280

(F) On receipt of the information described in divisions (B) 281
and (C) of this section, the foster caregiver or prospective 282
adoptive parents shall provide to the entity that places the child 283
in the foster caregiver's or prospective adoptive parents' home a 284
written acknowledgment that the foster caregiver or prospective 285
adoptive parents received the information. The entity shall keep 286
the acknowledgment and provide a copy to the foster caregiver or 287
prospective adoptive parents. 288

(G) No person employed by an entity subject to this section 289
and made responsible by that entity for the child's placement in a 290
certified foster home or for adoption shall fail to provide the 291
foster caregivers or prospective adoptive parents with the 292
information required by divisions (B) and (C) of this section. 293

(H) It is not a violation of any duty of confidentiality 294
provided for in the Revised Code or a code of professional 295
responsibility for a person or government entity to provide the 296
substantial and material conclusions and recommendations of a 297
psychiatric or psychological examination, or an examination to 298
detect mental and emotional disorders, in accordance with division 299
(B)(1)(d) or (C) of this section. 300

(I) As used in this section: 301

(1) "Body armor" has the same meaning as in section 2941.1411 302

of the Revised Code. 303

(2) "Firearm" has the same meaning as in section 2923.11 of 304
the Revised Code. 305

Sec. 2929.14. (A) Except as provided in division (B)(1), 306
(B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), 307
(E), (G), (H), or (J) of this section or in division (D)(6) of 308
section 2919.25 of the Revised Code and except in relation to an 309
offense for which a sentence of death or life imprisonment is to 310
be imposed, if the court imposing a sentence upon an offender for 311
a felony elects or is required to impose a prison term on the 312
offender pursuant to this chapter, the court shall impose a 313
definite prison term that shall be one of the following: 314

(1) For a felony of the first degree, the prison term shall 315
be three, four, five, six, seven, eight, nine, ten, or eleven 316
years. 317

(2) For a felony of the second degree, the prison term shall 318
be two, three, four, five, six, seven, or eight years. 319

(3)(a) For a felony of the third degree that is a violation 320
of section 2903.06, 2903.08, 2907.03, 2907.04, or 2907.05 of the 321
Revised Code or that is a violation of section 2911.02 or 2911.12 322
of the Revised Code if the offender previously has been convicted 323
of or pleaded guilty in two or more separate proceedings to two or 324
more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 325
of the Revised Code, the prison term shall be twelve, eighteen, 326
twenty-four, thirty, thirty-six, forty-two, forty-eight, 327
fifty-four, or sixty months. 328

(b) For a felony of the third degree that is not an offense 329
for which division (A)(3)(a) of this section applies, the prison 330
term shall be nine, twelve, eighteen, twenty-four, thirty, or 331
thirty-six months. 332

(4) For a felony of the fourth degree, the prison term shall 333
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 334
fourteen, fifteen, sixteen, seventeen, or eighteen months. 335

(5) For a felony of the fifth degree, the prison term shall 336
be six, seven, eight, nine, ten, eleven, or twelve months. 337

(B)(1)(a) Except as provided in division (B)(1)(e) of this 338
section, if an offender who is convicted of or pleads guilty to a 339
felony also is convicted of or pleads guilty to a specification of 340
the type described in section 2941.141, 2941.144, or 2941.145 of 341
the Revised Code, the court shall impose on the offender one of 342
the following prison terms: 343

(i) A prison term of six years if the specification is of the 344
type described in section 2941.144 of the Revised Code that 345
charges the offender with having a firearm that is an automatic 346
firearm or that was equipped with a firearm muffler or silencer on 347
or about the offender's person or under the offender's control 348
while committing the felony; 349

(ii) A prison term of three years if the specification is of 350
the type described in section 2941.145 of the Revised Code that 351
charges the offender with having a firearm on or about the 352
offender's person or under the offender's control while committing 353
the offense and displaying the firearm, brandishing the firearm, 354
indicating that the offender possessed the firearm, or using it to 355
facilitate the offense; 356

(iii) A prison term of one year if the specification is of 357
the type described in section 2941.141 of the Revised Code that 358
charges the offender with having a firearm on or about the 359
offender's person or under the offender's control while committing 360
the felony. 361

(b) If a court imposes a prison term on an offender under 362
division (B)(1)(a) of this section, the prison term shall not be 363

reduced pursuant to section 2967.19, section 2929.20, section 364
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 365
of the Revised Code. Except as provided in division (B)(1)(g) of 366
this section, a court shall not impose more than one prison term 367
on an offender under division (B)(1)(a) of this section for 368
felonies committed as part of the same act or transaction. 369

