

As Introduced

**130th General Assembly
Regular Session
2013-2014**

H. B. No. 251

Representative Barborak

Cosponsors: Representatives Conditt, O'Brien, Pillich, Rogers

—

A B I L L

To amend sections 2925.02, 2925.03, 2925.06, 2925.11, 1
2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 2
2929.13, 2951.041, and 2953.08 of the Revised Code 3
to eliminate the special sentencing mechanism that 4
applies for most felonies of the fourth and fifth 5
degree and that generally provides for a community 6
control sanction for such offenses. 7

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

Section 1. That sections 2925.02, 2925.03, 2925.06, 2925.11, 8
2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 2929.13, 2951.041, 9
and 2953.08 of the Revised Code be amended to read as follows: 10

Sec. 2925.02. (A) No person shall knowingly do any of the 11
following: 12

(1) By force, threat, or deception, administer to another or 13
induce or cause another to use a controlled substance; 14

(2) By any means, administer or furnish to another or induce 15
or cause another to use a controlled substance with purpose to 16
cause serious physical harm to the other person, or with purpose 17
to cause the other person to become drug dependent; 18

(3) By any means, administer or furnish to another or induce 19
or cause another to use a controlled substance, and thereby cause 20
serious physical harm to the other person, or cause the other 21
person to become drug dependent; 22

(4) By any means, do any of the following: 23

(a) Furnish or administer a controlled substance to a 24
juvenile who is at least two years the offender's junior, when the 25
offender knows the age of the juvenile or is reckless in that 26
regard; 27

(b) Induce or cause a juvenile who is at least two years the 28
offender's junior to use a controlled substance, when the offender 29
knows the age of the juvenile or is reckless in that regard; 30

(c) Induce or cause a juvenile who is at least two years the 31
offender's junior to commit a felony drug abuse offense, when the 32
offender knows the age of the juvenile or is reckless in that 33
regard; 34

(d) Use a juvenile, whether or not the offender knows the age 35
of the juvenile, to perform any surveillance activity that is 36
intended to prevent the detection of the offender or any other 37
person in the commission of a felony drug abuse offense or to 38
prevent the arrest of the offender or any other person for the 39
commission of a felony drug abuse offense. 40

(B) Division (A)(1), (3), or (4) of this section does not 41
apply to manufacturers, wholesalers, licensed health professionals 42
authorized to prescribe drugs, pharmacists, owners of pharmacies, 43
and other persons whose conduct is in accordance with Chapters 44
3719., 4715., 4723., 4729., 4730., 4731., and 4741. of the Revised 45
Code. 46

(C) Whoever violates this section is guilty of corrupting 47
another with drugs. The penalty for the offense shall be 48
determined as follows: 49

(1) Except as otherwise provided in this division, if the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marijuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a felony of the second degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the drug involved is any compound, mixture, preparation, or substance included in schedule I or II, with the exception of marijuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and if the offense was committed in the vicinity of a school, corrupting another with drugs is a felony of the first degree, and, subject to division (E) of this section, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(2) Except as otherwise provided in this division, if the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V, corrupting another with drugs is a felony of the second degree, and there is a presumption for a prison term for the offense. If the drug involved is any compound, mixture, preparation, or substance included in schedule III, IV, or V and if the offense was committed in the vicinity of a school, corrupting another with drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(3) Except as otherwise provided in this division, if the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, corrupting another with drugs is a felony of the fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the drug involved is marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 1-Butyl-3-(1-naphthoyl)indole, 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, or 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and if the offense was committed in the vicinity of a school, corrupting another with drugs is a felony of the third degree, and division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(D) In addition to any prison term authorized or required by division (C) or (E) of this section and sections 2929.13 and 2929.14 of the Revised Code and in addition to any other sanction imposed for the offense under this section or sections 2929.11 to 2929.18 of the Revised Code, the court that sentences an offender who is convicted of or pleads guilty to a violation of division (A) of this section or the clerk of that court shall do all of the following that are applicable regarding the offender:

(1)(a) If the violation is a felony of the first, second, or third degree, the court shall impose upon the offender the mandatory fine specified for the offense under division (B)(1) of section 2929.18 of the Revised Code unless, as specified in that division, the court determines that the offender is indigent.

(b) Notwithstanding any contrary provision of section 3719.21

of the Revised Code, any mandatory fine imposed pursuant to 114
division (D)(1)(a) of this section and any fine imposed for a 115
violation of this section pursuant to division (A) of section 116
2929.18 of the Revised Code shall be paid by the clerk of the 117
court in accordance with and subject to the requirements of, and 118
shall be used as specified in, division (F) of section 2925.03 of 119
the Revised Code. 120

(c) If a person is charged with any violation of this section 121
that is a felony of the first, second, or third degree, posts 122
bail, and forfeits the bail, the forfeited bail shall be paid by 123
the clerk of the court pursuant to division (D)(1)(b) of this 124
section as if it were a fine imposed for a violation of this 125
section. 126

(2) The court shall suspend for not less than six months nor 127
more than five years the offender's driver's or commercial 128
driver's license or permit. If an offender's driver's or 129
commercial driver's license or permit is suspended pursuant to 130
this division, the offender, at any time after the expiration of 131
two years from the day on which the offender's sentence was 132
imposed or from the day on which the offender finally was released 133
from a prison term under the sentence, whichever is later, may 134
file a motion with the sentencing court requesting termination of 135
the suspension. Upon the filing of the motion and the court's 136
finding of good cause for the termination, the court may terminate 137
the suspension. 138

(3) If the offender is a professionally licensed person, in 139
addition to any other sanction imposed for a violation of this 140
section, the court immediately shall comply with section 2925.38 141
of the Revised Code. 142

(E) Notwithstanding the prison term otherwise authorized or 143
required for the offense under division (C) of this section and 144
sections 2929.13 and 2929.14 of the Revised Code, if the violation 145

of division (A) of this section involves the sale, offer to sell, 146
or possession of a schedule I or II controlled substance, with the 147
exception of marihuana, 1-Pentyl-3-(1-naphthoyl)indole, 148
1-Butyl-3-(1-naphthoyl)indole, 149
1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, 150
5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 151
5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol, and 152
if the court imposing sentence upon the offender finds that the 153
offender as a result of the violation is a major drug offender and 154
is guilty of a specification of the type described in section 155
2941.1410 of the Revised Code, the court, in lieu of the prison 156
term that otherwise is authorized or required, shall impose upon 157
the offender the mandatory prison term specified in division 158
(B)(3)(a) of section 2929.14 of the Revised Code. 159

Sec. 2925.03. (A) No person shall knowingly do any of the 160
following: 161

(1) Sell or offer to sell a controlled substance or a 162
controlled substance analog; 163

(2) Prepare for shipment, ship, transport, deliver, prepare 164
for distribution, or distribute a controlled substance or a 165
controlled substance analog, when the offender knows or has 166
reasonable cause to believe that the controlled substance or a 167
controlled substance analog is intended for sale or resale by the 168
offender or another person. 169

(B) This section does not apply to any of the following: 170

(1) Manufacturers, licensed health professionals authorized 171
to prescribe drugs, pharmacists, owners of pharmacies, and other 172
persons whose conduct is in accordance with Chapters 3719., 4715., 173
4723., 4729., 4730., 4731., and 4741. of the Revised Code; 174

(2) If the offense involves an anabolic steroid, any person 175

who is conducting or participating in a research project involving 176
the use of an anabolic steroid if the project has been approved by 177
the United States food and drug administration; 178

(3) Any person who sells, offers for sale, prescribes, 179
dispenses, or administers for livestock or other nonhuman species 180
an anabolic steroid that is expressly intended for administration 181
through implants to livestock or other nonhuman species and 182
approved for that purpose under the "Federal Food, Drug, and 183
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 184
and is sold, offered for sale, prescribed, dispensed, or 185
administered for that purpose in accordance with that act. 186

(C) Whoever violates division (A) of this section is guilty 187
of one of the following: 188

(1) If the drug involved in the violation is any compound, 189
mixture, preparation, or substance included in schedule I or 190
schedule II, with the exception of marihuana, cocaine, L.S.D., 191
heroin, hashish, and controlled substance analogs, whoever 192
violates division (A) of this section is guilty of aggravated 193
trafficking in drugs. The penalty for the offense shall be 194
determined as follows: 195

(a) Except as otherwise provided in division (C)(1)(b), (c), 196
(d), (e), or (f) of this section, aggravated trafficking in drugs 197
is a felony of the fourth degree, and division ~~(C)~~(B) of section 198
2929.13 of the Revised Code applies in determining whether to 199
impose a prison term on the offender. 200

(b) Except as otherwise provided in division (C)(1)(c), (d), 201
(e), or (f) of this section, if the offense was committed in the 202
vicinity of a school or in the vicinity of a juvenile, aggravated 203
trafficking in drugs is a felony of the third degree, and division 204
(C) of section 2929.13 of the Revised Code applies in determining 205
whether to impose a prison term on the offender. 206

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds the bulk amount but is less than five times the bulk amount, aggravated trafficking in drugs is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If aggravated trafficking in drugs is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds five times the bulk amount but is less than fifty times the bulk amount, aggravated trafficking in drugs is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(e) If the amount of the drug involved equals or exceeds fifty times the bulk amount but is less than one hundred times the bulk amount and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, aggravated trafficking in drugs is a felony of the first degree,

and the court shall impose as a mandatory prison term one of the 239
prison terms prescribed for a felony of the first degree. 240

(f) If the amount of the drug involved equals or exceeds one 241
hundred times the bulk amount and regardless of whether the 242
offense was committed in the vicinity of a school or in the 243
vicinity of a juvenile, aggravated trafficking in drugs is a 244
felony of the first degree, the offender is a major drug offender, 245
and the court shall impose as a mandatory prison term the maximum 246
prison term prescribed for a felony of the first degree. 247

(2) If the drug involved in the violation is any compound, 248
mixture, preparation, or substance included in schedule III, IV, 249
or V, whoever violates division (A) of this section is guilty of 250
trafficking in drugs. The penalty for the offense shall be 251
determined as follows: 252

(a) Except as otherwise provided in division (C)(2)(b), (c), 253
(d), or (e) of this section, trafficking in drugs is a felony of 254
the fifth degree, and division (B) of section 2929.13 of the 255
Revised Code applies in determining whether to impose a prison 256
term on the offender. 257

(b) Except as otherwise provided in division (C)(2)(c), (d), 258
or (e) of this section, if the offense was committed in the 259
vicinity of a school or in the vicinity of a juvenile, trafficking 260
in drugs is a felony of the fourth degree, and division ~~(C)~~(B) of 261
section 2929.13 of the Revised Code applies in determining whether 262
to impose a prison term on the offender. 263

(c) Except as otherwise provided in this division, if the 264
amount of the drug involved equals or exceeds the bulk amount but 265
is less than five times the bulk amount, trafficking in drugs is a 266
felony of the fourth degree, and division (B) of section 2929.13 267
of the Revised Code applies in determining whether to impose a 268
prison term for the offense. If the amount of the drug involved is 269

within that range and if the offense was committed in the vicinity 270
of a school or in the vicinity of a juvenile, trafficking in drugs 271
is a felony of the third degree, and there is a presumption for a 272
prison term for the offense. 273

(d) Except as otherwise provided in this division, if the 274
amount of the drug involved equals or exceeds five times the bulk 275
amount but is less than fifty times the bulk amount, trafficking 276
in drugs is a felony of the third degree, and there is a 277
presumption for a prison term for the offense. If the amount of 278
the drug involved is within that range and if the offense was 279
committed in the vicinity of a school or in the vicinity of a 280
juvenile, trafficking in drugs is a felony of the second degree, 281
and there is a presumption for a prison term for the offense. 282

(e) Except as otherwise provided in this division, if the 283
amount of the drug involved equals or exceeds fifty times the bulk 284
amount, trafficking in drugs is a felony of the second degree, and 285
the court shall impose as a mandatory prison term one of the 286
prison terms prescribed for a felony of the second degree. If the 287
amount of the drug involved equals or exceeds fifty times the bulk 288
amount and if the offense was committed in the vicinity of a 289
school or in the vicinity of a juvenile, trafficking in drugs is a 290
felony of the first degree, and the court shall impose as a 291
mandatory prison term one of the prison terms prescribed for a 292
felony of the first degree. 293

(3) If the drug involved in the violation is marihuana or a 294
compound, mixture, preparation, or substance containing marihuana 295
other than hashish, whoever violates division (A) of this section 296
is guilty of trafficking in marihuana. The penalty for the offense 297
shall be determined as follows: 298

(a) Except as otherwise provided in division (C)(3)(b), (c), 299
(d), (e), (f), (g), or (h) of this section, trafficking in 300
marihuana is a felony of the fifth degree, and division (B) of 301

section 2929.13 of the Revised Code applies in determining whether 302
to impose a prison term on the offender. 303

(b) Except as otherwise provided in division (C)(3)(c), (d), 304
(e), (f), (g), or (h) of this section, if the offense was 305
committed in the vicinity of a school or in the vicinity of a 306
juvenile, trafficking in marihuana is a felony of the fourth 307
degree, and division (B) of section 2929.13 of the Revised Code 308
applies in determining whether to impose a prison term on the 309
offender. 310

(c) Except as otherwise provided in this division, if the 311
amount of the drug involved equals or exceeds two hundred grams 312
but is less than one thousand grams, trafficking in marihuana is a 313
felony of the fourth degree, and division (B) of section 2929.13 314
of the Revised Code applies in determining whether to impose a 315
prison term on the offender. If the amount of the drug involved is 316
within that range and if the offense was committed in the vicinity 317
of a school or in the vicinity of a juvenile, trafficking in 318
marihuana is a felony of the third degree, and division (C) of 319
section 2929.13 of the Revised Code applies in determining whether 320
to impose a prison term on the offender. 321

(d) Except as otherwise provided in this division, if the 322
amount of the drug involved equals or exceeds one thousand grams 323
but is less than five thousand grams, trafficking in marihuana is 324
a felony of the third degree, and division (C) of section 2929.13 325
of the Revised Code applies in determining whether to impose a 326
prison term on the offender. If the amount of the drug involved is 327
within that range and if the offense was committed in the vicinity 328
of a school or in the vicinity of a juvenile, trafficking in 329
marihuana is a felony of the second degree, and there is a 330
presumption that a prison term shall be imposed for the offense. 331

(e) Except as otherwise provided in this division, if the 332
amount of the drug involved equals or exceeds five thousand grams 333

but is less than twenty thousand grams, trafficking in marihuana 334
is a felony of the third degree, and there is a presumption that a 335
prison term shall be imposed for the offense. If the amount of the 336
drug involved is within that range and if the offense was 337
committed in the vicinity of a school or in the vicinity of a 338
juvenile, trafficking in marihuana is a felony of the second 339
degree, and there is a presumption that a prison term shall be 340
imposed for the offense. 341

(f) Except as otherwise provided in this division, if the 342
amount of the drug involved equals or exceeds twenty thousand 343
grams but is less than forty thousand grams, trafficking in 344
marihuana is a felony of the second degree, and the court shall 345
impose a mandatory prison term of five, six, seven, or eight 346
years. If the amount of the drug involved is within that range and 347
if the offense was committed in the vicinity of a school or in the 348
vicinity of a juvenile, trafficking in marihuana is a felony of 349
the first degree, and the court shall impose as a mandatory prison 350
term the maximum prison term prescribed for a felony of the first 351
degree. 352

(g) Except as otherwise provided in this division, if the 353
amount of the drug involved equals or exceeds forty thousand 354
grams, trafficking in marihuana is a felony of the second degree, 355
and the court shall impose as a mandatory prison term the maximum 356
prison term prescribed for a felony of the second degree. If the 357
amount of the drug involved equals or exceeds forty thousand grams 358
and if the offense was committed in the vicinity of a school or in 359
the vicinity of a juvenile, trafficking in marihuana is a felony 360
of the first degree, and the court shall impose as a mandatory 361
prison term the maximum prison term prescribed for a felony of the 362
first degree. 363

