

As Introduced

**130th General Assembly
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H. B. No. 385

Representatives Antonio, Ramos

**Cosponsors: Representatives Blair, Foley, Hagan, R., Driehaus, Strahorn,
Fedor, Patterson, Letson, Lundy, Heard**

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A B I L L

To amend sections 120.03, 120.06, 120.14, 120.16, 1
120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 2
1901.183, 2152.13, 2152.67, 2301.20, 2307.60, 3
2701.07, 2743.51, 2901.02, 2909.24, 2929.02, 4
2929.13, 2929.14, 2941.021, 2941.14, 2941.148, 5
2941.401, 2941.43, 2941.51, 2945.06, 2945.21, 6
2945.25, 2945.33, 2945.38, 2949.02, 2949.03, 7
2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 8
2953.21, 2953.23, 2953.71, 2953.72, 2953.81, 9
2967.05, 2967.13, 2967.193, 2971.03, 2971.07, 10
5120.113, 5120.61, and 5919.16 and to repeal 11
sections 109.97, 120.35, 2929.021, 2929.022, 12
2929.023, 2929.024, 2929.03, 2929.04, 2929.05, 13
2929.06, 2947.08, 2949.21, 2949.22, 2949.24, 14
2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 15
2949.31, and 2967.08 of the Revised Code to 16
abolish the death penalty. 17

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

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

2152.67, 2301.20, 2307.60, 2701.07, 2743.51, 2901.02, 2909.24, 20
2929.02, 2929.13, 2929.14, 2941.021, 2941.14, 2941.148, 2941.401, 21
2941.43, 2941.51, 2945.06, 2945.21, 2945.25, 2945.33, 2945.38, 22
2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 2953.10, 23
2953.21, 2953.23, 2953.71, 2953.72, 2953.81, 2967.05, 2967.13, 24
2967.193, 2971.03, 2971.07, 5120.113, 5120.61, and 5919.16 of the 25
Revised Code be amended to read as follows: 26

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

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

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

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

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

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

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

(5) Minimum caseload standards; 53

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

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

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

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

(C) The Ohio public defender commission shall adopt rules 71
prescribing minimum qualifications of counsel appointed pursuant 72
to this chapter or appointed by the courts. Without limiting its 73
general authority to prescribe different qualifications for 74
different categories of appointed counsel, the commission shall 75
prescribe, by rule, special qualifications for counsel and 76
co-counsel appointed in capital cases in which the defendant was 77
sentenced to death before the effective date of this amendment. 78

(D) In administering the office of the Ohio public defender 79
commission: 80

(1) The commission shall do the following:	81
(a) Approve an annual operating budget;	82
(b) Make an annual report to the governor, the general assembly, and the supreme court of Ohio on the operation of the state public defender's office, the county appointed counsel systems, and the county and joint county public defenders' offices.	83 84 85 86 87
(2) The commission may do the following:	88
(a) Accept the services of volunteer workers and consultants at no compensation other than reimbursement of actual and necessary expenses;	89 90 91
(b) Prepare and publish statistical and case studies and other data pertinent to the legal representation of indigent persons;	92 93 94
(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons.	95 96 97
(E) There is hereby established in the state treasury the public defender training fund for the deposit of fees received by the Ohio public defender commission from educational seminars, and the sale of publications, on topics concerning criminal law and procedure. Expenditures from this fund shall be made only for the operation of activities authorized by division (D)(2)(c) of this section.	98 99 100 101 102 103 104
(F)(1) In accordance with sections 109.02, 109.07, and 109.361 to 109.366 of the Revised Code, but subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio public defender commission, the state public defender, assistant state public defenders, and other employees of the commission or	105 106 107 108 109 110

the state public defender. 111

(2) Subject to division (E) of section 120.06 of the Revised 112
Code, the attorney general shall represent or provide for the 113
representation of attorneys described in division (C) of section 114
120.41 of the Revised Code in malpractice or other civil actions 115
or proceedings that arise from alleged actions or omissions 116
related to responsibilities derived pursuant to this chapter, or 117
in civil actions that are based upon alleged violations of the 118
constitution or statutes of the United States, including section 119
1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 120
42 U.S.C.A. 1983, as amended, and that arise from alleged actions 121
or omissions related to responsibilities derived pursuant to this 122
chapter. For purposes of the representation, sections 109.361 to 123
109.366 of the Revised Code shall apply to an attorney described 124
in division (C) of section 120.41 of the Revised Code as if ~~he~~ the 125
attorney were an officer or employee, as defined in section 109.36 126
of the Revised Code, and the Ohio public defender commission or 127
the state public defender, whichever contracted with the attorney, 128
shall be considered ~~his~~ the attorney's employer. 129

Sec. 120.06. (A)(1) The state public defender, when 130
designated by the court or requested by a county public defender 131
or joint county public defender, may provide legal representation 132
in all courts throughout the state to indigent adults and 133
juveniles who are charged with the commission of an offense or act 134
for which the penalty or any possible adjudication includes the 135
potential loss of liberty. 136

(2) The state public defender may provide legal 137
representation to any indigent person who, while incarcerated in 138
any state correctional institution, is charged with a felony 139
offense, for which the penalty or any possible adjudication that 140
may be imposed by a court upon conviction includes the potential 141

loss of liberty. 142

(3) The state public defender may provide legal 143
representation to any person incarcerated in any correctional 144
institution of the state, in any matter in which the person 145
asserts the person is unlawfully imprisoned or detained. 146

(4) The state public defender, in any case in which the state 147
public defender has provided legal representation or is requested 148
to do so by a county public defender or joint county public 149
defender, may provide legal representation on appeal. 150

(5) The state public defender, when designated by the court 151
or requested by a county public defender, joint county public 152
defender, or the director of rehabilitation and correction, shall 153
provide legal representation in parole and probation revocation 154
matters or matters relating to the revocation of community control 155
or post-release control under a community control sanction or 156
post-release control sanction, unless the state public defender 157
finds that the alleged parole or probation violator or alleged 158
violator of a community control sanction or post-release control 159
sanction has the financial capacity to retain the alleged 160
violator's own counsel. 161

(6) If the state public defender contracts with a county 162
public defender commission, a joint county public defender 163
commission, or a board of county commissioners for the provision 164
of services, under authority of division (C)(7) of section 120.04 165
of the Revised Code, the state public defender shall provide legal 166
representation in accordance with the contract. 167

(B) The state public defender shall not be required to 168
prosecute any appeal, postconviction remedy, or other proceeding 169
pursuant to division (A)(3), (4), or (5) of this section, unless 170
the state public defender first is satisfied that there is 171
arguable merit to the proceeding. 172

(C) A court may appoint counsel or allow an indigent person 173
to select the indigent's own personal counsel to assist the state 174
public defender as co-counsel when the interests of justice so 175
require. When co-counsel is appointed to assist the state public 176
defender, the co-counsel shall receive any compensation that the 177
court may approve, not to exceed the amounts provided for in 178
section 2941.51 of the Revised Code. 179

(D)(1) When the state public defender is designated by the 180
court or requested by a county public defender or joint county 181
public defender to provide legal representation for an indigent 182
person in any case, other than pursuant to a contract entered into 183
under authority of division (C)(7) of section 120.04 of the 184
Revised Code, the state public defender shall send to the county 185
in which the case is filed a bill detailing the actual cost of the 186
representation that separately itemizes legal fees and expenses. 187
The county, upon receipt of an itemized bill from the state public 188
defender pursuant to this division, shall pay the state public 189
defender each of the following amounts: 190

(a) For the amount identified as legal fees in the itemized 191
bill, one hundred per cent of the amount identified as legal fees 192
less the state reimbursement rate as calculated by the state 193
public defender pursuant to section 120.34 of the Revised Code for 194
the month the case terminated, as set forth in the itemized bill; 195

(b) For the amount identified as expenses in the itemized 196
bill, one hundred per cent. 197

(2) Upon payment of the itemized bill under division (D)(1) 198
of this section, the county may submit the cost of the expenses, 199
excluding legal fees, to the state public defender for 200
reimbursement pursuant to section 120.33 of the Revised Code. 201

(3) When the state public defender provides investigation or 202
mitigation services to private appointed counsel or to a county or 203

joint county public defender as approved by the appointing court, 204
other than pursuant to a contract entered into under authority of 205
division (C)(7) of section 120.04 of the Revised Code, the state 206
public defender shall send to the county in which the case is 207
filed a bill itemizing the actual cost of the services provided. 208
The county, upon receipt of an itemized bill from the state public 209
defender pursuant to this division, shall pay one hundred per cent 210
of the amount as set forth in the itemized bill. Upon payment of 211
the itemized bill received pursuant to this division, the county 212
may submit the cost of the investigation and mitigation services 213
to the state public defender for reimbursement pursuant to section 214
120.33 of the Revised Code. 215

(4) There is hereby created in the state treasury the county 216
representation fund for the deposit of moneys received from 217
counties under this division. All moneys credited to the fund 218
shall be used by the state public defender to provide legal 219
representation for indigent persons when designated by the court 220
or requested by a county or joint county public defender or to 221
provide investigation or mitigation services, including 222
investigation or mitigation services to private appointed counsel 223
or a county or joint county public defender, as approved by the 224
court. 225

(E)(1) Notwithstanding any contrary provision of sections 226
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 227
that pertains to representation by the attorney general, an 228
assistant attorney general, or special counsel of an officer or 229
employee, as defined in section 109.36 of the Revised Code, or of 230
an entity of state government, the state public defender may elect 231
to contract with, and to have the state pay pursuant to division 232
(E)(2) of this section for the services of, private legal counsel 233
to represent the Ohio public defender commission, the state public 234
defender, assistant state public defenders, other employees of the 235

commission or the state public defender, and attorneys described 236
in division (C) of section 120.41 of the Revised Code in a 237
malpractice or other civil action or proceeding that arises from 238
alleged actions or omissions related to responsibilities derived 239
pursuant to this chapter, or in a civil action that is based upon 240
alleged violations of the constitution or statutes of the United 241
States, including section 1983 of Title 42 of the United States 242
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 243
arises from alleged actions or omissions related to 244
responsibilities derived pursuant to this chapter, if the state 245
public defender determines, in good faith, that the defendant in 246
the civil action or proceeding did not act manifestly outside the 247
scope of the defendant's employment or official responsibilities, 248
with malicious purpose, in bad faith, or in a wanton or reckless 249
manner. If the state public defender elects not to contract 250
pursuant to this division for private legal counsel in a civil 251
action or proceeding, then, in accordance with sections 109.02, 252
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 253
attorney general shall represent or provide for the representation 254
of the Ohio public defender commission, the state public defender, 255
assistant state public defenders, other employees of the 256
commission or the state public defender, or attorneys described in 257
division (C) of section 120.41 of the Revised Code in the civil 258
action or proceeding. 259

(2)(a) Subject to division (E)(2)(b) of this section, payment 260
from the state treasury for the services of private legal counsel 261
with whom the state public defender has contracted pursuant to 262
division (E)(1) of this section shall be accomplished only through 263
the following procedure: 264

(i) The private legal counsel shall file with the attorney 265
general a copy of the contract; a request for an award of legal 266
fees, court costs, and expenses earned or incurred in connection 267

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

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

document shall name the private legal counsel as the recipient of 301
the award; specify the total amount of the award as determined by 302
the attorney general; itemize the portions of the award that 303
represent legal fees, court costs, and expenses; specify any 304
limitation applied pursuant to division (E)(2)(b) of this section 305
to reduce the amount of the award sought by the private legal 306
counsel; state that the award is payable from the state treasury 307
pursuant to division (E)(2)(a)(iii) of this section; and be 308
approved by the inclusion of the signatures of the attorney 309
general, the state public defender, and the private legal counsel. 310

(iii) The attorney general shall forward a copy of the 311
document prepared pursuant to division (E)(2)(a)(ii) of this 312
section to the director of budget and management. The award of 313
legal fees, court costs, or expenses shall be paid out of the 314
state public defender's appropriations, to the extent there is a 315
sufficient available balance in those appropriations. If the state 316
public defender does not have a sufficient available balance in 317
the state public defender's appropriations to pay the entire award 318
of legal fees, court costs, or expenses, the director shall make 319
application for a transfer of appropriations out of the emergency 320
purposes account or any other appropriation for emergencies or 321
contingencies in an amount equal to the portion of the award that 322
exceeds the sufficient available balance in the state public 323
defender's appropriations. A transfer of appropriations out of the 324
emergency purposes account or any other appropriation for 325
emergencies or contingencies shall be authorized if there are 326
sufficient moneys greater than the sum total of then pending 327
emergency purposes account requests, or requests for releases from 328
the other appropriation. If a transfer of appropriations out of 329
the emergency purposes account or other appropriation for 330
emergencies or contingencies is made to pay an amount equal to the 331
portion of the award that exceeds the sufficient available balance 332
in the state public defender's appropriations, the director shall 333

cause the payment to be made to the private legal counsel. If 334
sufficient moneys do not exist in the emergency purposes account 335
or other appropriation for emergencies or contingencies to pay an 336
amount equal to the portion of the award that exceeds the 337
sufficient available balance in the state public defender's 338
appropriations, the private legal counsel shall request the 339
general assembly to make an appropriation sufficient to pay an 340
amount equal to the portion of the award that exceeds the 341
sufficient available balance in the state public defender's 342
appropriations, and no payment in that amount shall be made until 343
the appropriation has been made. The private legal counsel shall 344
make the request during the current biennium and during each 345
succeeding biennium until a sufficient appropriation is made. 346

(b) An award of legal fees, court costs, and expenses 347
pursuant to division (E) of this section is subject to the 348
following limitations: 349

(i) The maximum award or maximum aggregate of a series of 350
awards of legal fees, court costs, and expenses to the private 351
legal counsel in connection with the defense of the Ohio public 352
defender commission, the state public defender, an assistant state 353
public defender, an employee, or an attorney in a specified civil 354
action or proceeding shall not exceed fifty thousand dollars. 355

(ii) The private legal counsel shall not be awarded legal 356
fees, court costs, or expenses to the extent the fees, costs, or 357
expenses are covered by a policy of malpractice or other 358
insurance. 359

(iii) The private legal counsel shall be awarded legal fees 360
and expenses only to the extent that the fees and expenses are 361
reasonable in light of the legal services rendered by the private 362
legal counsel in connection with the defense of the Ohio public 363
defender commission, the state public defender, an assistant state 364
public defender, an employee, or an attorney in a specified civil 365

action or proceeding. 366

(c) If, pursuant to division (E)(2)(a) of this section, the 367
attorney general denies a request for an award of legal fees, 368
court costs, or expenses to private legal counsel because of the 369
application of a limitation specified in division (E)(2)(b) of 370
this section, the attorney general shall notify the private legal 371
counsel in writing of the denial and of the limitation applied. 372

(d) If, pursuant to division (E)(2)(c) of this section, a 373
private legal counsel receives a denial of an award notification 374
or if a private legal counsel refuses to approve a document under 375
division (E)(2)(a)(ii) of this section because of the proposed 376
application of a limitation specified in division (E)(2)(b) of 377
this section, the private legal counsel may commence a civil 378
action against the attorney general in the court of claims to 379
prove the private legal counsel's entitlement to the award sought, 380
to prove that division (E)(2)(b) of this section does not prohibit 381
or otherwise limit the award sought, and to recover a judgment for 382
the amount of the award sought. A civil action under division 383
(E)(2)(d) of this section shall be commenced no later than two 384
years after receipt of a denial of award notification or, if the 385
private legal counsel refused to approve a document under division 386
(E)(2)(a)(ii) of this section because of the proposed application 387
of a limitation specified in division (E)(2)(b) of this section, 388
no later than two years after the refusal. Any judgment of the 389
court of claims in favor of the private legal counsel shall be 390
paid from the state treasury in accordance with division (E)(2)(a) 391
of this section. 392

~~(F) If a court appoints the office of the state public 393
defender to represent a petitioner in a postconviction relief 394
proceeding under section 2953.21 of the Revised Code, the 395
petitioner has received a sentence of death, and the proceeding 396
relates to that sentence, all of the attorneys who represent the 397~~

~~petitioner in the proceeding pursuant to the appointment, whether 398
an assistant state public defender, the state public defender, or 399
another attorney, shall be certified under Rule 20 of the Rules of 400
Superintendence for the Courts of Ohio to represent indigent 401
defendants charged with or convicted of an offense for which the 402
death penalty can be or has been imposed. 403~~

~~(G) As used in this section: 404~~

~~(1) "Community control sanction" has the same meaning as in 405
section 2929.01 of the Revised Code. 406~~

~~(2) "Post-release control sanction" has the same meaning as 407
in section 2967.01 of the Revised Code. 408~~

Sec. 120.14. (A)(1) Except as provided in division (A)(2) of 409
this section, the county public defender commission shall appoint 410
the county public defender and may remove ~~him~~ the county public 411
defender from office only for good cause. 412

(2) If a county public defender commission contracts with the 413
state public defender or with one or more nonprofit organizations 414
for the state public defender or the organizations to provide all 415
of the services that the county public defender is required or 416
permitted to provide by this chapter, the commission shall not 417
appoint a county public defender. 418

(B) The commission shall determine the qualifications and 419
size of the supporting staff and facilities and other requirements 420
needed to maintain and operate the office of the county public 421
defender. 422

(C) In administering the office of county public defender, 423
the commission shall: 424

(1) Recommend to the county commissioners an annual operating 425
budget which is subject to the review, amendment, and approval of 426
the board of county commissioners; 427

(2)(a) Make an annual report to the county commissioners and 428
the Ohio public defender commission on the operation of the county 429
public defender's office, ~~including complete and detailed~~ 430
~~information on finances and costs that separately states costs and~~ 431
~~expenses that are reimbursable under section 120.35 of the Revised~~ 432
~~Code,~~ and any other data and information requested by the state 433
public defender; 434

(b) Make monthly reports relating to reimbursement and 435
associated case data pursuant to the rules of the Ohio public 436
defender commission to the board of county commissioners and the 437
Ohio public defender commission on the total costs of the public 438
defender's office. 439

(3) Cooperate with the Ohio public defender commission in 440
maintaining the standards established by rules of the Ohio public 441
defender commission pursuant to divisions (B) and (C) of section 442
120.03 of the Revised Code, and cooperate with the state public 443
defender in ~~his~~ the state public defender's programs providing 444
technical aid and assistance to county systems. 445

(D) The commission may accept the services of volunteer 446
workers and consultants at no compensation except reimbursement 447
for actual and necessary expenses. 448

(E) The commission may contract with any municipal 449
corporation, within the county served by the county public 450
defender, for the county public defender to provide legal 451
representation for indigent persons who are charged with a 452
violation of the ordinances of the municipal corporation. 453

(F) A county public defender commission, with the approval of 454
the board of county commissioners regarding all provisions that 455
pertain to the financing of defense counsel for indigent persons, 456
may contract with the state public defender or with any nonprofit 457
organization, the primary purpose of which is to provide legal 458

representation to indigent persons, for the state public defender 459
or the organization to provide all or any part of the services 460
that a county public defender is required or permitted to provide 461
by this chapter. A contract entered into pursuant to this division 462
may provide for payment for the services provided on a per case, 463
hourly, or fixed contract basis. The state public defender and any 464
nonprofit organization that contracts with a county public 465
defender commission pursuant to this division shall do all of the 466
following: 467

(1) Comply with all standards established by the rules of the 468
Ohio public defender commission; 469

(2) Comply with all standards established by the state public 470
defender; 471

(3) Comply with all statutory duties and other laws 472
applicable to county public defenders. 473

Sec. 120.16. (A)(1) The county public defender shall provide 474
legal representation to indigent adults and juveniles who are 475
charged with the commission of an offense or act that is a 476
violation of a state statute and for which the penalty or any 477
possible adjudication includes the potential loss of liberty and 478
in postconviction proceedings as defined in this section. 479

(2) The county public defender may provide legal 480
representation to indigent adults and juveniles charged with the 481
violation of an ordinance of a municipal corporation for which the 482
penalty or any possible adjudication includes the potential loss 483
of liberty, if the county public defender commission has 484
contracted with the municipal corporation to provide legal 485
representation for indigent persons charged with a violation of an 486
ordinance of the municipal corporation. 487

(B) The county public defender shall provide the legal 488

representation authorized by division (A) of this section at every 489
stage of the proceedings following arrest, detention, service of 490
summons, or indictment. 491

(C) The county public defender may request the state public 492
defender to prosecute any appeal or other remedy before or after 493
conviction that the county public defender decides is in the 494
interests of justice, and may provide legal representation in 495
parole and probation revocation matters and matters relating to 496
the revocation of community control or post-release control under 497
a community control sanction or post-release control sanction. 498

(D) The county public defender shall not be required to 499
prosecute any appeal, postconviction remedy, or other proceeding, 500
unless the county public defender is first satisfied there is 501
arguable merit to the proceeding. 502

(E) Nothing in this section shall prevent a court from 503
appointing counsel other than the county public defender or from 504
allowing an indigent person to select the indigent person's own 505
personal counsel to represent the indigent person. A court may 506
also appoint counsel or allow an indigent person to select the 507
indigent person's own personal counsel to assist the county public 508
defender as co-counsel when the interests of justice so require. 509

(F) Information as to the right to legal representation by 510
the county public defender or assigned counsel shall be afforded 511
to an accused person immediately upon arrest, when brought before 512
a magistrate, or when formally charged, whichever occurs first. 513

(G) ~~If a court appoints the office of the county public 514
defender to represent a petitioner in a postconviction relief 515
proceeding under section 2953.21 of the Revised Code, the 516
petitioner has received a sentence of death, and the proceeding 517
relates to that sentence, all of the attorneys who represent the 518
petitioner in the proceeding pursuant to the appointment, whether 519~~

~~an assistant county public defender or the county public defender, 520
shall be certified under Rule 20 of the Rules of Superintendence 521
for the Courts of Ohio to represent indigent defendants charged 522
with or convicted of an offense for which the death penalty can be 523
or has been imposed. 524~~

~~(H) As used in this section: 525~~

~~(1) "Community control sanction" has the same meaning as in 526
section 2929.01 of the Revised Code. 527~~

~~(2) "Post-release control sanction" has the same meaning as 528
in section 2967.01 of the Revised Code. 529~~

Sec. 120.18. (A) The county public defender commission's 530
report to the board of county commissioners shall be audited by 531
the county auditor. The board of county commissioners, after 532
review and approval of the audited report, may then certify it to 533
the state public defender for reimbursement. If a request for the 534
reimbursement of any operating expenditure incurred by a county 535
public defender office is not received by the state public 536
defender within sixty days after the end of the calendar month in 537
which the expenditure is incurred, the state public defender shall 538
not pay the requested reimbursement, unless the county has 539
requested, and the state public defender has granted, an extension 540
of the sixty-day time limit. Each request for reimbursement shall 541
include a certification by the county public defender that the 542
persons provided representation by the county public defender's 543
office during the period covered by the report were indigent and, 544
for each person provided representation during that period, a 545
financial disclosure form completed by the person on a form 546
prescribed by the state public defender. The state public defender 547
shall also review the report and, in accordance with the 548
standards, guidelines, and maximums established pursuant to 549
divisions (B)(7) and (8) of section 120.04 of the Revised Code, 550

prepare a voucher for fifty per cent of the total cost of each 551
county public defender's office for the period of time covered by 552
the certified report ~~and a voucher for fifty per cent of the costs~~ 553
~~and expenses that are reimbursable under section 120.35 of the~~ 554
~~Revised Code, if any,~~ or, if the amount of money appropriated by 555
the general assembly to reimburse counties for the operation of 556
county public defender offices, joint county public defender 557
offices, and county appointed counsel systems is not sufficient to 558
pay fifty per cent of the total cost of all of the offices and 559
systems, for the lesser amount required by section 120.34 of the 560
Revised Code. For the purposes of this section, "total cost" means 561
total expenses minus ~~costs and expenses reimbursable under section~~ 562
~~120.35 of the Revised Code~~ and any funds received by the county 563
public defender commission pursuant to a contract, except a 564
contract entered into with a municipal corporation pursuant to 565
division (E) of section 120.14 of the Revised Code, gift, or 566
grant. 567

(B) If the county public defender fails to maintain the 568
standards for the conduct of the office established by rules of 569
the Ohio public defender commission pursuant to divisions (B) and 570
(C) of section 120.03 or the standards established by the state 571
public defender pursuant to division (B)(7) of section 120.04 of 572
the Revised Code, the Ohio public defender commission shall notify 573
the county public defender commission and the board of county 574
commissioners of the county that the county public defender has 575
failed to comply with its rules or the standards of the state 576
public defender. Unless the county public defender commission or 577
the county public defender corrects the conduct of the county 578
public defender's office to comply with the rules and standards 579
within ninety days after the date of the notice, the state public 580
defender may deny payment of all or part of the county's 581
reimbursement from the state provided for in division (A) of this 582
section. 583

Sec. 120.24. (A)(1) Except as provided in division (A)(2) of 584
this section, the joint county public defender commission shall 585
appoint the joint county public defender and may remove ~~him~~ the 586
joint county public defender from office only for good cause. 587

(2) If a joint county public defender commission contracts 588
with the state public defender or with one or more nonprofit 589
organizations for the state public defender or the organizations 590
to provide all of the services that the joint county public 591
defender is required or permitted to provide by this chapter, the 592
commission shall not appoint a joint county public defender. 593

(B) The commission shall determine the qualifications and 594
size of the supporting staff and facilities and other requirements 595
needed to maintain and operate the office. 596

(C) In administering the office of joint county public 597
defender, the commission shall: 598

(1) Recommend to the boards of county commissioners in the 599
district an annual operating budget which is subject to the 600
review, amendment, and approval of the boards of county 601
commissioners in the district; 602

(2)(a) Make an annual report to the boards of county 603
commissioners in the district and the Ohio public defender 604
commission on the operation of the public defender's office, 605
~~including complete and detailed information on finances and costs~~ 606
~~that separately states costs and expenses that are reimbursable~~ 607
~~under section 120.35 of the Revised Code,~~ and such other data and 608
information requested by the state public defender; 609

(b) Make monthly reports relating to reimbursement and 610
associated case data pursuant to the rules of the Ohio public 611
defender commission to the boards of county commissioners in the 612
district and the Ohio public defender commission on the total 613

costs of the public defender's office. 614

(3) Cooperate with the Ohio public defender commission in 615
maintaining the standards established by rules of the Ohio public 616
defender commission pursuant to divisions (B) and (C) of section 617
120.03 of the Revised Code, and cooperate with the state public 618
defender in ~~his~~ the state public defender's programs providing 619
technical aid and assistance to county systems. 620

(D) The commission may accept the services of volunteer 621
workers and consultants at no compensation except reimbursement 622
for actual and necessary expenses. 623

(E) The commission may contract with any municipal 624
corporation, within the counties served by the joint county public 625
defender, for the joint county public defender to provide legal 626
representation for indigent persons who are charged with a 627
violation of the ordinances of the municipal corporation. 628

(F) A joint county public defender commission, with the 629
approval of each participating board of county commissioners 630
regarding all provisions that pertain to the financing of defense 631
counsel for indigent persons, may contract with the state public 632
defender or with any nonprofit organization, the primary purpose 633
of which is to provide legal representation to indigent persons, 634
for the state public defender or the organization to provide all 635
or any part of the services that a joint county public defender is 636
required or permitted to provide by this chapter. A contract 637
entered into pursuant to this division may provide for payment for 638
the services provided on a per case, hourly, or fixed contract 639
basis. The state public defender and any nonprofit organization 640
that contracts with a joint county public defender commission 641
pursuant to this division shall do all of the following: 642

(1) Comply with all standards established by the rules of the 643
Ohio public defender commission; 644

(2) Comply with all standards established by the Ohio public defender; 645
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(3) Comply with all statutory duties and other laws applicable to joint county public defenders. 647
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Sec. 120.26. (A)(1) The joint county public defender shall provide legal representation to indigent adults and juveniles who are charged with the commission of an offense or act that is a violation of a state statute and for which the penalty or any possible adjudication includes the potential loss of liberty and in postconviction proceedings as defined in this section. 649
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(2) The joint county public defender may provide legal representation to indigent adults and juveniles charged with the violation of an ordinance of a municipal corporation for which the penalty or any possible adjudication includes the potential loss of liberty, if the joint county public defender commission has contracted with the municipal corporation to provide legal representation for indigent persons charged with a violation of an ordinance of the municipal corporation. 655
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(B) The joint county public defender shall provide the legal representation authorized by division (A) of this section at every stage of the proceedings following arrest, detention, service of summons, or indictment. 663
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(C) The joint county public defender may request the Ohio public defender to prosecute any appeal or other remedy before or after conviction that the joint county public defender decides is in the interests of justice and may provide legal representation in parole and probation revocation matters and matters relating to the revocation of community control or post-release control under a community control sanction or post-release control sanction. 667
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(D) The joint county public defender shall not be required to 674

prosecute any appeal, postconviction remedy, or other proceeding, 675
unless the joint county public defender is first satisfied that 676
there is arguable merit to the proceeding. 677

(E) Nothing in this section shall prevent a court from 678
appointing counsel other than the joint county public defender or 679
from allowing an indigent person to select the indigent person's 680
own personal counsel to represent the indigent person. A court may 681
also appoint counsel or allow an indigent person to select the 682
indigent person's own personal counsel to assist the joint county 683
public defender as co-counsel when the interests of justice so 684
require. 685

(F) Information as to the right to legal representation by 686
the joint county public defender or assigned counsel shall be 687
afforded to an accused person immediately upon arrest, when 688
brought before a magistrate, or when formally charged, whichever 689
occurs first. 690

~~(G) If a court appoints the office of the joint county public 691
defender to represent a petitioner in a postconviction relief 692
proceeding under section 2953.21 of the Revised Code, the 693
petitioner has received a sentence of death, and the proceeding 694
relates to that sentence, all of the attorneys who represent the 695
petitioner in the proceeding pursuant to the appointment, whether 696
an assistant joint county defender or the joint county public 697
defender, shall be certified under Rule 20 of the Rules of 698
Superintendence for the Courts of Ohio to represent indigent 699
defendants charged with or convicted of an offense for which the 700
death penalty can be or has been imposed. 701~~

~~(H) As used in this section: 702~~

(1) "Community control sanction" has the same meaning as in 703
section 2929.01 of the Revised Code. 704