(c) Except as provided in division (B)(1)(e) of this section, 370
if an offender who is convicted of or pleads guilty to a violation 371
of section 2923.161 of the Revised Code or to a felony that 372
includes, as an essential element, purposely or knowingly causing 373
or attempting to cause the death of or physical harm to another, 374
also is convicted of or pleads guilty to a specification of the 375
type described in section 2941.146 of the Revised Code that 376
charges the offender with committing the offense by discharging a 377
firearm from a motor vehicle other than a manufactured home, the 378
court, after imposing a prison term on the offender for the 379
violation of section 2923.161 of the Revised Code or for the other 380
felony offense under division (A), (B)(2), or (B)(3) of this 381
section, shall impose an additional prison term of five years upon 382
the offender that shall not be reduced pursuant to section 383
2929.20, section 2967.19, section 2967.193, or any other provision 384
of Chapter 2967. or Chapter 5120. of the Revised Code. A court 385
shall not impose more than one additional prison term on an 386
offender under division (B)(1)(c) of this section for felonies 387
committed as part of the same act or transaction. If a court 388
imposes an additional prison term on an offender under division 389
(B)(1)(c) of this section relative to an offense, the court also 390
shall impose a prison term under division (B)(1)(a) of this 391
section relative to the same offense, provided the criteria 392
specified in that division for imposing an additional prison term 393
are satisfied relative to the offender and the offense. 394

(d) If an offender who is convicted of or pleads guilty to an 395

offense of violence that is a felony also is convicted of or 396
pleads guilty to a specification of the type described in section 397
2941.1411 of the Revised Code that charges the offender with 398
wearing or carrying body armor while committing the felony offense 399
of violence, the court shall impose on the offender a prison term 400
of two years. The prison term so imposed, subject to divisions (C) 401
to (I) of section 2967.19 of the Revised Code, shall not be 402
reduced pursuant to section 2929.20, section 2967.19, section 403
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 404
of the Revised Code. A court shall not impose more than one prison 405
term on an offender under division (B)(1)(d) of this section for 406
felonies committed as part of the same act or transaction. If a 407
court imposes an additional prison term under division (B)(1)(a) 408
or (c) of this section, the court is not precluded from imposing 409
an additional prison term under division (B)(1)(d) of this 410
section. 411

(e) The court shall not impose any of the prison terms 412
described in division (B)(1)(a) of this section or any of the 413
additional prison terms described in division (B)(1)(c) of this 414
section upon an offender for a violation of section 2923.12 or 415
2923.123 of the Revised Code. The court shall not impose any of 416
the prison terms described in division (B)(1)(a) or (b) of this 417
section upon an offender for a violation of section 2923.122 that 418
involves a deadly weapon that is a firearm other than a dangerous 419
ordnance, section 2923.16, or section 2923.121 of the Revised 420
Code. The court shall not impose any of the prison terms described 421
in division (B)(1)(a) of this section or any of the additional 422
prison terms described in division (B)(1)(c) of this section upon 423
an offender for a violation of section 2923.13 of the Revised Code 424
unless all of the following apply: 425

(i) The offender previously has been convicted of aggravated 426
murder, murder, or any felony of the first or second degree. 427

(ii) Less than five years have passed since the offender was 428
released from prison or post-release control, whichever is later, 429
for the prior offense. 430

(f) If an offender is convicted of or pleads guilty to a 431
felony that includes, as an essential element, causing or 432
attempting to cause the death of or physical harm to another and 433
also is convicted of or pleads guilty to a specification of the 434
type described in section 2941.1412 of the Revised Code that 435
charges the offender with committing the offense by discharging a 436
firearm at a peace officer as defined in section 2935.01 of the 437
Revised Code or a corrections officer, as defined in section 438
2941.1412 of the Revised Code, the court, after imposing a prison 439
term on the offender for the felony offense under division (A), 440
(B)(2), or (B)(3) of this section, shall impose an additional 441
prison term of seven years upon the offender that shall not be 442
reduced pursuant to section 2929.20, section 2967.19, section 443
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 444
of the Revised Code. If an offender is convicted of or pleads 445
guilty to two or more felonies that include, as an essential 446
element, causing or attempting to cause the death or physical harm 447
to another and also is convicted of or pleads guilty to a 448
specification of the type described under division (B)(1)(f) of 449
this section in connection with two or more of the felonies of 450
which the offender is convicted or to which the offender pleads 451
guilty, the sentencing court shall impose on the offender the 452
prison term specified under division (B)(1)(f) of this section for 453
each of two of the specifications of which the offender is 454
convicted or to which the offender pleads guilty and, in its 455
discretion, also may impose on the offender the prison term 456
specified under that division for any or all of the remaining 457
specifications. If a court imposes an additional prison term on an 458
offender under division (B)(1)(f) of this section relative to an 459
offense, the court shall not impose a prison term under division 460