(h) Except as otherwise provided in this division, if the 364
offense involves a gift of twenty grams or less of marihuana, 365

trafficking in marihuana is a minor misdemeanor upon a first 366
offense and a misdemeanor of the third degree upon a subsequent 367
offense. If the offense involves a gift of twenty grams or less of 368
marihuana and if the offense was committed in the vicinity of a 369
school or in the vicinity of a juvenile, trafficking in marihuana 370
is a misdemeanor of the third degree. 371

(4) If the drug involved in the violation is cocaine or a 372
compound, mixture, preparation, or substance containing cocaine, 373
whoever violates division (A) of this section is guilty of 374
trafficking in cocaine. The penalty for the offense shall be 375
determined as follows: 376

(a) Except as otherwise provided in division (C)(4)(b), (c), 377
(d), (e), (f), or (g) of this section, trafficking in cocaine is a 378
felony of the fifth degree, and division (B) of section 2929.13 of 379
the Revised Code applies in determining whether to impose a prison 380
term on the offender. 381

(b) Except as otherwise provided in division (C)(4)(c), (d), 382
(e), (f), or (g) of this section, if the offense was committed in 383
the vicinity of a school or in the vicinity of a juvenile, 384
trafficking in cocaine is a felony of the fourth degree, and 385
division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in 386
determining whether to impose a prison term on the offender. 387

(c) Except as otherwise provided in this division, if the 388
amount of the drug involved equals or exceeds five grams but is 389
less than ten grams of cocaine, trafficking in cocaine is a felony 390
of the fourth degree, and division (B) of section 2929.13 of the 391
Revised Code applies in determining whether to impose a prison 392
term for the offense. If the amount of the drug involved is within 393
that range and if the offense was committed in the vicinity of a 394
school or in the vicinity of a juvenile, trafficking in cocaine is 395
a felony of the third degree, and there is a presumption for a 396
prison term for the offense. 397

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams of cocaine, trafficking in cocaine is a felony of the third degree, and, except as otherwise provided in this division, there is a presumption for a prison term for the offense. If trafficking in cocaine is a felony of the third degree under this division and if the offender two or more times previously has been convicted of or pleaded guilty to a felony drug abuse offense, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than twenty-seven grams of cocaine, trafficking in cocaine is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of the drug involved equals or exceeds twenty-seven grams but is less than one hundred grams of cocaine and regardless of whether the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in cocaine is a felony of the first degree, and the court shall

impose as a mandatory prison term one of the prison terms 430
prescribed for a felony of the first degree. 431

(g) If the amount of the drug involved equals or exceeds one 432
hundred grams of cocaine and regardless of whether the offense was 433
committed in the vicinity of a school or in the vicinity of a 434
juvenile, trafficking in cocaine is a felony of the first degree, 435
the offender is a major drug offender, and the court shall impose 436
as a mandatory prison term the maximum prison term prescribed for 437
a felony of the first degree. 438

(5) If the drug involved in the violation is L.S.D. or a 439
compound, mixture, preparation, or substance containing L.S.D., 440
whoever violates division (A) of this section is guilty of 441
trafficking in L.S.D. The penalty for the offense shall be 442
determined as follows: 443

(a) Except as otherwise provided in division (C)(5)(b), (c), 444
(d), (e), (f), or (g) of this section, trafficking in L.S.D. is a 445
felony of the fifth degree, and division (B) of section 2929.13 of 446
the Revised Code applies in determining whether to impose a prison 447
term on the offender. 448

(b) Except as otherwise provided in division (C)(5)(c), (d), 449
(e), (f), or (g) of this section, if the offense was committed in 450
the vicinity of a school or in the vicinity of a juvenile, 451
trafficking in L.S.D. is a felony of the fourth degree, and 452
division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in 453
determining whether to impose a prison term on the offender. 454

(c) Except as otherwise provided in this division, if the 455
amount of the drug involved equals or exceeds ten unit doses but 456
is less than fifty unit doses of L.S.D. in a solid form or equals 457
or exceeds one gram but is less than five grams of L.S.D. in a 458
liquid concentrate, liquid extract, or liquid distillate form, 459
trafficking in L.S.D. is a felony of the fourth degree, and 460

division (B) of section 2929.13 of the Revised Code applies in 461
determining whether to impose a prison term for the offense. If 462
the amount of the drug involved is within that range and if the 463
offense was committed in the vicinity of a school or in the 464
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 465
third degree, and there is a presumption for a prison term for the 466
offense. 467

(d) Except as otherwise provided in this division, if the 468
amount of the drug involved equals or exceeds fifty unit doses but 469
is less than two hundred fifty unit doses of L.S.D. in a solid 470
form or equals or exceeds five grams but is less than twenty-five 471
grams of L.S.D. in a liquid concentrate, liquid extract, or liquid 472
distillate form, trafficking in L.S.D. is a felony of the third 473
degree, and, except as otherwise provided in this division, there 474
is a presumption for a prison term for the offense. If trafficking 475
in L.S.D. is a felony of the third degree under this division and 476
if the offender two or more times previously has been convicted of 477
or pleaded guilty to a felony drug abuse offense, the court shall 478
impose as a mandatory prison term one of the prison terms 479
prescribed for a felony of the third degree. If the amount of the 480
drug involved is within that range and if the offense was 481
committed in the vicinity of a school or in the vicinity of a 482
juvenile, trafficking in L.S.D. is a felony of the second degree, 483
and the court shall impose as a mandatory prison term one of the 484
prison terms prescribed for a felony of the second degree. 485

(e) Except as otherwise provided in this division, if the 486
amount of the drug involved equals or exceeds two hundred fifty 487
unit doses but is less than one thousand unit doses of L.S.D. in a 488
solid form or equals or exceeds twenty-five grams but is less than 489
one hundred grams of L.S.D. in a liquid concentrate, liquid 490
extract, or liquid distillate form, trafficking in L.S.D. is a 491
felony of the second degree, and the court shall impose as a 492

mandatory prison term one of the prison terms prescribed for a 493
felony of the second degree. If the amount of the drug involved is 494
within that range and if the offense was committed in the vicinity 495
of a school or in the vicinity of a juvenile, trafficking in 496
L.S.D. is a felony of the first degree, and the court shall impose 497
as a mandatory prison term one of the prison terms prescribed for 498
a felony of the first degree. 499

(f) If the amount of the drug involved equals or exceeds one 500
thousand unit doses but is less than five thousand unit doses of 501
L.S.D. in a solid form or equals or exceeds one hundred grams but 502
is less than five hundred grams of L.S.D. in a liquid concentrate, 503
liquid extract, or liquid distillate form and regardless of 504
whether the offense was committed in the vicinity of a school or 505
in the vicinity of a juvenile, trafficking in L.S.D. is a felony 506
of the first degree, and the court shall impose as a mandatory 507
prison term one of the prison terms prescribed for a felony of the 508
first degree. 509

(g) If the amount of the drug involved equals or exceeds five 510
thousand unit doses of L.S.D. in a solid form or equals or exceeds 511
five hundred grams of L.S.D. in a liquid concentrate, liquid 512
extract, or liquid distillate form and regardless of whether the 513
offense was committed in the vicinity of a school or in the 514
vicinity of a juvenile, trafficking in L.S.D. is a felony of the 515
first degree, the offender is a major drug offender, and the court 516
shall impose as a mandatory prison term the maximum prison term 517
prescribed for a felony of the first degree. 518

(6) If the drug involved in the violation is heroin or a 519
compound, mixture, preparation, or substance containing heroin, 520
whoever violates division (A) of this section is guilty of 521
trafficking in heroin. The penalty for the offense shall be 522
determined as follows: 523

(a) Except as otherwise provided in division (C)(6)(b), (c), 524

(d), (e), (f), or (g) of this section, trafficking in heroin is a 525
felony of the fifth degree, and division (B) of section 2929.13 of 526
the Revised Code applies in determining whether to impose a prison 527
term on the offender. 528

(b) Except as otherwise provided in division (C)(6)(c), (d), 529
(e), (f), or (g) of this section, if the offense was committed in 530
the vicinity of a school or in the vicinity of a juvenile, 531
trafficking in heroin is a felony of the fourth degree, and 532
division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in 533
determining whether to impose a prison term on the offender. 534

(c) Except as otherwise provided in this division, if the 535
amount of the drug involved equals or exceeds ten unit doses but 536
is less than fifty unit doses or equals or exceeds one gram but is 537
less than five grams, trafficking in heroin is a felony of the 538
fourth degree, and division (B) of section 2929.13 of the Revised 539
Code applies in determining whether to impose a prison term for 540
the offense. If the amount of the drug involved is within that 541
range and if the offense was committed in the vicinity of a school 542
or in the vicinity of a juvenile, trafficking in heroin is a 543
felony of the third degree, and there is a presumption for a 544
prison term for the offense. 545

(d) Except as otherwise provided in this division, if the 546
amount of the drug involved equals or exceeds fifty unit doses but 547
is less than one hundred unit doses or equals or exceeds five 548
grams but is less than ten grams, trafficking in heroin is a 549
felony of the third degree, and there is a presumption for a 550
prison term for the offense. If the amount of the drug involved is 551
within that range and if the offense was committed in the vicinity 552
of a school or in the vicinity of a juvenile, trafficking in 553
heroin is a felony of the second degree, and there is a 554
presumption for a prison term for the offense. 555

(e) Except as otherwise provided in this division, if the 556

amount of the drug involved equals or exceeds one hundred unit 557
doses but is less than five hundred unit doses or equals or 558
exceeds ten grams but is less than fifty grams, trafficking in 559
heroin is a felony of the second degree, and the court shall 560
impose as a mandatory prison term one of the prison terms 561
prescribed for a felony of the second degree. If the amount of the 562
drug involved is within that range and if the offense was 563
committed in the vicinity of a school or in the vicinity of a 564
juvenile, trafficking in heroin is a felony of the first degree, 565
and the court shall impose as a mandatory prison term one of the 566
prison terms prescribed for a felony of the first degree. 567

(f) If the amount of the drug involved equals or exceeds five 568
hundred unit doses but is less than two thousand five hundred unit 569
doses or equals or exceeds fifty grams but is less than two 570
hundred fifty grams and regardless of whether the offense was 571
committed in the vicinity of a school or in the vicinity of a 572
juvenile, trafficking in heroin is a felony of the first degree, 573
and the court shall impose as a mandatory prison term one of the 574
prison terms prescribed for a felony of the first degree. 575

(g) If the amount of the drug involved equals or exceeds two 576
thousand five hundred unit doses or equals or exceeds two hundred 577
fifty grams and regardless of whether the offense was committed in 578
the vicinity of a school or in the vicinity of a juvenile, 579
trafficking in heroin is a felony of the first degree, the 580
offender is a major drug offender, and the court shall impose as a 581
mandatory prison term the maximum prison term prescribed for a 582
felony of the first degree. 583

(7) If the drug involved in the violation is hashish or a 584
compound, mixture, preparation, or substance containing hashish, 585
whoever violates division (A) of this section is guilty of 586
trafficking in hashish. The penalty for the offense shall be 587
determined as follows: 588

(a) Except as otherwise provided in division (C)(7)(b), (c), 589
(d), (e), (f), or (g) of this section, trafficking in hashish is a 590
felony of the fifth degree, and division (B) of section 2929.13 of 591
the Revised Code applies in determining whether to impose a prison 592
term on the offender. 593

(b) Except as otherwise provided in division (C)(7)(c), (d), 594
(e), (f), or (g) of this section, if the offense was committed in 595
the vicinity of a school or in the vicinity of a juvenile, 596
trafficking in hashish is a felony of the fourth degree, and 597
division (B) of section 2929.13 of the Revised Code applies in 598
determining whether to impose a prison term on the offender. 599

(c) Except as otherwise provided in this division, if the 600
amount of the drug involved equals or exceeds ten grams but is 601
less than fifty grams of hashish in a solid form or equals or 602
exceeds two grams but is less than ten grams of hashish in a 603
liquid concentrate, liquid extract, or liquid distillate form, 604
trafficking in hashish is a felony of the fourth degree, and 605
division (B) of section 2929.13 of the Revised Code applies in 606
determining whether to impose a prison term on the offender. If 607
the amount of the drug involved is within that range and if the 608
offense was committed in the vicinity of a school or in the 609
vicinity of a juvenile, trafficking in hashish is a felony of the 610
third degree, and division (C) of section 2929.13 of the Revised 611
Code applies in determining whether to impose a prison term on the 612
offender. 613

(d) Except as otherwise provided in this division, if the 614
amount of the drug involved equals or exceeds fifty grams but is 615
less than two hundred fifty grams of hashish in a solid form or 616
equals or exceeds ten grams but is less than fifty grams of 617
hashish in a liquid concentrate, liquid extract, or liquid 618
distillate form, trafficking in hashish is a felony of the third 619
degree, and division (C) of section 2929.13 of the Revised Code 620

applies in determining whether to impose a prison term on the 621
offender. If the amount of the drug involved is within that range 622
and if the offense was committed in the vicinity of a school or in 623
the vicinity of a juvenile, trafficking in hashish is a felony of 624
the second degree, and there is a presumption that a prison term 625
shall be imposed for the offense. 626

(e) Except as otherwise provided in this division, if the 627
amount of the drug involved equals or exceeds two hundred fifty 628
grams but is less than one thousand grams of hashish in a solid 629
form or equals or exceeds fifty grams but is less than two hundred 630
grams of hashish in a liquid concentrate, liquid extract, or 631
liquid distillate form, trafficking in hashish is a felony of the 632
third degree, and there is a presumption that a prison term shall 633
be imposed for the offense. If the amount of the drug involved is 634
within that range and if the offense was committed in the vicinity 635
of a school or in the vicinity of a juvenile, trafficking in 636
hashish is a felony of the second degree, and there is a 637
presumption that a prison term shall be imposed for the offense. 638

(f) Except as otherwise provided in this division, if the 639
amount of the drug involved equals or exceeds one thousand grams 640
but is less than two thousand grams of hashish in a solid form or 641
equals or exceeds two hundred grams but is less than four hundred 642
grams of hashish in a liquid concentrate, liquid extract, or 643
liquid distillate form, trafficking in hashish is a felony of the 644
second degree, and the court shall impose a mandatory prison term 645
of five, six, seven, or eight years. If the amount of the drug 646
involved is within that range and if the offense was committed in 647
the vicinity of a school or in the vicinity of a juvenile, 648
trafficking in hashish is a felony of the first degree, and the 649
court shall impose as a mandatory prison term the maximum prison 650
term prescribed for a felony of the first degree. 651

(g) Except as otherwise provided in this division, if the 652

amount of the drug involved equals or exceeds two thousand grams 653
of hashish in a solid form or equals or exceeds four hundred grams 654
of hashish in a liquid concentrate, liquid extract, or liquid 655
distillate form, trafficking in hashish is a felony of the second 656
degree, and the court shall impose as a mandatory prison term the 657
maximum prison term prescribed for a felony of the second degree. 658
If the amount of the drug involved equals or exceeds two thousand 659
grams of hashish in a solid form or equals or exceeds four hundred 660
grams of hashish in a liquid concentrate, liquid extract, or 661
liquid distillate form and if the offense was committed in the 662
vicinity of a school or in the vicinity of a juvenile, trafficking 663
in hashish is a felony of the first degree, and the court shall 664
impose as a mandatory prison term the maximum prison term 665
prescribed for a felony of the first degree. 666

(8) If the drug involved in the violation is a controlled 667
substance analog or compound, mixture, preparation, or substance 668
that contains a controlled substance analog, whoever violates 669
division (A) of this section is guilty of trafficking in a 670
controlled substance analog. The penalty for the offense shall be 671
determined as follows: 672

(a) Except as otherwise provided in division (C)(8)(b), (c), 673
(d), (e), (f), or (g) of this section, trafficking in a controlled 674
substance analog is a felony of the fifth degree, and division 675
~~(C)~~(B) of section 2929.13 of the Revised Code applies in 676
determining whether to impose a prison term on the offender. 677

(b) Except as otherwise provided in division (C)(8)(c), (d), 678
(e), (f), or (g) of this section, if the offense was committed in 679
the vicinity of a school or in the vicinity of a juvenile, 680
trafficking in a controlled substance analog is a felony of the 681
fourth degree, and division ~~(C)~~(B) of section 2929.13 of the 682
Revised Code applies in determining whether to impose a prison 683
term on the offender. 684

(c) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds ten grams but is less than twenty grams, trafficking in a controlled substance analog is a felony of the fourth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds twenty grams but is less than thirty grams, trafficking in a controlled substance analog is a felony of the third degree, and there is a presumption for a prison term for the offense. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the second degree, and there is a presumption for a prison term for the offense.