(2) "Post-release control sanction" has the same meaning as 705

in section 2967.01 of the Revised Code. 706

Sec. 120.28. (A) The joint county public defender 707
commission's report to the joint board of county commissioners 708
shall be audited by the fiscal officer of the district. The joint 709
board of county commissioners, after review and approval of the 710
audited report, may then certify it to the state public defender 711
for reimbursement. If a request for the reimbursement of any 712
operating expenditure incurred by a joint county public defender 713
office is not received by the state public defender within sixty 714
days after the end of the calendar month in which the expenditure 715
is incurred, the state public defender shall not pay the requested 716
reimbursement, unless the joint board of county commissioners has 717
requested, and the state public defender has granted, an extension 718
of the sixty-day time limit. Each request for reimbursement shall 719
include a certification by the joint county public defender that 720
all persons provided representation by the joint county public 721
defender's office during the period covered by the request were 722
indigent and, for each person provided representation during that 723
period, a financial disclosure form completed by the person on a 724
form prescribed by the state public defender. The state public 725
defender shall also review the report and, in accordance with the 726
standards, guidelines, and maximums established pursuant to 727
divisions (B)(7) and (8) of section 120.04 of the Revised Code, 728
prepare a voucher for fifty per cent of the total cost of each 729
joint county public defender's office for the period of time 730
covered by the certified report ~~and a voucher for fifty per cent~~ 731
~~of the costs and expenses that are reimbursable under section~~ 732
~~120.35 of the Revised Code, if any,~~ or, if the amount of money 733
appropriated by the general assembly to reimburse counties for the 734
operation of county public defender offices, joint county public 735
defender offices, and county appointed counsel systems is not 736
sufficient to pay fifty per cent of the total cost of all of the 737

offices and systems, for the lesser amount required by section 738
120.34 of the Revised Code. For purposes of this section, "total 739
cost" means total expenses minus ~~costs and expenses reimbursable~~ 740
~~under section 120.35 of the Revised Code~~ and any funds received by 741
the joint county public defender commission pursuant to a 742
contract, except a contract entered into with a municipal 743
corporation pursuant to division (E) of section 120.24 of the 744
Revised Code, gift, or grant. Each county in the district shall be 745
entitled to a share of such state reimbursement in proportion to 746
the percentage of the total cost it has agreed to pay. 747

(B) If the joint county public defender fails to maintain the 748
standards for the conduct of the office established by the rules 749
of the Ohio public defender commission pursuant to divisions (B) 750
and (C) of section 120.03 or the standards established by the 751
state public defender pursuant to division (B)(7) of section 752
120.04 of the Revised Code, the Ohio public defender commission 753
shall notify the joint county public defender commission and the 754
board of county commissioners of each county in the district that 755
the joint county public defender has failed to comply with its 756
rules or the standards of the state public defender. Unless the 757
joint public defender commission or the joint county public 758
defender corrects the conduct of the joint county public 759
defender's office to comply with the rules and standards within 760
ninety days after the date of the notice, the state public 761
defender may deny all or part of the counties' reimbursement from 762
the state provided for in division (A) of this section. 763

Sec. 120.33. (A) In lieu of using a county public defender or 764
joint county public defender to represent indigent persons in the 765
proceedings set forth in division (A) of section 120.16 of the 766
Revised Code, the board of county commissioners of any county may 767
adopt a resolution to pay counsel who are either personally 768
selected by the indigent person or appointed by the court. The 769

resolution shall include those provisions the board of county 770
commissioners considers necessary to provide effective 771
representation of indigent persons in any proceeding for which 772
counsel is provided under this section. The resolution shall 773
include provisions for contracts with any municipal corporation 774
under which the municipal corporation shall reimburse the county 775
for counsel appointed to represent indigent persons charged with 776
violations of the ordinances of the municipal corporation. 777

(1) In a county that adopts a resolution to pay counsel, an 778
indigent person shall have the right to do either of the 779
following: 780

(a) To select the person's own personal counsel to represent 781
the person in any proceeding included within the provisions of the 782
resolution; 783

(b) To request the court to appoint counsel to represent the 784
person in such a proceeding. 785

(2) The court having jurisdiction over the proceeding in a 786
county that adopts a resolution to pay counsel shall, after 787
determining that the person is indigent and entitled to legal 788
representation under this section, do either of the following: 789

(a) By signed journal entry recorded on its docket, enter the 790
name of the lawyer selected by the indigent person as counsel of 791
record; 792

(b) Appoint counsel for the indigent person if the person has 793
requested the court to appoint counsel and, by signed journal 794
entry recorded on its dockets, enter the name of the lawyer 795
appointed for the indigent person as counsel of record. 796

(3) The board of county commissioners shall establish a 797
schedule of fees by case or on an hourly basis to be paid to 798
counsel for legal services provided pursuant to a resolution 799
adopted under this section. Prior to establishing the schedule, 800

the board of county commissioners shall request the bar 801
association or associations of the county to submit a proposed 802
schedule. The schedule submitted shall be subject to the review, 803
amendment, and approval of the board of county commissioners. 804

(4) Counsel selected by the indigent person or appointed by 805
the court at the request of an indigent person in a county that 806
adopts a resolution to pay counsel, except for counsel appointed 807
to represent a person charged with any violation of an ordinance 808
of a municipal corporation that has not contracted with the county 809
commissioners for the payment of appointed counsel, shall be paid 810
by the county and shall receive the compensation and expenses the 811
court approves. Each request for payment shall be accompanied by a 812
financial disclosure form and an affidavit of indigency that are 813
completed by the indigent person on forms prescribed by the state 814
public defender. Compensation and expenses shall not exceed the 815
amounts fixed by the board of county commissioners in the schedule 816
adopted pursuant to division (A)(3) of this section. No court 817
shall approve compensation and expenses that exceed the amount 818
fixed pursuant to division (A)(3) of this section. 819

The fees and expenses approved by the court shall not be 820
taxed as part of the costs and shall be paid by the county. 821
However, if the person represented has, or may reasonably be 822
expected to have, the means to meet some part of the cost of the 823
services rendered to the person, the person shall pay the county 824
an amount that the person reasonably can be expected to pay. 825
Pursuant to section 120.04 of the Revised Code, the county shall 826
pay to the state public defender a percentage of the payment 827
received from the person in an amount proportionate to the 828
percentage of the costs of the person's case that were paid to the 829
county by the state public defender pursuant to this section. The 830
money paid to the state public defender shall be credited to the 831
client payment fund created pursuant to division (B)(5) of section 832

120.04 of the Revised Code. 833

The county auditor shall draw a warrant on the county 834
treasurer for the payment of counsel in the amount fixed by the 835
court, plus the expenses the court fixes and certifies to the 836
auditor. The county auditor shall report periodically, but not 837
less than annually, to the board of county commissioners and to 838
the state public defender the amounts paid out pursuant to the 839
approval of the court. The board of county commissioners, after 840
review and approval of the auditor's report, or the county 841
auditor, with permission from and notice to the board of county 842
commissioners, may then certify it to the state public defender 843
for reimbursement. The state public defender may pay a requested 844
reimbursement only if the request for reimbursement is accompanied 845
by a financial disclosure form and an affidavit of indigency 846
completed by the indigent person on forms prescribed by the state 847
public defender or if the court certifies by electronic signature 848
as prescribed by the state public defender that a financial 849
disclosure form and affidavit of indigency have been completed by 850
the indigent person and are available for inspection. If a request 851
for the reimbursement of the cost of counsel in any case is not 852
received by the state public defender within ninety days after the 853
end of the calendar month in which the case is finally disposed of 854
by the court, unless the county has requested and the state public 855
defender has granted an extension of the ninety-day limit, the 856
state public defender shall not pay the requested reimbursement. 857
The state public defender shall also review the report and, in 858
accordance with the standards, guidelines, and maximums 859
established pursuant to divisions (B)(7) and (8) of section 120.04 860
of the Revised Code, prepare a voucher for fifty per cent of the 861
total cost of each county appointed counsel system in the period 862
of time covered by the certified report ~~and a voucher for fifty~~ 863
~~per cent of the costs and expenses that are reimbursable under~~ 864
~~section 120.35 of the Revised Code, if any,~~ or, if the amount of 865

money appropriated by the general assembly to reimburse counties 866
for the operation of county public defender offices, joint county 867
public defender offices, and county appointed counsel systems is 868
not sufficient to pay fifty per cent of the total cost of all of 869
the offices and systems ~~other than costs and expenses that are~~ 870
~~reimbursable under section 120.35 of the Revised Code~~, for the 871
lesser amount required by section 120.34 of the Revised Code. 872

(5) If any county appointed counsel system fails to maintain 873
the standards for the conduct of the system established by the 874
rules of the Ohio public defender commission pursuant to divisions 875
(B) and (C) of section 120.03 or the standards established by the 876
state public defender pursuant to division (B)(7) of section 877
120.04 of the Revised Code, the Ohio public defender commission 878
shall notify the board of county commissioners of the county that 879
the county appointed counsel system has failed to comply with its 880
rules or the standards of the state public defender. Unless the 881
board of county commissioners corrects the conduct of its 882
appointed counsel system to comply with the rules and standards 883
within ninety days after the date of the notice, the state public 884
defender may deny all or part of the county's reimbursement from 885
the state provided for in division (A)(4) of this section. 886

(B) In lieu of using a county public defender or joint county 887
public defender to represent indigent persons in the proceedings 888
set forth in division (A) of section 120.16 of the Revised Code, 889
and in lieu of adopting the resolution and following the procedure 890
described in division (A) of this section, the board of county 891
commissioners of any county may contract with the state public 892
defender for the state public defender's legal representation of 893
indigent persons. A contract entered into pursuant to this 894
division may provide for payment for the services provided on a 895
per case, hourly, or fixed contract basis. 896

~~(C) If a court appoints an attorney pursuant to this section 897~~

~~to represent a petitioner in a postconviction relief proceeding 898
under section 2953.21 of the Revised Code, the petitioner has 899
received a sentence of death, and the proceeding relates to that 900
sentence, the attorney who represents the petitioner in the 901
proceeding pursuant to the appointment shall be certified under 902
Rule 20 of the Rules of Superintendence for the Courts of Ohio to 903
represent indigent defendants charged with or convicted of an 904
offense for which the death penalty can be or has been imposed. 905~~

Sec. 120.34. The total amount of money paid to all counties 906
in any fiscal year pursuant to sections 120.18, 120.28, and 120.33 907
of the Revised Code for the reimbursement of a percentage of the 908
counties' cost of operating county public defender offices, joint 909
county public defender offices, and county appointed counsel 910
systems shall not exceed the total amount appropriated for that 911
fiscal year by the general assembly for the reimbursement of the 912
counties for the operation of the offices and systems. If the 913
amount appropriated by the general assembly in any fiscal year is 914
insufficient to pay fifty per cent of the total cost in the fiscal 915
year of all county public defender offices, all joint county 916
public defender offices, and all county appointed counsel systems, 917
the amount of money paid in that fiscal year pursuant to sections 918
120.18, 120.28, and 120.33 of the Revised Code to each county for 919
the fiscal year shall be reduced proportionately so that each 920
county is paid an equal percentage of its total cost in the fiscal 921
year for operating its county public defender system, its joint 922
county public defender system, and its county appointed counsel 923
system. 924

~~The total amount of money paid to all counties in any fiscal 925
year pursuant to section 120.35 of the Revised Code for the 926
reimbursement of a percentage of the counties' costs and expenses 927
of conducting the defense in capital cases shall not exceed the 928
total amount appropriated for that fiscal year by the general 929~~

~~assembly for the reimbursement of the counties for conducting the 930
defense in capital cases. If the amount appropriated by the 931
general assembly in any fiscal year is insufficient to pay fifty 932
per cent of the counties' total costs and expenses of conducting 933
the defense in capital cases in the fiscal year, the amount of 934
money paid in that fiscal year pursuant to section 120.35 of the 935
Revised Code to each county for the fiscal year shall be reduced 936
proportionately so that each county is paid an equal percentage of 937
its costs and expenses of conducting the defense in capital cases 938
in the fiscal year. 939~~

All payments relating to capital cases that were required to 940
be made under the provisions of this chapter or section 2941.51 of 941
the Revised Code as those provisions existed immediately before 942
the effective date of this amendment shall be made for each 943
calendar or fiscal year, as applicable, in accordance with those 944
provisions as they existed immediately before the effective date 945
of this amendment until each case in which a defendant was 946
sentenced to death before the effective date of this amendment is 947
finally resolved. 948

If any county receives an amount of money pursuant to section 949
120.18, 120.28, or 120.33, ~~or 120.35~~ of the Revised Code that is 950
in excess of the amount of reimbursement it is entitled to receive 951
pursuant to this section, the state public defender shall request 952
the board of county commissioners to return the excess payment and 953
the board of county commissioners, upon receipt of the request, 954
shall direct the appropriate county officer to return the excess 955
payment to the state. 956

Within thirty days of the end of each fiscal quarter, the 957
state public defender shall provide to the office of budget and 958
management and the ~~legislative budget office of the~~ legislative 959
service commission an estimate of the amount of money that will be 960
required for the balance of the fiscal year to make the payments 961

required by sections 120.18, 120.28, and 120.33, ~~and 120.35~~ of the Revised Code. 962
963

Sec. 1901.183. In addition to jurisdiction otherwise granted 964
in this chapter, the environmental division of a municipal court 965
shall have jurisdiction within its territory in all of the 966
following actions or proceedings and to perform all of the 967
following functions: 968

(A) Notwithstanding any monetary limitations in section 969
1901.17 of the Revised Code, in all actions and proceedings for 970
the sale of real or personal property under lien of a judgment of 971
the environmental division of the municipal court, or a lien for 972
machinery, material, fuel furnished, or labor performed, 973
irrespective of amount, and, in those cases, the environmental 974
division may proceed to foreclose and marshal all liens and all 975
vested or contingent rights, to appoint a receiver, and to render 976
personal judgment irrespective of amount in favor of any party; 977

(B) When in aid of execution of a judgment of the 978
environmental division of the municipal court, in all actions for 979
the foreclosure of a mortgage on real property given to secure the 980
payment of money, or the enforcement of a specific lien for money 981
or other encumbrance or charge on real property, when the real 982
property is situated within the territory, and, in those cases, 983
the environmental division may proceed to foreclose all liens and 984
all vested and contingent rights and proceed to render judgments, 985
and make findings and orders, between the parties, in the same 986
manner and to the same extent as in similar cases in the court of 987
common pleas; 988

(C) When in aid of execution of a judgment of the 989
environmental division of the municipal court, in all actions for 990
the recovery of real property situated within the territory to the 991
same extent as courts of common pleas have jurisdiction; 992

(D) In all actions for injunction to prevent or terminate 993
violations of the ordinances and regulations of any municipal 994
corporation within its territory enacted or promulgated under the 995
police power of that municipal corporation pursuant to Section 3 996
of Article XVIII, Ohio Constitution, over which the court of 997
common pleas has or may have jurisdiction, and, in those cases, 998
the environmental division of the municipal court may proceed to 999
render judgments, and make findings and orders, in the same manner 1000
and to the same extent as in similar cases in the court of common 1001
pleas; 1002

(E) In all actions for injunction to prevent or terminate 1003
violations of the resolutions and regulations of any political 1004
subdivision within its territory enacted or promulgated under the 1005
power of that political subdivision pursuant to Article X of the 1006
Ohio Constitution, over which the court of common pleas has or may 1007
have jurisdiction, and, in those cases, the environmental division 1008
of the municipal court may proceed to render judgments, and make 1009
findings and orders, in the same manner and to the same extent as 1010
in similar cases in the court of common pleas; 1011

(F) In any civil action to enforce any provision of Chapter 1012
3704., 3714., 3734., 3737., 3767., or 6111. of the Revised Code 1013
over which the court of common pleas has or may have jurisdiction, 1014
and, in those actions, the environmental division of the municipal 1015
court may proceed to render judgments, and make findings and 1016
orders, in the same manner and to the same extent as in similar 1017
actions in the court of common pleas; 1018

(G) In all actions and proceedings in the nature of 1019
creditors' bills, and in aid of execution to subject the interests 1020
of a judgment debtor in real or personal property to the payment 1021
of a judgment of the division, and, in those actions and 1022
proceedings, the environmental division may proceed to marshal and 1023
foreclose all liens on the property irrespective of the amount of 1024

the lien, and all vested or contingent rights in the property; 1025

(H) Concurrent jurisdiction with the court of common pleas of 1026
all criminal actions or proceedings related to the pollution of 1027
the air, ground, or water within the territory of the 1028
environmental division of the municipal court, ~~for which a~~ 1029
~~sentence of death cannot be imposed under Chapter 2903. of the~~ 1030
~~Revised Code;~~ 1031

(I) In any review or appeal of any final order of any 1032
administrative officer, agency, board, department, tribunal, 1033
commission, or other instrumentality that relates to a local 1034
building, housing, air pollution, sanitation, health, fire, 1035
zoning, or safety code, ordinance, or regulation, in the same 1036
manner and to the same extent as in similar appeals in the court 1037
of common pleas; 1038

(J) With respect to the environmental division of the 1039
Franklin county municipal court, to hear appeals from adjudication 1040
hearings conducted under Chapter 956. of the Revised Code. 1041

Sec. 2152.13. (A) A juvenile court shall impose a serious 1042
youthful dispositional sentence on a child when required under 1043
division (B)(3) of section 2152.121 of the Revised Code. In such a 1044
case, the remaining provisions of this division and divisions (B) 1045
and (C) do not apply to the child, and the court shall impose the 1046
mandatory serious youthful dispositional sentence under division 1047
(D)(1) of this section. 1048

In all other cases, a juvenile court may impose a serious 1049
youthful offender dispositional sentence on a child only if the 1050
prosecuting attorney of the county in which the delinquent act 1051
allegedly occurred initiates the process against the child in 1052
accordance with this division, and the child is an alleged 1053
delinquent child who is eligible for the dispositional sentence. 1054
The prosecuting attorney may initiate the process in any of the 1055

following ways:	1056
(1) Obtaining an indictment of the child as a serious youthful offender;	1057 1058
(2) The child waives the right to indictment, charging the child in a bill of information as a serious youthful offender;	1059 1060
(3) Until an indictment or information is obtained, requesting a serious youthful offender dispositional sentence in the original complaint alleging that the child is a delinquent child;	1061 1062 1063 1064
(4) Until an indictment or information is obtained, if the original complaint does not request a serious youthful offender dispositional sentence, filing with the juvenile court a written notice of intent to seek a serious youthful offender dispositional sentence within twenty days after the later of the following, unless the time is extended by the juvenile court for good cause shown:	1065 1066 1067 1068 1069 1070 1071
(a) The date of the child's first juvenile court hearing regarding the complaint;	1072 1073
(b) The date the juvenile court determines not to transfer the case under section 2152.12 of the Revised Code.	1074 1075
After a written notice is filed under division (A)(4) of this section, the juvenile court shall serve a copy of the notice on the child and advise the child of the prosecuting attorney's intent to seek a serious youthful offender dispositional sentence in the case.	1076 1077 1078 1079 1080
(B) If an alleged delinquent child is not indicted or charged by information as described in division (A)(1) or (2) of this section and if a notice or complaint as described in division (A)(3) or (4) of this section indicates that the prosecuting attorney intends to pursue a serious youthful offender	1081 1082 1083 1084 1085

dispositional sentence in the case, the juvenile court shall hold 1086
a preliminary hearing to determine if there is probable cause that 1087
the child committed the act charged and is by age eligible for, or 1088
required to receive, a serious youthful offender dispositional 1089
sentence. 1090

(C)(1) A child for whom a serious youthful offender 1091
dispositional sentence is sought by a prosecuting attorney has the 1092
right to a grand jury determination of probable cause that the 1093
child committed the act charged and that the child is eligible by 1094
age for a serious youthful offender dispositional sentence. The 1095
grand jury may be impaneled by the court of common pleas or the 1096
juvenile court. 1097

Once a child is indicted, or charged by information or the 1098
juvenile court determines that the child is eligible for a serious 1099
youthful offender dispositional sentence, the child is entitled to 1100
an open and speedy trial by jury in juvenile court and to be 1101
provided with a transcript of the proceedings. The time within 1102
which the trial is to be held under Title XXIX of the Revised Code 1103
commences on whichever of the following dates is applicable: 1104

(a) If the child is indicted or charged by information, on 1105
the date of the filing of the indictment or information. 1106

(b) If the child is charged by an original complaint that 1107
requests a serious youthful offender dispositional sentence, on 1108
the date of the filing of the complaint. 1109

(c) If the child is not charged by an original complaint that 1110
requests a serious youthful offender dispositional sentence, on 1111
the date that the prosecuting attorney files the written notice of 1112
intent to seek a serious youthful offender dispositional sentence. 1113

(2) If the child is detained awaiting adjudication, upon 1114
indictment or being charged by information, the child has the same 1115
right to bail as an adult charged with the offense the alleged 1116

delinquent act would be if committed by an adult. Except as 1117
provided in division (D) of section 2152.14 of the Revised Code, 1118
all provisions of Title XXIX of the Revised Code and the Criminal 1119
Rules shall apply in the case and to the child. The juvenile court 1120
shall afford the child all rights afforded a person who is 1121
prosecuted for committing a crime including the right to counsel 1122
and the right to raise the issue of competency. The child may not 1123
waive the right to counsel. 1124

(D)(1) If a child is adjudicated a delinquent child for 1125
committing an act under circumstances that require the juvenile 1126
court to impose upon the child a serious youthful offender 1127
dispositional sentence under section 2152.11 of the Revised Code, 1128
all of the following apply: 1129

(a) The juvenile court shall impose upon the child a sentence 1130
available for the violation, as if the child were an adult, under 1131
Chapter 2929. of the Revised Code, except that the juvenile court 1132
shall not impose on the child a sentence of ~~death or~~ life 1133
imprisonment without parole. 1134

(b) The juvenile court also shall impose upon the child one 1135
or more traditional juvenile dispositions under sections 2152.16, 1136
2152.19, and 2152.20, and, if applicable, section 2152.17 of the 1137
Revised Code. 1138

(c) The juvenile court shall stay the adult portion of the 1139
serious youthful offender dispositional sentence pending the 1140
successful completion of the traditional juvenile dispositions 1141
imposed. 1142

(2)(a) If a child is adjudicated a delinquent child for 1143
committing an act under circumstances that allow, but do not 1144
require, the juvenile court to impose on the child a serious 1145
youthful offender dispositional sentence under section 2152.11 of 1146
the Revised Code, all of the following apply: 1147

(i) If the juvenile court on the record makes a finding that, 1148
given the nature and circumstances of the violation and the 1149
history of the child, the length of time, level of security, and 1150
types of programming and resources available in the juvenile 1151
system alone are not adequate to provide the juvenile court with a 1152
reasonable expectation that the purposes set forth in section 1153
2152.01 of the Revised Code will be met, the juvenile court may 1154
impose upon the child a sentence available for the violation, as 1155
if the child were an adult, under Chapter 2929. of the Revised 1156
Code, except that the juvenile court shall not impose on the child 1157
a sentence of ~~death or~~ life imprisonment without parole. 1158

(ii) If a sentence is imposed under division (D)(2)(a)(i) of 1159
this section, the juvenile court also shall impose upon the child 1160
one or more traditional juvenile dispositions under sections 1161
2152.16, 2152.19, and 2152.20 and, if applicable, section 2152.17 1162
of the Revised Code. 1163

(iii) The juvenile court shall stay the adult portion of the 1164
serious youthful offender dispositional sentence pending the 1165
successful completion of the traditional juvenile dispositions 1166
imposed. 1167

(b) If the juvenile court does not find that a sentence 1168
should be imposed under division (D)(2)(a)(i) of this section, the 1169
juvenile court may impose one or more traditional juvenile 1170
dispositions under sections 2152.16, 2152.19, 2152.20, and, if 1171
applicable, section 2152.17 of the Revised Code. 1172

(3) A child upon whom a serious youthful offender 1173
dispositional sentence is imposed under division (D)(1) or (2) of 1174
this section has a right to appeal under division (A)(1), (3), 1175
(4), or (5) of section 2953.08 of the Revised Code the adult 1176
portion of the serious youthful offender dispositional sentence 1177
when any of those divisions apply. The child may appeal the adult 1178
portion, and the court shall consider the appeal as if the adult 1179

portion were not stayed. 1180

Sec. 2152.67. Any adult who is arrested or charged under any 1181
provision in this chapter and who is charged with a crime may 1182
demand a trial by jury, or the juvenile judge upon the judge's own 1183
motion may call a jury. A demand for a jury trial shall be made in 1184
writing in not less than three days before the date set for trial, 1185
or within three days after counsel has been retained, whichever is 1186
later. Sections 2945.17 and 2945.23 to 2945.36 of the Revised 1187
Code, relating to the drawing and impaneling of jurors in criminal 1188
cases in the court of common pleas, ~~other than in capital cases,~~ 1189
shall apply to a jury trial under this section. The compensation 1190
of jurors and costs of the clerk and sheriff shall be taxed and 1191
paid in the same manner as in criminal cases in the court of 1192
common pleas. 1193

Sec. 2301.20. All civil and criminal actions in the court of 1194
common pleas shall be recorded. The reporter shall take accurate 1195
notes of or electronically record the oral testimony. The notes 1196
and electronic records shall be filed in the office of the 1197
official reporter and carefully preserved ~~for either of the~~ 1198
~~following periods of time:~~ 1199

~~(A) If the action is not a capital case, the notes and~~ 1200
~~electronic records shall be preserved~~ for the period of time 1201
specified by the court of common pleas, which period of time shall 1202
not be longer than the period of time that the other records of 1203
the particular action are required to be kept. 1204

~~(B) If the action is a capital case, the notes and electronic~~ 1205
~~records shall be preserved for the longer of ten years or until~~ 1206
~~the final disposition of the action and exhaustion of all appeals.~~ 1207

Sec. 2307.60. (A)(1) Anyone injured in person or property by 1208
a criminal act has, and may recover full damages in, a civil 1209

action unless specifically excepted by law, may recover the costs 1210
of maintaining the civil action and attorney's fees if authorized 1211
by any provision of the Rules of Civil Procedure or another 1212
section of the Revised Code or under the common law of this state, 1213
and may recover punitive or exemplary damages if authorized by 1214
section 2315.21 or another section of the Revised Code. 1215

(2) A final judgment of a trial court that has not been 1216
reversed on appeal or otherwise set aside, nullified, or vacated, 1217
entered after a trial or upon a plea of guilty, but not upon a 1218
plea of no contest or the equivalent plea from another 1219
jurisdiction, that adjudges an offender guilty of an offense of 1220
violence punishable by ~~death~~ or imprisonment in excess of one 1221
year, when entered as evidence in any subsequent civil proceeding 1222
based on the criminal act, shall preclude the offender from 1223
denying in the subsequent civil proceeding any fact essential to 1224
sustaining that judgment, unless the offender can demonstrate that 1225
extraordinary circumstances prevented the offender from having a 1226
full and fair opportunity to litigate the issue in the criminal 1227
proceeding or other extraordinary circumstances justify affording 1228
the offender an opportunity to relitigate the issue. The offender 1229
may introduce evidence of the offender's pending appeal of the 1230
final judgment of the trial court, if applicable, and the court 1231
may consider that evidence in determining the liability of the 1232
offender. 1233

(B)(1) As used in division (B) of this section: 1234

(a) "Tort action" means a civil action for damages for 1235
injury, death, or loss to person or property other than a civil 1236
action for damages for a breach of contract or another agreement 1237
between persons. "Tort action" includes, but is not limited to, a 1238
product liability claim, as defined in section 2307.71 of the 1239
Revised Code, and an asbestos claim, as defined in section 2307.91 1240
of the Revised Code, an action for wrongful death under Chapter 1241

2125. of the Revised Code, and an action based on derivative 1242
claims for relief. 1243

(b) "Residence" has the same meaning as in section 2901.05 of 1244
the Revised Code. 1245

(2) Recovery on a claim for relief in a tort action is barred 1246
to any person or the person's legal representative if any of the 1247
following apply: 1248

(a) The person has been convicted of or has pleaded guilty to 1249
a felony, or to a misdemeanor that is an offense of violence, 1250
arising out of criminal conduct that was a proximate cause of the 1251
injury or loss for which relief is claimed in the tort action. 1252

(b) The person engaged in conduct that, if prosecuted, would 1253
constitute a felony, a misdemeanor that is an offense of violence, 1254
an attempt to commit a felony, or an attempt to commit a 1255
misdemeanor that is an offense of violence and that conduct was a 1256
proximate cause of the injury or loss for which relief is claimed 1257
in the tort action, regardless of whether the person has been 1258
convicted of or pleaded guilty to or has been charged with 1259
committing the felony, the misdemeanor, or the attempt to commit 1260
the felony or misdemeanor. 1261

(c) The person suffered the injury or loss for which relief 1262
is claimed in the tort action as a proximate result of the victim 1263
of conduct that, if prosecuted, would constitute a felony, a 1264
misdemeanor that is an offense of violence, an attempt to commit a 1265
felony, or an attempt to commit a misdemeanor that is an offense 1266
of violence acting against the person in self-defense, defense of 1267
another, or defense of the victim's residence, regardless of 1268
whether the person has been convicted of or pleaded guilty to or 1269
has been charged with committing the felony, the misdemeanor, or 1270
the attempt to commit the felony or misdemeanor. Division 1271
(B)(2)(c) of this section does not apply if the person who 1272

suffered the injury or loss, at the time of the victim's act of 1273
self-defense, defense of another, or defense of residence, was an 1274
innocent bystander who had no connection with the underlying 1275
conduct that prompted the victim's exercise of self-defense, 1276
defense of another, or defense of residence. 1277

(3) Recovery against a victim of conduct that, if prosecuted, 1278
would constitute a felony, a misdemeanor that is an offense of 1279
violence, an attempt to commit a felony, or an attempt to commit a 1280
misdemeanor that is an offense of violence, on a claim for relief 1281
in a tort action is barred to any person or the person's legal 1282
representative if conduct the person engaged in against that 1283
victim was a proximate cause of the injury or loss for which 1284
relief is claimed in the tort action and that conduct, if 1285
prosecuted, would constitute a felony, a misdemeanor that is an 1286
offense of violence, an attempt to commit a felony, or an attempt 1287
to commit a misdemeanor that is an offense of violence, regardless 1288
of whether the person has been convicted of or pleaded guilty to 1289
or has been charged with committing the felony, the misdemeanor, 1290
or the attempt to commit the felony or misdemeanor. 1291

(4) Divisions (B)(1) to (3) of this section do not apply to 1292
civil claims based upon alleged intentionally tortious conduct, 1293
alleged violations of the United States Constitution, or alleged 1294
violations of statutes of the United States pertaining to civil 1295
rights. For purposes of division (B)(4) of this section, a 1296
person's act of self-defense, defense of another, or defense of 1297
the person's residence does not constitute intentionally tortious 1298
conduct. 1299