(B)(1)(a) or (c) of this section relative to the same offense. 461

(g) If an offender is convicted of or pleads guilty to two or 462
more felonies, if one or more of those felonies are aggravated 463
murder, murder, attempted aggravated murder, attempted murder, 464
aggravated robbery, felonious assault, or rape, and if the 465
offender is convicted of or pleads guilty to a specification of 466
the type described under division (B)(1)(a) of this section in 467
connection with two or more of the felonies, the sentencing court 468
shall impose on the offender the prison term specified under 469
division (B)(1)(a) of this section for each of the two most 470
serious specifications of which the offender is convicted or to 471
which the offender pleads guilty and, in its discretion, also may 472
impose on the offender the prison term specified under that 473
division for any or all of the remaining specifications. 474

(2)(a) If division (B)(2)(b) of this section does not apply, 475
the court may impose on an offender, in addition to the longest 476
prison term authorized or required for the offense, an additional 477
definite prison term of one, two, three, four, five, six, seven, 478
eight, nine, or ten years if all of the following criteria are 479
met: 480

(i) The offender is convicted of or pleads guilty to a 481
specification of the type described in section 2941.149 of the 482
Revised Code that the offender is a repeat violent offender. 483

(ii) The offense of which the offender currently is convicted 484
or to which the offender currently pleads guilty is aggravated 485
murder and the court does not impose a sentence of death or life 486
imprisonment without parole, murder, terrorism and the court does 487
not impose a sentence of life imprisonment without parole, any 488
felony of the first degree that is an offense of violence and the 489
court does not impose a sentence of life imprisonment without 490
parole, or any felony of the second degree that is an offense of 491
violence and the trier of fact finds that the offense involved an 492

attempt to cause or a threat to cause serious physical harm to a 493
person or resulted in serious physical harm to a person. 494

(iii) The court imposes the longest prison term for the 495
offense that is not life imprisonment without parole. 496

(iv) The court finds that the prison terms imposed pursuant 497
to division ~~(D)~~(B)(2)(a)(iii) of this section and, if applicable, 498
division ~~(D)~~(B)(1) or (3) of this section are inadequate to punish 499
the offender and protect the public from future crime, because the 500
applicable factors under section 2929.12 of the Revised Code 501
indicating a greater likelihood of recidivism outweigh the 502
applicable factors under that section indicating a lesser 503
likelihood of recidivism. 504

(v) The court finds that the prison terms imposed pursuant to 505
division ~~(D)~~(B)(2)(a)(iii) of this section and, if applicable, 506
division ~~(D)~~(B)(1) or (3) of this section are demeaning to the 507
seriousness of the offense, because one or more of the factors 508
under section 2929.12 of the Revised Code indicating that the 509
offender's conduct is more serious than conduct normally 510
constituting the offense are present, and they outweigh the 511
applicable factors under that section indicating that the 512
offender's conduct is less serious than conduct normally 513
constituting the offense. 514

(b) The court shall impose on an offender the longest prison 515
term authorized or required for the offense and shall impose on 516
the offender an additional definite prison term of one, two, 517
three, four, five, six, seven, eight, nine, or ten years if all of 518
the following criteria are met: 519

(i) The offender is convicted of or pleads guilty to a 520
specification of the type described in section 2941.149 of the 521
Revised Code that the offender is a repeat violent offender. 522

(ii) The offender within the preceding twenty years has been 523

convicted of or pleaded guilty to three or more offenses described 524
in division (CC)(1) of section 2929.01 of the Revised Code, 525
including all offenses described in that division of which the 526
offender is convicted or to which the offender pleads guilty in 527
the current prosecution and all offenses described in that 528
division of which the offender previously has been convicted or to 529
which the offender previously pleaded guilty, whether prosecuted 530
together or separately. 531