(e) Except as otherwise provided in this division, if the amount of the drug involved equals or exceeds thirty grams but is less than forty grams, trafficking in a controlled substance analog is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree. If the amount of the drug involved is within that range and if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, trafficking in a controlled substance analog is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the

first degree. 717

(f) If the amount of the drug involved equals or exceeds 718
forty grams but is less than fifty grams and regardless of whether 719
the offense was committed in the vicinity of a school or in the 720
vicinity of a juvenile, trafficking in a controlled substance 721
analog is a felony of the first degree, and the court shall impose 722
as a mandatory prison term one of the prison terms prescribed for 723
a felony of the first degree. 724

(g) If the amount of the drug involved equals or exceeds 725
fifty grams and regardless of whether the offense was committed in 726
the vicinity of a school or in the vicinity of a juvenile, 727
trafficking in a controlled substance analog is a felony of the 728
first degree, the offender is a major drug offender, and the court 729
shall impose as a mandatory prison term the maximum prison term 730
prescribed for a felony of the first degree. 731

(D) In addition to any prison term authorized or required by 732
division (C) of this section and sections 2929.13 and 2929.14 of 733
the Revised Code, and in addition to any other sanction imposed 734
for the offense under this section or sections 2929.11 to 2929.18 735
of the Revised Code, the court that sentences an offender who is 736
convicted of or pleads guilty to a violation of division (A) of 737
this section shall do all of the following that are applicable 738
regarding the offender: 739

(1) If the violation of division (A) of this section is a 740
felony of the first, second, or third degree, the court shall 741
impose upon the offender the mandatory fine specified for the 742
offense under division (B)(1) of section 2929.18 of the Revised 743
Code unless, as specified in that division, the court determines 744
that the offender is indigent. Except as otherwise provided in 745
division (H)(1) of this section, a mandatory fine or any other 746
fine imposed for a violation of this section is subject to 747
division (F) of this section. If a person is charged with a 748

violation of this section that is a felony of the first, second, 749
or third degree, posts bail, and forfeits the bail, the clerk of 750
the court shall pay the forfeited bail pursuant to divisions 751
(D)(1) and (F) of this section, as if the forfeited bail was a 752
fine imposed for a violation of this section. If any amount of the 753
forfeited bail remains after that payment and if a fine is imposed 754
under division (H)(1) of this section, the clerk of the court 755
shall pay the remaining amount of the forfeited bail pursuant to 756
divisions (H)(2) and (3) of this section, as if that remaining 757
amount was a fine imposed under division (H)(1) of this section. 758

(2) The court shall suspend the driver's or commercial 759
driver's license or permit of the offender in accordance with 760
division (G) of this section. 761

(3) If the offender is a professionally licensed person, the 762
court immediately shall comply with section 2925.38 of the Revised 763
Code. 764

(E) When a person is charged with the sale of or offer to 765
sell a bulk amount or a multiple of a bulk amount of a controlled 766
substance, the jury, or the court trying the accused, shall 767
determine the amount of the controlled substance involved at the 768
time of the offense and, if a guilty verdict is returned, shall 769
return the findings as part of the verdict. In any such case, it 770
is unnecessary to find and return the exact amount of the 771
controlled substance involved, and it is sufficient if the finding 772
and return is to the effect that the amount of the controlled 773
substance involved is the requisite amount, or that the amount of 774
the controlled substance involved is less than the requisite 775
amount. 776

(F)(1) Notwithstanding any contrary provision of section 777
3719.21 of the Revised Code and except as provided in division (H) 778
of this section, the clerk of the court shall pay any mandatory 779
fine imposed pursuant to division (D)(1) of this section and any 780

fine other than a mandatory fine that is imposed for a violation 781
of this section pursuant to division (A) or (B)(5) of section 782
2929.18 of the Revised Code to the county, township, municipal 783
corporation, park district, as created pursuant to section 511.18 784
or 1545.04 of the Revised Code, or state law enforcement agencies 785
in this state that primarily were responsible for or involved in 786
making the arrest of, and in prosecuting, the offender. However, 787
the clerk shall not pay a mandatory fine so imposed to a law 788
enforcement agency unless the agency has adopted a written 789
internal control policy under division (F)(2) of this section that 790
addresses the use of the fine moneys that it receives. Each agency 791
shall use the mandatory fines so paid to subsidize the agency's 792
law enforcement efforts that pertain to drug offenses, in 793
accordance with the written internal control policy adopted by the 794
recipient agency under division (F)(2) of this section. 795

(2)(a) Prior to receiving any fine moneys under division 796
(F)(1) of this section or division (B) of section 2925.42 of the 797
Revised Code, a law enforcement agency shall adopt a written 798
internal control policy that addresses the agency's use and 799
disposition of all fine moneys so received and that provides for 800
the keeping of detailed financial records of the receipts of those 801
fine moneys, the general types of expenditures made out of those 802
fine moneys, and the specific amount of each general type of 803
expenditure. The policy shall not provide for or permit the 804
identification of any specific expenditure that is made in an 805
ongoing investigation. All financial records of the receipts of 806
those fine moneys, the general types of expenditures made out of 807
those fine moneys, and the specific amount of each general type of 808
expenditure by an agency are public records open for inspection 809
under section 149.43 of the Revised Code. Additionally, a written 810
internal control policy adopted under this division is such a 811
public record, and the agency that adopted it shall comply with 812
it. 813

(b) Each law enforcement agency that receives in any calendar year any fine moneys under division (F)(1) of this section or division (B) of section 2925.42 of the Revised Code shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public financial records kept by the agency pursuant to division (F)(2)(a) of this section for that calendar year, and shall send a copy of the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general. Each report received by the attorney general is a public record open for inspection under section 149.43 of the Revised Code. Not later than the fifteenth day of April in the calendar year in which the reports are received, the attorney general shall send to the president of the senate and the speaker of the house of representatives a written notification that does all of the following:

(i) Indicates that the attorney general has received from law enforcement agencies reports of the type described in this division that cover the previous calendar year and indicates that the reports were received under this division;

(ii) Indicates that the reports are open for inspection under section 149.43 of the Revised Code;

(iii) Indicates that the attorney general will provide a copy of any or all of the reports to the president of the senate or the speaker of the house of representatives upon request.

(3) As used in division (F) of this section:

(a) "Law enforcement agencies" includes, but is not limited to, the state board of pharmacy and the office of a prosecutor.

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

(G) When required under division (D)(2) of this section or

any other provision of this chapter, the court shall suspend for 845
not less than six months or more than five years the driver's or 846
commercial driver's license or permit of any person who is 847
convicted of or pleads guilty to any violation of this section or 848
any other specified provision of this chapter. If an offender's 849
driver's or commercial driver's license or permit is suspended 850
pursuant to this division, the offender, at any time after the 851
expiration of two years from the day on which the offender's 852
sentence was imposed or from the day on which the offender finally 853
was released from a prison term under the sentence, whichever is 854
later, may file a motion with the sentencing court requesting 855
termination of the suspension; upon the filing of such a motion 856
and the court's finding of good cause for the termination, the 857
court may terminate the suspension. 858

(H)(1) In addition to any prison term authorized or required 859
by division (C) of this section and sections 2929.13 and 2929.14 860
of the Revised Code, in addition to any other penalty or sanction 861
imposed for the offense under this section or sections 2929.11 to 862
2929.18 of the Revised Code, and in addition to the forfeiture of 863
property in connection with the offense as prescribed in Chapter 864
2981. of the Revised Code, the court that sentences an offender 865
who is convicted of or pleads guilty to a violation of division 866
(A) of this section may impose upon the offender an additional 867
fine specified for the offense in division (B)(4) of section 868
2929.18 of the Revised Code. A fine imposed under division (H)(1) 869
of this section is not subject to division (F) of this section and 870
shall be used solely for the support of one or more eligible 871
alcohol and drug addiction programs in accordance with divisions 872
(H)(2) and (3) of this section. 873

(2) The court that imposes a fine under division (H)(1) of 874
this section shall specify in the judgment that imposes the fine 875
one or more eligible alcohol and drug addiction programs for the 876

support of which the fine money is to be used. No alcohol and drug 877
addiction program shall receive or use money paid or collected in 878
satisfaction of a fine imposed under division (H)(1) of this 879
section unless the program is specified in the judgment that 880
imposes the fine. No alcohol and drug addiction program shall be 881
specified in the judgment unless the program is an eligible 882
alcohol and drug addiction program and, except as otherwise 883
provided in division (H)(2) of this section, unless the program is 884
located in the county in which the court that imposes the fine is 885
located or in a county that is immediately contiguous to the 886
county in which that court is located. If no eligible alcohol and 887
drug addiction program is located in any of those counties, the 888
judgment may specify an eligible alcohol and drug addiction 889
program that is located anywhere within this state. 890

(3) Notwithstanding any contrary provision of section 3719.21 891
of the Revised Code, the clerk of the court shall pay any fine 892
imposed under division (H)(1) of this section to the eligible 893
alcohol and drug addiction program specified pursuant to division 894
(H)(2) of this section in the judgment. The eligible alcohol and 895
drug addiction program that receives the fine moneys shall use the 896
moneys only for the alcohol and drug addiction services identified 897
in the application for certification under section 3793.06 of the 898
Revised Code or in the application for a license under section 899
3793.11 of the Revised Code filed with the department of alcohol 900
and drug addiction services by the alcohol and drug addiction 901
program specified in the judgment. 902

(4) Each alcohol and drug addiction program that receives in 903
a calendar year any fine moneys under division (H)(3) of this 904
section shall file an annual report covering that calendar year 905
with the court of common pleas and the board of county 906
commissioners of the county in which the program is located, with 907
the court of common pleas and the board of county commissioners of 908

each county from which the program received the moneys if that 909
county is different from the county in which the program is 910
located, and with the attorney general. The alcohol and drug 911
addiction program shall file the report no later than the first 912
day of March in the calendar year following the calendar year in 913
which the program received the fine moneys. The report shall 914
include statistics on the number of persons served by the alcohol 915
and drug addiction program, identify the types of alcohol and drug 916
addiction services provided to those persons, and include a 917
specific accounting of the purposes for which the fine moneys 918
received were used. No information contained in the report shall 919
identify, or enable a person to determine the identity of, any 920
person served by the alcohol and drug addiction program. Each 921
report received by a court of common pleas, a board of county 922
commissioners, or the attorney general is a public record open for 923
inspection under section 149.43 of the Revised Code. 924

(5) As used in divisions (H)(1) to (5) of this section: 925

(a) "Alcohol and drug addiction program" and "alcohol and 926
drug addiction services" have the same meanings as in section 927
3793.01 of the Revised Code. 928

(b) "Eligible alcohol and drug addiction program" means an 929
alcohol and drug addiction program that is certified under section 930
3793.06 of the Revised Code or licensed under section 3793.11 of 931
the Revised Code by the department of alcohol and drug addiction 932
services. 933

(I) As used in this section, "drug" includes any substance 934
that is represented to be a drug. 935

(J) It is an affirmative defense to a charge of trafficking 936
in a controlled substance analog under division (C)(8) of this 937
section that the person charged with violating that offense sold 938
or offered to sell, or prepared for shipment, shipped, 939

transported, delivered, prepared for distribution, or distributed 940
an item described in division (HH)(2)(a), (b), or (c) of section 941
3719.01 of the Revised Code. 942

Sec. 2925.06. (A) No person shall knowingly administer to a 943
human being, or prescribe or dispense for administration to a 944
human being, any anabolic steroid not approved by the United 945
States food and drug administration for administration to human 946
beings. 947

(B) This section does not apply to any person listed in 948
division (B)(1), (2), or (3) of section 2925.03 of the Revised 949
Code to the extent and under the circumstances described in those 950
divisions. 951

(C) Whoever violates division (A) of this section is guilty 952
of illegal administration or distribution of anabolic steroids, a 953
felony of the fourth degree, and division ~~(C)~~(B) of section 954
2929.13 of the Revised Code applies in determining whether to 955
impose a prison term on the offender. 956

(D) In addition to any prison term authorized or required by 957
division (C) of this section and sections 2929.13 and 2929.14 of 958
the Revised Code and in addition to any other sanction imposed for 959
the offense under this section or sections 2929.11 to 2929.18 of 960
the Revised Code, the court that sentences an offender who is 961
convicted of or pleads guilty to a violation of division (A) of 962
this section shall do both of the following: 963

(1) The court shall suspend the offender's driver's or 964
commercial driver's license or permit in accordance with division 965
(G) of section 2925.03 of the Revised Code. If an offender's 966
driver's or commercial driver's license or permit is suspended in 967
accordance with that division, the offender may request 968
termination of, and the court may terminate, the suspension in 969
accordance with that division. 970

(2) If the offender is a professionally licensed person, the 971
court immediately shall comply with section 2925.38 of the Revised 972
Code. 973

(E) If a person commits any act that constitutes a violation 974
of division (A) of this section and that also constitutes a 975
violation of any other provision of the Revised Code, the 976
prosecutor, as defined in section 2935.01 of the Revised Code, 977
using customary prosecutorial discretion, may prosecute the person 978
for a violation of the appropriate provision of the Revised Code. 979

Sec. 2925.11. (A) No person shall knowingly obtain, possess, 980
or use a controlled substance or a controlled substance analog. 981

(B) This section does not apply to any of the following: 982

(1) Manufacturers, licensed health professionals authorized 983
to prescribe drugs, pharmacists, owners of pharmacies, and other 984
persons whose conduct was in accordance with Chapters 3719., 985
4715., 4723., 4729., 4730., 4731., and 4741. of the Revised Code; 986

(2) If the offense involves an anabolic steroid, any person 987
who is conducting or participating in a research project involving 988
the use of an anabolic steroid if the project has been approved by 989
the United States food and drug administration; 990

(3) Any person who sells, offers for sale, prescribes, 991
dispenses, or administers for livestock or other nonhuman species 992
an anabolic steroid that is expressly intended for administration 993
through implants to livestock or other nonhuman species and 994
approved for that purpose under the "Federal Food, Drug, and 995
Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, 996
and is sold, offered for sale, prescribed, dispensed, or 997
administered for that purpose in accordance with that act; 998

(4) Any person who obtained the controlled substance pursuant 999
to a lawful prescription issued by a licensed health professional 1000

authorized to prescribe drugs. 1001

(C) Whoever violates division (A) of this section is guilty 1002
of one of the following: 1003