Sec. 2701.07. When, in the opinion of the court, the business 1300
thereof so requires, each court of common pleas, court of appeals, 1301
and, in counties having at the last or any future federal census 1302
more than seventy thousand inhabitants, the probate court, may 1303

appoint one or more constables to preserve order, attend the 1304
assignment of cases in counties where more than two judges of the 1305
court of common pleas regularly hold court at the same time, and 1306
discharge such other duties as the court requires. When so 1307
directed by the court, each constable has the same powers as 1308
sheriffs to call and impanel jurors, ~~except in capital cases.~~ 1309

Sec. 2743.51. As used in sections 2743.51 to 2743.72 of the 1310
Revised Code: 1311

(A) "Claimant" means both of the following categories of 1312
persons: 1313

(1) Any of the following persons who claim an award of 1314
reparations under sections 2743.51 to 2743.72 of the Revised Code: 1315

(a) A victim who was one of the following at the time of the 1316
criminally injurious conduct: 1317

(i) A resident of the United States; 1318

(ii) A resident of a foreign country the laws of which permit 1319
residents of this state to recover compensation as victims of 1320
offenses committed in that country. 1321

(b) A dependent of a deceased victim who is described in 1322
division (A)(1)(a) of this section; 1323

(c) A third person, other than a collateral source, who 1324
legally assumes or voluntarily pays the obligations of a victim, 1325
or of a dependent of a victim, who is described in division 1326
(A)(1)(a) of this section, which obligations are incurred as a 1327
result of the criminally injurious conduct that is the subject of 1328
the claim and may include, but are not limited to, medical or 1329
burial expenses; 1330

(d) A person who is authorized to act on behalf of any person 1331
who is described in division (A)(1)(a), (b), or (c) of this 1332
section; 1333

(e) The estate of a deceased victim who is described in	1334
division (A)(1)(a) of this section.	1335
(2) Any of the following persons who claim an award of	1336
reparations under sections 2743.51 to 2743.72 of the Revised Code:	1337
(a) A victim who had a permanent place of residence within	1338
this state at the time of the criminally injurious conduct and	1339
who, at the time of the criminally injurious conduct, complied	1340
with any one of the following:	1341
(i) Had a permanent place of employment in this state;	1342
(ii) Was a member of the regular armed forces of the United	1343
States or of the United States coast guard or was a full-time	1344
member of the Ohio organized militia or of the United States army	1345
reserve, naval reserve, or air force reserve;	1346
(iii) Was retired and receiving social security or any other	1347
retirement income;	1348
(iv) Was sixty years of age or older;	1349
(v) Was temporarily in another state for the purpose of	1350
receiving medical treatment;	1351
(vi) Was temporarily in another state for the purpose of	1352
performing employment-related duties required by an employer	1353
located within this state as an express condition of employment or	1354
employee benefits;	1355
(vii) Was temporarily in another state for the purpose of	1356
receiving occupational, vocational, or other job-related training	1357
or instruction required by an employer located within this state	1358
as an express condition of employment or employee benefits;	1359
(viii) Was a full-time student at an academic institution,	1360
college, or university located in another state;	1361
(ix) Had not departed the geographical boundaries of this	1362
state for a period exceeding thirty days or with the intention of	1363

becoming a citizen of another state or establishing a permanent
place of residence in another state. 1364
1365

(b) A dependent of a deceased victim who is described in 1366
division (A)(2)(a) of this section; 1367

(c) A third person, other than a collateral source, who 1368
legally assumes or voluntarily pays the obligations of a victim, 1369
or of a dependent of a victim, who is described in division 1370
(A)(2)(a) of this section, which obligations are incurred as a 1371
result of the criminally injurious conduct that is the subject of 1372
the claim and may include, but are not limited to, medical or 1373
burial expenses; 1374

(d) A person who is authorized to act on behalf of any person 1375
who is described in division (A)(2)(a), (b), or (c) of this 1376
section; 1377

(e) The estate of a deceased victim who is described in 1378
division (A)(2)(a) of this section. 1379

(B) "Collateral source" means a source of benefits or 1380
advantages for economic loss otherwise reparable that the victim 1381
or claimant has received, or that is readily available to the 1382
victim or claimant, from any of the following sources: 1383

(1) The offender; 1384

(2) The government of the United States or any of its 1385
agencies, a state or any of its political subdivisions, or an 1386
instrumentality of two or more states, unless the law providing 1387
for the benefits or advantages makes them excess or secondary to 1388
benefits under sections 2743.51 to 2743.72 of the Revised Code; 1389

(3) Social security, medicare, and medicaid; 1390

(4) State-required, temporary, nonoccupational disability 1391
insurance; 1392

(5) Workers' compensation; 1393

(6) Wage continuation programs of any employer;	1394
(7) Proceeds of a contract of insurance payable to the victim	1395
for loss that the victim sustained because of the criminally	1396
injurious conduct;	1397
(8) A contract providing prepaid hospital and other health	1398
care services, or benefits for disability;	1399
(9) That portion of the proceeds of all contracts of	1400
insurance payable to the claimant on account of the death of the	1401
victim that exceeds fifty thousand dollars;	1402
(10) Any compensation recovered or recoverable under the laws	1403
of another state, district, territory, or foreign country because	1404
the victim was the victim of an offense committed in that state,	1405
district, territory, or country.	1406
"Collateral source" does not include any money, or the	1407
monetary value of any property, that is subject to sections	1408
2969.01 to 2969.06 of the Revised Code or that is received as a	1409
benefit from the Ohio public safety officers death benefit fund	1410
created by section 742.62 of the Revised Code.	1411
(C) "Criminally injurious conduct" means one of the	1412
following:	1413
(1) For the purposes of any person described in division	1414
(A)(1) of this section, any conduct that occurs or is attempted in	1415
this state; poses a substantial threat of personal injury or	1416
death; and is punishable by fine, <u>or</u> imprisonment, or death , or	1417
would be so punishable but for the fact that the person engaging	1418
in the conduct lacked capacity to commit the crime under the laws	1419
of this state. Criminally injurious conduct does not include	1420
conduct arising out of the ownership, maintenance, or use of a	1421
motor vehicle, except when any of the following applies:	1422
(a) The person engaging in the conduct intended to cause	1423

personal injury or death; 1424

(b) The person engaging in the conduct was using the vehicle 1425
to flee immediately after committing a felony or an act that would 1426
constitute a felony but for the fact that the person engaging in 1427
the conduct lacked the capacity to commit the felony under the 1428
laws of this state; 1429

(c) The person engaging in the conduct was using the vehicle 1430
in a manner that constitutes an OVI violation; 1431

(d) The conduct occurred on or after July 25, 1990, and the 1432
person engaging in the conduct was using the vehicle in a manner 1433
that constitutes a violation of section 2903.08 of the Revised 1434
Code; 1435

(e) The person engaging in the conduct acted in a manner that 1436
caused serious physical harm to a person and that constituted a 1437
violation of section 4549.02 or 4549.021 of the Revised Code. 1438

(2) For the purposes of any person described in division 1439
(A)(2) of this section, any conduct that occurs or is attempted in 1440
another state, district, territory, or foreign country; poses a 1441
substantial threat of personal injury or death; and is punishable 1442
by fine, or imprisonment, ~~or death~~, or would be so punishable but 1443
for the fact that the person engaging in the conduct lacked 1444
capacity to commit the crime under the laws of the state, 1445
district, territory, or foreign country in which the conduct 1446
occurred or was attempted. Criminally injurious conduct does not 1447
include conduct arising out of the ownership, maintenance, or use 1448
of a motor vehicle, except when any of the following applies: 1449

(a) The person engaging in the conduct intended to cause 1450
personal injury or death; 1451

(b) The person engaging in the conduct was using the vehicle 1452
to flee immediately after committing a felony or an act that would 1453
constitute a felony but for the fact that the person engaging in 1454

the conduct lacked the capacity to commit the felony under the 1455
laws of the state, district, territory, or foreign country in 1456
which the conduct occurred or was attempted; 1457

(c) The person engaging in the conduct was using the vehicle 1458
in a manner that constitutes an OVI violation; 1459

(d) The conduct occurred on or after July 25, 1990, the 1460
person engaging in the conduct was using the vehicle in a manner 1461
that constitutes a violation of any law of the state, district, 1462
territory, or foreign country in which the conduct occurred, and 1463
that law is substantially similar to a violation of section 1464
2903.08 of the Revised Code; 1465

(e) The person engaging in the conduct acted in a manner that 1466
caused serious physical harm to a person and that constituted a 1467
violation of any law of the state, district, territory, or foreign 1468
country in which the conduct occurred, and that law is 1469
substantially similar to section 4549.02 or 4549.021 of the 1470
Revised Code. 1471

(3) For the purposes of any person described in division 1472
(A)(1) or (2) of this section, terrorism that occurs within or 1473
outside the territorial jurisdiction of the United States. 1474

(D) "Dependent" means an individual wholly or partially 1475
dependent upon the victim for care and support, and includes a 1476
child of the victim born after the victim's death. 1477

(E) "Economic loss" means economic detriment consisting only 1478
of allowable expense, work loss, funeral expense, unemployment 1479
benefits loss, replacement services loss, cost of crime scene 1480
cleanup, and cost of evidence replacement. If criminally injurious 1481
conduct causes death, economic loss includes a dependent's 1482
economic loss and a dependent's replacement services loss. 1483
Noneconomic detriment is not economic loss; however, economic loss 1484
may be caused by pain and suffering or physical impairment. 1485

(F)(1) "Allowable expense" means reasonable charges incurred 1486
for reasonably needed products, services, and accommodations, 1487
including those for medical care, rehabilitation, rehabilitative 1488
occupational training, and other remedial treatment and care and 1489
including replacement costs for hearing aids; dentures, retainers, 1490
and other dental appliances; canes, walkers, and other mobility 1491
tools; and eyeglasses and other corrective lenses. It does not 1492
include that portion of a charge for a room in a hospital, clinic, 1493
convalescent home, nursing home, or any other institution engaged 1494
in providing nursing care and related services in excess of a 1495
reasonable and customary charge for semiprivate accommodations, 1496
unless accommodations other than semiprivate accommodations are 1497
medically required. 1498

(2) An immediate family member of a victim of criminally 1499
injurious conduct that consists of a homicide, a sexual assault, 1500
domestic violence, or a severe and permanent incapacitating injury 1501
resulting in paraplegia or a similar life-altering condition, who 1502
requires psychiatric care or counseling as a result of the 1503
criminally injurious conduct, may be reimbursed for that care or 1504
counseling as an allowable expense through the victim's 1505
application. The cumulative allowable expense for care or 1506
counseling of that nature shall not exceed two thousand five 1507
hundred dollars for each immediate family member of a victim of 1508
that type and seven thousand five hundred dollars in the aggregate 1509
for all immediate family members of a victim of that type. 1510

(3) A family member of a victim who died as a proximate 1511
result of criminally injurious conduct may be reimbursed as an 1512
allowable expense through the victim's application for wages lost 1513
and travel expenses incurred in order to attend criminal justice 1514
proceedings arising from the criminally injurious conduct. The 1515
cumulative allowable expense for wages lost and travel expenses 1516
incurred by a family member to attend criminal justice proceedings 1517

shall not exceed five hundred dollars for each family member of 1518
the victim and two thousand dollars in the aggregate for all 1519
family members of the victim. 1520

(4)(a) "Allowable expense" includes reasonable expenses and 1521
fees necessary to obtain a guardian's bond pursuant to section 1522
2109.04 of the Revised Code when the bond is required to pay an 1523
award to a fiduciary on behalf of a minor or other incompetent. 1524

(b) "Allowable expense" includes attorney's fees not 1525
exceeding one thousand dollars, at a rate not exceeding one 1526
hundred dollars per hour, incurred to successfully obtain a 1527
restraining order, custody order, or other order to physically 1528
separate a victim from an offender. Attorney's fees for the 1529
services described in this division may include an amount for 1530
reasonable travel time incurred to attend court hearings, not 1531
exceeding three hours' round-trip for each court hearing, assessed 1532
at a rate not exceeding thirty dollars per hour. 1533

(G) "Work loss" means loss of income from work that the 1534
injured person would have performed if the person had not been 1535
injured and expenses reasonably incurred by the person to obtain 1536
services in lieu of those the person would have performed for 1537
income, reduced by any income from substitute work actually 1538
performed by the person, or by income the person would have earned 1539
in available appropriate substitute work that the person was 1540
capable of performing but unreasonably failed to undertake. 1541

(H) "Replacement services loss" means expenses reasonably 1542
incurred in obtaining ordinary and necessary services in lieu of 1543
those the injured person would have performed, not for income, but 1544
for the benefit of the person's self or family, if the person had 1545
not been injured. 1546

(I) "Dependent's economic loss" means loss after a victim's 1547
death of contributions of things of economic value to the victim's 1548

dependents, not including services they would have received from 1549
the victim if the victim had not suffered the fatal injury, less 1550
expenses of the dependents avoided by reason of the victim's 1551
death. If a minor child of a victim is adopted after the victim's 1552
death, the minor child continues after the adoption to incur a 1553
dependent's economic loss as a result of the victim's death. If 1554
the surviving spouse of a victim remarries, the surviving spouse 1555
continues after the remarriage to incur a dependent's economic 1556
loss as a result of the victim's death. 1557

(J) "Dependent's replacement services loss" means loss 1558
reasonably incurred by dependents after a victim's death in 1559
obtaining ordinary and necessary services in lieu of those the 1560
victim would have performed for their benefit if the victim had 1561
not suffered the fatal injury, less expenses of the dependents 1562
avoided by reason of the victim's death and not subtracted in 1563
calculating the dependent's economic loss. If a minor child of a 1564
victim is adopted after the victim's death, the minor child 1565
continues after the adoption to incur a dependent's replacement 1566
services loss as a result of the victim's death. If the surviving 1567
spouse of a victim remarries, the surviving spouse continues after 1568
the remarriage to incur a dependent's replacement services loss as 1569
a result of the victim's death. 1570

(K) "Noneconomic detriment" means pain, suffering, 1571
inconvenience, physical impairment, or other nonpecuniary damage. 1572

(L) "Victim" means a person who suffers personal injury or 1573
death as a result of any of the following: 1574

(1) Criminally injurious conduct; 1575

(2) The good faith effort of any person to prevent criminally 1576
injurious conduct; 1577

(3) The good faith effort of any person to apprehend a person 1578
suspected of engaging in criminally injurious conduct. 1579

(M) "Contributory misconduct" means any conduct of the claimant or of the victim through whom the claimant claims an award of reparations that is unlawful or intentionally tortious and that, without regard to the conduct's proximity in time or space to the criminally injurious conduct, has a causal relationship to the criminally injurious conduct that is the basis of the claim.

(N)(1) "Funeral expense" means any reasonable charges that are not in excess of seven thousand five hundred dollars per funeral and that are incurred for expenses directly related to a victim's funeral, cremation, or burial and any wages lost or travel expenses incurred by a family member of a victim in order to attend the victim's funeral, cremation, or burial.

(2) An award for funeral expenses shall be applied first to expenses directly related to the victim's funeral, cremation, or burial. An award for wages lost or travel expenses incurred by a family member of the victim shall not exceed five hundred dollars for each family member and shall not exceed in the aggregate the difference between seven thousand five hundred dollars and expenses that are reimbursed by the program and that are directly related to the victim's funeral, cremation, or burial.

(O) "Unemployment benefits loss" means a loss of unemployment benefits pursuant to Chapter 4141. of the Revised Code when the loss arises solely from the inability of a victim to meet the able to work, available for suitable work, or the actively seeking suitable work requirements of division (A)(4)(a) of section 4141.29 of the Revised Code.

(P) "OVI violation" means any of the following:

(1) A violation of section 4511.19 of the Revised Code, of any municipal ordinance prohibiting the operation of a vehicle while under the influence of alcohol, a drug of abuse, or a

combination of them, or of any municipal ordinance prohibiting the 1611
operation of a vehicle with a prohibited concentration of alcohol, 1612
a controlled substance, or a metabolite of a controlled substance 1613
in the whole blood, blood serum or plasma, breath, or urine; 1614

(2) A violation of division (A)(1) of section 2903.06 of the 1615
Revised Code; 1616

(3) A violation of division (A)(2), (3), or (4) of section 1617
2903.06 of the Revised Code or of a municipal ordinance 1618
substantially similar to any of those divisions, if the offender 1619
was under the influence of alcohol, a drug of abuse, or a 1620
combination of them, at the time of the commission of the offense; 1621

(4) For purposes of any person described in division (A)(2) 1622
of this section, a violation of any law of the state, district, 1623
territory, or foreign country in which the criminally injurious 1624
conduct occurred, if that law is substantially similar to a 1625
violation described in division (P)(1) or (2) of this section or 1626
if that law is substantially similar to a violation described in 1627
division (P)(3) of this section and the offender was under the 1628
influence of alcohol, a drug of abuse, or a combination of them, 1629
at the time of the commission of the offense. 1630

(Q) "Pendency of the claim" for an original reparations 1631
application or supplemental reparations application means the 1632
period of time from the date the criminally injurious conduct upon 1633
which the application is based occurred until the date a final 1634
decision, order, or judgment concerning that original reparations 1635
application or supplemental reparations application is issued. 1636

(R) "Terrorism" means any activity to which all of the 1637
following apply: 1638

(1) The activity involves a violent act or an act that is 1639
dangerous to human life. 1640

(2) The act described in division (R)(1) of this section is 1641

committed within the territorial jurisdiction of the United States 1642
and is a violation of the criminal laws of the United States, this 1643
state, or any other state or the act described in division (R)(1) 1644
of this section is committed outside the territorial jurisdiction 1645
of the United States and would be a violation of the criminal laws 1646
of the United States, this state, or any other state if committed 1647
within the territorial jurisdiction of the United States. 1648

(3) The activity appears to be intended to do any of the 1649
following: 1650

(a) Intimidate or coerce a civilian population; 1651

(b) Influence the policy of any government by intimidation or 1652
coercion; 1653

(c) Affect the conduct of any government by assassination or 1654
kidnapping. 1655

(4) The activity occurs primarily outside the territorial 1656
jurisdiction of the United States or transcends the national 1657
boundaries of the United States in terms of the means by which the 1658
activity is accomplished, the person or persons that the activity 1659
appears intended to intimidate or coerce, or the area or locale in 1660
which the perpetrator or perpetrators of the activity operate or 1661
seek asylum. 1662

(S) "Transcends the national boundaries of the United States" 1663
means occurring outside the territorial jurisdiction of the United 1664
States in addition to occurring within the territorial 1665
jurisdiction of the United States. 1666

(T) "Cost of crime scene cleanup" means any of the following: 1667

(1) The replacement cost for items of clothing removed from a 1668
victim in order to make an assessment of possible physical harm or 1669
to treat physical harm; 1670

(2) Reasonable and necessary costs of cleaning the scene and 1671

repairing, for the purpose of personal security, property damaged 1672
at the scene where the criminally injurious conduct occurred, not 1673
to exceed seven hundred fifty dollars in the aggregate per claim. 1674

(U) "Cost of evidence replacement" means costs for 1675
replacement of property confiscated for evidentiary purposes 1676
related to the criminally injurious conduct, not to exceed seven 1677
hundred fifty dollars in the aggregate per claim. 1678

(V) "Provider" means any person who provides a victim or 1679
claimant with a product, service, or accommodations that are an 1680
allowable expense or a funeral expense. 1681

(W) "Immediate family member" means an individual who resided 1682
in the same permanent household as a victim at the time of the 1683
criminally injurious conduct and who is related to the victim by 1684
affinity or consanguinity. 1685

(X) "Family member" means an individual who is related to a 1686
victim by affinity or consanguinity. 1687

Sec. 2901.02. As used in the Revised Code: 1688

(A) Offenses include aggravated murder, murder, felonies of 1689
the first, second, third, fourth, and fifth degree, misdemeanors 1690
of the first, second, third, and fourth degree, minor 1691
misdemeanors, and offenses not specifically classified. 1692

~~(B) Aggravated murder when the indictment or the count in the 1693
indictment charging aggravated murder contains one or more 1694
specifications of aggravating circumstances listed in division (A) 1695
of section 2929.04 of Revised Code, and any other offense for 1696
which death may be imposed as a penalty, is a capital offense. 1697~~

~~(C)~~ Aggravated murder and murder are felonies. 1698

~~(D)~~(C) Regardless of the penalty that may be imposed, any 1699
offense specifically classified as a felony is a felony, and any 1700
offense specifically classified as a misdemeanor is a misdemeanor. 1701

~~(E)~~(D) Any offense not specifically classified is a felony if 1702
imprisonment for more than one year may be imposed as a penalty. 1703

~~(F)~~(E) Any offense not specifically classified is a 1704
misdemeanor if imprisonment for not more than one year may be 1705
imposed as a penalty. 1706

~~(G)~~(F) Any offense not specifically classified is a minor 1707
misdemeanor if the only penalty that may be imposed is one of the 1708
following: 1709

(1) For an offense committed prior to January 1, 2004, a fine 1710
not exceeding one hundred dollars; 1711

(2) For an offense committed on or after January 1, 2004, a 1712
fine not exceeding one hundred fifty dollars, community service 1713
under division (D) of section 2929.27 of the Revised Code, or a 1714
financial sanction other than a fine under section 2929.28 of the 1715
Revised Code. 1716

Sec. 2909.24. (A) No person shall commit a specified offense 1717
with purpose to do any of the following: 1718

(1) Intimidate or coerce a civilian population; 1719

(2) Influence the policy of any government by intimidation or 1720
coercion; 1721

(3) Affect the conduct of any government by the specified 1722
offense. 1723

(B)(1) Whoever violates this section is guilty of terrorism. 1724

(2) Except as otherwise provided in divisions (B)(3) and (4) 1725
of this section, terrorism is an offense one degree higher than 1726
the most serious underlying specified offense the defendant 1727
committed. 1728

(3) If the most serious underlying specified offense the 1729
defendant committed is a felony of the first degree or murder, the 1730

person shall be sentenced to life imprisonment without parole. 1731

(4) If the most serious underlying specified offense the 1732
defendant committed is aggravated murder, the offender shall be 1733
sentenced to life imprisonment without parole ~~or death pursuant to~~ 1734
~~sections 2929.02 to 2929.06 of the Revised Code.~~ 1735

(5) Section 2909.25 of the Revised Code applies regarding an 1736
offender who is convicted of or pleads guilty to a violation of 1737
this section. 1738

Sec. 2929.02. (A) ~~Whoever~~ Except as otherwise provided in 1739
division (C) of this section, whoever is convicted of or pleads 1740
guilty to aggravated murder in violation of section 2903.01 of the 1741
Revised Code shall ~~suffer death or be imprisoned for life, as~~ 1742
~~determined pursuant to sections 2929.022, 2929.03, and 2929.04 of~~ 1743
~~the Revised Code, except that no person who raises the matter of~~ 1744
~~age pursuant to section 2929.023 of the Revised Code and who is~~ 1745
~~not found to have been eighteen years of age or older at the time~~ 1746
~~of the commission of the offense shall suffer death. In addition,~~ 1747
~~the offender may be fined an amount fixed by the court, but not~~ 1748
~~more than twenty five thousand dollars~~ sentenced to life 1749
imprisonment with parole eligibility after serving twenty full 1750
years of imprisonment, life imprisonment with parole eligibility 1751
after serving thirty full years of imprisonment, or life 1752
imprisonment without parole. 1753

(B)~~(1)~~ Except as otherwise provided in division ~~(B)(2)~~ ~~or~~ 1754
~~(3)~~(C) of this section, whoever is convicted of or pleads guilty 1755
to murder in violation of section 2903.02 of the Revised Code 1756
shall be imprisoned for an indefinite term of fifteen years to 1757
life. 1758

~~(2)~~(C)(1) Except as otherwise provided in division 1759
~~(B)(3)~~(C)(2) of this section, if a person is convicted of or 1760
pleads guilty to aggravated murder in violation of section 2903.01 1761

of the Revised Code or to murder in violation of section 2903.02 1762
of the Revised Code, the victim of the offense was less than 1763
thirteen years of age, and the offender also is convicted of or 1764
pleads guilty to a sexual motivation specification that was 1765
included in the indictment, count in the indictment, or 1766
information charging the offense, the court shall impose an 1767
indefinite prison term of thirty years to life pursuant to 1768
division (B)(3) of section 2971.03 of the Revised Code. 1769

~~(3)~~(2) If a person is convicted of or pleads guilty to 1770
aggravated murder in violation of section 2903.01 of the Revised 1771
Code or to murder in violation of section 2903.02 of the Revised 1772
Code and also is convicted of or pleads guilty to a sexual 1773
motivation specification and a sexually violent predator 1774
specification that were included in the indictment, count in the 1775
indictment, or information that charged the murder, the court 1776
shall impose upon the offender a term of life imprisonment without 1777
parole that shall be served pursuant to section 2971.03 of the 1778
Revised Code. 1779

~~(4)~~(D) In addition to the prison term imposed under this 1780
section, the offender may be fined an amount fixed by the court, 1781
but not more than twenty-five thousand dollars for aggravated 1782
murder or fifteen thousand dollars for murder. 1783

~~(C)~~(E) The court shall not impose a fine or fines for 1784
aggravated murder or murder ~~which~~ that, in the aggregate and to 1785
the extent not suspended by the court, exceeds the amount ~~which~~ 1786
that the offender is or will be able to pay by the method and 1787
within the time allowed without undue hardship to the offender or 1788
to the dependents of the offender, or will prevent the offender 1789
from making reparation for the victim's wrongful death. 1790

~~(D)~~(F)(1) In addition to any other sanctions imposed for a 1791
violation of section 2903.01 or 2903.02 of the Revised Code, if 1792
the offender used a motor vehicle as the means to commit the 1793

violation, the court shall impose upon the offender a class two 1794
suspension of the offender's driver's license, commercial driver's 1795
license, temporary instruction permit, probationary license, or 1796
nonresident operating privilege as specified in division (A)(2) of 1797
section 4510.02 of the Revised Code. 1798

(2) As used in division ~~(D)~~(F) of this section, "motor 1799
vehicle" has the same meaning as in section 4501.01 of the Revised 1800
Code. 1801

Sec. 2929.13. (A) Except as provided in division (E), (F), or 1802
(G) of this section and unless a specific sanction is required to 1803
be imposed or is precluded from being imposed pursuant to law, a 1804
court that imposes a sentence upon an offender for a felony may 1805
impose any sanction or combination of sanctions on the offender 1806
that are provided in sections 2929.14 to 2929.18 of the Revised 1807
Code. 1808

If the offender is eligible to be sentenced to community 1809
control sanctions, the court shall consider the appropriateness of 1810
imposing a financial sanction pursuant to section 2929.18 of the 1811
Revised Code or a sanction of community service pursuant to 1812
section 2929.17 of the Revised Code as the sole sanction for the 1813
offense. Except as otherwise provided in this division, if the 1814
court is required to impose a mandatory prison term for the 1815
offense for which sentence is being imposed, the court also shall 1816
impose any financial sanction pursuant to section 2929.18 of the 1817
Revised Code that is required for the offense and may impose any 1818
other financial sanction pursuant to that section but may not 1819
impose any additional sanction or combination of sanctions under 1820
section 2929.16 or 2929.17 of the Revised Code. 1821

If the offender is being sentenced for a fourth degree felony 1822
OVI offense or for a third degree felony OVI offense, in addition 1823
to the mandatory term of local incarceration or the mandatory 1824

prison term required for the offense by division (G)(1) or (2) of 1825
this section, the court shall impose upon the offender a mandatory 1826
fine in accordance with division (B)(3) of section 2929.18 of the 1827
Revised Code and may impose whichever of the following is 1828
applicable: 1829

(1) For a fourth degree felony OVI offense for which sentence 1830
is imposed under division (G)(1) of this section, an additional 1831
community control sanction or combination of community control 1832
sanctions under section 2929.16 or 2929.17 of the Revised Code. If 1833
the court imposes upon the offender a community control sanction 1834
and the offender violates any condition of the community control 1835
sanction, the court may take any action prescribed in division (B) 1836
of section 2929.15 of the Revised Code relative to the offender, 1837
including imposing a prison term on the offender pursuant to that 1838
division. 1839

(2) For a third or fourth degree felony OVI offense for which 1840
sentence is imposed under division (G)(2) of this section, an 1841
additional prison term as described in division (B)(4) of section 1842
2929.14 of the Revised Code or a community control sanction as 1843
described in division (G)(2) of this section. 1844

(B)(1)(a) Except as provided in division (B)(1)(b) of this 1845
section, if an offender is convicted of or pleads guilty to a 1846
felony of the fourth or fifth degree that is not an offense of 1847
violence or that is a qualifying assault offense, the court shall 1848
sentence the offender to a community control sanction of at least 1849
one year's duration if all of the following apply: 1850

(i) The offender previously has not been convicted of or 1851
pleaded guilty to a felony offense. 1852

(ii) The most serious charge against the offender at the time 1853
of sentencing is a felony of the fourth or fifth degree. 1854

(iii) If the court made a request of the department of 1855

rehabilitation and correction pursuant to division (B)(1)(c) of 1856
this section, the department, within the forty-five-day period 1857
specified in that division, provided the court with the names of, 1858
contact information for, and program details of one or more 1859
community control sanctions of at least one year's duration that 1860
are available for persons sentenced by the court. 1861

(iv) The offender previously has not been convicted of or 1862
pleaded guilty to a misdemeanor offense of violence that the 1863
offender committed within two years prior to the offense for which 1864
sentence is being imposed. 1865

(b) The court has discretion to impose a prison term upon an 1866
offender who is convicted of or pleads guilty to a felony of the 1867
fourth or fifth degree that is not an offense of violence or that 1868
is a qualifying assault offense if any of the following apply: 1869

(i) The offender committed the offense while having a firearm 1870
on or about the offender's person or under the offender's control. 1871

(ii) If the offense is a qualifying assault offense, the 1872
offender caused serious physical harm to another person while 1873
committing the offense, and, if the offense is not a qualifying 1874
assault offense, the offender caused physical harm to another 1875
person while committing the offense. 1876

(iii) The offender violated a term of the conditions of bond 1877
as set by the court. 1878

(iv) The court made a request of the department of 1879
rehabilitation and correction pursuant to division (B)(1)(c) of 1880
this section, and the department, within the forty-five-day period 1881
specified in that division, did not provide the court with the 1882
name of, contact information for, and program details of any 1883
community control sanction of at least one year's duration that is 1884
available for persons sentenced by the court. 1885

(v) The offense is a sex offense that is a fourth or fifth 1886

degree felony violation of any provision of Chapter 2907. of the Revised Code. 1887
1888

(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. 1889
1890
1891

(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. 1892
1893
1894
1895

(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. 1896
1897
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(ix) The offender committed the offense for hire or as part of an organized criminal activity. 1902
1903

(x) The offender at the time of the offense was serving, or the offender previously had served, a prison term. 1904
1905

(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. 1906
1907
1908

(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 1909
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1918 details of one or more community control sanctions of at least one
1919 year's duration that are available for persons sentenced by the
1920 court. Not later than forty-five days after receipt of a request
1921 from a court under this division, the department shall provide the
1922 court with the names of, contact information for, and program
1923 details of one or more community control sanctions of at least one
1924 year's duration that are available for persons sentenced by the
1925 court, if any. Upon making a request under this division that
1926 relates to a particular offender, a court shall defer sentencing
1927 of that offender until it receives from the department the names
1928 of, contact information for, and program details of one or more
1929 community control sanctions of at least one year's duration that
1930 are available for persons sentenced by the court or for forty-five
1931 days, whichever is the earlier.