(iii) The offense or offenses of which the offender currently 532
is convicted or to which the offender currently pleads guilty is 533
aggravated murder and the court does not impose a sentence of 534
death or life imprisonment without parole, murder, terrorism and 535
the court does not impose a sentence of life imprisonment without 536
parole, any felony of the first degree that is an offense of 537
violence and the court does not impose a sentence of life 538
imprisonment without parole, or any felony of the second degree 539
that is an offense of violence and the trier of fact finds that 540
the offense involved an attempt to cause or a threat to cause 541
serious physical harm to a person or resulted in serious physical 542
harm to a person. 543

(c) For purposes of division (B)(2)(b) of this section, two 544
or more offenses committed at the same time or as part of the same 545
act or event shall be considered one offense, and that one offense 546
shall be the offense with the greatest penalty. 547

(d) A sentence imposed under division (B)(2)(a) or (b) of 548
this section shall not be reduced pursuant to section 2929.20, 549
section 2967.19, or section 2967.193, or any other provision of 550
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 551
shall serve an additional prison term imposed under this section 552
consecutively to and prior to the prison term imposed for the 553
underlying offense. 554

(e) When imposing a sentence pursuant to division (B)(2)(a) 555

or (b) of this section, the court shall state its findings 556
explaining the imposed sentence. 557

(3) Except when an offender commits a violation of section 558
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 559
the violation is life imprisonment or commits a violation of 560
section 2903.02 of the Revised Code, if the offender commits a 561
violation of section 2925.03 or 2925.11 of the Revised Code and 562
that section classifies the offender as a major drug offender and 563
requires the imposition of a ten-year prison term on the offender, 564
if the offender commits a felony violation of section 2925.02, 565
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 566
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 567
division (C) of section 4729.51, or division (J) of section 568
4729.54 of the Revised Code that includes the sale, offer to sell, 569
or possession of a schedule I or II controlled substance, with the 570
exception of marihuana, and the court imposing sentence upon the 571
offender finds that the offender is guilty of a specification of 572
the type described in section 2941.1410 of the Revised Code 573
charging that the offender is a major drug offender, if the court 574
imposing sentence upon an offender for a felony finds that the 575
offender is guilty of corrupt activity with the most serious 576
offense in the pattern of corrupt activity being a felony of the 577
first degree, or if the offender is guilty of an attempted 578
violation of section 2907.02 of the Revised Code and, had the 579
offender completed the violation of section 2907.02 of the Revised 580
Code that was attempted, the offender would have been subject to a 581
sentence of life imprisonment or life imprisonment without parole 582
for the violation of section 2907.02 of the Revised Code, the 583
court shall impose upon the offender for the felony violation a 584
ten-year prison term that, subject to divisions (C) to (I) of 585
section 2967.19 of the Revised Code, cannot be reduced pursuant to 586
section 2929.20, section 2967.19, or any other provision of 587
Chapter 2967. or 5120. of the Revised Code. 588

(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)~~(B)(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 (B)(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 (B)(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 622
incarceration, the court may impose a prison term as described in 623
division (A)(1) of that section. 624

(5) If an offender is convicted of or pleads guilty to a 625
violation of division (A)(1) or (2) of section 2903.06 of the 626
Revised Code and also is convicted of or pleads guilty to a 627
specification of the type described in section 2941.1414 of the 628
Revised Code that charges that the victim of the offense is a 629
peace officer, as defined in section 2935.01 of the Revised Code, 630
or an investigator of the bureau of criminal identification and 631
investigation, as defined in section 2903.11 of the Revised Code, 632
the court shall impose on the offender a prison term of five 633
years. If a court imposes a prison term on an offender under 634
division (B)(5) of this section, the prison term, subject to 635
divisions (C) to (I) of section 2967.19 of the Revised Code, shall 636
not be reduced pursuant to section 2929.20, section 2967.19, 637
section 2967.193, or any other provision of Chapter 2967. or 638
Chapter 5120. of the Revised Code. A court shall not impose more 639
than one prison term on an offender under division (B)(5) of this 640
section for felonies committed as part of the same act. 641