(1) If the drug involved in the violation is a compound, 1004
mixture, preparation, or substance included in schedule I or II, 1005
with the exception of marihuana, cocaine, L.S.D., heroin, hashish, 1006
and controlled substance analogs, whoever violates division (A) of 1007
this section is guilty of aggravated possession of drugs. The 1008
penalty for the offense shall be determined as follows: 1009

(a) Except as otherwise provided in division (C)(1)(b), (c), 1010
(d), or (e) of this section, aggravated possession of drugs is a 1011
felony of the fifth degree, and division (B) of section 2929.13 of 1012
the Revised Code applies in determining whether to impose a prison 1013
term on the offender. 1014

(b) If the amount of the drug involved equals or exceeds the 1015
bulk amount but is less than five times the bulk amount, 1016
aggravated possession of drugs is a felony of the third degree, 1017
and there is a presumption for a prison term for the offense. 1018

(c) If the amount of the drug involved equals or exceeds five 1019
times the bulk amount but is less than fifty times the bulk 1020
amount, aggravated possession of drugs is a felony of the second 1021
degree, and the court shall impose as a mandatory prison term one 1022
of the prison terms prescribed for a felony of the second degree. 1023

(d) If the amount of the drug involved equals or exceeds 1024
fifty times the bulk amount but is less than one hundred times the 1025
bulk amount, aggravated possession of drugs is a felony of the 1026
first degree, and the court shall impose as a mandatory prison 1027
term one of the prison terms prescribed for a felony of the first 1028
degree. 1029

(e) If the amount of the drug involved equals or exceeds one 1030
hundred times the bulk amount, aggravated possession of drugs is a 1031

felony of the first degree, the offender is a major drug offender, 1032
and the court shall impose as a mandatory prison term the maximum 1033
prison term prescribed for a felony of the first degree. 1034

(2) If the drug involved in the violation is a compound, 1035
mixture, preparation, or substance included in schedule III, IV, 1036
or V, whoever violates division (A) of this section is guilty of 1037
possession of drugs. The penalty for the offense shall be 1038
determined as follows: 1039

(a) Except as otherwise provided in division (C)(2)(b), (c), 1040
or (d) of this section, possession of drugs is a misdemeanor of 1041
the first degree or, if the offender previously has been convicted 1042
of a drug abuse offense, a felony of the fifth degree. 1043

(b) If the amount of the drug involved equals or exceeds the 1044
bulk amount but is less than five times the bulk amount, 1045
possession of drugs is a felony of the fourth degree, and division 1046
~~(C)~~(B) of section 2929.13 of the Revised Code applies in 1047
determining whether to impose a prison term on the offender. 1048

(c) If the amount of the drug involved equals or exceeds five 1049
times the bulk amount but is less than fifty times the bulk 1050
amount, possession of drugs is a felony of the third degree, and 1051
there is a presumption for a prison term for the offense. 1052

(d) If the amount of the drug involved equals or exceeds 1053
fifty times the bulk amount, possession of drugs is a felony of 1054
the second degree, and the court shall impose upon the offender as 1055
a mandatory prison term one of the prison terms prescribed for a 1056
felony of the second degree. 1057

(3) If the drug involved in the violation is marihuana or a 1058
compound, mixture, preparation, or substance containing marihuana 1059
other than hashish, whoever violates division (A) of this section 1060
is guilty of possession of marihuana. The penalty for the offense 1061
shall be determined as follows: 1062

(a) Except as otherwise provided in division (C)(3)(b), (c), 1063
(d), (e), (f), or (g) of this section, possession of marihuana is 1064
a minor misdemeanor. 1065

(b) If the amount of the drug involved equals or exceeds one 1066
hundred grams but is less than two hundred grams, possession of 1067
marihuana is a misdemeanor of the fourth degree. 1068

(c) If the amount of the drug involved equals or exceeds two 1069
hundred grams but is less than one thousand grams, possession of 1070
marihuana is a felony of the fifth degree, and division (B) of 1071
section 2929.13 of the Revised Code applies in determining whether 1072
to impose a prison term on the offender. 1073

(d) If the amount of the drug involved equals or exceeds one 1074
thousand grams but is less than five thousand grams, possession of 1075
marihuana is a felony of the third degree, and division (C) of 1076
section 2929.13 of the Revised Code applies in determining whether 1077
to impose a prison term on the offender. 1078

(e) If the amount of the drug involved equals or exceeds five 1079
thousand grams but is less than twenty thousand grams, possession 1080
of marihuana is a felony of the third degree, and there is a 1081
presumption that a prison term shall be imposed for the offense. 1082

(f) If the amount of the drug involved equals or exceeds 1083
twenty thousand grams but is less than forty thousand grams, 1084
possession of marihuana is a felony of the second degree, and the 1085
court shall impose a mandatory prison term of five, six, seven, or 1086
eight years. 1087

(g) If the amount of the drug involved equals or exceeds 1088
forty thousand grams, possession of marihuana is a felony of the 1089
second degree, and the court shall impose as a mandatory prison 1090
term the maximum prison term prescribed for a felony of the second 1091
degree. 1092

(4) If the drug involved in the violation is cocaine or a 1093

compound, mixture, preparation, or substance containing cocaine, 1094
whoever violates division (A) of this section is guilty of 1095
possession of cocaine. The penalty for the offense shall be 1096
determined as follows: 1097

(a) Except as otherwise provided in division (C)(4)(b), (c), 1098
(d), (e), or (f) of this section, possession of cocaine is a 1099
felony of the fifth degree, and division (B) of section 2929.13 of 1100
the Revised Code applies in determining whether to impose a prison 1101
term on the offender. 1102

(b) If the amount of the drug involved equals or exceeds five 1103
grams but is less than ten grams of cocaine, possession of cocaine 1104
is a felony of the fourth degree, and division (B) of section 1105
2929.13 of the Revised Code applies in determining whether to 1106
impose a prison term on the offender. 1107

(c) If the amount of the drug involved equals or exceeds ten 1108
grams but is less than twenty grams of cocaine, possession of 1109
cocaine is a felony of the third degree, and, except as otherwise 1110
provided in this division, there is a presumption for a prison 1111
term for the offense. If possession of cocaine is a felony of the 1112
third degree under this division and if the offender two or more 1113
times previously has been convicted of or pleaded guilty to a 1114
felony drug abuse offense, the court shall impose as a mandatory 1115
prison term one of the prison terms prescribed for a felony of the 1116
third degree. 1117

(d) If the amount of the drug involved equals or exceeds 1118
twenty grams but is less than twenty-seven grams of cocaine, 1119
possession of cocaine is a felony of the second degree, and the 1120
court shall impose as a mandatory prison term one of the prison 1121
terms prescribed for a felony of the second degree. 1122

(e) If the amount of the drug involved equals or exceeds 1123
twenty-seven grams but is less than one hundred grams of cocaine, 1124

possession of cocaine is a felony of the first degree, and the 1125
court shall impose as a mandatory prison term one of the prison 1126
terms prescribed for a felony of the first degree. 1127

(f) If the amount of the drug involved equals or exceeds one 1128
hundred grams of cocaine, possession of cocaine is a felony of the 1129
first degree, the offender is a major drug offender, and the court 1130
shall impose as a mandatory prison term the maximum prison term 1131
prescribed for a felony of the first degree. 1132

(5) If the drug involved in the violation is L.S.D., whoever 1133
violates division (A) of this section is guilty of possession of 1134
L.S.D. The penalty for the offense shall be determined as follows: 1135

(a) Except as otherwise provided in division (C)(5)(b), (c), 1136
(d), (e), or (f) of this section, possession of L.S.D. is a felony 1137
of the fifth degree, and division (B) of section 2929.13 of the 1138
Revised Code applies in determining whether to impose a prison 1139
term on the offender. 1140

(b) If the amount of L.S.D. involved equals or exceeds ten 1141
unit doses but is less than fifty unit doses of L.S.D. in a solid 1142
form or equals or exceeds one gram but is less than five grams of 1143
L.S.D. in a liquid concentrate, liquid extract, or liquid 1144
distillate form, possession of L.S.D. is a felony of the fourth 1145
degree, and division ~~(C)~~(B) of section 2929.13 of the Revised Code 1146
applies in determining whether to impose a prison term on the 1147
offender. 1148

(c) If the amount of L.S.D. involved equals or exceeds fifty 1149
unit doses, but is less than two hundred fifty unit doses of 1150
L.S.D. in a solid form or equals or exceeds five grams but is less 1151
than twenty-five grams of L.S.D. in a liquid concentrate, liquid 1152
extract, or liquid distillate form, possession of L.S.D. is a 1153
felony of the third degree, and there is a presumption for a 1154
prison term for the offense. 1155

(d) If the amount of L.S.D. involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the second degree.

(e) If the amount of L.S.D. involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the first degree.

(f) If the amount of L.S.D. involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree.

(6) If the drug involved in the violation is heroin or a compound, mixture, preparation, or substance containing heroin, whoever violates division (A) of this section is guilty of possession of heroin. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(6)(b), (c), (d), (e), or (f) of this section, possession of heroin is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison

term on the offender. 1188

(b) If the amount of the drug involved equals or exceeds ten 1189
unit doses but is less than fifty unit doses or equals or exceeds 1190
one gram but is less than five grams, possession of heroin is a 1191
felony of the fourth degree, and division ~~(C)~~(B) of section 1192
2929.13 of the Revised Code applies in determining whether to 1193
impose a prison term on the offender. 1194

(c) If the amount of the drug involved equals or exceeds 1195
fifty unit doses but is less than one hundred unit doses or equals 1196
or exceeds five grams but is less than ten grams, possession of 1197
heroin is a felony of the third degree, and there is a presumption 1198
for a prison term for the offense. 1199

(d) If the amount of the drug involved equals or exceeds one 1200
hundred unit doses but is less than five hundred unit doses or 1201
equals or exceeds ten grams but is less than fifty grams, 1202
possession of heroin is a felony of the second degree, and the 1203
court shall impose as a mandatory prison term one of the prison 1204
terms prescribed for a felony of the second degree. 1205

(e) If the amount of the drug involved equals or exceeds five 1206
hundred unit doses but is less than two thousand five hundred unit 1207
doses or equals or exceeds fifty grams but is less than two 1208
hundred fifty grams, possession of heroin is a felony of the first 1209
degree, and the court shall impose as a mandatory prison term one 1210
of the prison terms prescribed for a felony of the first degree. 1211

(f) If the amount of the drug involved equals or exceeds two 1212
thousand five hundred unit doses or equals or exceeds two hundred 1213
fifty grams, possession of heroin is a felony of the first degree, 1214
the offender is a major drug offender, and the court shall impose 1215
as a mandatory prison term the maximum prison term prescribed for 1216
a felony of the first degree. 1217

(7) If the drug involved in the violation is hashish or a 1218

compound, mixture, preparation, or substance containing hashish, 1219
whoever violates division (A) of this section is guilty of 1220
possession of hashish. The penalty for the offense shall be 1221
determined as follows: 1222

(a) Except as otherwise provided in division (C)(7)(b), (c), 1223
(d), (e), (f), or (g) of this section, possession of hashish is a 1224
minor misdemeanor. 1225

(b) If the amount of the drug involved equals or exceeds five 1226
grams but is less than ten grams of hashish in a solid form or 1227
equals or exceeds one gram but is less than two grams of hashish 1228
in a liquid concentrate, liquid extract, or liquid distillate 1229
form, possession of hashish is a misdemeanor of the fourth degree. 1230

(c) If the amount of the drug involved equals or exceeds ten 1231
grams but is less than fifty grams of hashish in a solid form or 1232
equals or exceeds two grams but is less than ten grams of hashish 1233
in a liquid concentrate, liquid extract, or liquid distillate 1234
form, possession of hashish is a felony of the fifth degree, and 1235
division (B) of section 2929.13 of the Revised Code applies in 1236
determining whether to impose a prison term on the offender. 1237

(d) If the amount of the drug involved equals or exceeds 1238
fifty grams but is less than two hundred fifty grams of hashish in 1239
a solid form or equals or exceeds ten grams but is less than fifty 1240
grams of hashish in a liquid concentrate, liquid extract, or 1241
liquid distillate form, possession of hashish is a felony of the 1242
third degree, and division (C) of section 2929.13 of the Revised 1243
Code applies in determining whether to impose a prison term on the 1244
offender. 1245

(e) If the amount of the drug involved equals or exceeds two 1246
hundred fifty grams but is less than one thousand grams of hashish 1247
in a solid form or equals or exceeds fifty grams but is less than 1248
two hundred grams of hashish in a liquid concentrate, liquid 1249

extract, or liquid distillate form, possession of hashish is a 1250
felony of the third degree, and there is a presumption that a 1251
prison term shall be imposed for the offense. 1252

(f) If the amount of the drug involved equals or exceeds one 1253
thousand grams but is less than two thousand grams of hashish in a 1254
solid form or equals or exceeds two hundred grams but is less than 1255
four hundred grams of hashish in a liquid concentrate, liquid 1256
extract, or liquid distillate form, possession of hashish is a 1257
felony of the second degree, and the court shall impose a 1258
mandatory prison term of five, six, seven, or eight years. 1259

(g) If the amount of the drug involved equals or exceeds two 1260
thousand grams of hashish in a solid form or equals or exceeds 1261
four hundred grams of hashish in a liquid concentrate, liquid 1262
extract, or liquid distillate form, possession of hashish is a 1263
felony of the second degree, and the court shall impose as a 1264
mandatory prison term the maximum prison term prescribed for a 1265
felony of the second degree. 1266

(8) If the drug involved is a controlled substance analog or 1267
compound, mixture, preparation, or substance that contains a 1268
controlled substance analog, whoever violates division (A) of this 1269
section is guilty of possession of a controlled substance analog. 1270
The penalty for the offense shall be determined as follows: 1271

(a) Except as otherwise provided in division (C)(8)(b), (c), 1272
(d), (e), or (f) of this section, possession of a controlled 1273
substance analog is a felony of the fifth degree, and division (B) 1274
of section 2929.13 of the Revised Code applies in determining 1275
whether to impose a prison term on the offender. 1276

(b) If the amount of the drug involved equals or exceeds ten 1277
grams but is less than twenty grams, possession of a controlled 1278
substance analog is a felony of the fourth degree, and ~~there is a~~ 1279
~~presumption for a prison term for the offense~~ division (B) of 1280

section 2929.13 of the Revised Code applies in determining whether 1281
to impose a prison term on the offender. 1282

(c) If the amount of the drug involved equals or exceeds 1283
twenty grams but is less than thirty grams, possession of a 1284
controlled substance analog is a felony of the third degree, and 1285
there is a presumption for a prison term for the offense. 1286

(d) If the amount of the drug involved equals or exceeds 1287
thirty grams but is less than forty grams, possession of a 1288
controlled substance analog is a felony of the second degree, and 1289
the court shall impose as a mandatory prison term one of the 1290
prison terms prescribed for a felony of the second degree. 1291

(e) If the amount of the drug involved equals or exceeds 1292
forty grams but is less than fifty grams, possession of a 1293
controlled substance analog is a felony of the first degree, and 1294
the court shall impose as a mandatory prison term one of the 1295
prison terms prescribed for a felony of the first degree. 1296

(f) If the amount of the drug involved equals or exceeds 1297
fifty grams, possession of a controlled substance analog is a 1298
felony of the first degree, the offender is a major drug offender, 1299
and the court shall impose as a mandatory prison term the maximum 1300
prison term prescribed for a felony of the first degree. 1301

(D) Arrest or conviction for a minor misdemeanor violation of 1302
this section does not constitute a criminal record and need not be 1303
reported by the person so arrested or convicted in response to any 1304
inquiries about the person's criminal record, including any 1305
inquiries contained in any application for employment, license, or 1306
other right or privilege, or made in connection with the person's 1307
appearance as a witness. 1308