1932 If the department provides the court with the names of,
1933 contact information for, and program details of one or more
1934 community control sanctions of at least one year's duration that
1935 are available for persons sentenced by the court within the
1936 forty-five-day period specified in this division, the court shall
1937 impose upon the offender a community control sanction under
1938 division (B)(1)(a) of this section, except that the court may
1939 impose a prison term under division (B)(1)(b) of this section if a
1940 factor described in division (B)(1)(b)(i) or (ii) of this section
1941 applies. If the department does not provide the court with the
1942 names of, contact information for, and program details of one or
1943 more community control sanctions of at least one year's duration
1944 that are available for persons sentenced by the court within the
1945 forty-five-day period specified in this division, the court may
1946 impose upon the offender a prison term under division
1947 (B)(1)(b)(iv) of this section.

1948 (d) A sentencing court may impose an additional penalty under
1949 division (B) of section 2929.15 of the Revised Code upon an

offender sentenced to a community control sanction under division 1950
(B)(1)(a) of this section if the offender violates the conditions 1951
of the community control sanction, violates a law, or leaves the 1952
state without the permission of the court or the offender's 1953
probation officer. 1954

(2) If division (B)(1) of this section does not apply, except 1955
as provided in division (E), (F), or (G) of this section, in 1956
determining whether to impose a prison term as a sanction for a 1957
felony of the fourth or fifth degree, the sentencing court shall 1958
comply with the purposes and principles of sentencing under 1959
section 2929.11 of the Revised Code and with section 2929.12 of 1960
the Revised Code. 1961

(C) Except as provided in division (D), (E), (F), or (G) of 1962
this section, in determining whether to impose a prison term as a 1963
sanction for a felony of the third degree or a felony drug offense 1964
that is a violation of a provision of Chapter 2925. of the Revised 1965
Code and that is specified as being subject to this division for 1966
purposes of sentencing, the sentencing court shall comply with the 1967
purposes and principles of sentencing under section 2929.11 of the 1968
Revised Code and with section 2929.12 of the Revised Code. 1969

(D)(1) Except as provided in division (E) or (F) of this 1970
section, for a felony of the first or second degree, for a felony 1971
drug offense that is a violation of any provision of Chapter 1972
2925., 3719., or 4729. of the Revised Code for which a presumption 1973
in favor of a prison term is specified as being applicable, and 1974
for a violation of division (A)(4) or (B) of section 2907.05 of 1975
the Revised Code for which a presumption in favor of a prison term 1976
is specified as being applicable, it is presumed that a prison 1977
term is necessary in order to comply with the purposes and 1978
principles of sentencing under section 2929.11 of the Revised 1979
Code. Division (D)(2) of this section does not apply to a 1980
presumption established under this division for a violation of 1981

division (A)(4) of section 2907.05 of the Revised Code. 1982

(2) Notwithstanding the presumption established under 1983
division (D)(1) of this section for the offenses listed in that 1984
division other than a violation of division (A)(4) or (B) of 1985
section 2907.05 of the Revised Code, the sentencing court may 1986
impose a community control sanction or a combination of community 1987
control sanctions instead of a prison term on an offender for a 1988
felony of the first or second degree or for a felony drug offense 1989
that is a violation of any provision of Chapter 2925., 3719., or 1990
4729. of the Revised Code for which a presumption in favor of a 1991
prison term is specified as being applicable if it makes both of 1992
the following findings: 1993

(a) A community control sanction or a combination of 1994
community control sanctions would adequately punish the offender 1995
and protect the public from future crime, because the applicable 1996
factors under section 2929.12 of the Revised Code indicating a 1997
lesser likelihood of recidivism outweigh the applicable factors 1998
under that section indicating a greater likelihood of recidivism. 1999

(b) A community control sanction or a combination of 2000
community control sanctions would not demean the seriousness of 2001
the offense, because one or more factors under section 2929.12 of 2002
the Revised Code that indicate that the offender's conduct was 2003
less serious than conduct normally constituting the offense are 2004
applicable, and they outweigh the applicable factors under that 2005
section that indicate that the offender's conduct was more serious 2006
than conduct normally constituting the offense. 2007

(E)(1) Except as provided in division (F) of this section, 2008
for any drug offense that is a violation of any provision of 2009
Chapter 2925. of the Revised Code and that is a felony of the 2010
third, fourth, or fifth degree, the applicability of a presumption 2011
under division (D) of this section in favor of a prison term or of 2012
division (B) or (C) of this section in determining whether to 2013

impose a prison term for the offense shall be determined as 2014
specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2015
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the 2016
Revised Code, whichever is applicable regarding the violation. 2017

(2) If an offender who was convicted of or pleaded guilty to 2018
a felony violates the conditions of a community control sanction 2019
imposed for the offense solely by reason of producing positive 2020
results on a drug test, the court, as punishment for the violation 2021
of the sanction, shall not order that the offender be imprisoned 2022
unless the court determines on the record either of the following: 2023

(a) The offender had been ordered as a sanction for the 2024
felony to participate in a drug treatment program, in a drug 2025
education program, or in narcotics anonymous or a similar program, 2026
and the offender continued to use illegal drugs after a reasonable 2027
period of participation in the program. 2028

(b) The imprisonment of the offender for the violation is 2029
consistent with the purposes and principles of sentencing set 2030
forth in section 2929.11 of the Revised Code. 2031

(3) A court that sentences an offender for a drug abuse 2032
offense that is a felony of the third, fourth, or fifth degree may 2033
require that the offender be assessed by a properly credentialed 2034
professional within a specified period of time. The court shall 2035
require the professional to file a written assessment of the 2036
offender with the court. If the offender is eligible for a 2037
community control sanction and after considering the written 2038
assessment, the court may impose a community control sanction that 2039
includes treatment and recovery support services authorized by 2040
section 3793.02 of the Revised Code. If the court imposes 2041
treatment and recovery support services as a community control 2042
sanction, the court shall direct the level and type of treatment 2043
and recovery support services after considering the assessment and 2044
recommendation of treatment and recovery support services 2045

providers. 2046

(F) Notwithstanding divisions (A) to (E) of this section, the 2047
court shall impose a prison term or terms under ~~sections~~ section 2048
2929.02 ~~to 2929.06~~, ~~section~~ 2929.14, ~~section~~ 2929.142, or ~~section~~ 2049
2971.03 of the Revised Code and except as specifically provided in 2050
section 2929.20, divisions (C) to (I) of section 2967.19, or 2051
section 2967.191 of the Revised Code or when parole is authorized 2052
for the offense under section 2967.13 of the Revised Code shall 2053
not reduce the term or terms pursuant to section 2929.20, section 2054
2967.19, section 2967.193, or any other provision of Chapter 2967. 2055
or Chapter 5120. of the Revised Code for any of the following 2056
offenses: 2057

(1) Aggravated murder ~~when death is not imposed~~ or murder; 2058

(2) Any rape, regardless of whether force was involved and 2059
regardless of the age of the victim, or an attempt to commit rape 2060
if, had the offender completed the rape that was attempted, the 2061
offender would have been guilty of a violation of division 2062
(A)(1)(b) of section 2907.02 of the Revised Code and would be 2063
sentenced under section 2971.03 of the Revised Code; 2064

(3) Gross sexual imposition or sexual battery, if the victim 2065
is less than thirteen years of age and if any of the following 2066
applies: 2067

(a) Regarding gross sexual imposition, the offender 2068
previously was convicted of or pleaded guilty to rape, the former 2069
offense of felonious sexual penetration, gross sexual imposition, 2070
or sexual battery, and the victim of the previous offense was less 2071
than thirteen years of age; 2072

(b) Regarding gross sexual imposition, the offense was 2073
committed on or after August 3, 2006, and evidence other than the 2074
testimony of the victim was admitted in the case corroborating the 2075
violation. 2076

(c) Regarding sexual battery, either of the following 2077
applies: 2078

(i) The offense was committed prior to August 3, 2006, the 2079
offender previously was convicted of or pleaded guilty to rape, 2080
the former offense of felonious sexual penetration, or sexual 2081
battery, and the victim of the previous offense was less than 2082
thirteen years of age. 2083

(ii) The offense was committed on or after August 3, 2006. 2084

(4) A felony violation of section 2903.04, 2903.06, 2903.08, 2085
2903.11, 2903.12, 2903.13, 2905.32, or 2907.07 of the Revised Code 2086
if the section requires the imposition of a prison term; 2087

(5) A first, second, or third degree felony drug offense for 2088
which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2089
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 2090
4729.99 of the Revised Code, whichever is applicable regarding the 2091
violation, requires the imposition of a mandatory prison term; 2092

(6) Any offense that is a first or second degree felony and 2093
that is not set forth in division (F)(1), (2), (3), or (4) of this 2094
section, if the offender previously was convicted of or pleaded 2095
guilty to aggravated murder, murder, any first or second degree 2096
felony, or an offense under an existing or former law of this 2097
state, another state, or the United States that is or was 2098
substantially equivalent to one of those offenses; 2099

(7) Any offense that is a third degree felony and either is a 2100
violation of section 2903.04 of the Revised Code or an attempt to 2101
commit a felony of the second degree that is an offense of 2102
violence and involved an attempt to cause serious physical harm to 2103
a person or that resulted in serious physical harm to a person if 2104
the offender previously was convicted of or pleaded guilty to any 2105
of the following offenses: 2106

(a) Aggravated murder, murder, involuntary manslaughter, 2107

rape, felonious sexual penetration as it existed under section 2108
2907.12 of the Revised Code prior to September 3, 1996, a felony 2109
of the first or second degree that resulted in the death of a 2110
person or in physical harm to a person, or complicity in or an 2111
attempt to commit any of those offenses; 2112

(b) An offense under an existing or former law of this state, 2113
another state, or the United States that is or was substantially 2114
equivalent to an offense listed in division (F)(7)(a) of this 2115
section that resulted in the death of a person or in physical harm 2116
to a person. 2117

(8) Any offense, other than a violation of section 2923.12 of 2118
the Revised Code, that is a felony, if the offender had a firearm 2119
on or about the offender's person or under the offender's control 2120
while committing the felony, with respect to a portion of the 2121
sentence imposed pursuant to division (B)(1)(a) of section 2929.14 2122
of the Revised Code for having the firearm; 2123

(9) Any offense of violence that is a felony, if the offender 2124
wore or carried body armor while committing the felony offense of 2125
violence, with respect to the portion of the sentence imposed 2126
pursuant to division (B)(1)(d) of section 2929.14 of the Revised 2127
Code for wearing or carrying the body armor; 2128

(10) Corrupt activity in violation of section 2923.32 of the 2129
Revised Code when the most serious offense in the pattern of 2130
corrupt activity that is the basis of the offense is a felony of 2131
the first degree; 2132

(11) Any violent sex offense or designated homicide, assault, 2133
or kidnapping offense if, in relation to that offense, the 2134
offender is adjudicated a sexually violent predator; 2135

(12) A violation of division (A)(1) or (2) of section 2921.36 2136
of the Revised Code, or a violation of division (C) of that 2137
section involving an item listed in division (A)(1) or (2) of that 2138

section, if the offender is an officer or employee of the 2139
department of rehabilitation and correction; 2140

(13) A violation of division (A)(1) or (2) of section 2903.06 2141
of the Revised Code if the victim of the offense is a peace 2142
officer, as defined in section 2935.01 of the Revised Code, or an 2143
investigator of the bureau of criminal identification and 2144
investigation, as defined in section 2903.11 of the Revised Code, 2145
with respect to the portion of the sentence imposed pursuant to 2146
division (B)(5) of section 2929.14 of the Revised Code; 2147

(14) A violation of division (A)(1) or (2) of section 2903.06 2148
of the Revised Code if the offender has been convicted of or 2149
pleaded guilty to three or more violations of division (A) or (B) 2150
of section 4511.19 of the Revised Code or an equivalent offense, 2151
as defined in section 2941.1415 of the Revised Code, or three or 2152
more violations of any combination of those divisions and 2153
offenses, with respect to the portion of the sentence imposed 2154
pursuant to division (B)(6) of section 2929.14 of the Revised 2155
Code; 2156

(15) Kidnapping, in the circumstances specified in section 2157
2971.03 of the Revised Code and when no other provision of 2158
division (F) of this section applies; 2159

(16) Kidnapping, abduction, compelling prostitution, 2160
promoting prostitution, engaging in a pattern of corrupt activity, 2161
illegal use of a minor in a nudity-oriented material or 2162
performance in violation of division (A)(1) or (2) of section 2163
2907.323 of the Revised Code, or endangering children in violation 2164
of division (B)(1), (2), (3), (4), or (5) of section 2919.22 of 2165
the Revised Code, if the offender is convicted of or pleads guilty 2166
to a specification as described in section 2941.1422 of the 2167
Revised Code that was included in the indictment, count in the 2168
indictment, or information charging the offense; 2169

(17) A felony violation of division (A) or (B) of section 2170
2919.25 of the Revised Code if division (D)(3), (4), or (5) of 2171
that section, and division (D)(6) of that section, require the 2172
imposition of a prison term; 2173

(18) A felony violation of section 2903.11, 2903.12, or 2174
2903.13 of the Revised Code, if the victim of the offense was a 2175
woman that the offender knew was pregnant at the time of the 2176
violation, with respect to a portion of the sentence imposed 2177
pursuant to division (B)(8) of section 2929.14 of the Revised 2178
Code. 2179

(G) Notwithstanding divisions (A) to (E) of this section, if 2180
an offender is being sentenced for a fourth degree felony OVI 2181
offense or for a third degree felony OVI offense, the court shall 2182
impose upon the offender a mandatory term of local incarceration 2183
or a mandatory prison term in accordance with the following: 2184

(1) If the offender is being sentenced for a fourth degree 2185
felony OVI offense and if the offender has not been convicted of 2186
and has not pleaded guilty to a specification of the type 2187
described in section 2941.1413 of the Revised Code, the court may 2188
impose upon the offender a mandatory term of local incarceration 2189
of sixty days or one hundred twenty days as specified in division 2190
(G)(1)(d) of section 4511.19 of the Revised Code. The court shall 2191
not reduce the term pursuant to section 2929.20, 2967.193, or any 2192
other provision of the Revised Code. The court that imposes a 2193
mandatory term of local incarceration under this division shall 2194
specify whether the term is to be served in a jail, a 2195
community-based correctional facility, a halfway house, or an 2196
alternative residential facility, and the offender shall serve the 2197
term in the type of facility specified by the court. A mandatory 2198
term of local incarceration imposed under division (G)(1) of this 2199
section is not subject to any other Revised Code provision that 2200
pertains to a prison term except as provided in division (A)(1) of 2201

this section. 2202

(2) If the offender is being sentenced for a third degree 2203
felony OVI offense, or if the offender is being sentenced for a 2204
fourth degree felony OVI offense and the court does not impose a 2205
mandatory term of local incarceration under division (G)(1) of 2206
this section, the court shall impose upon the offender a mandatory 2207
prison term of one, two, three, four, or five years if the 2208
offender also is convicted of or also pleads guilty to a 2209
specification of the type described in section 2941.1413 of the 2210
Revised Code or shall impose upon the offender a mandatory prison 2211
term of sixty days or one hundred twenty days as specified in 2212
division (G)(1)(d) or (e) of section 4511.19 of the Revised Code 2213
if the offender has not been convicted of and has not pleaded 2214
guilty to a specification of that type. Subject to divisions (C) 2215
to (I) of section 2967.19 of the Revised Code, the court shall not 2216
reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or 2217
any other provision of the Revised Code. The offender shall serve 2218
the one-, two-, three-, four-, or five-year mandatory prison term 2219
consecutively to and prior to the prison term imposed for the 2220
underlying offense and consecutively to any other mandatory prison 2221
term imposed in relation to the offense. In no case shall an 2222
offender who once has been sentenced to a mandatory term of local 2223
incarceration pursuant to division (G)(1) of this section for a 2224
fourth degree felony OVI offense be sentenced to another mandatory 2225
term of local incarceration under that division for any violation 2226
of division (A) of section 4511.19 of the Revised Code. In 2227
addition to the mandatory prison term described in division (G)(2) 2228
of this section, the court may sentence the offender to a 2229
community control sanction under section 2929.16 or 2929.17 of the 2230
Revised Code, but the offender shall serve the prison term prior 2231
to serving the community control sanction. The department of 2232
rehabilitation and correction may place an offender sentenced to a 2233
mandatory prison term under this division in an intensive program 2234

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

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

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

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

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

sentencing, of those duties and of their duration. If required 2267
under division (A)(2) of section 2950.03 of the Revised Code, the 2268
judge shall perform the duties specified in that section, or, if 2269
required under division (A)(6) of section 2950.03 of the Revised 2270
Code, the judge shall perform the duties specified in that 2271
division. 2272

(J)(1) Except as provided in division (J)(2) of this section, 2273
when considering sentencing factors under this section in relation 2274
to an offender who is convicted of or pleads guilty to an attempt 2275
to commit an offense in violation of section 2923.02 of the 2276
Revised Code, the sentencing court shall consider the factors 2277
applicable to the felony category of the violation of section 2278
2923.02 of the Revised Code instead of the factors applicable to 2279
the felony category of the offense attempted. 2280

(2) When considering sentencing factors under this section in 2281
relation to an offender who is convicted of or pleads guilty to an 2282
attempt to commit a drug abuse offense for which the penalty is 2283
determined by the amount or number of unit doses of the controlled 2284
substance involved in the drug abuse offense, the sentencing court 2285
shall consider the factors applicable to the felony category that 2286
the drug abuse offense attempted would be if that drug abuse 2287
offense had been committed and had involved an amount or number of 2288
unit doses of the controlled substance that is within the next 2289
lower range of controlled substance amounts than was involved in 2290
the attempt. 2291

(K) As used in this section: 2292

(1) "Drug abuse offense" has the same meaning as in section 2293
2925.01 of the Revised Code. 2294

(2) "Qualifying assault offense" means a violation of section 2295
2903.13 of the Revised Code for which the penalty provision in 2296
division (C)(7)(b) or (C)(8)(b) of that section applies. 2297

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

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

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

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

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

fifty-four, or sixty months. 2329

(b) For a felony of the third degree that is not an offense 2330
for which division (A)(3)(a) of this section applies, the prison 2331
term shall be nine, twelve, eighteen, twenty-four, thirty, or 2332
thirty-six months. 2333

(4) For a felony of the fourth degree, the prison term shall 2334
be six, seven, eight, nine, ten, eleven, twelve, thirteen, 2335
fourteen, fifteen, sixteen, seventeen, or eighteen months. 2336

(5) For a felony of the fifth degree, the prison term shall 2337
be six, seven, eight, nine, ten, eleven, or twelve months. 2338

(B)(1)(a) Except as provided in division (B)(1)(e) of this 2339
section, if an offender who is convicted of or pleads guilty to a 2340
felony also is convicted of or pleads guilty to a specification of 2341
the type described in section 2941.141, 2941.144, or 2941.145 of 2342
the Revised Code, the court shall impose on the offender one of 2343
the following prison terms: 2344

(i) A prison term of six years if the specification is of the 2345
type described in section 2941.144 of the Revised Code that 2346
charges the offender with having a firearm that is an automatic 2347
firearm or that was equipped with a firearm muffler or silencer on 2348
or about the offender's person or under the offender's control 2349
while committing the felony; 2350

(ii) A prison term of three years if the specification is of 2351
the type described in section 2941.145 of the Revised Code that 2352
charges the offender with having a firearm on or about the 2353
offender's person or under the offender's control while committing 2354
the offense and displaying the firearm, brandishing the firearm, 2355
indicating that the offender possessed the firearm, or using it to 2356
facilitate the offense; 2357

(iii) A prison term of one year if the specification is of 2358
the type described in section 2941.141 of the Revised Code that 2359

charges the offender with having a firearm on or about the 2360
offender's person or under the offender's control while committing 2361
the felony. 2362

(b) If a court imposes a prison term on an offender under 2363
division (B)(1)(a) of this section, the prison term shall not be 2364
reduced pursuant to section 2967.19, section 2929.20, section 2365
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 2366
of the Revised Code. Except as provided in division (B)(1)(g) of 2367
this section, a court shall not impose more than one prison term 2368
on an offender under division (B)(1)(a) of this section for 2369
felonies committed as part of the same act or transaction. 2370

(c) Except as provided in division (B)(1)(e) of this section, 2371
if an offender who is convicted of or pleads guilty to a violation 2372
of section 2923.161 of the Revised Code or to a felony that 2373
includes, as an essential element, purposely or knowingly causing 2374
or attempting to cause the death of or physical harm to another, 2375
also is convicted of or pleads guilty to a specification of the 2376
type described in section 2941.146 of the Revised Code that 2377
charges the offender with committing the offense by discharging a 2378
firearm from a motor vehicle other than a manufactured home, the 2379
court, after imposing a prison term on the offender for the 2380
violation of section 2923.161 of the Revised Code or for the other 2381
felony offense under division (A), (B)(2), or (B)(3) of this 2382
section, shall impose an additional prison term of five years upon 2383
the offender that shall not be reduced pursuant to section 2384
2929.20, section 2967.19, section 2967.193, or any other provision 2385
of Chapter 2967. or Chapter 5120. of the Revised Code. A court 2386
shall not impose more than one additional prison term on an 2387
offender under division (B)(1)(c) of this section for felonies 2388
committed as part of the same act or transaction. If a court 2389
imposes an additional prison term on an offender under division 2390
(B)(1)(c) of this section relative to an offense, the court also 2391

shall impose a prison term under division (B)(1)(a) of this 2392
section relative to the same offense, provided the criteria 2393
specified in that division for imposing an additional prison term 2394
are satisfied relative to the offender and the offense. 2395

(d) If an offender who is convicted of or pleads guilty to an 2396
offense of violence that is a felony also is convicted of or 2397
pleads guilty to a specification of the type described in section 2398
2941.1411 of the Revised Code that charges the offender with 2399
wearing or carrying body armor while committing the felony offense 2400
of violence, the court shall impose on the offender a prison term 2401
of two years. The prison term so imposed, subject to divisions (C) 2402
to (I) of section 2967.19 of the Revised Code, shall not be 2403
reduced pursuant to section 2929.20, section 2967.19, section 2404
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 2405
of the Revised Code. A court shall not impose more than one prison 2406
term on an offender under division (B)(1)(d) of this section for 2407
felonies committed as part of the same act or transaction. If a 2408
court imposes an additional prison term under division (B)(1)(a) 2409
or (c) of this section, the court is not precluded from imposing 2410
an additional prison term under division (B)(1)(d) of this 2411
section. 2412

(e) The court shall not impose any of the prison terms 2413
described in division (B)(1)(a) of this section or any of the 2414
additional prison terms described in division (B)(1)(c) of this 2415
section upon an offender for a violation of section 2923.12 or 2416
2923.123 of the Revised Code. The court shall not impose any of 2417
the prison terms described in division (B)(1)(a) or (b) of this 2418
section upon an offender for a violation of section 2923.122 that 2419
involves a deadly weapon that is a firearm other than a dangerous 2420
ordnance, section 2923.16, or section 2923.121 of the Revised 2421
Code. The court shall not impose any of the prison terms described 2422
in division (B)(1)(a) of this section or any of the additional 2423

prison terms described in division (B)(1)(c) of this section upon 2424
an offender for a violation of section 2923.13 of the Revised Code 2425
unless all of the following apply: 2426

(i) The offender previously has been convicted of aggravated 2427
murder, murder, or any felony of the first or second degree. 2428

(ii) Less than five years have passed since the offender was 2429
released from prison or post-release control, whichever is later, 2430
for the prior offense. 2431

(f) If an offender is convicted of or pleads guilty to a 2432
felony that includes, as an essential element, causing or 2433
attempting to cause the death of or physical harm to another and 2434
also is convicted of or pleads guilty to a specification of the 2435
type described in section 2941.1412 of the Revised Code that 2436
charges the offender with committing the offense by discharging a 2437
firearm at a peace officer as defined in section 2935.01 of the 2438
Revised Code or a corrections officer, as defined in section 2439
2941.1412 of the Revised Code, the court, after imposing a prison 2440
term on the offender for the felony offense under division (A), 2441
(B)(2), or (B)(3) of this section, shall impose an additional 2442
prison term of seven years upon the offender that shall not be 2443
reduced pursuant to section 2929.20, section 2967.19, section 2444
2967.193, or any other provision of Chapter 2967. or Chapter 5120. 2445
of the Revised Code. If an offender is convicted of or pleads 2446
guilty to two or more felonies that include, as an essential 2447
element, causing or attempting to cause the death or physical harm 2448
to another and also is convicted of or pleads guilty to a 2449
specification of the type described under division (B)(1)(f) of 2450
this section in connection with two or more of the felonies of 2451
which the offender is convicted or to which the offender pleads 2452
guilty, the sentencing court shall impose on the offender the 2453
prison term specified under division (B)(1)(f) of this section for 2454
each of two of the specifications of which the offender is 2455

convicted or to which the offender pleads guilty and, in its 2456
discretion, also may impose on the offender the prison term 2457
specified under that division for any or all of the remaining 2458
specifications. If a court imposes an additional prison term on an 2459
offender under division (B)(1)(f) of this section relative to an 2460
offense, the court shall not impose a prison term under division 2461
(B)(1)(a) or (c) of this section relative to the same offense. 2462

(g) If an offender is convicted of or pleads guilty to two or 2463
more felonies, if one or more of those felonies are aggravated 2464
murder, murder, attempted aggravated murder, attempted murder, 2465
aggravated robbery, felonious assault, or rape, and if the 2466
offender is convicted of or pleads guilty to a specification of 2467
the type described under division (B)(1)(a) of this section in 2468
connection with two or more of the felonies, the sentencing court 2469
shall impose on the offender the prison term specified under 2470
division (B)(1)(a) of this section for each of the two most 2471
serious specifications of which the offender is convicted or to 2472
which the offender pleads guilty and, in its discretion, also may 2473
impose on the offender the prison term specified under that 2474
division for any or all of the remaining specifications. 2475

(2)(a) If division (B)(2)(b) of this section does not apply, 2476
the court may impose on an offender, in addition to the longest 2477
prison term authorized or required for the offense, an additional 2478
definite prison term of one, two, three, four, five, six, seven, 2479
eight, nine, or ten years if all of the following criteria are 2480
met: 2481

(i) The offender is convicted of or pleads guilty to a 2482
specification of the type described in section 2941.149 of the 2483
Revised Code that the offender is a repeat violent offender. 2484

(ii) The offense of which the offender currently is convicted 2485
or to which the offender currently pleads guilty is aggravated 2486
murder and the court does not impose a sentence of ~~death or~~ life 2487

imprisonment without parole, murder, terrorism and the court does 2488
not impose a sentence of life imprisonment without parole, any 2489
felony of the first degree that is an offense of violence and the 2490
court does not impose a sentence of life imprisonment without 2491
parole, or any felony of the second degree that is an offense of 2492
violence and the trier of fact finds that the offense involved an 2493
attempt to cause or a threat to cause serious physical harm to a 2494
person or resulted in serious physical harm to a person. 2495

(iii) The court imposes the longest prison term for the 2496
offense that is not life imprisonment without parole. 2497

(iv) The court finds that the prison terms imposed pursuant 2498
to division (B)(2)(a)(iii) of this section and, if applicable, 2499
division (B)(1) or (3) of this section are inadequate to punish 2500
the offender and protect the public from future crime, because the 2501
applicable factors under section 2929.12 of the Revised Code 2502
indicating a greater likelihood of recidivism outweigh the 2503
applicable factors under that section indicating a lesser 2504
likelihood of recidivism. 2505

(v) The court finds that the prison terms imposed pursuant to 2506
division (B)(2)(a)(iii) of this section and, if applicable, 2507
division (B)(1) or (3) of this section are demeaning to the 2508
seriousness of the offense, because one or more of the factors 2509
under section 2929.12 of the Revised Code indicating that the 2510
offender's conduct is more serious than conduct normally 2511
constituting the offense are present, and they outweigh the 2512
applicable factors under that section indicating that the 2513
offender's conduct is less serious than conduct normally 2514
constituting the offense. 2515

(b) The court shall impose on an offender the longest prison 2516
term authorized or required for the offense and shall impose on 2517
the offender an additional definite prison term of one, two, 2518
three, four, five, six, seven, eight, nine, or ten years if all of 2519

the following criteria are met: 2520

(i) The offender is convicted of or pleads guilty to a 2521
specification of the type described in section 2941.149 of the 2522
Revised Code that the offender is a repeat violent offender. 2523

(ii) The offender within the preceding twenty years has been 2524
convicted of or pleaded guilty to three or more offenses described 2525
in division (CC)(1) of section 2929.01 of the Revised Code, 2526
including all offenses described in that division of which the 2527
offender is convicted or to which the offender pleads guilty in 2528
the current prosecution and all offenses described in that 2529
division of which the offender previously has been convicted or to 2530
which the offender previously pleaded guilty, whether prosecuted 2531
together or separately. 2532

(iii) The offense or offenses of which the offender currently 2533
is convicted or to which the offender currently pleads guilty is 2534
aggravated murder and the court does not impose a sentence of 2535
~~death or~~ life imprisonment without parole, murder, terrorism and 2536
the court does not impose a sentence of life imprisonment without 2537
parole, any felony of the first degree that is an offense of 2538
violence and the court does not impose a sentence of life 2539
imprisonment without parole, or any felony of the second degree 2540
that is an offense of violence and the trier of fact finds that 2541
the offense involved an attempt to cause or a threat to cause 2542
serious physical harm to a person or resulted in serious physical 2543
harm to a person. 2544

(c) For purposes of division (B)(2)(b) of this section, two 2545
or more offenses committed at the same time or as part of the same 2546
act or event shall be considered one offense, and that one offense 2547
shall be the offense with the greatest penalty. 2548