(6) If an offender is convicted of or pleads guilty to a 642
violation of division (A)(1) or (2) of section 2903.06 of the 643
Revised Code and also is convicted of or pleads guilty to a 644
specification of the type described in section 2941.1415 of the 645
Revised Code that charges that the offender previously has been 646
convicted of or pleaded guilty to three or more violations of 647
division (A) or (B) of section 4511.19 of the Revised Code or an 648
equivalent offense, as defined in section 2941.1415 of the Revised 649
Code, or three or more violations of any combination of those 650
divisions and offenses, the court shall impose on the offender a 651
prison term of three years. If a court imposes a prison term on an 652
offender under division (B)(6) of this section, the prison term, 653

subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(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) Subject to divisions (C) to (I) of section 2967.19 of the Revised Code, the prison term imposed under division (B)(7)(a) of this section shall not be reduced pursuant to section 2929.20, section 2967.19, 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 (B)(7)(a) of 685
this section for felonies committed as part of the same act, 686
scheme, or plan. 687

(8) If an offender is convicted of or pleads guilty to a 688
felony violation of section 2903.11, 2903.12, or 2903.13 of the 689
Revised Code and also is convicted of or pleads guilty to a 690
specification of the type described in section 2941.1423 of the 691
Revised Code that charges that the victim of the violation was a 692
woman whom the offender knew was pregnant at the time of the 693
violation, notwithstanding the range of prison terms prescribed in 694
division (A) of this section for felonies of the same degree as 695
the violation, the court shall impose on the offender a mandatory 696
prison term that is either a definite prison term of six months or 697
one of the prison terms prescribed in section 2929.14 of the 698
Revised Code for felonies of the same degree as the violation. 699

(9) If an offender is convicted of or pleads guilty to a 700
felony and also is convicted of or pleads guilty to a 701
specification of the type described in section 2941.1424 of the 702
Revised Code that charges that the offender discharged a firearm 703
while committing the offense and that the discharge of the firearm 704
caused injury or death to a child who was under the age of 705
eighteen years at the time of the commission of the offense, the 706
court shall impose on the offender a prison term of ten years. If 707
a court imposes a prison term on an offender under division (B)(9) 708
of this section, the prison term shall not be reduced pursuant to 709
section 2929.20, section 2967.193, or any other provision of 710
Chapter 2967. or Chapter 5120. of the Revised Code. A court shall 711
not impose more than one prison term on an offender under division 712
(B)(9) of this section for felonies committed as part of the same 713
act. 714

(C)(1)(a) Subject to division (C)(1)(b) of this section, if a 715
mandatory prison term is imposed upon an offender pursuant to 716

division (B)(1)(a) of this section for having a firearm on or 717
about the offender's person or under the offender's control while 718
committing a felony, if a mandatory prison term is imposed upon an 719
offender pursuant to division (B)(1)(c) of this section for 720
committing a felony specified in that division by discharging a 721
firearm from a motor vehicle, or if both types of mandatory prison 722
terms are imposed, the offender shall serve any mandatory prison 723
term imposed under either division consecutively to any other 724
mandatory prison term imposed under either division or under 725
division (B)(1)(d) of this section, consecutively to and prior to 726
any prison term imposed for the underlying felony pursuant to 727
division (A), (B)(2), or (B)(3) of this section or any other 728
section of the Revised Code, and consecutively to any other prison 729
term or mandatory prison term previously or subsequently imposed 730
upon the offender. 731

(b) If a mandatory prison term is imposed upon an offender 732
pursuant to division (B)(1)(d) of this section for wearing or 733
carrying body armor while committing an offense of violence that 734
is a felony, the offender shall serve the mandatory term so 735
imposed consecutively to any other mandatory prison term imposed 736
under that division or under division (B)(1)(a) or (c) of this 737
section, consecutively to and prior to any prison term imposed for 738
the underlying felony under division (A), (B)(2), or (B)(3) of 739
this section or any other section of the Revised Code, and 740
consecutively to any other prison term or mandatory prison term 741
previously or subsequently imposed upon the offender. 742

(c) If a mandatory prison term is imposed upon an offender 743
pursuant to division (B)(1)(f) of this section, the offender shall 744
serve the mandatory prison term so imposed consecutively to and 745
prior to any prison term imposed for the underlying felony under 746
division (A), (B)(2), or (B)(3) of this section or any other 747
section of the Revised Code, and consecutively to any other prison 748

term or mandatory prison term previously or subsequently imposed 749
upon the offender. 750

(d) If a mandatory prison term is imposed upon an offender 751
pursuant to division (B)(7) or (8) of this section, the offender 752
shall serve the mandatory prison term so imposed consecutively to 753
any other mandatory prison term imposed under that division or 754
under any other provision of law and consecutively to any other 755
prison term or mandatory prison term previously or subsequently 756
imposed upon the offender. 757