(E) In addition to any prison term or jail term authorized or 1309
required by division (C) of this section and sections 2929.13, 1310
2929.14, 2929.22, 2929.24, and 2929.25 of the Revised Code and in 1311

addition to any other sanction that is imposed for the offense 1312
under this section, sections 2929.11 to 2929.18, or sections 1313
2929.21 to 2929.28 of the Revised Code, the court that sentences 1314
an offender who is convicted of or pleads guilty to a violation of 1315
division (A) of this section shall do all of the following that 1316
are applicable regarding the offender: 1317

(1)(a) If the violation is a felony of the first, second, or 1318
third degree, the court shall impose upon the offender the 1319
mandatory fine specified for the offense under division (B)(1) of 1320
section 2929.18 of the Revised Code unless, as specified in that 1321
division, the court determines that the offender is indigent. 1322

(b) Notwithstanding any contrary provision of section 3719.21 1323
of the Revised Code, the clerk of the court shall pay a mandatory 1324
fine or other fine imposed for a violation of this section 1325
pursuant to division (A) of section 2929.18 of the Revised Code in 1326
accordance with and subject to the requirements of division (F) of 1327
section 2925.03 of the Revised Code. The agency that receives the 1328
fine shall use the fine as specified in division (F) of section 1329
2925.03 of the Revised Code. 1330

(c) If a person is charged with a violation of this section 1331
that is a felony of the first, second, or third degree, posts 1332
bail, and forfeits the bail, the clerk shall pay the forfeited 1333
bail pursuant to division (E)(1)(b) of this section as if it were 1334
a mandatory fine imposed under division (E)(1)(a) of this section. 1335

(2) The court shall suspend for not less than six months or 1336
more than five years the offender's driver's or commercial 1337
driver's license or permit. 1338

(3) If the offender is a professionally licensed person, in 1339
addition to any other sanction imposed for a violation of this 1340
section, the court immediately shall comply with section 2925.38 1341
of the Revised Code. 1342

(F) It is an affirmative defense, as provided in section 1343
2901.05 of the Revised Code, to a charge of a fourth degree felony 1344
violation under this section that the controlled substance that 1345
gave rise to the charge is in an amount, is in a form, is 1346
prepared, compounded, or mixed with substances that are not 1347
controlled substances in a manner, or is possessed under any other 1348
circumstances, that indicate that the substance was possessed 1349
solely for personal use. Notwithstanding any contrary provision of 1350
this section, if, in accordance with section 2901.05 of the 1351
Revised Code, an accused who is charged with a fourth degree 1352
felony violation of division (C)(2), (4), (5), or (6) of this 1353
section sustains the burden of going forward with evidence of and 1354
establishes by a preponderance of the evidence the affirmative 1355
defense described in this division, the accused may be prosecuted 1356
for and may plead guilty to or be convicted of a misdemeanor 1357
violation of division (C)(2) of this section or a fifth degree 1358
felony violation of division (C)(4), (5), or (6) of this section 1359
respectively. 1360

(G) When a person is charged with possessing a bulk amount or 1361
multiple of a bulk amount, division (E) of section 2925.03 of the 1362
Revised Code applies regarding the determination of the amount of 1363
the controlled substance involved at the time of the offense. 1364

(H) It is an affirmative defense to a charge of possession of 1365
a controlled substance analog under division (C)(8) of this 1366
section that the person charged with violating that offense 1367
obtained, possessed, or used an item described in division 1368
(HH)(2)(a), (b), or (c) of section 3719.01 of the Revised Code. 1369

Sec. 2925.13. (A) No person who is the owner, operator, or 1370
person in charge of a locomotive, watercraft, aircraft, or other 1371
vehicle, as defined in division (A) of section 4501.01 of the 1372
Revised Code, shall knowingly permit the vehicle to be used for 1373

the commission of a felony drug abuse offense. 1374

(B) No person who is the owner, lessee, or occupant, or who 1375
has custody, control, or supervision, of premises or real estate, 1376
including vacant land, shall knowingly permit the premises or real 1377
estate, including vacant land, to be used for the commission of a 1378
felony drug abuse offense by another person. 1379

(C)(1) Whoever violates this section is guilty of permitting 1380
drug abuse. 1381

(2) Except as provided in division (C)(3) of this section, 1382
permitting drug abuse is a misdemeanor of the first degree. 1383

(3) Permitting drug abuse is a felony of the fifth degree, 1384
and division ~~(C)~~(B) of section 2929.13 of the Revised Code applies 1385
in determining whether to impose a prison term on the offender, if 1386
the felony drug abuse offense in question is a violation of 1387
section 2925.02 or 2925.03 of the Revised Code. 1388

(D) In addition to any prison term authorized or required by 1389
division (C) of this section and sections 2929.13 and 2929.14 of 1390
the Revised Code and in addition to any other sanction imposed for 1391
the offense under this section or sections 2929.11 to 2929.18 of 1392
the Revised Code, the court that sentences a person who is 1393
convicted of or pleads guilty to a violation of division (A) of 1394
this section shall do all of the following that are applicable 1395
regarding the offender: 1396

(1) The court shall suspend for not less than six months or 1397
more than five years the offender's driver's or commercial 1398
driver's license or permit. 1399

(2) If the offender is a professionally licensed person, in 1400
addition to any other sanction imposed for a violation of this 1401
section, the court immediately shall comply with section 2925.38 1402
of the Revised Code. 1403

(E) Notwithstanding any contrary provision of section 3719.21 1404
of the Revised Code, the clerk of the court shall pay a fine 1405
imposed for a violation of this section pursuant to division (A) 1406
of section 2929.18 of the Revised Code in accordance with and 1407
subject to the requirements of division (F) of section 2925.03 of 1408
the Revised Code. The agency that receives the fine shall use the 1409
fine as specified in division (F) of section 2925.03 of the 1410
Revised Code. 1411

(F) Any premises or real estate that is permitted to be used 1412
in violation of division (B) of this section constitutes a 1413
nuisance subject to abatement pursuant to Chapter 3767. of the 1414
Revised Code. 1415

Sec. 2925.22. (A) No person, by deception, shall procure the 1416
administration of, a prescription for, or the dispensing of, a 1417
dangerous drug or shall possess an uncompleted preprinted 1418
prescription blank used for writing a prescription for a dangerous 1419
drug. 1420

(B) Whoever violates this section is guilty of deception to 1421
obtain a dangerous drug. The penalty for the offense shall be 1422
determined as follows: 1423

(1) If the person possesses an uncompleted preprinted 1424
prescription blank used for writing a prescription for a dangerous 1425
drug or if the drug involved is a dangerous drug, except as 1426
otherwise provided in division (B)(2) or (3) of this section, 1427
deception to obtain a dangerous drug is a felony of the fifth 1428
degree or, if the offender previously has been convicted of or 1429
pleaded guilty to a drug abuse offense, a felony of the fourth 1430
degree. Division ~~(C)~~(B) of section 2929.13 of the Revised Code 1431
applies in determining whether to impose a prison term on the 1432
offender pursuant to this division. 1433

(2) If the drug involved is a compound, mixture, preparation, 1434

or substance included in schedule I or II, with the exception of 1435
marihuana, the penalty for deception to obtain drugs is one of the 1436
following: 1437

(a) Except as otherwise provided in division (B)(2)(b), (c), 1438
or (d) of this section, it is a felony of the fourth degree, and 1439
division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in 1440
determining whether to impose a prison term on the offender. 1441

(b) If the amount of the drug involved equals or exceeds the 1442
bulk amount but is less than five times the bulk amount, or if the 1443
amount of the drug involved that could be obtained pursuant to the 1444
prescription would equal or exceed the bulk amount but would be 1445
less than five times the bulk amount, it is a felony of the third 1446
degree, and there is a presumption for a prison term for the 1447
offense. 1448

(c) If the amount of the drug involved equals or exceeds five 1449
times the bulk amount but is less than fifty times the bulk 1450
amount, or if the amount of the drug involved that could be 1451
obtained pursuant to the prescription would equal or exceed five 1452
times the bulk amount but would be less than fifty times the bulk 1453
amount, it is a felony of the second degree, and there is a 1454
presumption for a prison term for the offense. 1455

(d) If the amount of the drug involved equals or exceeds 1456
fifty times the bulk amount, or if the amount of the drug involved 1457
that could be obtained pursuant to the prescription would equal or 1458
exceed fifty times the bulk amount, it is a felony of the first 1459
degree, and there is a presumption for a prison term for the 1460
offense. 1461

(3) If the drug involved is a compound, mixture, preparation, 1462
or substance included in schedule III, IV, or V or is marihuana, 1463
the penalty for deception to obtain a dangerous drug is one of the 1464
following: 1465

(a) Except as otherwise provided in division (B)(3)(b), (c), 1466
or (d) of this section, it is a felony of the fifth degree, and 1467
division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in 1468
determining whether to impose a prison term on the offender. 1469

(b) If the amount of the drug involved equals or exceeds the 1470
bulk amount but is less than five times the bulk amount, or if the 1471
amount of the drug involved that could be obtained pursuant to the 1472
prescription would equal or exceed the bulk amount but would be 1473
less than five times the bulk amount, it is a felony of the fourth 1474
degree, and division ~~(C)~~(B) of section 2929.13 of the Revised Code 1475
applies in determining whether to impose a prison term on the 1476
offender. 1477

(c) If the amount of the drug involved equals or exceeds five 1478
times the bulk amount but is less than fifty times the bulk 1479
amount, or if the amount of the drug involved that could be 1480
obtained pursuant to the prescription would equal or exceed five 1481
times the bulk amount but would be less than fifty times the bulk 1482
amount, it is a felony of the third degree, and there is a 1483
presumption for a prison term for the offense. 1484

(d) If the amount of the drug involved equals or exceeds 1485
fifty times the bulk amount, or if the amount of the drug involved 1486
that could be obtained pursuant to the prescription would equal or 1487
exceed fifty times the bulk amount, it is a felony of the second 1488
degree, and there is a presumption for a prison term for the 1489
offense. 1490

(C) In addition to any prison term authorized or required by 1491
division (B) of this section and sections 2929.13 and 2929.14 of 1492
the Revised Code and in addition to any other sanction imposed for 1493
the offense under this section or sections 2929.11 to 2929.18 of 1494
the Revised Code, the court that sentences an offender who is 1495
convicted of or pleads guilty to a violation of division (A) of 1496
this section shall do both of the following: 1497

(1) The court shall suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit.

(2) If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with section 2925.38 of the Revised Code.

(D) Notwithstanding any contrary provision of section 3719.21 of the Revised Code, the clerk of the court shall pay a fine imposed for a violation of this section pursuant to division (A) of section 2929.18 of the Revised Code in accordance with and subject to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

Sec. 2925.23. (A) No person shall knowingly make a false statement in any prescription, order, report, or record required by Chapter 3719. or 4729. of the Revised Code.

(B) No person shall intentionally make, utter, or sell, or knowingly possess any of the following that is a false or forged:

(1) Prescription;

(2) Uncompleted preprinted prescription blank used for writing a prescription;

(3) Official written order;

(4) License for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;

(5) Registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.

(C) No person, by theft as defined in section 2913.02 of the Revised Code, shall acquire any of the following:	1527 1528
(1) A prescription;	1529
(2) An uncompleted preprinted prescription blank used for writing a prescription;	1530 1531
(3) An official written order;	1532
(4) A blank official written order;	1533
(5) A license or blank license for a terminal distributor of dangerous drugs as required in section 4729.60 of the Revised Code;	1534 1535 1536
(6) A registration certificate or blank registration certificate for a wholesale distributor of dangerous drugs as required in section 4729.60 of the Revised Code.	1537 1538 1539
(D) No person shall knowingly make or affix any false or forged label to a package or receptacle containing any dangerous drugs.	1540 1541 1542
(E) Divisions (A) and (D) of this section do not apply to licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the Revised Code.	1543 1544 1545 1546 1547
(F) Whoever violates this section is guilty of illegal processing of drug documents. If the offender violates division (B)(2), (4), or (5) or division (C)(2), (4), (5), or (6) of this section, illegal processing of drug documents is a felony of the fifth degree, and division (B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender. If the offender violates division (A), division (B)(1) or (3), division (C)(1) or (3), or division (D) of this section, the penalty for illegal processing of drug documents shall be	1548 1549 1550 1551 1552 1553 1554 1555 1556

determined as follows: 1557

(1) If the drug involved is a compound, mixture, preparation, 1558
or substance included in schedule I or II, with the exception of 1559
marihuana, illegal processing of drug documents is a felony of the 1560
fourth degree, and division ~~(C)~~(B) of section 2929.13 of the 1561
Revised Code applies in determining whether to impose a prison 1562
term on the offender. 1563

(2) If the drug involved is a dangerous drug or a compound, 1564
mixture, preparation, or substance included in schedule III, IV, 1565
or V or is marihuana, illegal processing of drug documents is a 1566
felony of the fifth degree, and division ~~(C)~~(B) of section 2929.13 1567
of the Revised Code applies in determining whether to impose a 1568
prison term on the offender. 1569

(G) In addition to any prison term authorized or required by 1570
division (F) of this section and sections 2929.13 and 2929.14 of 1571
the Revised Code and in addition to any other sanction imposed for 1572
the offense under this section or sections 2929.11 to 2929.18 of 1573
the Revised Code, the court that sentences an offender who is 1574
convicted of or pleads guilty to any violation of divisions (A) to 1575
(D) of this section shall do both of the following: 1576

(1) The court shall suspend for not less than six months or 1577
more than five years the offender's driver's or commercial 1578
driver's license or permit. 1579

(2) If the offender is a professionally licensed person, in 1580
addition to any other sanction imposed for a violation of this 1581
section, the court immediately shall comply with section 2925.38 1582
of the Revised Code. 1583

(H) Notwithstanding any contrary provision of section 3719.21 1584
of the Revised Code, the clerk of court shall pay a fine imposed 1585
for a violation of this section pursuant to division (A) of 1586
section 2929.18 of the Revised Code in accordance with and subject 1587

to the requirements of division (F) of section 2925.03 of the Revised Code. The agency that receives the fine shall use the fine as specified in division (F) of section 2925.03 of the Revised Code.

Sec. 2925.36. (A) No person shall knowingly furnish another a sample drug.

(B) Division (A) of this section does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Chapters 3719., 4715., 4723., 4725., 4729., 4730., 4731., and 4741. of the Revised Code.

(C)(1) Whoever violates this section is guilty of illegal dispensing of drug samples.