(d) A sentence imposed under division (B)(2)(a) or (b) of 2549
this section shall not be reduced pursuant to section 2929.20, 2550

section 2967.19, or section 2967.193, or any other provision of 2551
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 2552
shall serve an additional prison term imposed under this section 2553
consecutively to and prior to the prison term imposed for the 2554
underlying offense. 2555

(e) When imposing a sentence pursuant to division (B)(2)(a) 2556
or (b) of this section, the court shall state its findings 2557
explaining the imposed sentence. 2558

(3) Except when an offender commits a violation of section 2559
2903.01 or 2907.02 of the Revised Code and the penalty imposed for 2560
the violation is life imprisonment or commits a violation of 2561
section 2903.02 of the Revised Code, if the offender commits a 2562
violation of section 2925.03 or 2925.11 of the Revised Code and 2563
that section classifies the offender as a major drug offender, if 2564
the offender commits a felony violation of section 2925.02, 2565
2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 2566
4729.37, or 4729.61, division (C) or (D) of section 3719.172, 2567
division (C) of section 4729.51, or division (J) of section 2568
4729.54 of the Revised Code that includes the sale, offer to sell, 2569
or possession of a schedule I or II controlled substance, with the 2570
exception of marihuana, and the court imposing sentence upon the 2571
offender finds that the offender is guilty of a specification of 2572
the type described in section 2941.1410 of the Revised Code 2573
charging that the offender is a major drug offender, if the court 2574
imposing sentence upon an offender for a felony finds that the 2575
offender is guilty of corrupt activity with the most serious 2576
offense in the pattern of corrupt activity being a felony of the 2577
first degree, or if the offender is guilty of an attempted 2578
violation of section 2907.02 of the Revised Code and, had the 2579
offender completed the violation of section 2907.02 of the Revised 2580
Code that was attempted, the offender would have been subject to a 2581
sentence of life imprisonment or life imprisonment without parole 2582

for the violation of section 2907.02 of the Revised Code, the 2583
court shall impose upon the offender for the felony violation a 2584
mandatory prison term of the maximum prison term prescribed for a 2585
felony of the first degree that, subject to divisions (C) to (I) 2586
of section 2967.19 of the Revised Code, cannot be reduced pursuant 2587
to section 2929.20, section 2967.19, or any other provision of 2588
Chapter 2967. or 5120. of the Revised Code. 2589

(4) If the offender is being sentenced for a third or fourth 2590
degree felony OVI offense under division (G)(2) of section 2929.13 2591
of the Revised Code, the sentencing court shall impose upon the 2592
offender a mandatory prison term in accordance with that division. 2593
In addition to the mandatory prison term, if the offender is being 2594
sentenced for a fourth degree felony OVI offense, the court, 2595
notwithstanding division (A)(4) of this section, may sentence the 2596
offender to a definite prison term of not less than six months and 2597
not more than thirty months, and if the offender is being 2598
sentenced for a third degree felony OVI offense, the sentencing 2599
court may sentence the offender to an additional prison term of 2600
any duration specified in division (A)(3) of this section. In 2601
either case, the additional prison term imposed shall be reduced 2602
by the sixty or one hundred twenty days imposed upon the offender 2603
as the mandatory prison term. The total of the additional prison 2604
term imposed under division (B)(4) of this section plus the sixty 2605
or one hundred twenty days imposed as the mandatory prison term 2606
shall equal a definite term in the range of six months to thirty 2607
months for a fourth degree felony OVI offense and shall equal one 2608
of the authorized prison terms specified in division (A)(3) of 2609
this section for a third degree felony OVI offense. If the court 2610
imposes an additional prison term under division (B)(4) of this 2611
section, the offender shall serve the additional prison term after 2612
the offender has served the mandatory prison term required for the 2613
offense. In addition to the mandatory prison term or mandatory and 2614
additional prison term imposed as described in division (B)(4) of 2615

this section, the court also may sentence the offender to a 2616
community control sanction under section 2929.16 or 2929.17 of the 2617
Revised Code, but the offender shall serve all of the prison terms 2618
so imposed prior to serving the community control sanction. 2619

If the offender is being sentenced for a fourth degree felony 2620
OVI offense under division (G)(1) of section 2929.13 of the 2621
Revised Code and the court imposes a mandatory term of local 2622
incarceration, the court may impose a prison term as described in 2623
division (A)(1) of that section. 2624

(5) If an offender is convicted of or pleads guilty to a 2625
violation of division (A)(1) or (2) of section 2903.06 of the 2626
Revised Code and also is convicted of or pleads guilty to a 2627
specification of the type described in section 2941.1414 of the 2628
Revised Code that charges that the victim of the offense is a 2629
peace officer, as defined in section 2935.01 of the Revised Code, 2630
or an investigator of the bureau of criminal identification and 2631
investigation, as defined in section 2903.11 of the Revised Code, 2632
the court shall impose on the offender a prison term of five 2633
years. If a court imposes a prison term on an offender under 2634
division (B)(5) of this section, the prison term, subject to 2635
divisions (C) to (I) of section 2967.19 of the Revised Code, shall 2636
not be reduced pursuant to section 2929.20, section 2967.19, 2637
section 2967.193, or any other provision of Chapter 2967. or 2638
Chapter 5120. of the Revised Code. A court shall not impose more 2639
than one prison term on an offender under division (B)(5) of this 2640
section for felonies committed as part of the same act. 2641

(6) If an offender is convicted of or pleads guilty to a 2642
violation of division (A)(1) or (2) of section 2903.06 of the 2643
Revised Code and also is convicted of or pleads guilty to a 2644
specification of the type described in section 2941.1415 of the 2645
Revised Code that charges that the offender previously has been 2646
convicted of or pleaded guilty to three or more violations of 2647

division (A) or (B) of section 4511.19 of the Revised Code or an
equivalent offense, as defined in section 2941.1415 of the Revised
Code, or three or more violations of any combination of those
divisions and offenses, the court shall impose on the offender a
prison term of three years. If a court imposes a prison term on an
offender under division (B)(6) of this section, the prison term,
subject to divisions (C) to (I) of section 2967.19 of the Revised
Code, shall not be reduced pursuant to section 2929.20, section
2967.19, section 2967.193, or any other provision of Chapter 2967.
or Chapter 5120. of the Revised Code. A court shall not impose
more than one prison term on an offender under division (B)(6) of
this section for felonies committed as part of the same act.

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

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

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

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

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

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

(C)(1)(a) Subject to division (C)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under division (B)(1)(d) of this section, consecutively to and prior to

any prison term imposed for the underlying felony pursuant to 2712
division (A), (B)(2), or (B)(3) of this section or any other 2713
section of the Revised Code, and consecutively to any other prison 2714
term or mandatory prison term previously or subsequently imposed 2715
upon the offender. 2716

(b) If a mandatory prison term is imposed upon an offender 2717
pursuant to division (B)(1)(d) of this section for wearing or 2718
carrying body armor while committing an offense of violence that 2719
is a felony, the offender shall serve the mandatory term so 2720
imposed consecutively to any other mandatory prison term imposed 2721
under that division or under division (B)(1)(a) or (c) of this 2722
section, consecutively to and prior to any prison term imposed for 2723
the underlying felony under division (A), (B)(2), or (B)(3) of 2724
this section or any other section of the Revised Code, and 2725
consecutively to any other prison term or mandatory prison term 2726
previously or subsequently imposed upon the offender. 2727

(c) If a mandatory prison term is imposed upon an offender 2728
pursuant to division (B)(1)(f) of this section, the offender shall 2729
serve the mandatory prison term so imposed consecutively to and 2730
prior to any prison term imposed for the underlying felony under 2731
division (A), (B)(2), or (B)(3) of this section or any other 2732
section of the Revised Code, and consecutively to any other prison 2733
term or mandatory prison term previously or subsequently imposed 2734
upon the offender. 2735

(d) If a mandatory prison term is imposed upon an offender 2736
pursuant to division (B)(7) or (8) of this section, the offender 2737
shall serve the mandatory prison term so imposed consecutively to 2738
any other mandatory prison term imposed under that division or 2739
under any other provision of law and consecutively to any other 2740
prison term or mandatory prison term previously or subsequently 2741
imposed upon the offender. 2742

(2) If an offender who is an inmate in a jail, prison, or 2743

other residential detention facility violates section 2917.02, 2744
2917.03, or 2921.35 of the Revised Code or division (A)(1) or (2) 2745
of section 2921.34 of the Revised Code, if an offender who is 2746
under detention at a detention facility commits a felony violation 2747
of section 2923.131 of the Revised Code, or if an offender who is 2748
an inmate in a jail, prison, or other residential detention 2749
facility or is under detention at a detention facility commits 2750
another felony while the offender is an escapee in violation of 2751
division (A)(1) or (2) of section 2921.34 of the Revised Code, any 2752
prison term imposed upon the offender for one of those violations 2753
shall be served by the offender consecutively to the prison term 2754
or term of imprisonment the offender was serving when the offender 2755
committed that offense and to any other prison term previously or 2756
subsequently imposed upon the offender. 2757

(3) If a prison term is imposed for a violation of division 2758
(B) of section 2911.01 of the Revised Code, a violation of 2759
division (A) of section 2913.02 of the Revised Code in which the 2760
stolen property is a firearm or dangerous ordnance, or a felony 2761
violation of division (B) of section 2921.331 of the Revised Code, 2762
the offender shall serve that prison term consecutively to any 2763
other prison term or mandatory prison term previously or 2764
subsequently imposed upon the offender. 2765

(4) If multiple prison terms are imposed on an offender for 2766
convictions of multiple offenses, the court may require the 2767
offender to serve the prison terms consecutively if the court 2768
finds that the consecutive service is necessary to protect the 2769
public from future crime or to punish the offender and that 2770
consecutive sentences are not disproportionate to the seriousness 2771
of the offender's conduct and to the danger the offender poses to 2772
the public, and if the court also finds any of the following: 2773

(a) The offender committed one or more of the multiple 2774
offenses while the offender was awaiting trial or sentencing, was 2775

under a sanction imposed pursuant to section 2929.16, 2929.17, or 2776
2929.18 of the Revised Code, or was under post-release control for 2777
a prior offense. 2778

(b) At least two of the multiple offenses were committed as 2779
part of one or more courses of conduct, and the harm caused by two 2780
or more of the multiple offenses so committed was so great or 2781
unusual that no single prison term for any of the offenses 2782
committed as part of any of the courses of conduct adequately 2783
reflects the seriousness of the offender's conduct. 2784

(c) The offender's history of criminal conduct demonstrates 2785
that consecutive sentences are necessary to protect the public 2786
from future crime by the offender. 2787

(5) If a mandatory prison term is imposed upon an offender 2788
pursuant to division (B)(5) or (6) of this section, the offender 2789
shall serve the mandatory prison term consecutively to and prior 2790
to any prison term imposed for the underlying violation of 2791
division (A)(1) or (2) of section 2903.06 of the Revised Code 2792
pursuant to division (A) of this section or section 2929.142 of 2793
the Revised Code. If a mandatory prison term is imposed upon an 2794
offender pursuant to division (B)(5) of this section, and if a 2795
mandatory prison term also is imposed upon the offender pursuant 2796
to division (B)(6) of this section in relation to the same 2797
violation, the offender shall serve the mandatory prison term 2798
imposed pursuant to division (B)(5) of this section consecutively 2799
to and prior to the mandatory prison term imposed pursuant to 2800
division (B)(6) of this section and consecutively to and prior to 2801
any prison term imposed for the underlying violation of division 2802
(A)(1) or (2) of section 2903.06 of the Revised Code pursuant to 2803
division (A) of this section or section 2929.142 of the Revised 2804
Code. 2805

(6) When consecutive prison terms are imposed pursuant to 2806
division (C)(1), (2), (3), (4), or (5) or division (H)(1) or (2) 2807

of this section, the term to be served is the aggregate of all of 2808
the terms so imposed. 2809

(D)(1) If a court imposes a prison term for a felony of the 2810
first degree, for a felony of the second degree, for a felony sex 2811
offense, or for a felony of the third degree that is not a felony 2812
sex offense and in the commission of which the offender caused or 2813
threatened to cause physical harm to a person, it shall include in 2814
the sentence a requirement that the offender be subject to a 2815
period of post-release control after the offender's release from 2816
imprisonment, in accordance with that division. If a court imposes 2817
a sentence including a prison term of a type described in this 2818
division on or after July 11, 2006, the failure of a court to 2819
include a post-release control requirement in the sentence 2820
pursuant to this division does not negate, limit, or otherwise 2821
affect the mandatory period of post-release control that is 2822
required for the offender under division (B) of section 2967.28 of 2823
the Revised Code. Section 2929.191 of the Revised Code applies if, 2824
prior to July 11, 2006, a court imposed a sentence including a 2825
prison term of a type described in this division and failed to 2826
include in the sentence pursuant to this division a statement 2827
regarding post-release control. 2828

(2) If a court imposes a prison term for a felony of the 2829
third, fourth, or fifth degree that is not subject to division 2830
(D)(1) of this section, it shall include in the sentence a 2831
requirement that the offender be subject to a period of 2832
post-release control after the offender's release from 2833
imprisonment, in accordance with that division, if the parole 2834
board determines that a period of post-release control is 2835
necessary. Section 2929.191 of the Revised Code applies if, prior 2836
to July 11, 2006, a court imposed a sentence including a prison 2837
term of a type described in this division and failed to include in 2838
the sentence pursuant to this division a statement regarding 2839

post-release control. 2840

(E) The court shall impose sentence upon the offender in 2841
accordance with section 2971.03 of the Revised Code, and Chapter 2842
2971. of the Revised Code applies regarding the prison term or 2843
term of life imprisonment without parole imposed upon the offender 2844
and the service of that term of imprisonment if any of the 2845
following apply: 2846

(1) A person is convicted of or pleads guilty to a violent 2847
sex offense or a designated homicide, assault, or kidnapping 2848
offense, and, in relation to that offense, the offender is 2849
adjudicated a sexually violent predator. 2850

(2) A person is convicted of or pleads guilty to a violation 2851
of division (A)(1)(b) of section 2907.02 of the Revised Code 2852
committed on or after January 2, 2007, and either the court does 2853
not impose a sentence of life without parole when authorized 2854
pursuant to division (B) of section 2907.02 of the Revised Code, 2855
or division (B) of section 2907.02 of the Revised Code provides 2856
that the court shall not sentence the offender pursuant to section 2857
2971.03 of the Revised Code. 2858

(3) A person is convicted of or pleads guilty to attempted 2859
rape committed on or after January 2, 2007, and a specification of 2860
the type described in section 2941.1418, 2941.1419, or 2941.1420 2861
of the Revised Code. 2862

(4) A person is convicted of or pleads guilty to a violation 2863
of section 2905.01 of the Revised Code committed on or after 2864
January 1, 2008, and that section requires the court to sentence 2865
the offender pursuant to section 2971.03 of the Revised Code. 2866

(5) A person is convicted of or pleads guilty to aggravated 2867
murder committed on or after January 1, 2008, and division 2868
~~(A)(2)(b)(ii) of section 2929.022, division (A)(1)(c),~~ 2869
~~(C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or~~ 2870

~~(E)(1)(d) of section 2929.03, or division (A) or (B)(C)~~ of section 2871
~~2929.06~~ 2929.02 of the Revised Code requires the court to sentence 2872
the offender pursuant to division (B)(3) of section 2971.03 of the 2873
Revised Code. 2874

(6) A person is convicted of or pleads guilty to murder 2875
committed on or after January 1, 2008, and division ~~(B)(2)(C)(1)~~ 2876
of section 2929.02 of the Revised Code requires the court to 2877
sentence the offender pursuant to section 2971.03 of the Revised 2878
Code. 2879

(F) If a person who has been convicted of or pleaded guilty 2880
to a felony is sentenced to a prison term or term of imprisonment 2881
under this section, ~~sections section~~ section 2929.02 ~~to 2929.06 of the~~ 2882
~~Revised Code, section 2929.142 of the Revised Code, section or~~ 2883
2971.03 of the Revised Code, or any other provision of law, 2884
section 5120.163 of the Revised Code applies regarding the person 2885
while the person is confined in a state correctional institution. 2886

(G) If an offender who is convicted of or pleads guilty to a 2887
felony that is an offense of violence also is convicted of or 2888
pleads guilty to a specification of the type described in section 2889
2941.142 of the Revised Code that charges the offender with having 2890
committed the felony while participating in a criminal gang, the 2891
court shall impose upon the offender an additional prison term of 2892
one, two, or three years. 2893

(H)(1) If an offender who is convicted of or pleads guilty to 2894
aggravated murder, murder, or a felony of the first, second, or 2895
third degree that is an offense of violence also is convicted of 2896
or pleads guilty to a specification of the type described in 2897
section 2941.143 of the Revised Code that charges the offender 2898
with having committed the offense in a school safety zone or 2899
towards a person in a school safety zone, the court shall impose 2900
upon the offender an additional prison term of two years. The 2901
offender shall serve the additional two years consecutively to and 2902

prior to the prison term imposed for the underlying offense. 2903

(2)(a) If an offender is convicted of or pleads guilty to a 2904
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 2905
of the Revised Code and to a specification of the type described 2906
in section 2941.1421 of the Revised Code and if the court imposes 2907
a prison term on the offender for the felony violation, the court 2908
may impose upon the offender an additional prison term as follows: 2909

(i) Subject to division (H)(2)(a)(ii) of this section, an 2910
additional prison term of one, two, three, four, five, or six 2911
months; 2912

(ii) If the offender previously has been convicted of or 2913
pleaded guilty to one or more felony or misdemeanor violations of 2914
section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the 2915
Revised Code and also was convicted of or pleaded guilty to a 2916
specification of the type described in section 2941.1421 of the 2917
Revised Code regarding one or more of those violations, an 2918
additional prison term of one, two, three, four, five, six, seven, 2919
eight, nine, ten, eleven, or twelve months. 2920

(b) In lieu of imposing an additional prison term under 2921
division (H)(2)(a) of this section, the court may directly impose 2922
on the offender a sanction that requires the offender to wear a 2923
real-time processing, continual tracking electronic monitoring 2924
device during the period of time specified by the court. The 2925
period of time specified by the court shall equal the duration of 2926
an additional prison term that the court could have imposed upon 2927
the offender under division (H)(2)(a) of this section. A sanction 2928
imposed under this division shall commence on the date specified 2929
by the court, provided that the sanction shall not commence until 2930
after the offender has served the prison term imposed for the 2931
felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 2932
of the Revised Code and any residential sanction imposed for the 2933
violation under section 2929.16 of the Revised Code. A sanction 2934

imposed under this division shall be considered to be a community control sanction for purposes of section 2929.15 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

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

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

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

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison

and the department does not subsequently place the offender in the 2967
recommended program or prison, the department shall send a notice 2968
to the court indicating why the offender was not placed in the 2969
recommended program or prison. 2970

If the court does not make a recommendation under this 2971
division with respect to an offender and if the department 2972
determines as specified in section 5120.031 or 5120.032 of the 2973
Revised Code, whichever is applicable, that the offender is 2974
eligible for placement in a program or prison of that nature, the 2975
department shall screen the offender and determine if there is an 2976
available program of shock incarceration or an intensive program 2977
prison for which the offender is suited. If there is an available 2978
program of shock incarceration or an intensive program prison for 2979
which the offender is suited, the department shall notify the 2980
court of the proposed placement of the offender as specified in 2981
section 5120.031 or 5120.032 of the Revised Code and shall include 2982
with the notice a brief description of the placement. The court 2983
shall have ten days from receipt of the notice to disapprove the 2984
placement. 2985

(J) If a person is convicted of or pleads guilty to 2986
aggravated vehicular homicide in violation of division (A)(1) of 2987
section 2903.06 of the Revised Code and division (B)(2)(c) of that 2988
section applies, the person shall be sentenced pursuant to section 2989
2929.142 of the Revised Code. 2990

Sec. 2941.021. Any criminal offense ~~which~~ that is not 2991
punishable by ~~death or~~ life imprisonment may be prosecuted by 2992
information filed in the common pleas court by the prosecuting 2993
attorney if the defendant, after ~~he has~~ having been advised by the 2994
court of the nature of the charge against ~~him~~ the defendant and of 2995
~~his~~ the defendant's rights under the constitution, is represented 2996
by counsel or has affirmatively waived counsel by waiver in 2997

writing and in open court, waives in writing and in open court 2998
prosecution by indictment. 2999

Sec. 2941.14. ~~(A)~~ In an indictment for aggravated murder, 3000
murder, or voluntary or involuntary manslaughter, the manner in 3001
which, or the means by which the death was caused need not be set 3002
forth. 3003

~~(B) Imposition of the death penalty for aggravated murder is 3004
precluded unless the indictment or count in the indictment 3005
charging the offense specifies one or more of the aggravating 3006
circumstances listed in division (A) of section 2929.04 of the 3007
Revised Code. If more than one aggravating circumstance is 3008
specified to an indictment or count, each shall be in a separately 3009
numbered specification, and if an aggravating circumstance is 3010
specified to a count in an indictment containing more than one 3011
count, such specification shall be identified as to the count to 3012
which it applies. 3013~~

~~(C) A specification to an indictment or count in an 3014
indictment charging aggravated murder shall be stated at the end 3015
of the body of the indictment or count, and may be in 3016
substantially the following form: 3017~~

~~"SPECIFICATION (or, SPECIFICATION 1, SPECIFICATION TO THE 3018
FIRST COUNT, or SPECIFICATION 1 TO THE FIRST COUNT). The Grand 3019
Jurors further find and specify that (set forth the applicable 3020
aggravating circumstance listed in divisions (A)(1) to (10) of 3021
section 2929.04 of the Revised Code. The aggravating circumstance 3022
may be stated in the words of the subdivision in which it appears, 3023
or in words sufficient to give the accused notice of the same)." 3024~~

Sec. 2941.148. (A)(1) The application of Chapter 2971. of the 3025
Revised Code to an offender is precluded unless one of the 3026
following applies: 3027

(a) The offender is charged with a violent sex offense, and 3028
the indictment, count in the indictment, or information charging 3029
the violent sex offense also includes a specification that the 3030
offender is a sexually violent predator, or the offender is 3031
charged with a designated homicide, assault, or kidnapping 3032
offense, and the indictment, count in the indictment, or 3033
information charging the designated homicide, assault, or 3034
kidnapping offense also includes both a specification of the type 3035
described in section 2941.147 of the Revised Code and a 3036
specification that the offender is a sexually violent predator. 3037

(b) The offender is convicted of or pleads guilty to a 3038
violation of division (A)(1)(b) of section 2907.02 of the Revised 3039
Code committed on or after January 2, 2007, and division (B) of 3040
section 2907.02 of the Revised Code does not prohibit the court 3041
from sentencing the offender pursuant to section 2971.03 of the 3042
Revised Code. 3043

(c) The offender is convicted of or pleads guilty to 3044
attempted rape committed on or after January 2, 2007, and to a 3045
specification of the type described in section 2941.1418, 3046
2941.1419, or 2941.1420 of the Revised Code. 3047

(d) The offender is convicted of or pleads guilty to a 3048
violation of section 2905.01 of the Revised Code and to a 3049
specification of the type described in section 2941.147 of the 3050
Revised Code, and section 2905.01 of the Revised Code requires a 3051
court to sentence the offender pursuant to section 2971.03 of the 3052
Revised Code. 3053

(e) The offender is convicted of or pleads guilty to 3054
aggravated murder and to a specification of the type described in 3055
section 2941.147 of the Revised Code, and division ~~(A)(2)(b)(ii)~~ 3056
~~of section 2929.022, division (A)(1)(e), (C)(1)(a)(v),~~ 3057
~~(C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section~~ 3058
~~2929.03, or division (A) or (B)(C)(1) of section 2929.06~~ 2929.02 3059

of the Revised Code requires a court to sentence the offender 3060
pursuant to division (B)(3) of section 2971.03 of the Revised 3061
Code. 3062

(f) The offender is convicted of or pleads guilty to murder 3063
and to a specification of the type described in section 2941.147 3064
of the Revised Code, and division ~~(B)(2)~~(C)(1) of section 2929.02 3065
of the Revised Code requires a court to sentence the offender 3066
pursuant to section 2971.03 of the Revised Code. 3067

(2) A specification required under division (A)(1)(a) of this 3068
section that an offender is a sexually violent predator shall be 3069
stated at the end of the body of the indictment, count, or 3070
information and shall be stated in substantially the following 3071
form: 3072

"Specification (or, specification to the first count). The 3073
grand jury (or insert the person's or prosecuting attorney's name 3074
when appropriate) further find and specify that the offender is a 3075
sexually violent predator." 3076

(B) In determining for purposes of this section whether a 3077
person is a sexually violent predator, all of the factors set 3078
forth in divisions (H)(1) to (6) of section 2971.01 of the Revised 3079
Code that apply regarding the person may be considered as evidence 3080
tending to indicate that it is likely that the person will engage 3081
in the future in one or more sexually violent offenses. 3082

(C) As used in this section, "designated homicide, assault, 3083
or kidnapping offense," "violent sex offense," and "sexually 3084
violent predator" have the same meanings as in section 2971.01 of 3085
the Revised Code. 3086

Sec. 2941.401. When a person has entered upon a term of 3087
imprisonment in a correctional institution of this state, and when 3088
during the continuance of the term of imprisonment there is 3089

pending in this state any untried indictment, information, or 3090
complaint against the prisoner, ~~he~~ the prisoner shall be brought 3091
to trial within one hundred eighty days after ~~he~~ the prisoner 3092
causes to be delivered to the prosecuting attorney and the 3093
appropriate court in which the matter is pending, written notice 3094
of the place of ~~his~~ the prisoner's imprisonment and a request for 3095
a final disposition to be made of the matter, except that for good 3096
cause shown in open court, with the prisoner or ~~his~~ the prisoner's 3097
counsel present, the court may grant any necessary or reasonable 3098
continuance. The request of the prisoner shall be accompanied by a 3099
certificate of the warden or superintendent having custody of the 3100
prisoner, stating the term of commitment under which the prisoner 3101
is being held, the time served and remaining to be served on the 3102
sentence, the amount of good time earned, the time of parole 3103
eligibility of the prisoner, and any decisions of the adult parole 3104
authority relating to the prisoner. 3105

The written notice and request for final disposition shall be 3106
given or sent by the prisoner to the warden or superintendent 3107
having custody of ~~him~~ the prisoner, who shall promptly forward it 3108
with the certificate to the appropriate prosecuting attorney and 3109
court by registered or certified mail, return receipt requested. 3110

The warden or superintendent having custody of the prisoner 3111
shall promptly inform ~~him~~ the prisoner in writing of the source 3112
and contents of any untried indictment, information, or complaint 3113
against ~~him~~ the prisoner, concerning which the warden or 3114
superintendent has knowledge, and of ~~his~~ the prisoner's right to 3115
make a request for final disposition thereof. 3116

Escape from custody by the prisoner, subsequent to ~~his~~ the 3117
prisoner's execution of the request for final disposition, voids 3118
the request. 3119

If the action is not brought to trial within the time 3120
provided, subject to continuance allowed pursuant to this section, 3121

no court any longer has jurisdiction thereof, the indictment, 3122
information, or complaint is void, and the court shall enter an 3123
order dismissing the action with prejudice. 3124

This section does not apply to any person adjudged to be 3125
mentally ill or who is under sentence of life imprisonment ~~or~~ 3126
~~death, or to any prisoner under sentence of death.~~ 3127

Sec. 2941.43. If the convict referred to in section 2941.40 3128
of the Revised Code is acquitted, ~~he~~ the convict shall be 3129
forthwith returned by the sheriff to the state correctional 3130
institution to serve out the remainder of ~~his~~ the convict's 3131
sentence. If ~~he~~ the convict is sentenced to imprisonment in a 3132
state correctional institution, ~~he~~ the convict shall be returned 3133
to the state correctional institution by the sheriff to serve ~~his~~ 3134
~~new~~ the convict's term. ~~If he is sentenced to death, the death~~ 3135
~~sentence shall be executed as if he were not under sentence of~~ 3136
~~imprisonment in a state correctional institution.~~ 3137

Sec. 2941.51. (A) Counsel appointed to a case or selected by 3138
an indigent person under division (E) of section 120.16 or 3139
division (E) of section 120.26 of the Revised Code, or otherwise 3140
appointed by the court, except for counsel appointed by the court 3141
to provide legal representation for a person charged with a 3142
violation of an ordinance of a municipal corporation, shall be 3143
paid for their services by the county the compensation and 3144
expenses that the trial court approves. Each request for payment 3145
shall be accompanied by a financial disclosure form and an 3146
affidavit of indigency that are completed by the indigent person 3147
on forms prescribed by the state public defender. Compensation and 3148
expenses shall not exceed the amounts fixed by the board of county 3149
commissioners pursuant to division (B) of this section. 3150

(B) The board of county commissioners shall establish a 3151

schedule of fees by case or on an hourly basis to be paid by the 3152
county for legal services provided by appointed counsel. Prior to 3153
establishing such schedule, the board shall request the bar 3154
association or associations of the county to submit a proposed 3155
schedule. The schedule submitted shall be subject to the review, 3156
amendment, and approval of the board of county commissioners. 3157

(C) In a case where counsel have been appointed to conduct an 3158
appeal under Chapter 120. of the Revised Code, such compensation 3159
shall be fixed by the court of appeals or the supreme court, as 3160
provided in divisions (A) and (B) of this section. 3161

(D) The fees and expenses approved by the court under this 3162
section shall not be taxed as part of the costs and shall be paid 3163
by the county. However, if the person represented has, or 3164
reasonably may be expected to have, the means to meet some part of 3165
the cost of the services rendered to the person, the person shall 3166
pay the county an amount that the person reasonably can be 3167
expected to pay. Pursuant to section 120.04 of the Revised Code, 3168
the county shall pay to the state public defender a percentage of 3169
the payment received from the person in an amount proportionate to 3170
the percentage of the costs of the person's case that were paid to 3171
the county by the state public defender pursuant to this section. 3172
The money paid to the state public defender shall be credited to 3173
the client payment fund created pursuant to division (B)(5) of 3174
section 120.04 of the Revised Code. 3175

(E) The county auditor shall draw a warrant on the county 3176
treasurer for the payment of such counsel in the amount fixed by 3177
the court, plus the expenses that the court fixes and certifies to 3178
the auditor. The county auditor shall report periodically, but not 3179
less than annually, to the board of county commissioners and to 3180
the Ohio public defender commission the amounts paid out pursuant 3181
to the approval of the court under this section, ~~separately~~ 3182
~~stating costs and expenses that are reimbursable under section~~ 3183