(2) If an offender who is an inmate in a jail, prison, or 758
other residential detention facility violates section 2917.02, 759
2917.03, or 2921.35 of the Revised Code or division (A)(1) or (2) 760
of section 2921.34 of the Revised Code, if an offender who is 761
under detention at a detention facility commits a felony violation 762
of section 2923.131 of the Revised Code, or if an offender who is 763
an inmate in a jail, prison, or other residential detention 764
facility or is under detention at a detention facility commits 765
another felony while the offender is an escapee in violation of 766
division (A)(1) or (2) of section 2921.34 of the Revised Code, any 767
prison term imposed upon the offender for one of those violations 768
shall be served by the offender consecutively to the prison term 769
or term of imprisonment the offender was serving when the offender 770
committed that offense and to any other prison term previously or 771
subsequently imposed upon the offender. 772

(3) If a prison term is imposed for a violation of division 773
(B) of section 2911.01 of the Revised Code, a violation of 774
division (A) of section 2913.02 of the Revised Code in which the 775
stolen property is a firearm or dangerous ordnance, or a felony 776
violation of division (B) of section 2921.331 of the Revised Code, 777
the offender shall serve that prison term consecutively to any 778
other prison term or mandatory prison term previously or 779
subsequently imposed upon the offender. 780

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

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

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

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (B)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code. If a mandatory prison term is imposed upon an offender pursuant to division (B)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (B)(6) of this section in relation to the same

violation, the offender shall serve the mandatory prison term 813
imposed pursuant to division (B)(5) of this section consecutively 814
to and prior to the mandatory prison term imposed pursuant to 815
division (B)(6) of this section and consecutively to and prior to 816
any prison term imposed for the underlying violation of division 817
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 818
division (A) of this section or section 2929.142 of the Revised 819
Code. 820

(6) If a mandatory prison term is imposed upon an offender 821
pursuant to division (B)(9) of this section, the offender shall 822
serve the mandatory prison term consecutively to and prior to any 823
prison term imposed for the underlying offense. 824

(7) When consecutive prison terms are imposed pursuant to 825
division (C)(1), (2), (3), (4), ~~or (5)~~, or (6) or division (H)(1) 826
or (2) of this section, the term to be served is the aggregate of 827
all of the terms so imposed. 828

(D)(1) If a court imposes a prison term for a felony of the 829
first degree, for a felony of the second degree, for a felony sex 830
offense, or for a felony of the third degree that is not a felony 831
sex offense and in the commission of which the offender caused or 832
threatened to cause physical harm to a person, it shall include in 833
the sentence a requirement that the offender be subject to a 834
period of post-release control after the offender's release from 835
imprisonment, in accordance with that division. If a court imposes 836
a sentence including a prison term of a type described in this 837
division on or after July 11, 2006, the failure of a court to 838
include a post-release control requirement in the sentence 839
pursuant to this division does not negate, limit, or otherwise 840
affect the mandatory period of post-release control that is 841
required for the offender under division (B) of section 2967.28 of 842
the Revised Code. Section 2929.191 of the Revised Code applies if, 843
prior to July 11, 2006, a court imposed a sentence including a 844

prison term of a type described in this division and failed to 845
include in the sentence pursuant to this division a statement 846
regarding post-release control. 847

(2) If a court imposes a prison term for a felony of the 848
third, fourth, or fifth degree that is not subject to division 849
(D)(1) of this section, it shall include in the sentence a 850
requirement that the offender be subject to a period of 851
post-release control after the offender's release from 852
imprisonment, in accordance with that division, if the parole 853
board determines that a period of post-release control is 854
necessary. Section 2929.191 of the Revised Code applies if, prior 855
to July 11, 2006, a court imposed a sentence including a prison 856
term of a type described in this division and failed to include in 857
the sentence pursuant to this division a statement regarding 858
post-release control. 859

(3) If a court imposes a prison term on or after ~~the~~ 860
~~effective date of this amendment~~ September 30, 2011, for a felony, 861
it shall include in the sentence a statement notifying the 862
offender that the offender may be eligible to earn days of credit 863
under the circumstances specified in section 2967.193 of the 864
Revised Code. The statement also shall notify the offender that 865
days of credit are not automatically awarded under that section, 866
but that they must be earned in the manner specified in that 867
section. If a court fails to include the statement in the 868
sentence, the failure does not affect the eligibility of the 869
offender under section 2967.193 of the Revised Code to earn any 870
days of credit as a deduction from the offender's stated prison 871
term or otherwise render any part of that section or any action 872
taken under that section void or voidable. The failure of a court 873
to include in a sentence the statement described in this division 874
does not constitute grounds for setting aside the offender's 875
conviction or sentence or for granting postconviction relief to 876

the offender. 877

(E) The court shall impose sentence upon the offender in 878
accordance with section 2971.03 of the Revised Code, and Chapter 879
2971. of the Revised Code applies regarding the prison term or 880
term of life imprisonment without parole imposed upon the offender 881
and the service of that term of imprisonment if any of the 882
following apply: 883