(2) If the drug involved in the offense is a compound, mixture, preparation, or substance included in schedule I or II, with the exception of marihuana, the penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b) of this section, illegal dispensing of drug samples is a felony of the fifth degree, and, subject to division (E) of this section, division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a felony of the fourth degree, and, subject to division (E) of this section, division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(3) If the drug involved in the offense is a dangerous drug

or a compound, mixture, preparation, or substance included in 1618
schedule III, IV, or V, or is marihuana, the penalty for the 1619
offense shall be determined as follows: 1620

(a) Except as otherwise provided in division (C)(3)(b) of 1621
this section, illegal dispensing of drug samples is a misdemeanor 1622
of the second degree. 1623

(b) If the offense was committed in the vicinity of a school 1624
or in the vicinity of a juvenile, illegal dispensing of drug 1625
samples is a misdemeanor of the first degree. 1626

(D) In addition to any prison term authorized or required by 1627
division (C) or (E) of this section and sections 2929.13 and 1628
2929.14 of the Revised Code and in addition to any other sanction 1629
imposed for the offense under this section or sections 2929.11 to 1630
2929.18 of the Revised Code, the court that sentences an offender 1631
who is convicted of or pleads guilty to a violation of division 1632
(A) of this section shall do both of the following: 1633

(1) The court shall suspend for not less than six months or 1634
more than five years the offender's driver's or commercial 1635
driver's license or permit. 1636

(2) If the offender is a professionally licensed person, in 1637
addition to any other sanction imposed for a violation of this 1638
section, the court immediately shall comply with section 2925.38 1639
of the Revised Code. 1640

(E) Notwithstanding the prison term authorized or required by 1641
division (C) of this section and sections 2929.13 and 2929.14 of 1642
the Revised Code, if the violation of division (A) of this section 1643
involves the sale, offer to sell, or possession of a schedule I or 1644
II controlled substance, with the exception of marihuana, and if 1645
the court imposing sentence upon the offender finds that the 1646
offender as a result of the violation is a major drug offender and 1647
is guilty of a specification of the type described in section 1648

2941.1410 of the Revised Code, the court, in lieu of the prison 1649
term otherwise authorized or required, shall impose upon the 1650
offender the mandatory prison term specified in division (B)(3)(a) 1651
of section 2929.14 of the Revised Code. 1652

(F) Notwithstanding any contrary provision of section 3719.21 1653
of the Revised Code, the clerk of the court shall pay a fine 1654
imposed for a violation of this section pursuant to division (A) 1655
of section 2929.18 of the Revised Code in accordance with and 1656
subject to the requirements of division (F) of section 2925.03 of 1657
the Revised Code. The agency that receives the fine shall use the 1658
fine as specified in division (F) of section 2925.03 of the 1659
Revised Code. 1660

Sec. 2925.37. (A) No person shall knowingly possess any 1661
counterfeit controlled substance. 1662

(B) No person shall knowingly make, sell, offer to sell, or 1663
deliver any substance that the person knows is a counterfeit 1664
controlled substance. 1665

(C) No person shall make, possess, sell, offer to sell, or 1666
deliver any punch, die, plate, stone, or other device knowing or 1667
having reason to know that it will be used to print or reproduce a 1668
trademark, trade name, or other identifying mark upon a 1669
counterfeit controlled substance. 1670

(D) No person shall sell, offer to sell, give, or deliver any 1671
counterfeit controlled substance to a juvenile. 1672

(E) No person shall directly or indirectly represent a 1673
counterfeit controlled substance as a controlled substance by 1674
describing its effects as the physical or psychological effects 1675
associated with use of a controlled substance. 1676

(F) No person shall directly or indirectly falsely represent 1677
or advertise a counterfeit controlled substance as a controlled 1678

substance. As used in this division, "advertise" means engaging in 1679
"advertisement," as defined in section 3715.01 of the Revised 1680
Code. 1681

(G) Whoever violates division (A) of this section is guilty 1682
of possession of counterfeit controlled substances, a misdemeanor 1683
of the first degree. 1684

(H) Whoever violates division (B) or (C) of this section is 1685
guilty of trafficking in counterfeit controlled substances. Except 1686
as otherwise provided in this division, trafficking in counterfeit 1687
controlled substances is a felony of the fifth degree, and 1688
division ~~(C)~~(B) of section 2929.13 of the Revised Code applies in 1689
determining whether to impose a prison term on the offender. If 1690
the offense was committed in the vicinity of a school or in the 1691
vicinity of a juvenile, trafficking in counterfeit controlled 1692
substances is a felony of the fourth degree, and division ~~(C)~~(B) 1693
of section 2929.13 of the Revised Code applies in determining 1694
whether to impose a prison term on the offender. 1695

(I) Whoever violates division (D) of this section is guilty 1696
of aggravated trafficking in counterfeit controlled substances. 1697
Except as otherwise provided in this division, aggravated 1698
trafficking in counterfeit controlled substances is a felony of 1699
the fourth degree, and division ~~(C)~~(B) of section 2929.13 of the 1700
Revised Code applies in determining whether to impose a prison 1701
term on the offender. 1702

(J) Whoever violates division (E) of this section is guilty 1703
of promoting and encouraging drug abuse. Except as otherwise 1704
provided in this division, promoting and encouraging drug abuse is 1705
a felony of the fifth degree, and division ~~(C)~~(B) of section 1706
2929.13 of the Revised Code applies in determining whether to 1707
impose a prison term on the offender. If the offense was committed 1708
in the vicinity of a school or in the vicinity of a juvenile, 1709
promoting and encouraging drug abuse is a felony of the fourth 1710

degree, and division ~~(C)~~(B) of section 2929.13 of the Revised Code 1711
applies in determining whether to impose a prison term on the 1712
offender. 1713

(K) Whoever violates division (F) of this section is guilty 1714
of fraudulent drug advertising. Except as otherwise provided in 1715
this division, fraudulent drug advertising is a felony of the 1716
fifth degree, and division ~~(C)~~(B) of section 2929.13 of the 1717
Revised Code applies in determining whether to impose a prison 1718
term on the offender. If the offense was committed in the vicinity 1719
of a school or in the vicinity of a juvenile, fraudulent drug 1720
advertising is a felony of the fourth degree, and division ~~(C)~~(B) 1721
of section 2929.13 of the Revised Code applies in determining 1722
whether to impose a prison term on the offender. 1723

(L) In addition to any prison term authorized or required by 1724
divisions (H) to (K) of this section and sections 2929.13 and 1725
2929.14 of the Revised Code and in addition to any other sanction 1726
imposed for the offense under this section or sections 2929.11 to 1727
2929.18 of the Revised Code, the court that sentences an offender 1728
who is convicted of or pleads guilty to a violation of division 1729
(B), (C), (D), (E), or (F) of this section shall do both of the 1730
following: 1731

(1) The court shall suspend for not less than six months or 1732
more than five years the offender's driver's or commercial 1733
driver's license or permit. 1734

(2) If the offender is a professionally licensed person, in 1735
addition to any other sanction imposed for a violation of this 1736
section, the court immediately shall comply with section 2925.38 1737
of the Revised Code. 1738

(M) Notwithstanding any contrary provision of section 3719.21 1739
of the Revised Code, the clerk of the court shall pay a fine 1740
imposed for a violation of this section pursuant to division (A) 1741

of section 2929.18 of the Revised Code in accordance with and 1742
subject to the requirements of division (F) of section 2925.03 of 1743
the Revised Code. The agency that receives the fine shall use the 1744
fine as specified in division (F) of section 2925.03 of the 1745
Revised Code. 1746

Sec. 2929.13. (A) Except as provided in division (E), (F), or 1747
(G) of this section and unless a specific sanction is required to 1748
be imposed or is precluded from being imposed pursuant to law, a 1749
court that imposes a sentence upon an offender for a felony may 1750
impose any sanction or combination of sanctions on the offender 1751
that are provided in sections 2929.14 to 2929.18 of the Revised 1752
Code. 1753

If the offender is eligible to be sentenced to community 1754
control sanctions, the court shall consider the appropriateness of 1755
imposing a financial sanction pursuant to section 2929.18 of the 1756
Revised Code or a sanction of community service pursuant to 1757
section 2929.17 of the Revised Code as the sole sanction for the 1758
offense. Except as otherwise provided in this division, if the 1759
court is required to impose a mandatory prison term for the 1760
offense for which sentence is being imposed, the court also shall 1761
impose any financial sanction pursuant to section 2929.18 of the 1762
Revised Code that is required for the offense and may impose any 1763
other financial sanction pursuant to that section but may not 1764
impose any additional sanction or combination of sanctions under 1765
section 2929.16 or 2929.17 of the Revised Code. 1766

If the offender is being sentenced for a fourth degree felony 1767
OVI offense or for a third degree felony OVI offense, in addition 1768
to the mandatory term of local incarceration or the mandatory 1769
prison term required for the offense by division (G)(1) or (2) of 1770
this section, the court shall impose upon the offender a mandatory 1771
fine in accordance with division (B)(3) of section 2929.18 of the 1772

Revised Code and may impose whichever of the following is 1773
applicable: 1774

(1) For a fourth degree felony OVI offense for which sentence 1775
is imposed under division (G)(1) of this section, an additional 1776
community control sanction or combination of community control 1777
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 1778
the court imposes upon the offender a community control sanction 1779
and the offender violates any condition of the community control 1780
sanction, the court may take any action prescribed in division (B) 1781
of section 2929.15 of the Revised Code relative to the offender, 1782
including imposing a prison term on the offender pursuant to that 1783
division. 1784

(2) For a third or fourth degree felony OVI offense for which 1785
sentence is imposed under division (G)(2) of this section, an 1786
additional prison term as described in division (B)(4) of section 1787
2929.14 of the Revised Code or a community control sanction as 1788
described in division (G)(2) of this section. 1789

~~(B)(1)(a) Except as provided in division (B)(1)(b) of this 1790
section, if an offender is convicted of or pleads guilty to a 1791
felony of the fourth or fifth degree that is not an offense of 1792
violence or that is a qualifying assault offense, the court shall 1793
sentence the offender to a community control sanction of at least 1794
one year's duration if all of the following apply: 1795~~

~~(i) The offender previously has not been convicted of or 1796
pleaded guilty to a felony offense. 1797~~

~~(ii) The most serious charge against the offender at the time 1798
of sentencing is a felony of the fourth or fifth degree. 1799~~

~~(iii) If the court made a request of the department of 1800
rehabilitation and correction pursuant to division (B)(1)(c) of 1801
this section, the department, within the forty five day period 1802
specified in that division, provided the court with the names of, 1803~~

~~contact information for, and program details of one or more
community control sanctions of at least one year's duration that
are available for persons sentenced by the court.~~

~~(iv) The offender previously has not been convicted of or
pleaded guilty to a misdemeanor offense of violence that the
offender committed within two years prior to the offense for which
sentence is being imposed.~~

~~(b) The court has discretion to impose a prison term upon an
offender who is convicted of or pleads guilty to a felony of the
fourth or fifth degree that is not an offense of violence or that
is a qualifying assault offense if any of the following apply:~~

~~(i) The offender committed the offense while having a firearm
on or about the offender's person or under the offender's control.~~

~~(ii) If the offense is a qualifying assault offense, the
offender caused serious physical harm to another person while
committing the offense, and, if the offense is not a qualifying
assault offense, the offender caused physical harm to another
person while committing the offense.~~

~~(iii) The offender violated a term of the conditions of bond
as set by the court.~~

~~(iv) The court made a request of the department of
rehabilitation and correction pursuant to division (B)(1)(c) of
this section, and the department, within the forty five day period
specified in that division, did not provide the court with the
name of, contact information for, and program details of any
community control sanction of at least one year's duration that is
available for persons sentenced by the court.~~

~~(v) The offense is a sex offense that is a fourth or fifth
degree felony violation of any provision of Chapter 2907. of the
Revised Code.~~

~~(vi) In committing the offense, the offender attempted to
cause or made an actual threat of physical harm to a person with a
deadly weapon.~~ 1834
1835
1836

~~(vii) 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.~~ 1837
1838
1839
1840

~~(viii) 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.~~ 1841
1842
1843
1844
1845
1846

~~(ix) The offender committed the offense for hire or as part
of an organized criminal activity.~~ 1847
1848

~~(x) The offender at the time of the offense was serving, or
the offender previously had served, a prison term.~~ 1849
1850

~~(xi) The offender committed the offense while under a
community control sanction, while on probation, or while released
from custody on a bond or personal recognizance.~~ 1851
1852
1853

~~(c) If a court that is sentencing an offender who is
convicted of or pleads guilty to a felony of the fourth or fifth
degree that is not an offense of violence or that is a qualifying
assault offense believes that no community control sanctions are
available for its use that, if imposed on the offender, will
adequately fulfill the overriding principles and purposes of
sentencing, the court shall contact the department of
rehabilitation and correction and ask the department to provide
the court with the names of, contact information for, and program
details of one or more community control sanctions of at least one
year's duration that are available for persons sentenced by the~~ 1854
1855
1856
1857
1858
1859
1860
1861
1862
1863
1864

~~court. Not later than forty five days after receipt of a request 1865
from a court under this division, the department shall provide the 1866
court with the names of, contact information for, and program 1867
details of one or more community control sanctions of at least one 1868
year's duration that are available for persons sentenced by the 1869
court, if any. Upon making a request under this division that 1870
relates to a particular offender, a court shall defer sentencing 1871
of that offender until it receives from the department the names 1872
of, contact information for, and program details of one or more 1873
community control sanctions of at least one year's duration that 1874
are available for persons sentenced by the court or for forty five 1875
days, whichever is the earlier. 1876~~

~~If the department provides the court with the names of, 1877
contact information for, and program details of one or more 1878
community control sanctions of at least one year's duration that 1879
are available for persons sentenced by the court within the 1880
forty five day period specified in this division, the court shall 1881
impose upon the offender a community control sanction under 1882
division (B)(1)(a) of this section, except that the court may 1883
impose a prison term under division (B)(1)(b) of this section if a 1884
factor described in division (B)(1)(b)(i) or (ii) of this section 1885
applies. If the department does not provide the court with the 1886
names of, contact information for, and program details of one or 1887
more community control sanctions of at least one year's duration 1888
that are available for persons sentenced by the court within the 1889
forty five day period specified in this division, the court may 1890
impose upon the offender a prison term under division 1891
(B)(1)(b)(iv) of this section. 1892~~

~~(d) A sentencing court may impose an additional penalty under 1893
division (B) of section 2929.15 of the Revised Code upon an 1894
offender sentenced to a community control sanction under division 1895
(B)(1)(a) of this section if the offender violates the conditions 1896~~

~~of the community control sanction, violates a law, or leaves the~~ 1897
~~state without the permission of the court or the offender's~~ 1898
~~probation officer.~~ 1899

~~(2) If division (B)(1) of this section does not apply, except~~ 1900
~~as provided in~~ division (E), (F), or (G) of this section, in 1901
determining whether to impose a prison term as a sanction for a 1902
felony of the fourth or fifth degree, the sentencing court shall 1903
comply with the purposes and principles of sentencing under 1904
section 2929.11 of the Revised Code and with section 2929.12 of 1905
the Revised Code. 1906

(C) Except as provided in division (D), (E), (F), or (G) of 1907
this section, in determining whether to impose a prison term as a 1908
sanction for a felony of the third degree or a felony drug offense 1909
that is a violation of a provision of Chapter 2925. of the Revised 1910
Code and that is specified as being subject to this division for 1911
purposes of sentencing, the sentencing court shall comply with the 1912
purposes and principles of sentencing under section 2929.11 of the 1913
Revised Code and with section 2929.12 of the Revised Code. 1914

(D)(1) Except as provided in division (E) or (F) of this 1915
section, for a felony of the first or second degree, for a felony 1916
drug offense that is a violation of any provision of Chapter 1917
2925., 3719., or 4729. of the Revised Code for which a presumption 1918
in favor of a prison term is specified as being applicable, and 1919
for a violation of division (A)(4) or (B) of section 2907.05 of 1920
the Revised Code for which a presumption in favor of a prison term 1921
is specified as being applicable, it is presumed that a prison 1922
term is necessary in order to comply with the purposes and 1923
principles of sentencing under section 2929.11 of the Revised 1924
Code. Division (D)(2) of this section does not apply to a 1925
presumption established under this division for a violation of 1926
division (A)(4) of section 2907.05 of the Revised Code. 1927

(2) Notwithstanding the presumption established under 1928

division (D)(1) of this section for the offenses listed in that 1929
division other than a violation of division (A)(4) or (B) of 1930
section 2907.05 of the Revised Code, the sentencing court may 1931
impose a community control sanction or a combination of community 1932
control sanctions instead of a prison term on an offender for a 1933
felony of the first or second degree or for a felony drug offense 1934
that is a violation of any provision of Chapter 2925., 3719., or 1935
4729. of the Revised Code for which a presumption in favor of a 1936
prison term is specified as being applicable if it makes both of 1937
the following findings: 1938