~~120.35 of the Revised Code. The board, after review and approval 3184
of the auditor's report, may then certify it to the state public 3185
defender for reimbursement. The request for reimbursement shall be 3186
accompanied by a financial disclosure form completed by each 3187
indigent person for whom counsel was provided on a form prescribed 3188
by the state public defender. The state public defender shall 3189
review the report and, in accordance with the standards, 3190
guidelines, and maximums established pursuant to divisions (B)(7) 3191
and (8) of section 120.04 of the Revised Code, pay fifty per cent 3192
of the total cost, ~~other than costs and expenses that are 3193
reimbursable under section 120.35 of the Revised Code, if any,~~ of 3194
paying appointed counsel in each county ~~and pay fifty per cent of 3195
costs and expenses that are reimbursable under section 120.35 of 3196
the Revised Code, if any,~~ to the board. 3197~~

(F) If any county system for paying appointed counsel fails 3198
to maintain the standards for the conduct of the system 3199
established by the rules of the Ohio public defender commission 3200
pursuant to divisions (B) and (C) of section 120.03 of the Revised 3201
Code or the standards established by the state public defender 3202
pursuant to division (B)(7) of section 120.04 of the Revised Code, 3203
the commission shall notify the board of county commissioners of 3204
the county that the county system for paying appointed counsel has 3205
failed to comply with its rules. Unless the board corrects the 3206
conduct of its appointed counsel system to comply with the rules 3207
within ninety days after the date of the notice, the state public 3208
defender may deny all or part of the county's reimbursement from 3209
the state provided for in this section. 3210

Sec. 2945.06. In any case in which a defendant waives his 3211
right to trial by jury and elects to be tried by the court under 3212
section 2945.05 of the Revised Code, any judge of the court in 3213
which the cause is pending shall proceed to hear, try, and 3214
determine the cause in accordance with the rules and in like 3215

manner as if the cause were being tried before a jury. ~~If the~~ 3216
~~accused is charged with an offense punishable with death, he shall~~ 3217
~~be tried by a court to be composed of three judges, consisting of~~ 3218
~~the judge presiding at the time in the trial of criminal cases and~~ 3219
~~two other judges to be designated by the presiding judge or chief~~ 3220
~~justice of that court, and in case there is neither a presiding~~ 3221
~~judge nor a chief justice, by the chief justice of the supreme~~ 3222
~~court. The judges or a majority of them may decide all questions~~ 3223
~~of fact and law arising upon the trial; however the accused shall~~ 3224
~~not be found guilty or not guilty of any offense unless the judges~~ 3225
~~unanimously find the accused guilty or not guilty. If the accused~~ 3226
~~pleads guilty of aggravated murder, a court composed of three~~ 3227
~~judges shall examine the witnesses, determine whether the accused~~ 3228
~~is guilty of aggravated murder or any other offense, and pronounce~~ 3229
~~sentence accordingly. The court shall follow the procedures~~ 3230
~~contained in sections 2929.03 and 2929.04 of the Revised Code in~~ 3231
~~all cases in which the accused is charged with an offense~~ 3232
~~punishable by death. If in the composition of the court it is~~ 3233
~~necessary that a judge from another county be assigned by the~~ 3234
~~chief justice, the judge from another county shall be compensated~~ 3235
~~for his services as provided by section 141.07 of the Revised~~ 3236
~~Code.~~ 3237

Sec. 2945.21. (A)(1) In criminal cases in which there is only 3238
one defendant, each party, in addition to the challenges for cause 3239
authorized by law, may peremptorily challenge three of the jurors 3240
in misdemeanor cases and four of the jurors in felony cases other 3241
than capital cases. If there is more than one defendant, each 3242
defendant may peremptorily challenge the same number of jurors as 3243
if ~~he~~ the defendant were the sole defendant. 3244

(2) ~~Notwithstanding Criminal Rule 24, in capital cases in~~ 3245
~~which there is only one defendant, each party, in addition to the~~ 3246
~~challenges for cause authorized by law, may peremptorily challenge~~ 3247

~~twelve of the jurors. If there is more than one defendant, each 3248
defendant may peremptorily challenge the same number of jurors as 3249
if he were the sole defendant. 3250~~

~~(3) In any case in which there are multiple defendants, the 3251
prosecuting attorney may peremptorily challenge a number of jurors 3252
equal to the total number of peremptory challenges allowed to all 3253
of the defendants. 3254~~

~~(B) If any indictments, informations, or complaints are 3255
consolidated for trial, the consolidated cases shall be 3256
considered, for purposes of exercising peremptory challenges, as 3257
though the defendants or offenses had been joined in the same 3258
indictment, information, or complaint. 3259~~

~~(C) The exercise of peremptory challenges authorized by this 3260
section shall be in accordance with the procedures of Criminal 3261
Rule 24. 3262~~

Sec. 2945.25. A person called as a juror in a criminal case 3263
may be challenged for the following causes: 3264

~~(A) That he the person was a member of the grand jury that 3265
found the indictment in the case; 3266~~

~~(B) That he the person is possessed of a state of mind 3267
evinced enmity or bias toward the defendant or the state; but no 3268
person summoned as a juror shall be disqualified by reason of a 3269
previously formed or expressed opinion with reference to the guilt 3270
or innocence of the accused, if the court is satisfied, from 3271
examination of the juror or from other evidence, that he the juror 3272
will render an impartial verdict according to the law and the 3273
evidence submitted to the jury at the trial; 3274~~

~~(C) In the trial of a capital offense, that he unequivocally 3275
states that under no circumstances will he follow the instructions 3276
of a trial judge and consider fairly the imposition of a sentence 3277~~

~~of death in a particular case. A prospective juror's conscientious or religious opposition to the death penalty in and of itself is not grounds for a challenge for cause. All parties shall be given wide latitude in voir dire questioning in this regard.~~

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

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

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

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

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

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

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

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

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

defendant; 3308

~~(M)~~(L) That ~~he~~ the person is the employer or employee, or the 3309
spouse, parent, son, or daughter of the employer or employee, or 3310
the counselor, agent, or attorney of any person included in 3311
division ~~(L)~~(K) of this section; 3312

~~(N)~~(M) That English is not ~~his~~ the person's native language, 3313
and ~~his~~ the person's knowledge of English is insufficient to 3314
permit ~~him~~ the person to understand the facts and law in the case; 3315

~~(O)~~(N) That ~~he~~ the person otherwise is unsuitable for any 3316
other cause to serve as a juror. 3317

The validity of each challenge listed in this section shall 3318
be determined by the court. 3319

Sec. 2945.33. When a cause is finally submitted the jurors 3320
must be kept together in a convenient place under the charge of an 3321
officer until they agree upon a verdict, or are discharged by the 3322
court. The court, ~~except in cases where the offense charged may be~~ 3323
~~punishable by death,~~ may permit the jurors to separate during the 3324
adjournment of court overnight, under proper cautions, or under 3325
supervision of an officer. Such officer shall not permit a 3326
communication to be made to them, nor make any ~~himself~~ 3327
communication to them except to ask if they have agreed upon a 3328
verdict, unless ~~he~~ the officer does so by order of the court. Such 3329
officer shall not communicate to any person, before the verdict is 3330
delivered, any matter in relation to their deliberation. Upon the 3331
trial of any prosecution for misdemeanor, the court may permit the 3332
jury to separate during their deliberation, or upon adjournment of 3333
the court overnight. 3334

~~In cases where the offense charged may be punished by death,~~ 3335
~~after the case is finally submitted to the jury, the jurors shall~~ 3336
~~be kept in charge of the proper officer and proper arrangements~~ 3337

~~for their care and maintenance shall be made as under section 3338
2945.31 of the Revised Code. 3339~~

Sec. 2945.38. (A) If the issue of a defendant's competence to 3340
stand trial is raised and if the court, upon conducting the 3341
hearing provided for in section 2945.37 of the Revised Code, finds 3342
that the defendant is competent to stand trial, the defendant 3343
shall be proceeded against as provided by law. If the court finds 3344
the defendant competent to stand trial and the defendant is 3345
receiving psychotropic drugs or other medication, the court may 3346
authorize the continued administration of the drugs or medication 3347
or other appropriate treatment in order to maintain the 3348
defendant's competence to stand trial, unless the defendant's 3349
attending physician advises the court against continuation of the 3350
drugs, other medication, or treatment. 3351

(B)(1)(a) If, after taking into consideration all relevant 3352
reports, information, and other evidence, the court finds that the 3353
defendant is incompetent to stand trial and that there is a 3354
substantial probability that the defendant will become competent 3355
to stand trial within one year if the defendant is provided with a 3356
course of treatment, the court shall order the defendant to 3357
undergo treatment. If the defendant has been charged with a felony 3358
offense and if, after taking into consideration all relevant 3359
reports, information, and other evidence, the court finds that the 3360
defendant is incompetent to stand trial, but the court is unable 3361
at that time to determine whether there is a substantial 3362
probability that the defendant will become competent to stand 3363
trial within one year if the defendant is provided with a course 3364
of treatment, the court shall order continuing evaluation and 3365
treatment of the defendant for a period not to exceed four months 3366
to determine whether there is a substantial probability that the 3367
defendant will become competent to stand trial within one year if 3368
the defendant is provided with a course of treatment. 3369

(b) The court order for the defendant to undergo treatment or 3370
continuing evaluation and treatment under division (B)(1)(a) of 3371
this section shall specify that the defendant, if determined to 3372
require mental health treatment or continuing evaluation and 3373
treatment, either shall be committed to the department of mental 3374
health for treatment or continuing evaluation and treatment at a 3375
hospital, facility, or agency, as determined to be clinically 3376
appropriate by the department of mental health or shall be 3377
committed to a facility certified by the department of mental 3378
health as being qualified to treat mental illness, to a public or 3379
community mental health facility, or to a psychiatrist or another 3380
mental health professional for treatment or continuing evaluation 3381
and treatment. Prior to placing the defendant, the department of 3382
mental health shall obtain court approval for that placement 3383
following a hearing. The court order for the defendant to undergo 3384
treatment or continuing evaluation and treatment under division 3385
(B)(1)(a) of this section shall specify that the defendant, if 3386
determined to require treatment or continuing evaluation and 3387
treatment for mental retardation, shall receive treatment or 3388
continuing evaluation and treatment at an institution or facility 3389
operated by the department of developmental disabilities, at a 3390
facility certified by the department of developmental disabilities 3391
as being qualified to treat mental retardation, at a public or 3392
private mental retardation facility, or by a psychiatrist or 3393
another mental retardation professional. In any case, the order 3394
may restrict the defendant's freedom of movement as the court 3395
considers necessary. The prosecutor in the defendant's case shall 3396
send to the chief clinical officer of the hospital, facility, or 3397
agency where the defendant is placed by the department of mental 3398
health, or to the managing officer of the institution, the 3399
director of the program or facility, or the person to which the 3400
defendant is committed, copies of relevant police reports and 3401
other background information that pertains to the defendant and is 3402

available to the prosecutor unless the prosecutor determines that 3403
the release of any of the information in the police reports or any 3404
of the other background information to unauthorized persons would 3405
interfere with the effective prosecution of any person or would 3406
create a substantial risk of harm to any person. 3407

In determining the place of commitment, the court shall 3408
consider the extent to which the person is a danger to the person 3409
and to others, the need for security, and the type of crime 3410
involved and shall order the least restrictive alternative 3411
available that is consistent with public safety and treatment 3412
goals. In weighing these factors, the court shall give preference 3413
to protecting public safety. 3414

(c) If the defendant is found incompetent to stand trial, if 3415
the chief clinical officer of the hospital, facility, or agency 3416
where the defendant is placed, or the managing officer of the 3417
institution, the director of the program or facility, or the 3418
person to which the defendant is committed for treatment or 3419
continuing evaluation and treatment under division (B)(1)(b) of 3420
this section determines that medication is necessary to restore 3421
the defendant's competency to stand trial, and if the defendant 3422
lacks the capacity to give informed consent or refuses medication, 3423
the chief clinical officer of the hospital, facility, or agency 3424
where the defendant is placed, or the managing officer of the 3425
institution, the director of the program or facility, or the 3426
person to which the defendant is committed for treatment or 3427
continuing evaluation and treatment may petition the court for 3428
authorization for the involuntary administration of medication. 3429
The court shall hold a hearing on the petition within five days of 3430
the filing of the petition if the petition was filed in a 3431
municipal court or a county court regarding an incompetent 3432
defendant charged with a misdemeanor or within ten days of the 3433
filing of the petition if the petition was filed in a court of 3434

common pleas regarding an incompetent defendant charged with a 3435
felony offense. Following the hearing, the court may authorize the 3436
involuntary administration of medication or may dismiss the 3437
petition. 3438

(2) If the court finds that the defendant is incompetent to 3439
stand trial and that, even if the defendant is provided with a 3440
course of treatment, there is not a substantial probability that 3441
the defendant will become competent to stand trial within one 3442
year, the court shall order the discharge of the defendant, unless 3443
upon motion of the prosecutor or on its own motion, the court 3444
either seeks to retain jurisdiction over the defendant pursuant to 3445
section 2945.39 of the Revised Code or files an affidavit in the 3446
probate court for the civil commitment of the defendant pursuant 3447
to Chapter 5122. or 5123. of the Revised Code alleging that the 3448
defendant is a mentally ill person subject to hospitalization by 3449
court order or a mentally retarded person subject to 3450
institutionalization by court order. If an affidavit is filed in 3451
the probate court, the trial court shall send to the probate court 3452
copies of all written reports of the defendant's mental condition 3453
that were prepared pursuant to section 2945.371 of the Revised 3454
Code. 3455

The trial court may issue the temporary order of detention 3456
that a probate court may issue under section 5122.11 or 5123.71 of 3457
the Revised Code, to remain in effect until the probable cause or 3458
initial hearing in the probate court. Further proceedings in the 3459
probate court are civil proceedings governed by Chapter 5122. or 3460
5123. of the Revised Code. 3461

(C) No defendant shall be required to undergo treatment, 3462
including any continuing evaluation and treatment, under division 3463
(B)(1) of this section for longer than whichever of the following 3464
periods is applicable: 3465

(1) One year, if the most serious offense with which the 3466

defendant is charged is one of the following offenses: 3467

(a) Aggravated murder, murder, or an offense of violence for 3468
which a sentence of ~~death or~~ life imprisonment may be imposed; 3469

(b) An offense of violence that is a felony of the first or 3470
second degree; 3471

(c) A conspiracy to commit, an attempt to commit, or 3472
complicity in the commission of an offense described in division 3473
(C)(1)(a) or (b) of this section if the conspiracy, attempt, or 3474
complicity is a felony of the first or second degree. 3475

(2) Six months, if the most serious offense with which the 3476
defendant is charged is a felony other than a felony described in 3477
division (C)(1) of this section; 3478

(3) Sixty days, if the most serious offense with which the 3479
defendant is charged is a misdemeanor of the first or second 3480
degree; 3481

(4) Thirty days, if the most serious offense with which the 3482
defendant is charged is a misdemeanor of the third or fourth 3483
degree, a minor misdemeanor, or an unclassified misdemeanor. 3484

(D) Any defendant who is committed pursuant to this section 3485
shall not voluntarily admit the defendant or be voluntarily 3486
admitted to a hospital or institution pursuant to section 5122.02, 3487
5122.15, 5123.69, or 5123.76 of the Revised Code. 3488

(E) Except as otherwise provided in this division, a 3489
defendant who is charged with an offense and is committed by the 3490
court under this section to the department of mental health or is 3491
committed to an institution or facility for the treatment of 3492
mental retardation shall not be granted unsupervised on-grounds 3493
movement, supervised off-grounds movement, or nonsecured status 3494
except in accordance with the court order. The court may grant a 3495
defendant supervised off-grounds movement to obtain medical 3496

treatment or specialized habilitation treatment services if the 3497
person who supervises the treatment or the continuing evaluation 3498
and treatment of the defendant ordered under division (B)(1)(a) of 3499
this section informs the court that the treatment or continuing 3500
evaluation and treatment cannot be provided at the hospital or 3501
facility where the defendant is placed by the department of mental 3502
health or the institution or facility to which the defendant is 3503
committed. The chief clinical officer of the hospital or facility 3504
where the defendant is placed by the department of mental health 3505
or the managing officer of the institution or director of the 3506
facility to which the defendant is committed, or a designee of any 3507
of those persons, may grant a defendant movement to a medical 3508
facility for an emergency medical situation with appropriate 3509
supervision to ensure the safety of the defendant, staff, and 3510
community during that emergency medical situation. The chief 3511
clinical officer of the hospital or facility where the defendant 3512
is placed by the department of mental health or the managing 3513
officer of the institution or director of the facility to which 3514
the defendant is committed shall notify the court within 3515
twenty-four hours of the defendant's movement to the medical 3516
facility for an emergency medical situation under this division. 3517

(F) The person who supervises the treatment or continuing 3518
evaluation and treatment of a defendant ordered to undergo 3519
treatment or continuing evaluation and treatment under division 3520
(B)(1)(a) of this section shall file a written report with the 3521
court at the following times: 3522

(1) Whenever the person believes the defendant is capable of 3523
understanding the nature and objective of the proceedings against 3524
the defendant and of assisting in the defendant's defense; 3525

(2) For a felony offense, fourteen days before expiration of 3526
the maximum time for treatment as specified in division (C) of 3527
this section and fourteen days before the expiration of the 3528

maximum time for continuing evaluation and treatment as specified 3529
in division (B)(1)(a) of this section, and, for a misdemeanor 3530
offense, ten days before the expiration of the maximum time for 3531
treatment, as specified in division (C) of this section; 3532

(3) At a minimum, after each six months of treatment; 3533

(4) Whenever the person who supervises the treatment or 3534
continuing evaluation and treatment of a defendant ordered under 3535
division (B)(1)(a) of this section believes that there is not a 3536
substantial probability that the defendant will become capable of 3537
understanding the nature and objective of the proceedings against 3538
the defendant or of assisting in the defendant's defense even if 3539
the defendant is provided with a course of treatment. 3540

(G) A report under division (F) of this section shall contain 3541
the examiner's findings, the facts in reasonable detail on which 3542
the findings are based, and the examiner's opinion as to the 3543
defendant's capability of understanding the nature and objective 3544
of the proceedings against the defendant and of assisting in the 3545
defendant's defense. If, in the examiner's opinion, the defendant 3546
remains incapable of understanding the nature and objective of the 3547
proceedings against the defendant and of assisting in the 3548
defendant's defense and there is a substantial probability that 3549
the defendant will become capable of understanding the nature and 3550
objective of the proceedings against the defendant and of 3551
assisting in the defendant's defense if the defendant is provided 3552
with a course of treatment, if in the examiner's opinion the 3553
defendant remains mentally ill or mentally retarded, and if the 3554
maximum time for treatment as specified in division (C) of this 3555
section has not expired, the report also shall contain the 3556
examiner's recommendation as to the least restrictive placement or 3557
commitment alternative that is consistent with the defendant's 3558
treatment needs for restoration to competency and with the safety 3559
of the community. The court shall provide copies of the report to 3560

the prosecutor and defense counsel. 3561

(H) If a defendant is committed pursuant to division (B)(1) 3562
of this section, within ten days after the treating physician of 3563
the defendant or the examiner of the defendant who is employed or 3564
retained by the treating facility advises that there is not a 3565
substantial probability that the defendant will become capable of 3566
understanding the nature and objective of the proceedings against 3567
the defendant or of assisting in the defendant's defense even if 3568
the defendant is provided with a course of treatment, within ten 3569
days after the expiration of the maximum time for treatment as 3570
specified in division (C) of this section, within ten days after 3571
the expiration of the maximum time for continuing evaluation and 3572
treatment as specified in division (B)(1)(a) of this section, 3573
within thirty days after a defendant's request for a hearing that 3574
is made after six months of treatment, or within thirty days after 3575
being advised by the treating physician or examiner that the 3576
defendant is competent to stand trial, whichever is the earliest, 3577
the court shall conduct another hearing to determine if the 3578
defendant is competent to stand trial and shall do whichever of 3579
the following is applicable: 3580

(1) If the court finds that the defendant is competent to 3581
stand trial, the defendant shall be proceeded against as provided 3582
by law. 3583

(2) If the court finds that the defendant is incompetent to 3584
stand trial, but that there is a substantial probability that the 3585
defendant will become competent to stand trial if the defendant is 3586
provided with a course of treatment, and the maximum time for 3587
treatment as specified in division (C) of this section has not 3588
expired, the court, after consideration of the examiner's 3589
recommendation, shall order that treatment be continued, may 3590
change the facility or program at which the treatment is to be 3591
continued, and shall specify whether the treatment is to be 3592

continued at the same or a different facility or program. 3593

(3) If the court finds that the defendant is incompetent to 3594
stand trial, if the defendant is charged with an offense listed in 3595
division (C)(1) of this section, and if the court finds that there 3596
is not a substantial probability that the defendant will become 3597
competent to stand trial even if the defendant is provided with a 3598
course of treatment, or if the maximum time for treatment relative 3599
to that offense as specified in division (C) of this section has 3600
expired, further proceedings shall be as provided in sections 3601
2945.39, 2945.401, and 2945.402 of the Revised Code. 3602

(4) If the court finds that the defendant is incompetent to 3603
stand trial, if the most serious offense with which the defendant 3604
is charged is a misdemeanor or a felony other than a felony listed 3605
in division (C)(1) of this section, and if the court finds that 3606
there is not a substantial probability that the defendant will 3607
become competent to stand trial even if the defendant is provided 3608
with a course of treatment, or if the maximum time for treatment 3609
relative to that offense as specified in division (C) of this 3610
section has expired, the court shall dismiss the indictment, 3611
information, or complaint against the defendant. A dismissal under 3612
this division is not a bar to further prosecution based on the 3613
same conduct. The court shall discharge the defendant unless the 3614
court or prosecutor files an affidavit in probate court for civil 3615
commitment pursuant to Chapter 5122. or 5123. of the Revised Code. 3616
If an affidavit for civil commitment is filed, the court may 3617
detain the defendant for ten days pending civil commitment. All of 3618
the following provisions apply to persons charged with a 3619
misdemeanor or a felony other than a felony listed in division 3620
(C)(1) of this section who are committed by the probate court 3621
subsequent to the court's or prosecutor's filing of an affidavit 3622
for civil commitment under authority of this division: 3623

(a) The chief clinical officer of the entity, hospital, or 3624

facility, the managing officer of the institution, the director of 3625
the program, or the person to which the defendant is committed or 3626
admitted shall do all of the following: 3627

(i) Notify the prosecutor, in writing, of the discharge of 3628
the defendant, send the notice at least ten days prior to the 3629
discharge unless the discharge is by the probate court, and state 3630
in the notice the date on which the defendant will be discharged; 3631

(ii) Notify the prosecutor, in writing, when the defendant is 3632
absent without leave or is granted unsupervised, off-grounds 3633
movement, and send this notice promptly after the discovery of the 3634
absence without leave or prior to the granting of the 3635
unsupervised, off-grounds movement, whichever is applicable; 3636

(iii) Notify the prosecutor, in writing, of the change of the 3637
defendant's commitment or admission to voluntary status, send the 3638
notice promptly upon learning of the change to voluntary status, 3639
and state in the notice the date on which the defendant was 3640
committed or admitted on a voluntary status. 3641

(b) Upon receiving notice that the defendant will be granted 3642
unsupervised, off-grounds movement, the prosecutor either shall 3643
re-indict the defendant or promptly notify the court that the 3644
prosecutor does not intend to prosecute the charges against the 3645
defendant. 3646

(I) If a defendant is convicted of a crime and sentenced to a 3647
jail or workhouse, the defendant's sentence shall be reduced by 3648
the total number of days the defendant is confined for evaluation 3649
to determine the defendant's competence to stand trial or 3650
treatment under this section and sections 2945.37 and 2945.371 of 3651
the Revised Code or by the total number of days the defendant is 3652
confined for evaluation to determine the defendant's mental 3653
condition at the time of the offense charged. 3654

Sec. 2949.02. (A) If a person is convicted of any bailable offense, including, but not limited to, a violation of an ordinance of a municipal corporation, in a municipal or county court or in a court of common pleas and if the person gives to the trial judge or magistrate a written notice of the person's intention to file or apply for leave to file an appeal to the court of appeals, the trial judge or magistrate may suspend, ~~subject to division (A)(2)(b) of section 2953.09 of the Revised Code,~~ execution of the sentence or judgment imposed for any fixed time that will give the person time either to prepare and file, or to apply for leave to file, the appeal. In all bailable cases, except as provided in division (B) of this section, the trial judge or magistrate may release the person on bail in accordance with Criminal Rule 46, and the bail shall at least be conditioned that the person will appeal without delay and abide by the judgment and sentence of the court.

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

(C) If a trial judge of a court of common pleas is prohibited by division (B) of this section from releasing on bail pursuant to division (A) of this section a person who is convicted of a bailable offense and not sentenced to imprisonment for life, the appropriate court of appeals or two judges of it, upon motion of such a person and for good cause shown, may release the person on bail in accordance with Appellate Rule 8 and Criminal Rule 46, and

the bail shall at least be conditioned as described in division 3687
(A) of this section. 3688

Sec. 2949.03. If a judgment of conviction by a court of 3689
common pleas, municipal court, or county court is affirmed by a 3690
court of appeals and remanded to the trial court for execution of 3691
the sentence or judgment imposed, and the person so convicted 3692
gives notice of ~~his~~ the person's intention to file a notice of 3693
appeal to the supreme court, the trial court, on the filing of a 3694
motion by such person within three days after the rendition by the 3695
court of appeals of the judgment of affirmation, may further 3696
suspend, ~~subject to division (A)(2)(b) of section 2953.09 of the~~ 3697
~~Revised Code,~~ the execution of the sentence or judgment imposed 3698
for a time sufficient to give such person an opportunity to file a 3699
notice of appeal to the supreme court, but the sentence or 3700
judgment imposed shall not be suspended more than thirty days for 3701
that purpose. 3702

Sec. 2953.02. In a ~~capital case in which a sentence of death~~ 3703
~~is imposed for an offense committed before January 1, 1995, and in~~ 3704
any ~~other~~ criminal case, including a conviction for the violation 3705
of an ordinance of a municipal corporation, the judgment or final 3706
order of a court of record inferior to the court of appeals may be 3707
reviewed in the court of appeals. A final order of an 3708
administrative officer or agency may be reviewed in the court of 3709
common pleas. A judgment or final order of the court of appeals 3710
involving a question arising under the Constitution of the United 3711
States or of this state may be appealed to the supreme court as a 3712
matter of right. This right of appeal from judgments and final 3713
orders of the court of appeals shall extend to ~~cases in which a~~ 3714
~~sentence of death is imposed for an offense committed before~~ 3715
~~January 1, 1995, and in which the death penalty has been affirmed,~~ 3716
felony cases in which the supreme court has directed the court of 3717

appeals to certify its record, and in all other criminal cases of public or general interest wherein the supreme court has granted a motion to certify the record of the court of appeals. ~~In a capital case in which a sentence of death is imposed for an offense committed on or after January 1, 1995, the judgment or final order may be appealed from the trial court directly to the supreme court as a matter of right.~~ The supreme court in criminal cases shall not be required to determine as to the weight of the evidence, except that, ~~in cases in which a sentence of death is imposed for an offense committed on or after January 1, 1995, and in which the question of the weight of the evidence to support the judgment has been raised on appeal, the supreme court shall determine as to the weight of the evidence to support the judgment and shall determine as to the weight of the evidence to support the sentence of death as provided in section 2929.05 of the Revised Code.~~

Sec. 2953.07. ~~(A)~~ Upon the hearing of an appeal other than an appeal from a mayor's court, the appellate court may affirm the judgment or reverse it, in whole or in part, or modify it, and order the accused to be discharged or grant a new trial. The appellate court may remand the accused for the sole purpose of correcting a sentence imposed contrary to law, provided that, on an appeal of a sentence imposed upon a person who is convicted of or pleads guilty to a felony that is brought under section 2953.08 of the Revised Code, division (G) of that section applies to the court. If the judgment is reversed, the appellant shall recover from the appellee all court costs incurred to secure the reversal, including the cost of transcripts. ~~In capital cases, when the judgment is affirmed and the day fixed for the execution is passed, the appellate court shall appoint a day for it, and the clerk of the appellate court shall issue a warrant under the seal of the appellate court, to the sheriff of the proper county, or the warden of the appropriate state correctional institution,~~

~~commanding the sheriff or warden to carry the sentence into 3750
execution on the day so appointed. The sheriff or warden shall 3751
execute and return the warrant as in other cases, and the clerk 3752
shall record the warrant and return. 3753~~

~~(B) As used in this section, "appellate court" means, for a 3754
case in which a sentence of death is imposed for an offense 3755
committed before January 1, 1995, both the court of appeals and 3756
the supreme court, and for a case in which a sentence of death is 3757
imposed for an offense committed on or after January 1, 1995, the 3758
supreme court. 3759~~

Sec. 2953.08. (A) In addition to any other right to appeal 3760
and except as provided in division (D) of this section, a 3761
defendant who is convicted of or pleads guilty to a felony may 3762
appeal as a matter of right the sentence imposed upon the 3763
defendant on one of the following grounds: 3764

(1) The sentence consisted of or included the maximum prison 3765
term allowed for the offense by division (A) of section 2929.14 or 3766
section 2929.142 of the Revised Code, the maximum prison term was 3767
not required for the offense pursuant to Chapter 2925. or any 3768
other provision of the Revised Code, and the court imposed the 3769
sentence under one of the following circumstances: 3770

(a) The sentence was imposed for only one offense. 3771

(b) The sentence was imposed for two or more offenses arising 3772
out of a single incident, and the court imposed the maximum prison 3773
term for the offense of the highest degree. 3774

(2) The sentence consisted of or included a prison term and 3775
the offense for which it was imposed is a felony of the fourth or 3776
fifth degree or is a felony drug offense that is a violation of a 3777
provision of Chapter 2925. of the Revised Code and that is 3778
specified as being subject to division (B) of section 2929.13 of 3779

the Revised Code for purposes of sentencing. If the court 3780
specifies that it found one or more of the factors in division 3781
(B)(1)(b) of section 2929.13 of the Revised Code to apply relative 3782
to the defendant, the defendant is not entitled under this 3783
division to appeal as a matter of right the sentence imposed upon 3784
the offender. 3785

(3) The person was convicted of or pleaded guilty to a 3786
violent sex offense or a designated homicide, assault, or 3787
kidnapping offense, was adjudicated a sexually violent predator in 3788
relation to that offense, and was sentenced pursuant to division 3789
(A)(3) of section 2971.03 of the Revised Code, if the minimum term 3790
of the indefinite term imposed pursuant to division (A)(3) of 3791
section 2971.03 of the Revised Code is the longest term available 3792
for the offense from among the range of terms listed in section 3793
2929.14 of the Revised Code. As used in this division, "designated 3794
homicide, assault, or kidnapping offense" and "violent sex 3795
offense" have the same meanings as in section 2971.01 of the 3796
Revised Code. As used in this division, "adjudicated a sexually 3797
violent predator" has the same meaning as in section 2929.01 of 3798
the Revised Code, and a person is "adjudicated a sexually violent 3799
predator" in the same manner and the same circumstances as are 3800
described in that section. 3801