(1) A person is convicted of or pleads guilty to a violent 884
sex offense or a designated homicide, assault, or kidnapping 885
offense, and, in relation to that offense, the offender is 886
adjudicated a sexually violent predator. 887

(2) A person is convicted of or pleads guilty to a violation 888
of division (A)(1)(b) of section 2907.02 of the Revised Code 889
committed on or after January 2, 2007, and either the court does 890
not impose a sentence of life without parole when authorized 891
pursuant to division (B) of section 2907.02 of the Revised Code, 892
or division (B) of section 2907.02 of the Revised Code provides 893
that the court shall not sentence the offender pursuant to section 894
2971.03 of the Revised Code. 895

(3) A person is convicted of or pleads guilty to attempted 896
rape committed on or after January 2, 2007, and a specification of 897
the type described in section 2941.1418, 2941.1419, or 2941.1420 898
of the Revised Code. 899

(4) A person is convicted of or pleads guilty to a violation 900
of section 2905.01 of the Revised Code committed on or after 901
January 1, 2008, and that section requires the court to sentence 902
the offender pursuant to section 2971.03 of the Revised Code. 903

(5) A person is convicted of or pleads guilty to aggravated 904
murder committed on or after January 1, 2008, and division 905
(A)(2)(b)(ii) of section 2929.022, division (A)(1)(e), 906
(C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or 907

(E)(1)(d) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

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

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

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

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

(2)(a) If an offender is convicted of or pleads guilty to a 940
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 941
of the Revised Code and to a specification of the type described 942
in section 2941.1421 of the Revised Code and if the court imposes 943
a prison term on the offender for the felony violation, the court 944
may impose upon the offender an additional prison term as follows: 945

(i) Subject to division (H)(2)(a)(ii) of this section, an 946
additional prison term of one, two, three, four, five, or six 947
months; 948

(ii) If the offender previously has been convicted of or 949
pleaded guilty to one or more felony or misdemeanor violations of 950
section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the 951
Revised Code and also was convicted of or pleaded guilty to a 952
specification of the type described in section 2941.1421 of the 953
Revised Code regarding one or more of those violations, an 954
additional prison term of one, two, three, four, five, six, seven, 955
eight, nine, ten, eleven, or twelve months. 956

(b) In lieu of imposing an additional prison term under 957
division (H)(2)(a) of this section, the court may directly impose 958
on the offender a sanction that requires the offender to wear a 959
real-time processing, continual tracking electronic monitoring 960
device during the period of time specified by the court. The 961
period of time specified by the court shall equal the duration of 962
an additional prison term that the court could have imposed upon 963
the offender under division (H)(2)(a) of this section. A sanction 964
imposed under this division shall commence on the date specified 965
by the court, provided that the sanction shall not commence until 966
after the offender has served the prison term imposed for the 967
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 968
of the Revised Code and any residential sanction imposed for the 969
violation under section 2929.16 of the Revised Code. A sanction 970
imposed under this division shall be considered to be a community 971

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.

(I)~~(1)~~ 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 intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

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

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

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the

recommended program or prison, the department shall send a notice 1004
to the court indicating why the offender was not placed in the 1005
recommended program or prison. 1006

If the court does not make a recommendation under this 1007
division with respect to an offender and if the department 1008
determines as specified in section 5120.031 or 5120.032 of the 1009
Revised Code, whichever is applicable, that the offender is 1010
eligible for placement in a program or prison of that nature, the 1011
department shall screen the offender and determine if there is an 1012
available program of shock incarceration or an intensive program 1013
prison for which the offender is suited. If there is an available 1014
program of shock incarceration or an intensive program prison for 1015
which the offender is suited, the department shall notify the 1016
court of the proposed placement of the offender as specified in 1017
section 5120.031 or 5120.032 of the Revised Code and shall include 1018
with the notice a brief description of the placement. The court 1019
shall have ten days from receipt of the notice to disapprove the 1020
placement. 1021