(a) A community control sanction or a combination of 1939
community control sanctions would adequately punish the offender 1940
and protect the public from future crime, because the applicable 1941
factors under section 2929.12 of the Revised Code indicating a 1942
lesser likelihood of recidivism outweigh the applicable factors 1943
under that section indicating a greater likelihood of recidivism. 1944

(b) A community control sanction or a combination of 1945
community control sanctions would not demean the seriousness of 1946
the offense, because one or more factors under section 2929.12 of 1947
the Revised Code that indicate that the offender's conduct was 1948
less serious than conduct normally constituting the offense are 1949
applicable, and they outweigh the applicable factors under that 1950
section that indicate that the offender's conduct was more serious 1951
than conduct normally constituting the offense. 1952

(E)(1) Except as provided in division (F) of this section, 1953
for any drug offense that is a violation of any provision of 1954
Chapter 2925. of the Revised Code and that is a felony of the 1955
third, fourth, or fifth degree, the applicability of a presumption 1956
under division (D) of this section in favor of a prison term or of 1957
division (B) or (C) of this section in determining whether to 1958
impose a prison term for the offense shall be determined as 1959
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 1960

2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

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

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

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

(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 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, divisions (C) to (I) of section 2967.19, or section 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 2967.19, 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 is less than thirteen years of age and if any of the following applies:

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

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

(c) Regarding sexual battery, either of the following

applies:	2023
(i) The offense was committed prior to August 3, 2006, the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than thirteen years of age.	2024 2025 2026 2027 2028
(ii) The offense was committed on or after August 3, 2006.	2029
(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the Revised Code if the section requires the imposition of a prison term;	2030 2031 2032
(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;	2033 2034 2035 2036 2037
(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;	2038 2039 2040 2041 2042 2043 2044
(7) Any offense that is a third degree felony and either is a violation of section 2903.04 of the Revised Code or an attempt to commit a felony of the second degree that is an offense of violence and involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person if the offender previously was convicted of or pleaded guilty to any of the following offenses:	2045 2046 2047 2048 2049 2050 2051
(a) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section	2052 2053

2907.12 of the Revised Code prior to September 3, 1996, a felony 2054
of the first or second degree that resulted in the death of a 2055
person or in physical harm to a person, or complicity in or an 2056
attempt to commit any of those offenses; 2057

(b) An offense under an existing or former law of this state, 2058
another state, or the United States that is or was substantially 2059
equivalent to an offense listed in division (F)(7)(a) of this 2060
section that resulted in the death of a person or in physical harm 2061
to a person. 2062

(8) Any offense, other than a violation of section 2923.12 of 2063
the Revised Code, that is a felony, if the offender had a firearm 2064
on or about the offender's person or under the offender's control 2065
while committing the felony, with respect to a portion of the 2066
sentence imposed pursuant to division (B)(1)(a) of section 2929.14 2067
of the Revised Code for having the firearm; 2068

(9) Any offense of violence that is a felony, if the offender 2069
wore or carried body armor while committing the felony offense of 2070
violence, with respect to the portion of the sentence imposed 2071
pursuant to division (B)(1)(d) of section 2929.14 of the Revised 2072
Code for wearing or carrying the body armor; 2073

(10) Corrupt activity in violation of section 2923.32 of the 2074
Revised Code when the most serious offense in the pattern of 2075
corrupt activity that is the basis of the offense is a felony of 2076
the first degree; 2077

(11) Any violent sex offense or designated homicide, assault, 2078
or kidnapping offense if, in relation to that offense, the 2079
offender is adjudicated a sexually violent predator; 2080

(12) A violation of division (A)(1) or (2) of section 2921.36 2081
of the Revised Code, or a violation of division (C) of that 2082
section involving an item listed in division (A)(1) or (2) of that 2083
section, if the offender is an officer or employee of the 2084

department of rehabilitation and correction; 2085

(13) A violation of division (A)(1) or (2) of section 2903.06 2086
of the Revised Code if the victim of the offense is a peace 2087
officer, as defined in section 2935.01 of the Revised Code, or an 2088
investigator of the bureau of criminal identification and 2089
investigation, as defined in section 2903.11 of the Revised Code, 2090
with respect to the portion of the sentence imposed pursuant to 2091
division (B)(5) of section 2929.14 of the Revised Code; 2092

(14) A violation of division (A)(1) or (2) of section 2903.06 2093
of the Revised Code if the offender has been convicted of or 2094
pleaded guilty to three or more violations of division (A) or (B) 2095
of section 4511.19 of the Revised Code or an equivalent offense, 2096
as defined in section 2941.1415 of the Revised Code, or three or 2097
more violations of any combination of those divisions and 2098
offenses, with respect to the portion of the sentence imposed 2099
pursuant to division (B)(6) of section 2929.14 of the Revised 2100
Code; 2101

(15) Kidnapping, in the circumstances specified in section 2102
2971.03 of the Revised Code and when no other provision of 2103
division (F) of this section applies; 2104

(16) Kidnapping, abduction, compelling prostitution, 2105
promoting prostitution, engaging in a pattern of corrupt activity, 2106
illegal use of a minor in a nudity-oriented material or 2107
performance in violation of division (A)(1) or (2) of section 2108
2907.323 of the Revised Code, or endangering children in violation 2109
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 2110
the Revised Code, if the offender is convicted of or pleads guilty 2111
to a specification as described in section 2941.1422 of the 2112
Revised Code that was included in the indictment, count in the 2113
indictment, or information charging the offense; 2114

(17) A felony violation of division (A) or (B) of section 2115

2919.25 of the Revised Code if division (D)(3), (4), or (5) of 2116
that section, and division (D)(6) of that section, require the 2117
imposition of a prison term; 2118

(18) A felony violation of section 2903.11, 2903.12, or 2119
2903.13 of the Revised Code, if the victim of the offense was a 2120
woman that the offender knew was pregnant at the time of the 2121
violation, with respect to a portion of the sentence imposed 2122
pursuant to division (B)(8) of section 2929.14 of the Revised 2123
Code. 2124

(G) Notwithstanding divisions (A) to (E) of this section, if 2125
an offender is being sentenced for a fourth degree felony OVI 2126
offense or for a third degree felony OVI offense, the court shall 2127
impose upon the offender a mandatory term of local incarceration 2128
or a mandatory prison term in accordance with the following: 2129

(1) If the offender is being sentenced for a fourth degree 2130
felony OVI offense and if the offender has not been convicted of 2131
and has not pleaded guilty to a specification of the type 2132
described in section 2941.1413 of the Revised Code, the court may 2133
impose upon the offender a mandatory term of local incarceration 2134
of sixty days or one hundred twenty days as specified in division 2135
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 2136
not reduce the term pursuant to section 2929.20, 2967.193, or any 2137
other provision of the Revised Code. The court that imposes a 2138
mandatory term of local incarceration under this division shall 2139
specify whether the term is to be served in a jail, a 2140
community-based correctional facility, a halfway house, or an 2141
alternative residential facility, and the offender shall serve the 2142
term in the type of facility specified by the court. A mandatory 2143
term of local incarceration imposed under division (G)(1) of this 2144
section is not subject to any other Revised Code provision that 2145
pertains to a prison term except as provided in division (A)(1) of 2146
this section. 2147

(2) If the offender is being sentenced for a third degree 2148
felony OVI offense, or if the offender is being sentenced for a 2149
fourth degree felony OVI offense and the court does not impose a 2150
mandatory term of local incarceration under division (G)(1) of 2151
this section, the court shall impose upon the offender a mandatory 2152
prison term of one, two, three, four, or five years if the 2153
offender also is convicted of or also pleads guilty to a 2154
specification of the type described in section 2941.1413 of the 2155
Revised Code or shall impose upon the offender a mandatory prison 2156
term of sixty days or one hundred twenty days as specified in 2157
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 2158
if the offender has not been convicted of and has not pleaded 2159
guilty to a specification of that type. Subject to divisions (C) 2160
to (I) of section 2967.19 of the Revised Code, the court shall not 2161
reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or 2162
any other provision of the Revised Code. The offender shall serve 2163
the one-, two-, three-, four-, or five-year mandatory prison term 2164
consecutively to and prior to the prison term imposed for the 2165
underlying offense and consecutively to any other mandatory prison 2166
term imposed in relation to the offense. In no case shall an 2167
offender who once has been sentenced to a mandatory term of local 2168
incarceration pursuant to division (G)(1) of this section for a 2169
fourth degree felony OVI offense be sentenced to another mandatory 2170
term of local incarceration under that division for any violation 2171
of division (A) of section 4511.19 of the Revised Code. In 2172
addition to the mandatory prison term described in division (G)(2) 2173
of this section, the court may sentence the offender to a 2174
community control sanction under section 2929.16 or 2929.17 of the 2175
Revised Code, but the offender shall serve the prison term prior 2176
to serving the community control sanction. The department of 2177
rehabilitation and correction may place an offender sentenced to a 2178
mandatory prison term under this division in an intensive program 2179
prison established pursuant to section 5120.033 of the Revised 2180

Code if the department gave the sentencing judge prior notice of 2181
its intent to place the offender in an intensive program prison 2182
established under that section and if the judge did not notify the 2183
department that the judge disapproved the placement. Upon the 2184
establishment of the initial intensive program prison pursuant to 2185
section 5120.033 of the Revised Code that is privately operated 2186
and managed by a contractor pursuant to a contract entered into 2187
under section 9.06 of the Revised Code, both of the following 2188
apply: 2189

(a) The department of rehabilitation and correction shall 2190
make a reasonable effort to ensure that a sufficient number of 2191
offenders sentenced to a mandatory prison term under this division 2192
are placed in the privately operated and managed prison so that 2193
the privately operated and managed prison has full occupancy. 2194

(b) Unless the privately operated and managed prison has full 2195
occupancy, the department of rehabilitation and correction shall 2196
not place any offender sentenced to a mandatory prison term under 2197
this division in any intensive program prison established pursuant 2198
to section 5120.033 of the Revised Code other than the privately 2199
operated and managed prison. 2200

(H) If an offender is being sentenced for a sexually oriented 2201
offense or child-victim oriented offense that is a felony 2202
committed on or after January 1, 1997, the judge shall require the 2203
offender to submit to a DNA specimen collection procedure pursuant 2204
to section 2901.07 of the Revised Code. 2205

(I) If an offender is being sentenced for a sexually oriented 2206
offense or a child-victim oriented offense committed on or after 2207
January 1, 1997, the judge shall include in the sentence a summary 2208
of the offender's duties imposed under sections 2950.04, 2950.041, 2209
2950.05, and 2950.06 of the Revised Code and the duration of the 2210
duties. The judge shall inform the offender, at the time of 2211
sentencing, of those duties and of their duration. If required 2212

under division (A)(2) of section 2950.03 of the Revised Code, the 2213
judge shall perform the duties specified in that section, or, if 2214
required under division (A)(6) of section 2950.03 of the Revised 2215
Code, the judge shall perform the duties specified in that 2216
division. 2217

(J)(1) Except as provided in division (J)(2) of this section, 2218
when considering sentencing factors under this section in relation 2219
to an offender who is convicted of or pleads guilty to an attempt 2220
to commit an offense in violation of section 2923.02 of the 2221
Revised Code, the sentencing court shall consider the factors 2222
applicable to the felony category of the violation of section 2223
2923.02 of the Revised Code instead of the factors applicable to 2224
the felony category of the offense attempted. 2225

(2) When considering sentencing factors under this section in 2226
relation to an offender who is convicted of or pleads guilty to an 2227
attempt to commit a drug abuse offense for which the penalty is 2228
determined by the amount or number of unit doses of the controlled 2229
substance involved in the drug abuse offense, the sentencing court 2230
shall consider the factors applicable to the felony category that 2231
the drug abuse offense attempted would be if that drug abuse 2232
offense had been committed and had involved an amount or number of 2233
unit doses of the controlled substance that is within the next 2234
lower range of controlled substance amounts than was involved in 2235
the attempt. 2236

(K) As used in this section: 2237

(1) "Drug abuse offense" has the same meaning as in section 2238
2925.01 of the Revised Code. 2239

(2) "Qualifying assault offense" means a violation of section 2240
2903.13 of the Revised Code for which the penalty provision in 2241
division (C)(7)(b) or (C)(8)(b) of that section applies. 2242

(L) At the time of sentencing an offender for any sexually 2243

oriented offense, if the offender is a tier III sex 2244
offender/child-victim offender relative to that offense and the 2245
offender does not serve a prison term or jail term, the court may 2246
require that the offender be monitored by means of a global 2247
positioning device. If the court requires such monitoring, the 2248
cost of monitoring shall be borne by the offender. If the offender 2249
is indigent, the cost of compliance shall be paid by the crime 2250
victims reparations fund. 2251

Sec. 2951.041. (A)(1) If an offender is charged with a 2252
criminal offense, including but not limited to a violation of 2253
section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21 of 2254
the Revised Code, and the court has reason to believe that drug or 2255
alcohol usage by the offender was a factor leading to the criminal 2256
offense with which the offender is charged or that, at the time of 2257
committing that offense, the offender had a mental illness or was 2258
a person with intellectual disability and that the mental illness 2259
or status as a person with intellectual disability was a factor 2260
leading to the offender's criminal behavior, the court may accept, 2261
prior to the entry of a guilty plea, the offender's request for 2262
intervention in lieu of conviction. The request shall include a 2263
statement from the offender as to whether the offender is alleging 2264
that drug or alcohol usage by the offender was a factor leading to 2265
the criminal offense with which the offender is charged or is 2266
alleging that, at the time of committing that offense, the 2267
offender had a mental illness or was a person with intellectual 2268
disability and that the mental illness or status as a person with 2269
intellectual disability was a factor leading to the criminal 2270
offense with which the offender is charged. The request also shall 2271
include a waiver of the defendant's right to a speedy trial, the 2272
preliminary hearing, the time period within which the grand jury 2273
may consider an indictment against the offender, and arraignment, 2274
unless the hearing, indictment, or arraignment has already 2275

occurred. The court may reject an offender's request without a 2276
hearing. If the court elects to consider an offender's request, 2277
the court shall conduct a hearing to determine whether the 2278
offender is eligible under this section for intervention in lieu 2279
of conviction and shall stay all criminal proceedings pending the 2280
outcome of the hearing. If the court schedules a hearing, the 2281
court shall order an assessment of the offender for the purpose of 2282
determining the offender's eligibility for intervention in lieu of 2283
conviction and recommending an appropriate intervention plan. 2284

If the offender alleges that drug or alcohol usage by the 2285
offender was a factor leading to the criminal offense with which 2286
the offender is charged, the court may order that the offender be 2287
assessed by a program certified pursuant to section 3793.06 of the 2288
Revised Code or a properly credentialed professional for the 2289
purpose of determining the offender's eligibility for intervention 2290
in lieu of conviction and recommending an appropriate intervention 2291
plan. The program or the properly credentialed professional shall 2292
provide a written assessment of the offender to the court. 2293

(2) The victim notification provisions of division (C) of 2294
section 2930.08 of the Revised Code apply in relation to any 2295
hearing held under division (A)(1) of this section. 2296

(B) An offender is eligible for intervention in lieu of 2297
conviction if the court finds all of the following: 2298

(1) The offender previously has not been convicted of or 2299
pleaded guilty to a felony offense of violence or previously has 2300
been convicted of or pleaded guilty to any felony that is not an 2301
offense of violence and the prosecuting attorney recommends that 2302
the offender be found eligible for participation in intervention 2303
in lieu of treatment under this section, previously has not been 2304
through intervention in lieu of conviction under this section or 2305
any similar regimen, and is charged with a felony for which the 2306
court, upon conviction, would impose a community control sanction 2307

on the offender under division (B)~~(2)~~ of section 2929.13 of the Revised Code or with a misdemeanor.