(4) The sentence is contrary to law. 3802

(5) The sentence consisted of an additional prison term of 3803
ten years imposed pursuant to division (B)(2)(a) of section 3804
2929.14 of the Revised Code. 3805

(B) In addition to any other right to appeal and except as 3806
provided in division (D) of this section, a prosecuting attorney, 3807
a city director of law, village solicitor, or similar chief legal 3808
officer of a municipal corporation, or the attorney general, if 3809
one of those persons prosecuted the case, may appeal as a matter 3810
of right a sentence imposed upon a defendant who is convicted of 3811

or pleads guilty to a felony or, in the circumstances described in 3812
division (B)(3) of this section the modification of a sentence 3813
imposed upon such a defendant, on any of the following grounds: 3814

(1) The sentence did not include a prison term despite a 3815
presumption favoring a prison term for the offense for which it 3816
was imposed, as set forth in section 2929.13 or Chapter 2925. of 3817
the Revised Code. 3818

(2) The sentence is contrary to law. 3819

(3) The sentence is a modification under section 2929.20 of 3820
the Revised Code of a sentence that was imposed for a felony of 3821
the first or second degree. 3822

(C)(1) In addition to the right to appeal a sentence granted 3823
under division (A) or (B) of this section, a defendant who is 3824
convicted of or pleads guilty to a felony may seek leave to appeal 3825
a sentence imposed upon the defendant on the basis that the 3826
sentencing judge has imposed consecutive sentences under division 3827
(C)(3) of section 2929.14 of the Revised Code and that the 3828
consecutive sentences exceed the maximum prison term allowed by 3829
division (A) of that section for the most serious offense of which 3830
the defendant was convicted. Upon the filing of a motion under 3831
this division, the court of appeals may grant leave to appeal the 3832
sentence if the court determines that the allegation included as 3833
the basis of the motion is true. 3834

(2) A defendant may seek leave to appeal an additional 3835
sentence imposed upon the defendant pursuant to division (B)(2)(a) 3836
or (b) of section 2929.14 of the Revised Code if the additional 3837
sentence is for a definite prison term that is longer than five 3838
years. 3839

(D)(1) A sentence imposed upon a defendant is not subject to 3840
review under this section if the sentence is authorized by law, 3841
has been recommended jointly by the defendant and the prosecution 3842

in the case, and is imposed by a sentencing judge. 3843

(2) Except as provided in division (C)(2) of this section, a 3844
sentence imposed upon a defendant is not subject to review under 3845
this section if the sentence is imposed pursuant to division 3846
(B)(2)(b) of section 2929.14 of the Revised Code. Except as 3847
otherwise provided in this division, a defendant retains all 3848
rights to appeal as provided under this chapter or any other 3849
provision of the Revised Code. A defendant has the right to appeal 3850
under this chapter or any other provision of the Revised Code the 3851
court's application of division (B)(2)(c) of section 2929.14 of 3852
the Revised Code. 3853

(3) A sentence imposed for aggravated murder or murder 3854
pursuant to ~~sections~~ section 2929.02 ~~to 2929.06~~ of the Revised 3855
Code is not subject to review under this section. 3856

(E) A defendant, prosecuting attorney, city director of law, 3857
village solicitor, or chief municipal legal officer shall file an 3858
appeal of a sentence under this section to a court of appeals 3859
within the time limits specified in Rule 4(B) of the Rules of 3860
Appellate Procedure, provided that if the appeal is pursuant to 3861
division (B)(3) of this section, the time limits specified in that 3862
rule shall not commence running until the court grants the motion 3863
that makes the sentence modification in question. A sentence 3864
appeal under this section shall be consolidated with any other 3865
appeal in the case. If no other appeal is filed, the court of 3866
appeals may review only the portions of the trial record that 3867
pertain to sentencing. 3868

(F) On the appeal of a sentence under this section, the 3869
record to be reviewed shall include all of the following, as 3870
applicable: 3871

(1) Any presentence, psychiatric, or other investigative 3872
report that was submitted to the court in writing before the 3873

sentence was imposed. An appellate court that reviews a 3874
presentence investigation report prepared pursuant to section 3875
2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 in 3876
connection with the appeal of a sentence under this section shall 3877
comply with division (D)(3) of section 2951.03 of the Revised Code 3878
when the appellate court is not using the presentence 3879
investigation report, and the appellate court's use of a 3880
presentence investigation report of that nature in connection with 3881
the appeal of a sentence under this section does not affect the 3882
otherwise confidential character of the contents of that report as 3883
described in division (D)(1) of section 2951.03 of the Revised 3884
Code and does not cause that report to become a public record, as 3885
defined in section 149.43 of the Revised Code, following the 3886
appellate court's use of the report. 3887

(2) The trial record in the case in which the sentence was 3888
imposed; 3889

(3) Any oral or written statements made to or by the court at 3890
the sentencing hearing at which the sentence was imposed; 3891

(4) Any written findings that the court was required to make 3892
in connection with the modification of the sentence pursuant to a 3893
judicial release under division (I) of section 2929.20 of the 3894
Revised Code. 3895

(G)(1) If the sentencing court was required to make the 3896
findings required by division (B) or (D) of section 2929.13 or 3897
division (I) of section 2929.20 of the Revised Code, or to state 3898
the findings of the trier of fact required by division (B)(2)(e) 3899
of section 2929.14 of the Revised Code, relative to the imposition 3900
or modification of the sentence, and if the sentencing court 3901
failed to state the required findings on the record, the court 3902
hearing an appeal under division (A), (B), or (C) of this section 3903
shall remand the case to the sentencing court and instruct the 3904
sentencing court to state, on the record, the required findings. 3905

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

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

(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, 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.

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

(2)~~(a)~~ If a notice of appeal is filed pursuant to the Rules of Appellate Procedure by a defendant who is convicted in a municipal or county court or a court of common pleas of a felony or misdemeanor under the Revised Code or an ordinance of a municipal corporation, the filing of the notice of appeal does not suspend execution of the sentence or judgment imposed. However, consistent with divisions (A)(2)(b), (B), and (C) of this section, Appellate Rule 8, and Criminal Rule 46, the municipal or county

court, court of common pleas, or court of appeals may suspend 3936
execution of the sentence or judgment imposed during the pendency 3937
of the appeal and shall determine whether that defendant is 3938
entitled to bail and the amount and nature of any bail that is 3939
required. The bail shall at least be conditioned that the 3940
defendant will prosecute the appeal without delay and abide by the 3941
judgment and sentence of the court. 3942

~~(b)(i) A court of common pleas or court of appeals may 3943
suspend the execution of a sentence of death imposed for an 3944
offense committed before January 1, 1995, only if no date for 3945
execution has been set by the supreme court, good cause is shown 3946
for the suspension, the defendant files a motion requesting the 3947
suspension, and notice has been given to the prosecuting attorney 3948
of the appropriate county. 3949~~

~~(ii) A court of common pleas may suspend the execution of a 3950
sentence of death imposed for an offense committed on or after 3951
January 1, 1995, only if no date for execution has been set by the 3952
supreme court, good cause is shown, the defendant files a motion 3953
requesting the suspension, and notice has been given to the 3954
prosecuting attorney of the appropriate county. 3955~~

~~(iii) A court of common pleas or court of appeals may suspend 3956
the execution of the sentence or judgment imposed for a felony in 3957
a capital case in which a sentence of death is not imposed only if 3958
no date for execution of the sentence has been set by the supreme 3959
court, good cause is shown for the suspension, the defendant files 3960
a motion requesting the suspension, and only after notice has been 3961
given to the prosecuting attorney of the appropriate county. 3962~~

(B) Notwithstanding any provision of Criminal Rule 46 to the 3963
contrary, a trial judge of a court of common pleas shall not 3964
release on bail pursuant to division (A)(2)(a) of this section a 3965
defendant who is convicted of a bailable offense if the defendant 3966
is sentenced to imprisonment for life or if that offense is a 3967

violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 3968
2905.01, 2905.02, 2905.11, 2907.02, 2909.02, 2911.01, 2911.02, or 3969
2911.11 of the Revised Code or is felonious sexual penetration in 3970
violation of former section 2907.12 of the Revised Code. 3971

(C) If a trial judge of a court of common pleas is prohibited 3972
by division (B) of this section from releasing on bail pursuant to 3973
division (A)(2)(a) of this section a defendant who is convicted of 3974
a bailable offense and not sentenced to imprisonment for life, the 3975
appropriate court of appeals or two judges of it, upon motion of 3976
the defendant and for good cause shown, may release the defendant 3977
on bail in accordance with division (A)(2) of this section. 3978

Sec. 2953.10. When an appeal is taken from a court of appeals 3979
to the supreme court, the supreme court has the same power and 3980
authority to suspend the execution of sentence during the pendency 3981
of the appeal and admit the defendant to bail as does the court of 3982
appeals unless another section of the Revised Code or the Rules of 3983
Practice of the Supreme Court specify a distinct bail or 3984
suspension of sentence authority. 3985

~~When an appeal in a case in which a sentence of death is 3986
imposed for an offense committed on or after January 1, 1995, is 3987
taken directly from the trial court to the supreme court, the 3988
supreme court has the same power and authority to suspend the 3989
execution of the sentence during the pendency of the appeal and 3990
admit the defendant to bail as does the court of appeals for cases 3991
in which a sentence of death is imposed for an offense committed 3992
before January 1, 1995, unless another section of the Revised Code 3993
or the Rules of Practice of the Supreme Court specify a distinct 3994
bail or suspension of sentence authority. 3995~~

Sec. 2953.21. (A)(1)(a) Any person who has been convicted of 3996
a criminal offense or adjudicated a delinquent child and who 3997

claims that there was such a denial or infringement of the 3998
person's rights as to render the judgment void or voidable under 3999
the Ohio Constitution or the Constitution of the United States, 4000
and any person who has been convicted of a criminal offense that 4001
is a felony and who is an offender for whom DNA testing that was 4002
performed under sections 2953.71 to 2953.81 of the Revised Code or 4003
under former section 2953.82 of the Revised Code and analyzed in 4004
the context of and upon consideration of all available admissible 4005
evidence related to the person's case as described in division (D) 4006
of section 2953.74 of the Revised Code provided results that 4007
establish, by clear and convincing evidence, actual innocence of 4008
that felony offense ~~or, if the person was sentenced to death,~~ 4009
~~establish, by clear and convincing evidence, actual innocence of~~ 4010
~~the aggravating circumstance or circumstances the person was found~~ 4011
~~guilty of committing and that is or are the basis of that sentence~~ 4012
~~of death,~~ may file a petition in the court that imposed sentence, 4013
stating the grounds for relief relied upon, and asking the court 4014
to vacate or set aside the judgment or sentence or to grant other 4015
appropriate relief. The petitioner may file a supporting affidavit 4016
and other documentary evidence in support of the claim for relief. 4017

(b) As used in division (A)(1)(a) of this section, "actual 4018
innocence" means that, had the results of the DNA testing 4019
conducted under sections 2953.71 to 2953.81 of the Revised Code or 4020
under former section 2953.82 of the Revised Code been presented at 4021
trial, and had those results been analyzed in the context of and 4022
upon consideration of all available admissible evidence related to 4023
the person's case as described in division (D) of section 2953.74 4024
of the Revised Code, no reasonable factfinder would have found the 4025
petitioner guilty of the offense of which the petitioner was 4026
convicted, ~~or, if the person was sentenced to death, no reasonable~~ 4027
~~factfinder would have found the petitioner guilty of the~~ 4028
~~aggravating circumstance or circumstances the petitioner was found~~ 4029
~~guilty of committing and that is or are the basis of that sentence~~ 4030

~~of death.~~ 4031

(c) As used in divisions (A)(1)(a) and (b) of this section, 4032
"former section 2953.82 of the Revised Code" means section 2953.82 4033
of the Revised Code as it existed prior to ~~the effective date of~~ 4034
~~this amendment~~ July 6, 2010. 4035

(2) Except as otherwise provided in section 2953.23 of the 4036
Revised Code, a petition under division (A)(1) of this section 4037
shall be filed no later than one hundred eighty days after the 4038
date on which the trial transcript is filed in the court of 4039
appeals in the direct appeal of the judgment of conviction or 4040
adjudication ~~or, if the direct appeal involves a sentence of~~ 4041
~~death, the date on which the trial transcript is filed in the~~ 4042
~~supreme court.~~ If no appeal is taken, except as otherwise provided 4043
in section 2953.23 of the Revised Code, the petition shall be 4044
filed no later than one hundred eighty days after the expiration 4045
of the time for filing the appeal. 4046

~~(3) In a petition filed under division (A) of this section, a~~ 4047
~~person who has been sentenced to death may ask the court to render~~ 4048
~~void or voidable the judgment with respect to the conviction of~~ 4049
~~aggravated murder or the specification of an aggravating~~ 4050
~~circumstance or the sentence of death.~~ 4051

~~(4)~~ A petitioner shall state in the original or amended 4052
petition filed under division (A) of this section all grounds for 4053
relief claimed by the petitioner. Except as provided in section 4054
2953.23 of the Revised Code, any ground for relief that is not so 4055
stated in the petition is waived. 4056

~~(5)~~(4) If the petitioner in a petition filed under division 4057
(A) of this section was convicted of or pleaded guilty to a 4058
felony, the petition may include a claim that the petitioner was 4059
denied the equal protection of the laws in violation of the Ohio 4060
Constitution or the United States Constitution because the 4061

sentence imposed upon the petitioner for the felony was part of a 4062
consistent pattern of disparity in sentencing by the judge who 4063
imposed the sentence, with regard to the petitioner's race, 4064
gender, ethnic background, or religion. If the supreme court 4065
adopts a rule requiring a court of common pleas to maintain 4066
information with regard to an offender's race, gender, ethnic 4067
background, or religion, the supporting evidence for the petition 4068
shall include, but shall not be limited to, a copy of that type of 4069
information relative to the petitioner's sentence and copies of 4070
that type of information relative to sentences that the same judge 4071
imposed upon other persons. 4072

(B) The clerk of the court in which the petition is filed 4073
shall docket the petition and bring it promptly to the attention 4074
of the court. The clerk of the court in which the petition is 4075
filed immediately shall forward a copy of the petition to the 4076
prosecuting attorney of that county. 4077

(C) The court shall consider a petition that is timely filed 4078
under division (A)(2) of this section even if a direct appeal of 4079
the judgment is pending. Before granting a hearing on a petition 4080
filed under division (A) of this section, the court shall 4081
determine whether there are substantive grounds for relief. In 4082
making such a determination, the court shall consider, in addition 4083
to the petition, the supporting affidavits, and the documentary 4084
evidence, all the files and records pertaining to the proceedings 4085
against the petitioner, including, but not limited to, the 4086
indictment, the court's journal entries, the journalized records 4087
of the clerk of the court, and the court reporter's transcript. 4088
The court reporter's transcript, if ordered and certified by the 4089
court, shall be taxed as court costs. If the court dismisses the 4090
petition, it shall make and file findings of fact and conclusions 4091
of law with respect to such dismissal. 4092

(D) Within ten days after the docketing of the petition, or 4093

within any further time that the court may fix for good cause 4094
shown, the prosecuting attorney shall respond by answer or motion. 4095
Within twenty days from the date the issues are raised, either 4096
party may move for summary judgment. The right to summary judgment 4097
shall appear on the face of the record. 4098

(E) Unless the petition and the files and records of the case 4099
show the petitioner is not entitled to relief, the court shall 4100
proceed to a prompt hearing on the issues even if a direct appeal 4101
of the case is pending. If the court notifies the parties that it 4102
has found grounds for granting relief, either party may request an 4103
appellate court in which a direct appeal of the judgment is 4104
pending to remand the pending case to the court. 4105

(F) At any time before the answer or motion is filed, the 4106
petitioner may amend the petition with or without leave or 4107
prejudice to the proceedings. The petitioner may amend the 4108
petition with leave of court at any time thereafter. 4109

(G) If the court does not find grounds for granting relief, 4110
it shall make and file findings of fact and conclusions of law and 4111
shall enter judgment denying relief on the petition. If no direct 4112
appeal of the case is pending and the court finds grounds for 4113
relief or if a pending direct appeal of the case has been remanded 4114
to the court pursuant to a request made pursuant to division (E) 4115
of this section and the court finds grounds for granting relief, 4116
it shall make and file findings of fact and conclusions of law and 4117
shall enter a judgment that vacates and sets aside the judgment in 4118
question, and, in the case of a petitioner who is a prisoner in 4119
custody, shall discharge or resentence the petitioner or grant a 4120
new trial as the court determines appropriate. The court also may 4121
make supplementary orders to the relief granted, concerning such 4122
matters as rearraignment, retrial, custody, and bail. If the trial 4123
court's order granting the petition is reversed on appeal and if 4124
the direct appeal of the case has been remanded from an appellate 4125

court pursuant to a request under division (E) of this section, 4126
the appellate court reversing the order granting the petition 4127
shall notify the appellate court in which the direct appeal of the 4128
case was pending at the time of the remand of the reversal and 4129
remand of the trial court's order. Upon the reversal and remand of 4130
the trial court's order granting the petition, regardless of 4131
whether notice is sent or received, the direct appeal of the case 4132
that was remanded is reinstated. 4133

~~(H) Upon the filing of a petition pursuant to division (A) of 4134
this section by a person sentenced to death, only the supreme 4135
court may stay execution of the sentence of death. 4136~~

~~(I)(1) If a person sentenced to death intends to file a 4137
petition under this section, the court shall appoint counsel to 4138
represent the person upon a finding that the person is indigent 4139
and that the person either accepts the appointment of counsel or 4140
is unable to make a competent decision whether to accept or reject 4141
the appointment of counsel. The court may decline to appoint 4142
counsel for the person only upon a finding, after a hearing if 4143
necessary, that the person rejects the appointment of counsel and 4144
understands the legal consequences of that decision or upon a 4145
finding that the person is not indigent. 4146~~

~~(2) The court shall not appoint as counsel under division 4147
(I)(1) of this section an attorney who represented the petitioner 4148
at trial in the case to which the petition relates unless the 4149
person and the attorney expressly request the appointment. The 4150
court shall appoint as counsel under division (I)(1) of this 4151
section only an attorney who is certified under Rule 20 of the 4152
Rules of Superintendence for the Courts of Ohio to represent 4153
indigent defendants charged with or convicted of an offense for 4154
which the death penalty can be or has been imposed. The 4155
ineffectiveness or incompetence of counsel during proceedings 4156
under this section does not constitute grounds for relief in a 4157~~

~~proceeding under this section, in an appeal of any action under 4158
this section, or in an application to reopen a direct appeal. 4159~~

~~(3) Division (I) of this section does not preclude attorneys 4160
who represent the state of Ohio from invoking the provisions of 28 4161
U.S.C. 154 with respect to capital cases that were pending in 4162
federal habeas corpus proceedings prior to July 1, 1996, insofar 4163
as the petitioners in those cases were represented in proceedings 4164
under this section by one or more counsel appointed by the court 4165
under this section or section 120.06, 120.16, 120.26, or 120.33 of 4166
the Revised Code and those appointed counsel meet the requirements 4167
of division (I)(2) of this section. 4168~~

~~(J) Subject to the appeal of a sentence for a felony that is 4169
authorized by section 2953.08 of the Revised Code, the remedy set 4170
forth in this section is the exclusive remedy by which a person 4171
may bring a collateral challenge to the validity of a conviction 4172
or sentence in a criminal case or to the validity of an 4173
adjudication of a child as a delinquent child for the commission 4174
of an act that would be a criminal offense if committed by an 4175
adult or the validity of a related order of disposition. 4176~~

Sec. 2953.23. (A) Whether a hearing is or is not held on a 4177
petition filed pursuant to section 2953.21 of the Revised Code, a 4178
court may not entertain a petition filed after the expiration of 4179
the period prescribed in division (A) of that section or a second 4180
petition or successive petitions for similar relief on behalf of a 4181
petitioner unless division (A)(1) or (2) of this section applies: 4182

(1) Both of the following apply: 4183

(a) Either the petitioner shows that the petitioner was 4184
unavoidably prevented from discovery of the facts upon which the 4185
petitioner must rely to present the claim for relief, or, 4186
subsequent to the period prescribed in division (A)(2) of section 4187
2953.21 of the Revised Code or to the filing of an earlier 4188

petition, the United States Supreme Court recognized a new federal 4189
or state right that applies retroactively to persons in the 4190
petitioner's situation, and the petition asserts a claim based on 4191
that right. 4192

(b) The petitioner shows by clear and convincing evidence 4193
that, but for constitutional error at trial, no reasonable 4194
factfinder would have found the petitioner guilty of the offense 4195
of which the petitioner was convicted ~~or, if the claim challenges~~ 4196
~~a sentence of death that, but for constitutional error at the~~ 4197
~~sentencing hearing, no reasonable factfinder would have found the~~ 4198
~~petitioner eligible for the death sentence.~~ 4199

(2) The petitioner was convicted of a felony, the petitioner 4200
is an offender for whom DNA testing was performed under sections 4201
2953.71 to 2953.81 of the Revised Code or under former section 4202
2953.82 of the Revised Code and analyzed in the context of and 4203
upon consideration of all available admissible evidence related to 4204
the inmate's case as described in division (D) of section 2953.74 4205
of the Revised Code, and the results of the DNA testing establish, 4206
by clear and convincing evidence, actual innocence of that felony 4207
offense ~~or, if the person was sentenced to death, establish, by~~ 4208
~~clear and convincing evidence, actual innocence of the aggravating~~ 4209
~~circumstance or circumstances the person was found guilty of~~ 4210
~~committing and that is or are the basis of that sentence of death.~~ 4211

As used in this division, "actual innocence" has the same 4212
meaning as in division (A)(1)(b) of section 2953.21 of the Revised 4213
Code, and "former section 2953.82 of the Revised Code" has the 4214
same meaning as in division (A)(1)(c) of section 2953.21 of the 4215
Revised Code. 4216

(B) An order awarding or denying relief sought in a petition 4217
filed pursuant to section 2953.21 of the Revised Code is a final 4218
judgment and may be appealed pursuant to Chapter 2953. of the 4219
Revised Code. 4220

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

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

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

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

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

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

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

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

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

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

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

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

(L) "Outcome determinative" means that had the results of DNA testing of the subject offender been presented at the trial of the subject offender requesting DNA testing and been found relevant and admissible with respect to the felony offense for which the offender is an eligible offender and is requesting the DNA testing, and had those results been analyzed in the context of and upon consideration of all available admissible evidence related to the offender's case as described in division (D) of section 2953.74 of the Revised Code, there is a strong probability that no

reasonable factfinder would have found the offender guilty of that 4282
offense ~~or, if the offender was sentenced to death relative to~~ 4283
~~that offense, would have found the offender guilty of the~~ 4284
~~aggravating circumstance or circumstances the offender was found~~ 4285
~~guilty of committing and that is or are the basis of that sentence~~ 4286
~~of death.~~ 4287

(M) "Parent sample" means the biological material first 4288
obtained from a crime scene or a victim of an offense for which an 4289
offender is an eligible offender, and from which a sample will be 4290
presently taken to do a DNA comparison to the DNA of the subject 4291
offender under sections 2953.71 to 2953.81 of the Revised Code. 4292

(N) "Prison" and "community control sanction" have the same 4293
meanings as in section 2929.01 of the Revised Code. 4294

(O) "Prosecuting attorney" means the prosecuting attorney 4295
who, or whose office, prosecuted the case in which the subject 4296
offender was convicted of the offense for which the offender is an 4297
eligible offender and is requesting the DNA testing. 4298

(P) "Prosecuting authority" means the prosecuting attorney or 4299
the attorney general. 4300

(Q) "Reasonable diligence" means a degree of diligence that 4301
is comparable to the diligence a reasonable person would employ in 4302
searching for information regarding an important matter in the 4303
person's own life. 4304

(R) "Testing authority" means a laboratory at which DNA 4305
testing will be conducted under sections 2953.71 to 2953.81 of the 4306
Revised Code. 4307

(S) "Parole" and "post-release control" have the same 4308
meanings as in section 2967.01 of the Revised Code. 4309

(T) "Sexually oriented offense" and "child-victim oriented 4310
offense" have the same meanings as in section 2950.01 of the 4311

Revised Code. 4312

(U) "Definitive DNA test" means a DNA test that clearly 4313
establishes that biological material from the perpetrator of the 4314
crime was recovered from the crime scene and also clearly 4315
establishes whether or not the biological material is that of the 4316
eligible offender. A prior DNA test is not definitive if the 4317
eligible offender proves by a preponderance of the evidence that 4318
because of advances in DNA technology there is a possibility of 4319
discovering new biological material from the perpetrator that the 4320
prior DNA test may have failed to discover. Prior testing may have 4321
been a prior "definitive DNA test" as to some biological evidence 4322
but may not have been a prior "definitive DNA test" as to other 4323
biological evidence. 4324

Sec. 2953.72. (A) Any eligible offender who wishes to request 4325
DNA testing under sections 2953.71 to 2953.81 of the Revised Code 4326
shall submit an application for the testing to the court of common 4327
pleas specified in section 2953.73 of the Revised Code, on a form 4328
prescribed by the attorney general for this purpose. The eligible 4329
offender shall submit the application in accordance with the 4330
procedures set forth in section 2953.73 of the Revised Code. The 4331
eligible offender shall specify on the application the offense or 4332
offenses for which the offender is an eligible offender and is 4333
requesting the DNA testing. Along with the application, the 4334
eligible offender shall submit an acknowledgment that is on a form 4335
prescribed by the attorney general for this purpose and that is 4336
signed by the offender. The acknowledgment shall set forth all of 4337
the following: 4338

(1) That sections 2953.71 to 2953.81 of the Revised Code 4339
contemplate applications for DNA testing of an eligible offender 4340
at a stage of a prosecution or case after the offender has been 4341
sentenced, that any exclusion or inclusion result of DNA testing 4342

rendered pursuant to those sections may be used by a party in any 4343
proceeding as described in section 2953.81 of the Revised Code, 4344
and that all requests for any DNA testing made at trial will 4345
continue to be handled by the prosecuting attorney in the case; 4346

(2) That the process of conducting postconviction DNA testing 4347
for an eligible offender under sections 2953.71 to 2953.81 of the 4348
Revised Code begins when the offender submits an application under 4349
section 2953.73 of the Revised Code and the acknowledgment 4350
described in this section; 4351

(3) That the eligible offender must submit the application 4352
and acknowledgment to the court of common pleas that heard the 4353
case in which the offender was convicted of the offense for which 4354
the offender is an eligible offender and is requesting the DNA 4355
testing; 4356

(4) That the state has established a set of criteria set 4357
forth in section 2953.74 of the Revised Code by which eligible 4358
offender applications for DNA testing will be screened and that a 4359
judge of a court of common pleas upon receipt of a properly filed 4360
application and accompanying acknowledgment will apply those 4361
criteria to determine whether to accept or reject the application; 4362

(5) That the results of DNA testing conducted under sections 4363
2953.71 to 2953.81 of the Revised Code will be provided as 4364
described in section 2953.81 of the Revised Code to all parties in 4365
the postconviction proceedings and will be reported to various 4366
courts; 4367

(6) That, if DNA testing is conducted with respect to an 4368
offender under sections 2953.71 to 2953.81 of the Revised Code, 4369
the state will not offer the offender a retest if an inclusion 4370
result is achieved relative to the testing and that, if the state 4371
were to offer a retest after an inclusion result, the policy would 4372
create an atmosphere in which endless testing could occur and in 4373

which postconviction proceedings could be stalled for many years; 4374

(7) That, if the court rejects an eligible offender's 4375
application for DNA testing because the offender does not satisfy 4376
the acceptance criteria described in division (A)(4) of this 4377
section, the court will not accept or consider subsequent 4378
applications; 4379

(8) That the acknowledgment memorializes the provisions of 4380
sections 2953.71 to 2953.81 of the Revised Code with respect to 4381
the application of postconviction DNA testing to offenders, that 4382
those provisions do not give any offender any additional 4383
constitutional right that the offender did not already have, that 4384
the court has no duty or obligation to provide postconviction DNA 4385
testing to offenders, that the court of common pleas has the sole 4386
discretion subject to an appeal as described in this division to 4387
determine whether an offender is an eligible offender and whether 4388
an eligible offender's application for DNA testing satisfies the 4389
acceptance criteria described in division (A)(4) of this section 4390
and whether the application should be accepted or rejected, that 4391
if the court of common pleas rejects an eligible offender's 4392
application, the offender may ~~seek leave of the supreme court to~~ 4393
~~appeal the rejection to that court if the offender was sentenced~~ 4394
~~to death for the offense for which the offender is requesting the~~ 4395
~~DNA testing and, if the offender was not sentenced to death for~~ 4396
~~that offense, may appeal the rejection to the court of appeals,~~ 4397
and that no determination otherwise made by the court of common 4398
pleas in the exercise of its discretion regarding the eligibility 4399
of an offender or regarding postconviction DNA testing under those 4400
provisions is reviewable by or appealable to any court; 4401

(9) That the manner in which sections 2953.71 to 2953.81 of 4402
the Revised Code with respect to the offering of postconviction 4403
DNA testing to offenders are carried out does not confer any 4404
constitutional right upon any offender, that the state has 4405

established guidelines and procedures relative to those provisions 4406
to ensure that they are carried out with both justice and 4407
efficiency in mind, and that an offender who participates in any 4408
phase of the mechanism contained in those provisions, including, 4409
but not limited to, applying for DNA testing and being rejected, 4410
having an application for DNA testing accepted and not receiving 4411
the test, or having DNA testing conducted and receiving 4412
unfavorable results, does not gain as a result of the 4413
participation any constitutional right to challenge, or, except as 4414
provided in division (A)(8) of this section, any right to any 4415
review or appeal of, the manner in which those provisions are 4416
carried out; 4417

(10) That the most basic aspect of sections 2953.71 to 4418
2953.81 of the Revised Code is that, in order for DNA testing to 4419
occur, there must be an offender sample against which other 4420
evidence may be compared, that, if an eligible offender's 4421
application is accepted but the offender subsequently refuses to 4422
submit to the collection of the sample of biological material from 4423
the offender or hinders the state from obtaining a sample of 4424
biological material from the offender, the goal of those 4425
provisions will be frustrated, and that an offender's refusal or 4426
hindrance shall cause the court to rescind its prior acceptance of 4427
the application for DNA testing for the offender and deny the 4428
application. 4429