~~(L)~~(J) If a person is convicted of or pleads guilty to 1022
aggravated vehicular homicide in violation of division (A)(1) of 1023
section 2903.06 of the Revised Code and division (B)(2)(c) of that 1024
section applies, the person shall be sentenced pursuant to section 1025
2929.142 of the Revised Code. 1026

Sec. 2941.1424. (A) Imposition of a ten-year mandatory prison 1027
term upon an offender under division (B)(9) of section 2929.14 of 1028
the Revised Code is precluded unless the indictment, count in the 1029
indictment, or information charging the offense specifies that the 1030
offender discharged a firearm while committing the offense and the 1031
discharge of the firearm caused injury or death to a child who was 1032
under the age of eighteen years at the time of the commission of 1033
the offense. The specification shall be stated at the end of the 1034

body of the indictment, count, or information and shall be in 1035
substantially the following form: 1036

"SPECIFICATION (or, SPECIFICATION OF THE FIRST COUNT). 1037

The Grand Jurors (or insert the person's or the prosecuting 1038
attorney's name when appropriate) further find and specify that 1039
(set forth that the offender discharged a firearm while committing 1040
the offense and the discharge of the firearm caused injury or 1041
death to a child who was under the age of eighteen years at the 1042
time of the commission of the offense)." 1043

(B) The specification described in division (A) of this 1044
section may be used in a delinquent child proceeding in the manner 1045
and for the purpose described in section 2152.17 of the Revised 1046
Code. 1047

(C) As used in this section, "firearm" has the same meaning 1048
as in section 2923.11 of the Revised Code. 1049

Sec. 5103.0319. (A) No foster caregiver or prospective foster 1050
caregiver shall fail to notify the recommending agency that 1051
recommended or is recommending the foster caregiver or prospective 1052
foster caregiver for certification in writing if a person at least 1053
twelve years of age but less than eighteen years of age residing 1054
with the foster caregiver or prospective foster caregiver has been 1055
convicted of or pleaded guilty to any of the following or has been 1056
adjudicated to be a delinquent child for committing an act that if 1057
committed by an adult would have constituted such a violation: 1058

(1) A violation of section 2903.01, 2903.02, 2903.03, 1059
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 1060
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 1061
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 1062
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2909.02, 1063
2909.03, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 1064

2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 1065
2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a 1066
violation of section 2905.04 of the Revised Code as it existed 1067
prior to July 1, 1996, a violation of section 2919.23 of the 1068
Revised Code that would have been a violation of section 2905.04 1069
of the Revised Code as it existed prior to July 1, 1996, had the 1070
violation been committed prior to that date, a violation of 1071
section 2925.11 of the Revised Code that is not a minor drug 1072
possession offense, a violation of section 2923.01 of the Revised 1073
Code that involved an attempt to commit aggravated murder or 1074
murder, an OVI or OVUAC violation if the person previously was 1075
convicted of or pleaded guilty to one or more OVI or OVUAC 1076
violations within the three years immediately preceding the 1077
current violation, or felonious sexual penetration in violation of 1078
former section 2907.12 of the Revised Code; 1079

(2) An offense that would be a felony if committed by an 1080
adult and the court determined that the child, if an adult, would 1081
be guilty of a specification found in section 2941.141, 2941.144, 1082
~~or~~ 2941.145, or 2941.1424 of the Revised Code or in another 1083
section of the Revised Code that relates to the possession or use 1084
of a firearm, as defined in section 2923.11 of the Revised Code, 1085
during the commission of the act for which the child was 1086
adjudicated a delinquent child; 1087

(3) A violation of an existing or former law of this state, 1088
any other state, or the United States that is substantially 1089
equivalent to any of the offenses described in division (A)(1) or 1090
(2) of this section. 1091

(B) If a recommending agency learns that a foster caregiver 1092
has failed to comply with division (A) of this section, it shall 1093
notify the department of job and family services and the 1094
department shall revoke the foster caregiver's foster home 1095
certificate. 1096

(C) As used in this section, "OVI or OVUAC violation" means a 1097
violation of section 4511.19 of the Revised Code or a violation of 1098
an existing or former law of this state, any other state, or the 1099
United States that is substantially equivalent to section 4511.19 1100
of the Revised Code. 1101

Section 2. That existing sections 2152.17, 2152.72, 2929.14, 1102
and 5103.0319 of the Revised Code are hereby repealed. 1103