(2) The offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code, is not a violation of division (A)(1) of section 2903.08 of the Revised Code, is not a violation of division (A) of section 4511.19 of the Revised Code or a municipal ordinance that is substantially similar to that division, and is not an offense for which a sentencing court is required to impose a mandatory prison term, a mandatory term of local incarceration, or a mandatory term of imprisonment in a jail.

(3) The offender is not charged with a violation of section 2925.02, 2925.04, or 2925.06 of the Revised Code, is not charged with a violation of section 2925.03 of the Revised Code that is a felony of the first, second, third, or fourth degree, and is not charged with a violation of section 2925.11 of the Revised Code that is a felony of the first, second, or third degree.

(4) If an offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court has ordered that the offender be assessed by a program certified pursuant to section 3793.06 of the Revised Code or a properly credentialed professional for the purpose of determining the offender's eligibility for intervention in lieu of conviction and recommending an appropriate intervention plan, the offender has been assessed by a program of that nature or a properly credentialed professional in accordance with the court's order, and the program or properly credentialed professional has filed the written assessment of the offender with the court.

(5) If an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the

offender had a mental illness or was a person with intellectual 2340
disability and that the mental illness or status as a person with 2341
intellectual disability was a factor leading to that offense, the 2342
offender has been assessed by a psychiatrist, psychologist, 2343
independent social worker, or professional clinical counselor for 2344
the purpose of determining the offender's eligibility for 2345
intervention in lieu of conviction and recommending an appropriate 2346
intervention plan. 2347

(6) The offender's drug usage, alcohol usage, mental illness, 2348
or intellectual disability, whichever is applicable, was a factor 2349
leading to the criminal offense with which the offender is 2350
charged, intervention in lieu of conviction would not demean the 2351
seriousness of the offense, and intervention would substantially 2352
reduce the likelihood of any future criminal activity. 2353

(7) The alleged victim of the offense was not sixty-five 2354
years of age or older, permanently and totally disabled, under 2355
thirteen years of age, or a peace officer engaged in the officer's 2356
official duties at the time of the alleged offense. 2357

(8) If the offender is charged with a violation of section 2358
2925.24 of the Revised Code, the alleged violation did not result 2359
in physical harm to any person, and the offender previously has 2360
not been treated for drug abuse. 2361

(9) The offender is willing to comply with all terms and 2362
conditions imposed by the court pursuant to division (D) of this 2363
section. 2364

(10) The offender is not charged with an offense that would 2365
result in the offender being disqualified under Chapter 4506. of 2366
the Revised Code from operating a commercial motor vehicle or 2367
would subject the offender to any other sanction under that 2368
chapter. 2369

(C) At the conclusion of a hearing held pursuant to division 2370

(A) of this section, the court shall enter its determination as to 2371
whether the offender is eligible for intervention in lieu of 2372
conviction and as to whether to grant the offender's request. If 2373
the court finds under division (B) of this section that the 2374
offender is eligible for intervention in lieu of conviction and 2375
grants the offender's request, the court shall accept the 2376
offender's plea of guilty and waiver of the defendant's right to a 2377
speedy trial, the preliminary hearing, the time period within 2378
which the grand jury may consider an indictment against the 2379
offender, and arraignment, unless the hearing, indictment, or 2380
arraignment has already occurred. In addition, the court then may 2381
stay all criminal proceedings and order the offender to comply 2382
with all terms and conditions imposed by the court pursuant to 2383
division (D) of this section. If the court finds that the offender 2384
is not eligible or does not grant the offender's request, the 2385
criminal proceedings against the offender shall proceed as if the 2386
offender's request for intervention in lieu of conviction had not 2387
been made. 2388

(D) If the court grants an offender's request for 2389
intervention in lieu of conviction, the court shall place the 2390
offender under the general control and supervision of the county 2391
probation department, the adult parole authority, or another 2392
appropriate local probation or court services agency, if one 2393
exists, as if the offender was subject to a community control 2394
sanction imposed under section 2929.15, 2929.18, or 2929.25 of the 2395
Revised Code. The court shall establish an intervention plan for 2396
the offender. The terms and conditions of the intervention plan 2397
shall require the offender, for at least one year from the date on 2398
which the court grants the order of intervention in lieu of 2399
conviction, to abstain from the use of illegal drugs and alcohol, 2400
to participate in treatment and recovery support services, and to 2401
submit to regular random testing for drug and alcohol use and may 2402
include any other treatment terms and conditions, or terms and 2403

conditions similar to community control sanctions, which may 2404
include community service or restitution, that are ordered by the 2405
court. 2406

(E) If the court grants an offender's request for 2407
intervention in lieu of conviction and the court finds that the 2408
offender has successfully completed the intervention plan for the 2409
offender, including the requirement that the offender abstain from 2410
using illegal drugs and alcohol for a period of at least one year 2411
from the date on which the court granted the order of intervention 2412
in lieu of conviction, the requirement that the offender 2413
participate in treatment and recovery support services, and all 2414
other terms and conditions ordered by the court, the court shall 2415
dismiss the proceedings against the offender. Successful 2416
completion of the intervention plan and period of abstinence under 2417
this section shall be without adjudication of guilt and is not a 2418
criminal conviction for purposes of any disqualification or 2419
disability imposed by law and upon conviction of a crime, and the 2420
court may order the sealing of records related to the offense in 2421
question in the manner provided in sections 2953.31 to 2953.36 of 2422
the Revised Code. 2423

(F) If the court grants an offender's request for 2424
intervention in lieu of conviction and the offender fails to 2425
comply with any term or condition imposed as part of the 2426
intervention plan for the offender, the supervising authority for 2427
the offender promptly shall advise the court of this failure, and 2428
the court shall hold a hearing to determine whether the offender 2429
failed to comply with any term or condition imposed as part of the 2430
plan. If the court determines that the offender has failed to 2431
comply with any of those terms and conditions, it shall enter a 2432
finding of guilty and shall impose an appropriate sanction under 2433
Chapter 2929. of the Revised Code. If the court sentences the 2434
offender to a prison term, the court, after consulting with the 2435

department of rehabilitation and correction regarding the 2436
availability of services, may order continued court-supervised 2437
activity and treatment of the offender during the prison term and, 2438
upon consideration of reports received from the department 2439
concerning the offender's progress in the program of activity and 2440
treatment, may consider judicial release under section 2929.20 of 2441
the Revised Code. 2442

(G) As used in this section: 2443

(1) "Community control sanction" has the same meaning as in 2444
section 2929.01 of the Revised Code. 2445

(2) "Intervention in lieu of conviction" means any 2446
court-supervised activity that complies with this section. 2447

(3) "Peace officer" has the same meaning as in section 2448
2935.01 of the Revised Code. 2449

(4) "Mental illness" and "psychiatrist" have the same 2450
meanings as in section 5122.01 of the Revised Code. 2451

(5) "Person with intellectual disability" means a person 2452
having significantly subaverage general intellectual functioning 2453
existing concurrently with deficiencies in adaptive behavior, 2454
manifested during the developmental period. 2455

(6) "Psychologist" has the same meaning as in section 4732.01 2456
of the Revised Code. 2457

(H) Whenever the term "mentally retarded person" is used in 2458
any statute, rule, contract, grant, or other document, the 2459
reference shall be deemed to include a "person with intellectual 2460
disability," as defined in this section. 2461

Sec. 2953.08. (A) In addition to any other right to appeal 2462
and except as provided in division (D) of this section, a 2463
defendant who is convicted of or pleads guilty to a felony may 2464
appeal as a matter of right the sentence imposed upon the 2465

defendant on one of the following grounds: 2466

(1) The sentence consisted of or included the maximum prison 2467
term allowed for the offense by division (A) of section 2929.14 or 2468
section 2929.142 of the Revised Code, the maximum prison term was 2469
not required for the offense pursuant to Chapter 2925. or any 2470
other provision of the Revised Code, and the court imposed the 2471
sentence under one of the following circumstances: 2472

(a) The sentence was imposed for only one offense. 2473

(b) The sentence was imposed for two or more offenses arising 2474
out of a single incident, and the court imposed the maximum prison 2475
term for the offense of the highest degree. 2476

(2) The sentence consisted of or included a prison term and 2477
the offense for which it was imposed is a felony of the fourth or 2478
fifth degree or is a felony drug offense that is a violation of a 2479
provision of Chapter 2925. of the Revised Code and that is 2480
specified as being subject to division (B) of section 2929.13 of 2481
the Revised Code for purposes of sentencing. If the sentence was 2482
imposed for an offense committed prior to the effective date of 2483
this amendment and the court ~~specifies~~ specified that it found one 2484
or more of the factors in division (B)(1)(b) of section 2929.13 of 2485
the Revised Code to apply relative to the defendant, the defendant 2486
is not entitled under this division to appeal as a matter of right 2487
the sentence imposed upon the offender. 2488

(3) The person was convicted of or pleaded guilty to a 2489
violent sex offense or a designated homicide, assault, or 2490
kidnapping offense, was adjudicated a sexually violent predator in 2491
relation to that offense, and was sentenced pursuant to division 2492
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 2493
of the indefinite term imposed pursuant to division (A)(3) of 2494
section 2971.03 of the Revised Code is the longest term available 2495
for the offense from among the range of terms listed in section 2496

2929.14 of the Revised Code. As used in this division, "designated homicide, assault, or kidnapping offense" and "violent sex offense" have the same meanings as in section 2971.01 of the Revised Code. As used in this division, "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.

(4) The sentence is contrary to law.

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

(B) In addition to any other right to appeal and except as provided in division (D) of this section, a prosecuting attorney, a city director of law, village solicitor, or similar chief legal officer of a municipal corporation, or the attorney general, if one of those persons prosecuted the case, may appeal as a matter of right a sentence imposed upon a defendant who is convicted of or pleads guilty to a felony or, in the circumstances described in division (B)(3) of this section the modification of a sentence imposed upon such a defendant, on any of the following grounds:

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

(2) The sentence is contrary to law.

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

(C)(1) In addition to the right to appeal a sentence granted under division (A) or (B) of this section, a defendant who is

convicted of or pleads guilty to a felony may seek leave to appeal 2528
a sentence imposed upon the defendant on the basis that the 2529
sentencing judge has imposed consecutive sentences under division 2530
(C)(3) of section 2929.14 of the Revised Code and that the 2531
consecutive sentences exceed the maximum prison term allowed by 2532
division (A) of that section for the most serious offense of which 2533
the defendant was convicted. Upon the filing of a motion under 2534
this division, the court of appeals may grant leave to appeal the 2535
sentence if the court determines that the allegation included as 2536
the basis of the motion is true. 2537

(2) A defendant may seek leave to appeal an additional 2538
sentence imposed upon the defendant pursuant to division (B)(2)(a) 2539
or (b) of section 2929.14 of the Revised Code if the additional 2540
sentence is for a definite prison term that is longer than five 2541
years. 2542

(D)(1) A sentence imposed upon a defendant is not subject to 2543
review under this section if the sentence is authorized by law, 2544
has been recommended jointly by the defendant and the prosecution 2545
in the case, and is imposed by a sentencing judge. 2546

(2) Except as provided in division (C)(2) of this section, a 2547
sentence imposed upon a defendant is not subject to review under 2548
this section if the sentence is imposed pursuant to division 2549
(B)(2)(b) of section 2929.14 of the Revised Code. Except as 2550
otherwise provided in this division, a defendant retains all 2551
rights to appeal as provided under this chapter or any other 2552
provision of the Revised Code. A defendant has the right to appeal 2553
under this chapter or any other provision of the Revised Code the 2554
court's application of division (B)(2)(c) of section 2929.14 of 2555
the Revised Code. 2556

(3) A sentence imposed for aggravated murder or murder 2557
pursuant to sections 2929.02 to 2929.06 of the Revised Code is not 2558
subject to review under this section. 2559

(E) A defendant, prosecuting attorney, city director of law, 2560
village solicitor, or chief municipal legal officer shall file an 2561
appeal of a sentence under this section to a court of appeals 2562
within the time limits specified in Rule 4(B) of the Rules of 2563
Appellate Procedure, provided that if the appeal is pursuant to 2564
division (B)(3) of this section, the time limits specified in that 2565
rule shall not commence running until the court grants the motion 2566
that makes the sentence modification in question. A sentence 2567
appeal under this section shall be consolidated with any other 2568
appeal in the case. If no other appeal is filed, the court of 2569
appeals may review only the portions of the trial record that 2570
pertain to sentencing. 2571

(F) On the appeal of a sentence under this section, the 2572
record to be reviewed shall include all of the following, as 2573
applicable: 2574

(1) Any presentence, psychiatric, or other investigative 2575
report that was submitted to the court in writing before the 2576
sentence was imposed. An appellate court that reviews a 2577
presentence investigation report prepared pursuant to section 2578
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 2579
connection with the appeal of a sentence under this section shall 2580
comply with division (D)(3) of section 2951.03 of the Revised Code 2581
when the appellate court is not using the presentence 2582
investigation report, and the appellate court's use of a 2583
presentence investigation report of that nature in connection with 2584
the appeal of a sentence under this section does not affect the 2585
otherwise confidential character of the contents of that report as 2586
described in division (D)(1) of section 2951.03 of the Revised 2587
Code and does not cause that report to become a public record, as 2588
defined in section 149.43 of the Revised Code, following the 2589
appellate court's use of the report. 2590

(2) The trial record in the case in which the sentence was 2591

imposed; 2592

(3) Any oral or written statements made to or by the court at 2593
the sentencing hearing at which the sentence was imposed; 2594

(4) Any written findings that the court was required to make 2595
in connection with the modification of the sentence pursuant to a 2596
judicial release under division (I) of section 2929.20 of the 2597
Revised Code. 2598

(G)(1) If the sentencing court was required to make the 2599
findings required by division ~~(B) or~~ (D) of section 2929.13 or 2600
division (I) of section 2929.20 of the Revised Code or division 2601
(B) of section 2929.13 of the Revised Code as it existed prior to 2602
the effective date of this amendment, or to state the findings of 2603
the trier of fact required by division (B)(2)(e) of section 2604
2929.14 of the Revised Code as it existed prior to the effective 2605
date of this amendment, relative to the imposition or modification 2606
of the sentence, and if the sentencing court failed to state the 2607
required findings on the record, the court hearing an appeal under 2608
division (A), (B), or (C) of this section shall remand the case to 2609
the sentencing court and instruct the sentencing court to state, 2610
on the record, the required findings. 2611

(2) The court hearing an appeal under division (A), (B), or 2612
(C) of this section shall review the record, including the 2613
findings underlying the sentence or modification given by the 2614
sentencing court. 2615

The appellate court may increase, reduce, or otherwise modify 2616
a sentence that is appealed under this section or may vacate the 2617
sentence and remand the matter to the sentencing court for 2618
resentencing. The appellate court's standard for review is not 2619
whether the sentencing court abused its discretion. The appellate 2620
court may take any action authorized by this division if it 2621
clearly and convincingly finds either of the following: 2622

(a) That the record does not support the sentencing court's findings under division ~~(B)~~ or (D) of section 2929.13, division (B)(2)(e) or (C)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code or division (B) of section 2929.13 of the Revised Code as it existed prior to the effective date of this amendment, whichever, if any, is relevant;

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

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

Section 2. That existing sections 2925.02, 2925.03, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 2929.13, 2951.041, and 2953.08 of the Revised Code are hereby repealed.

Section 3. Section 2925.02 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 64 and Am. Sub. H.B. 86 of the 129th General Assembly. Section 2929.13 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 62, Am. Sub. H.B. 262, and Am. Sub. S.B. 160 of the 129th General Assembly. Section 2953.08 of the Revised Code is presented in this act as a composite of the section as amended by Sub. H.B. 247, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act.