(B) The attorney general shall prescribe a form to be used to 4430
make an application for DNA testing under division (A) of this 4431
section and section 2953.73 of the Revised Code and a form to be 4432
used to provide the acknowledgment described in division (A) of 4433
this section. The forms shall include all information described in 4434
division (A) of this section, spaces for an offender to insert all 4435
information necessary to complete the forms, including, but not 4436
limited to, specifying the offense or offenses for which the 4437

offender is an eligible offender and is requesting the DNA 4438
testing, and any other information or material the attorney 4439
general determines is necessary or relevant. The attorney general 4440
shall distribute copies of the prescribed forms to the department 4441
of rehabilitation and correction, the department shall ensure that 4442
each prison in which offenders are housed has a supply of copies 4443
of the forms, and the department shall ensure that copies of the 4444
forms are provided free of charge to any offender who requests 4445
them. 4446

(C)(1) An offender is eligible to request DNA testing to be 4447
conducted under sections 2953.71 to 2953.81 of the Revised Code 4448
only if all of the following apply: 4449

(a) The offense for which the offender claims to be an 4450
eligible offender is a felony, and the offender was convicted by a 4451
judge or jury of that offense. 4452

(b) One of the following applies: 4453

(i) The offender was sentenced to a prison term ~~or sentence~~ 4454
~~of death~~ for the felony described in division (C)(1)(a) of this 4455
section, and the offender is in prison serving that prison term ~~or~~ 4456
~~under that sentence of death~~, has been paroled or is on probation 4457
regarding that felony, is under post-release control regarding 4458
that felony, or has been released from that prison term and is 4459
under a community control sanction regarding that felony. 4460

(ii) The offender was not sentenced to a prison term ~~or~~ 4461
~~sentence of death~~ for the felony described in division (C)(1)(a) 4462
of this section, but was sentenced to a community control sanction 4463
for that felony and is under that community control sanction. 4464

(iii) The felony described in division (C)(1)(a) of this 4465
section was a sexually oriented offense or child-victim oriented 4466
offense, and the offender has a duty to comply with sections 4467
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code 4468

relative to that felony. 4469

(2) An offender is not an eligible offender under division 4470
(C)(1) of this section regarding any offense to which the offender 4471
pleaded guilty or no contest. 4472

(3) An offender is not an eligible offender under division 4473
(C)(1) of this section regarding any offense if the offender dies 4474
prior to submitting an application for DNA testing related to that 4475
offense under section 2953.73 of the Revised Code. 4476

Sec. 2953.81. If an eligible offender submits an application 4477
for DNA testing under section 2953.73 of the Revised Code and if 4478
DNA testing is performed based on that application, upon 4479
completion of the testing, all of the following apply: 4480

(A) The court or a designee of the court shall require the 4481
state to maintain the results of the testing and to maintain and 4482
preserve both the parent sample of the biological material used 4483
and the offender sample of the biological material used. The 4484
testing authority may be designated as the person to maintain the 4485
results of the testing or to maintain and preserve some or all of 4486
the samples, or both. The results of the testing remain state's 4487
evidence. The samples shall be preserved during the entire period 4488
of time for which the offender is imprisoned or confined relative 4489
to the sentence in question, is on parole or probation relative to 4490
that sentence, is under post-release control or a community 4491
control sanction relative to that sentence, or has a duty to 4492
comply with sections 2950.04, 2950.041, 2950.05, and 2950.06 of 4493
the Revised Code relative to that sentence. Additionally, if the 4494
prison term or confinement under the sentence in question expires, 4495
~~if the sentence in question is a sentence of death and the~~ 4496
~~offender is executed,~~ or if the parole or probation period, the 4497
period of post-release control, the community control sanction, or 4498
the duty to comply with sections 2950.04, 2950.041, 2950.05, and 4499

2950.06 of the Revised Code under the sentence in question ends, 4500
the samples shall be preserved for a reasonable period of time of 4501
not less than twenty-four months after the term or confinement 4502
expires, ~~the offender is executed~~, or the parole or probation 4503
period, the period of post-release control, the community control 4504
sanction, or the duty to comply with sections 2950.04, 2950.041, 4505
2950.05, and 2950.06 of the Revised Code ends, whichever is 4506
applicable. The court shall determine the period of time that is 4507
reasonable for purposes of this division, provided that the period 4508
shall not be less than twenty-four months after the term or 4509
confinement expires, ~~the offender is executed~~, or the parole or 4510
probation period, the period of post-release control, the 4511
community control sanction, or the duty to comply with sections 4512
2950.04, 2950.041, 2950.05, and 2950.06 of the Revised Code ends, 4513
whichever is applicable. 4514

(B) The results of the testing are a public record. 4515

(C) The court or the testing authority shall provide a copy 4516
of the results of the testing to the prosecuting attorney, the 4517
attorney general, and the subject offender. 4518

(D) If the postconviction proceeding in question is pending 4519
at that time in a court of this state, the court of common pleas 4520
that decided the DNA application or the testing authority shall 4521
provide a copy of the results of the testing to any court of this 4522
state, and, if it is pending in a federal court, the court of 4523
common pleas that decided the DNA application or the testing 4524
authority shall provide a copy of the results of the testing to 4525
that federal court. 4526

(E) The testing authority shall provide a copy of the results 4527
of the testing to the court of common pleas that decided the DNA 4528
application. 4529

(F) The offender or the state may enter the results of the 4530

testing into any proceeding. 4531

Sec. 2967.05. (A) As used in this section: 4532

(1) "Imminent danger of death" means that the inmate has a 4533
medically diagnosable condition that will cause death to occur 4534
within a short period of time. 4535

As used in division (A)(1) of this section, "within a short 4536
period of time" means generally within six months. 4537

(2)(a) "Medically incapacitated" means any diagnosable 4538
medical condition, including mental dementia and severe, permanent 4539
medical or cognitive disability, that prevents the inmate from 4540
completing activities of daily living without significant 4541
assistance, that incapacitates the inmate to the extent that 4542
institutional confinement does not offer additional restrictions, 4543
that is likely to continue throughout the entire period of parole, 4544
and that is unlikely to improve noticeably. 4545

(b) "Medically incapacitated" does not include conditions 4546
related solely to mental illness unless the mental illness is 4547
accompanied by injury, disease, or organic defect. 4548

(3)(a) "Terminal illness" means a condition that satisfies 4549
all of the following criteria: 4550

(i) The condition is irreversible and incurable and is caused 4551
by disease, illness, or injury from which the inmate is unlikely 4552
to recover. 4553

(ii) In accordance with reasonable medical standards and a 4554
reasonable degree of medical certainty, the condition is likely to 4555
cause death to the inmate within twelve months. 4556

(iii) Institutional confinement of the inmate does not offer 4557
additional protections for public safety or against the inmate's 4558
risk to reoffend. 4559

(b) The department of rehabilitation and correction shall 4560
adopt rules pursuant to Chapter 119. of the Revised Code to 4561
implement the definition of "terminal illness" in division 4562
(A)(3)(a) of this section. 4563

(B) Upon the recommendation of the director of rehabilitation 4564
and correction, accompanied by a certificate of the attending 4565
physician that an inmate is terminally ill, medically 4566
incapacitated, or in imminent danger of death, the governor may 4567
order the inmate's release as if on parole, reserving the right to 4568
return the inmate to the institution pursuant to this section. If, 4569
subsequent to the inmate's release, the inmate's health improves 4570
so that the inmate is no longer terminally ill, medically 4571
incapacitated, or in imminent danger of death, the inmate shall be 4572
returned, by order of the governor, to the institution from which 4573
the inmate was released. If the inmate violates any rules or 4574
conditions applicable to the inmate, the inmate may be returned to 4575
an institution under the control of the department of 4576
rehabilitation and correction. The governor may direct the adult 4577
parole authority to investigate or cause to be investigated the 4578
inmate and make a recommendation. An inmate released under this 4579
section shall be subject to supervision by the adult parole 4580
authority in accordance with any recommendation of the adult 4581
parole authority that is approved by the governor. The adult 4582
parole authority shall adopt rules pursuant to section 119.03 of 4583
the Revised Code to establish the procedure for medical release of 4584
an inmate when an inmate is terminally ill, medically 4585
incapacitated, or in imminent danger of death. 4586

(C) No inmate is eligible for release under this section if 4587
the inmate is serving ~~a death sentence~~, a sentence of life without 4588
parole, a sentence under Chapter 2971. of the Revised Code for a 4589
felony of the first or second degree, a sentence for aggravated 4590
murder or murder, or a mandatory prison term for an offense of 4591

violence or any specification described in Chapter 2941. of the 4592
Revised Code. 4593

Sec. 2967.13. (A) Except as provided in division (G) of this 4594
section, a prisoner serving a sentence of imprisonment for life 4595
for an offense committed on or after July 1, 1996, is not entitled 4596
to any earned credit under section 2967.193 of the Revised Code 4597
and becomes eligible for parole as follows: 4598

(1) If a sentence of imprisonment for life was imposed for 4599
the offense of murder, at the expiration of the prisoner's minimum 4600
term; 4601

(2) If a sentence of imprisonment for life with parole 4602
eligibility after serving twenty years of imprisonment was imposed 4603
pursuant to section 2929.02 or former section 2929.022 or 2929.03 4604
of the Revised Code, after serving a term of twenty years; 4605

(3) If a sentence of imprisonment for life with parole 4606
eligibility after serving twenty-five full years of imprisonment 4607
was imposed pursuant to former section 2929.022 or 2929.03 of the 4608
Revised Code, after serving a term of twenty-five full years; 4609

(4) If a sentence of imprisonment for life with parole 4610
eligibility after serving thirty full years of imprisonment was 4611
imposed pursuant to section 2929.02 or former section 2929.022 or 4612
2929.03 of the Revised Code, after serving a term of thirty full 4613
years; 4614

(5) If a sentence of imprisonment for life was imposed for 4615
rape, after serving a term of ten full years' imprisonment; 4616

(6) If a sentence of imprisonment for life with parole 4617
eligibility after serving fifteen years of imprisonment was 4618
imposed for a violation of section 2927.24 of the Revised Code, 4619
after serving a term of fifteen years. 4620

(B) Except as provided in division (G) of this section, a 4621

prisoner serving a sentence of imprisonment for life with parole 4622
eligibility after serving twenty years of imprisonment or a 4623
sentence of imprisonment for life with parole eligibility after 4624
serving twenty-five full years or thirty full years of 4625
imprisonment imposed pursuant to section 2929.02 or former section 4626
2929.022 or 2929.03 of the Revised Code for an offense committed 4627
on or after July 1, 1996, consecutively to any other term of 4628
imprisonment, becomes eligible for parole after serving twenty 4629
years, twenty full years, or thirty full years, as applicable, as 4630
to each such sentence of life imprisonment, which shall not be 4631
reduced for earned credits under section 2967.193 of the Revised 4632
Code, plus the term or terms of the other sentences consecutively 4633
imposed or, if one of the other sentences is another type of life 4634
sentence with parole eligibility, the number of years before 4635
parole eligibility for that sentence. 4636

(C) Except as provided in division (G) of this section, a 4637
prisoner serving consecutively two or more sentences in which an 4638
indefinite term of imprisonment is imposed becomes eligible for 4639
parole upon the expiration of the aggregate of the minimum terms 4640
of the sentences. 4641

(D) Except as provided in division (G) of this section, a 4642
prisoner serving a term of imprisonment who is described in 4643
division (A) of section 2967.021 of the Revised Code becomes 4644
eligible for parole as described in that division or, if the 4645
prisoner is serving a definite term of imprisonment, shall be 4646
released as described in that division. 4647

(E) A prisoner serving a sentence of life imprisonment 4648
without parole imposed pursuant to section 2907.02 or 2929.02 or 4649
former section 2929.03 or 2929.06 of the Revised Code is not 4650
eligible for parole and shall be imprisoned until death. 4651

(F) A prisoner serving a stated prison term shall be released 4652
in accordance with section 2967.28 of the Revised Code. 4653

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

Sec. 2967.193. (A)(1) Except as provided in division (C) of this section and subject to the maximum aggregate total specified in division (A)(2) of this section, a person confined in a state correctional institution may provisionally earn one day or five days of credit, based on the category set forth in division (D)(1), (2), (3), (4), or (5) of this section in which the person is included, toward satisfaction of the person's stated prison term for each completed month during which the person productively participates in an education program, vocational training, employment in prison industries, treatment for substance abuse, or any other constructive program developed by the department with specific standards for performance by prisoners. Except as provided in division (C) of this section and subject to the maximum aggregate total specified in division (A)(2) of this section, a person so confined who successfully completes two programs or activities of that type may, in addition, provisionally earn up to five days of credit toward satisfaction of the person's stated prison term for the successful completion of the second program or activity. The person shall not be awarded any provisional days of credit for the successful completion of the first program or activity or for the successful completion of any program or activity that is completed after the second program or activity. At the end of each calendar month in which a prisoner productively participates in a program or activity listed in this division or successfully completes a program or activity listed in this division, the department of rehabilitation and correction shall determine and record the total number of days credit that the prisoner provisionally earned in that calendar month. If the

prisoner violates prison rules, the department may deny the 4686
prisoner a credit that otherwise could have been provisionally 4687
awarded to the prisoner or may withdraw one or more credits 4688
previously provisionally earned by the prisoner. Days of credit 4689
provisionally earned by a prisoner shall be finalized and awarded 4690
by the department subject to administrative review by the 4691
department of the prisoner's conduct. 4692

(2) The aggregate days of credit provisionally earned by a 4693
person for program or activity participation and program and 4694
activity completion under this section and the aggregate days of 4695
credit finally credited to a person under this section shall not 4696
exceed eight per cent of the total number of days in the person's 4697
stated prison term. 4698

(B) The department of rehabilitation and correction shall 4699
adopt rules that specify the programs or activities for which 4700
credit may be earned under this section, the criteria for 4701
determining productive participation in, or completion of, the 4702
programs or activities and the criteria for awarding credit, 4703
including criteria for awarding additional credit for successful 4704
program or activity completion, and the criteria for denying or 4705
withdrawing previously provisionally earned credit as a result of 4706
a violation of prison rules. 4707

(C) No person confined in a state correctional institution to 4708
whom any of the following applies shall be awarded any days of 4709
credit under division (A) of this section: 4710

(1) The person is serving a prison term that section 2929.13 4711
or section 2929.14 of the Revised Code specifies cannot be reduced 4712
pursuant to this section or this chapter or is serving a sentence 4713
for which section 2967.13 or division (B) of section 2929.143 of 4714
the Revised Code specifies that the person is not entitled to any 4715
earned credit under this section. 4716

(2) The person is ~~sentenced to death or is~~ serving a prison 4717
term or a term of life imprisonment for aggravated murder, murder, 4718
or a conspiracy or attempt to commit, or complicity in committing, 4719
aggravated murder or murder. 4720

(3) The person is serving a sentence of life imprisonment 4721
without parole imposed pursuant to section 2929.02 or former 4722
section 2929.03 or 2929.06 of the Revised Code, a prison term or a 4723
term of life imprisonment without parole imposed pursuant to 4724
section 2971.03 of the Revised Code, or a sentence for a sexually 4725
oriented offense that was committed on or after September 30, 4726
2011. 4727

(D) This division does not apply to a determination of 4728
whether a person confined in a state correctional institution may 4729
earn any days of credit under division (A) of this section for 4730
successful completion of a second program or activity. The 4731
determination of whether a person confined in a state correctional 4732
institution may earn one day of credit or five days of credit 4733
under division (A) of this section for each completed month during 4734
which the person productively participates in a program or 4735
activity specified under that division shall be made in accordance 4736
with the following: 4737

(1) The offender may earn one day of credit under division 4738
(A) of this section, except as provided in division (C) of this 4739
section, if the most serious offense for which the offender is 4740
confined is any of the following that is a felony of the first or 4741
second degree: 4742

(a) A violation of division (A) of section 2903.04 or of 4743
section 2903.03, 2903.11, 2903.15, 2905.01, 2907.24, 2907.25, 4744
2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 4745
2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 4746
2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 2927.24 4747
of the Revised Code; 4748

(b) A conspiracy or attempt to commit, or complicity in committing, any other offense for which the maximum penalty is imprisonment for life or any offense listed in division (D)(1)(a) of this section.

(2) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a sexually oriented offense that the offender committed prior to September 30, 2011.

(3) The offender may earn one day of credit under division (A) of this section, except as provided in division (C) of this section, if the offender is serving a stated prison term that includes a prison term imposed for a felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance.

(4) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the first or second degree and divisions (D)(1), (2), and (3) of this section do not apply to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn five days of credit under division (A) of this section if the offender committed that offense on or after September 30, 2011.

(5) Except as provided in division (C) of this section, if the most serious offense for which the offender is confined is a felony of the third, fourth, or fifth degree or an unclassified felony and neither division (D)(2) nor (3) of this section applies to the offender, the offender may earn one day of credit under division (A) of this section if the offender committed that offense prior to September 30, 2011, and the offender may earn

five days of credit under division (A) of this section if the 4781
offender committed that offense on or after September 30, 2011. 4782

(E) The department annually shall seek and consider the 4783
written feedback of the Ohio prosecuting attorneys association, 4784
the Ohio judicial conference, the Ohio public defender, the Ohio 4785
association of criminal defense lawyers, and other organizations 4786
and associations that have an interest in the operation of the 4787
corrections system and the earned credits program under this 4788
section as part of its evaluation of the program and in 4789
determining whether to modify the program. 4790

(F) As used in this section, "sexually oriented offense" has 4791
the same meaning as in section 2950.01 of the Revised Code. 4792

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 4793
section 2929.14, section 2929.02, ~~2929.03, 2929.06~~, 2929.13, or 4794
another section of the Revised Code, other than divisions (B) and 4795
(C) of section 2929.14 of the Revised Code, that authorizes or 4796
requires a specified prison term or a mandatory prison term for a 4797
person who is convicted of or pleads guilty to a felony or that 4798
specifies the manner and place of service of a prison term or term 4799
of imprisonment, the court shall impose a sentence upon a person 4800
who is convicted of or pleads guilty to a violent sex offense and 4801
who also is convicted of or pleads guilty to a sexually violent 4802
predator specification that was included in the indictment, count 4803
in the indictment, or information charging that offense, and upon 4804
a person who is convicted of or pleads guilty to a designated 4805
homicide, assault, or kidnapping offense and also is convicted of 4806
or pleads guilty to both a sexual motivation specification and a 4807
sexually violent predator specification that were included in the 4808
indictment, count in the indictment, or information charging that 4809
offense, as follows: 4810

(1) If the offense for which the sentence is being imposed is 4811

~~aggravated murder and if the court does not impose upon the 4812
offender a sentence of death, it shall impose upon the offender a 4813
term of life imprisonment without parole. If the court sentences 4814
the offender to death and the sentence of death is vacated, 4815
overturned, or otherwise set aside, the court shall impose upon 4816
the offender a term of life imprisonment without parole. 4817~~

(2) If the offense for which the sentence is being imposed is 4818
murder; or if the offense is rape committed in violation of 4819
division (A)(1)(b) of section 2907.02 of the Revised Code when the 4820
offender purposely compelled the victim to submit by force or 4821
threat of force, when the victim was less than ten years of age, 4822
when the offender previously has been convicted of or pleaded 4823
guilty to either rape committed in violation of that division or a 4824
violation of an existing or former law of this state, another 4825
state, or the United States that is substantially similar to 4826
division (A)(1)(b) of section 2907.02 of the Revised Code, or when 4827
the offender during or immediately after the commission of the 4828
rape caused serious physical harm to the victim; or if the offense 4829
is an offense other than aggravated murder or murder for which a 4830
term of life imprisonment may be imposed, it shall impose upon the 4831
offender a term of life imprisonment without parole. 4832

(3)(a) Except as otherwise provided in division (A)(3)(b), 4833
(c), (d), or (e) or (A)(4) of this section, if the offense for 4834
which the sentence is being imposed is an offense other than 4835
aggravated murder, murder, or rape and other than an offense for 4836
which a term of life imprisonment may be imposed, it shall impose 4837
an indefinite prison term consisting of a minimum term fixed by 4838
the court from among the range of terms available as a definite 4839
term for the offense, but not less than two years, and a maximum 4840
term of life imprisonment. 4841

(b) Except as otherwise provided in division (A)(4) of this 4842
section, if the offense for which the sentence is being imposed is 4843

kidnapping that is a felony of the first degree, it shall impose 4844
an indefinite prison term as follows: 4845

(i) If the kidnapping is committed on or after January 1, 4846
2008, and the victim of the offense is less than thirteen years of 4847
age, except as otherwise provided in this division, it shall 4848
impose an indefinite prison term consisting of a minimum term of 4849
fifteen years and a maximum term of life imprisonment. If the 4850
kidnapping is committed on or after January 1, 2008, the victim of 4851
the offense is less than thirteen years of age, and the offender 4852
released the victim in a safe place unharmed, it shall impose an 4853
indefinite prison term consisting of a minimum term of ten years 4854
and a maximum term of life imprisonment. 4855

(ii) If the kidnapping is committed prior to January 1, 2008, 4856
or division (A)(3)(b)(i) of this section does not apply, it shall 4857
impose an indefinite term consisting of a minimum term fixed by 4858
the court that is not less than ten years and a maximum term of 4859
life imprisonment. 4860

(c) Except as otherwise provided in division (A)(4) of this 4861
section, if the offense for which the sentence is being imposed is 4862
kidnapping that is a felony of the second degree, it shall impose 4863
an indefinite prison term consisting of a minimum term fixed by 4864
the court that is not less than eight years, and a maximum term of 4865
life imprisonment. 4866

(d) Except as otherwise provided in division (A)(4) of this 4867
section, if the offense for which the sentence is being imposed is 4868
rape for which a term of life imprisonment is not imposed under 4869
division (A)(2) of this section or division (B) of section 2907.02 4870
of the Revised Code, it shall impose an indefinite prison term as 4871
follows: 4872

(i) If the rape is committed on or after January 2, 2007, in 4873
violation of division (A)(1)(b) of section 2907.02 of the Revised 4874

Code, it shall impose an indefinite prison term consisting of a 4875
minimum term of twenty-five years and a maximum term of life 4876
imprisonment. 4877

(ii) If the rape is committed prior to January 2, 2007, or 4878
the rape is committed on or after January 2, 2007, other than in 4879
violation of division (A)(1)(b) of section 2907.02 of the Revised 4880
Code, it shall impose an indefinite prison term consisting of a 4881
minimum term fixed by the court that is not less than ten years, 4882
and a maximum term of life imprisonment. 4883

(e) Except as otherwise provided in division (A)(4) of this 4884
section, if the offense for which sentence is being imposed is 4885
attempted rape, it shall impose an indefinite prison term as 4886
follows: 4887

(i) Except as otherwise provided in division (A)(3)(e)(ii), 4888
(iii), or (iv) of this section, it shall impose an indefinite 4889
prison term pursuant to division (A)(3)(a) of this section. 4890

(ii) If the attempted rape for which sentence is being 4891
imposed was committed on or after January 2, 2007, and if the 4892
offender also is convicted of or pleads guilty to a specification 4893
of the type described in section 2941.1418 of the Revised Code, it 4894
shall impose an indefinite prison term consisting of a minimum 4895
term of five years and a maximum term of twenty-five years. 4896

(iii) If the attempted rape for which sentence is being 4897
imposed was committed on or after January 2, 2007, and if the 4898
offender also is convicted of or pleads guilty to a specification 4899
of the type described in section 2941.1419 of the Revised Code, it 4900
shall impose an indefinite prison term consisting of a minimum 4901
term of ten years and a maximum of life imprisonment. 4902

(iv) If the attempted rape for which sentence is being 4903
imposed was committed on or after January 2, 2007, and if the 4904
offender also is convicted of or pleads guilty to a specification 4905

of the type described in section 2941.1420 of the Revised Code, it 4906
shall impose an indefinite prison term consisting of a minimum 4907
term of fifteen years and a maximum of life imprisonment. 4908

(4) For any offense for which the sentence is being imposed, 4909
if the offender previously has been convicted of or pleaded guilty 4910
to a violent sex offense and also to a sexually violent predator 4911
specification that was included in the indictment, count in the 4912
indictment, or information charging that offense, or previously 4913
has been convicted of or pleaded guilty to a designated homicide, 4914
assault, or kidnapping offense and also to both a sexual 4915
motivation specification and a sexually violent predator 4916
specification that were included in the indictment, count in the 4917
indictment, or information charging that offense, it shall impose 4918
upon the offender a term of life imprisonment without parole. 4919

(B)(1) Notwithstanding section 2929.13, division (A) or (D) 4920
of section 2929.14, or another section of the Revised Code other 4921
than division (B) of section 2907.02 or divisions (B) and (C) of 4922
section 2929.14 of the Revised Code that authorizes or requires a 4923
specified prison term or a mandatory prison term for a person who 4924
is convicted of or pleads guilty to a felony or that specifies the 4925
manner and place of service of a prison term or term of 4926
imprisonment, if a person is convicted of or pleads guilty to a 4927
violation of division (A)(1)(b) of section 2907.02 of the Revised 4928
Code committed on or after January 2, 2007, if division (A) of 4929
this section does not apply regarding the person, and if the court 4930
does not impose a sentence of life without parole when authorized 4931
pursuant to division (B) of section 2907.02 of the Revised Code, 4932
the court shall impose upon the person an indefinite prison term 4933
consisting of one of the following: 4934

(a) Except as otherwise required in division (B)(1)(b) or (c) 4935
of this section, a minimum term of ten years and a maximum term of 4936
life imprisonment. 4937

(b) If the victim was less than ten years of age, a minimum 4938
term of fifteen years and a maximum of life imprisonment. 4939

(c) If the offender purposely compels the victim to submit by 4940
force or threat of force, or if the offender previously has been 4941
convicted of or pleaded guilty to violating division (A)(1)(b) of 4942
section 2907.02 of the Revised Code or to violating an existing or 4943
former law of this state, another state, or the United States that 4944
is substantially similar to division (A)(1)(b) of that section, or 4945
if the offender during or immediately after the commission of the 4946
offense caused serious physical harm to the victim, a minimum term 4947
of twenty-five years and a maximum of life imprisonment. 4948

(2) Notwithstanding section 2929.13, division (A) or (D) of 4949
section 2929.14, or another section of the Revised Code other than 4950
divisions (B) and (C) of section 2929.14 of the Revised Code that 4951
authorizes or requires a specified prison term or a mandatory 4952
prison term for a person who is convicted of or pleads guilty to a 4953
felony or that specifies the manner and place of service of a 4954
prison term or term of imprisonment and except as otherwise 4955
provided in division (B) of section 2907.02 of the Revised Code, 4956
if a person is convicted of or pleads guilty to attempted rape 4957
committed on or after January 2, 2007, and if division (A) of this 4958
section does not apply regarding the person, the court shall 4959
impose upon the person an indefinite prison term consisting of one 4960
of the following: 4961

(a) If the person also is convicted of or pleads guilty to a 4962
specification of the type described in section 2941.1418 of the 4963
Revised Code, the court shall impose upon the person an indefinite 4964
prison term consisting of a minimum term of five years and a 4965
maximum term of twenty-five years. 4966

(b) If the person also is convicted of or pleads guilty to a 4967
specification of the type described in section 2941.1419 of the 4968
Revised Code, the court shall impose upon the person an indefinite 4969

prison term consisting of a minimum term of ten years and a 4970
maximum term of life imprisonment. 4971

(c) If the person also is convicted of or pleads guilty to a 4972
specification of the type described in section 2941.1420 of the 4973
Revised Code, the court shall impose upon the person an indefinite 4974
prison term consisting of a minimum term of fifteen years and a 4975
maximum term of life imprisonment. 4976

(3) Notwithstanding section 2929.13, division (A) or (D) of 4977
section 2929.14, or another section of the Revised Code other than 4978
divisions (B) and (C) of section 2929.14 of the Revised Code that 4979
authorizes or requires a specified prison term or a mandatory 4980
prison term for a person who is convicted of or pleads guilty to a 4981
felony or that specifies the manner and place of service of a 4982
prison term or term of imprisonment, if a person is convicted of 4983
or pleads guilty to an offense described in division (B)(3)(a), 4984
(b), (c), or (d) of this section committed on or after January 1, 4985
2008, if the person also is convicted of or pleads guilty to a 4986
sexual motivation specification that was included in the 4987
indictment, count in the indictment, or information charging that 4988
offense, and if division (A) of this section does not apply 4989
regarding the person, the court shall impose upon the person an 4990
indefinite prison term consisting of one of the following: 4991

(a) An indefinite prison term consisting of a minimum of ten 4992
years and a maximum term of life imprisonment if the offense for 4993
which the sentence is being imposed is kidnapping, the victim of 4994
the offense is less than thirteen years of age, and the offender 4995
released the victim in a safe place unharmed; 4996

(b) An indefinite prison term consisting of a minimum of 4997
fifteen years and a maximum term of life imprisonment if the 4998
offense for which the sentence is being imposed is kidnapping when 4999
the victim of the offense is less than thirteen years of age and 5000
division (B)(3)(a) of this section does not apply; 5001

(c) An indefinite term consisting of a minimum of thirty 5002
years and a maximum term of life imprisonment if the offense for 5003
which the sentence is being imposed is aggravated murder, when the 5004
victim of the offense is less than thirteen years of age, a 5005
sentence of ~~death or~~ life imprisonment without parole is not 5006
imposed for the offense, and division ~~(A)(2)(b)(ii) of section~~ 5007
~~2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii),~~ 5008
~~(D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or~~ 5009
~~division (A) or (B)(C) of section 2929.06~~ 2929.02 of the Revised 5010
Code requires that the sentence for the offense be imposed 5011
pursuant to this division; 5012

(d) An indefinite prison term consisting of a minimum of 5013
thirty years and a maximum term of life imprisonment if the 5014
offense for which the sentence is being imposed is murder when the 5015
victim of the offense is less than thirteen years of age. 5016

(C)(1) If the offender is sentenced to a prison term pursuant 5017
to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or 5018
(c), or (B)(3)(a), (b), (c), or (d) of this section, the parole 5019
board shall have control over the offender's service of the term 5020
during the entire term unless the parole board terminates its 5021
control in accordance with section 2971.04 of the Revised Code. 5022

(2) Except as provided in division (C)(3) of this section, an 5023
offender sentenced to a prison term or term of life imprisonment 5024
without parole pursuant to division (A) of this section shall 5025
serve the entire prison term or term of life imprisonment in a 5026
state correctional institution. The offender is not eligible for 5027
judicial release under section 2929.20 of the Revised Code. 5028

(3) For a prison term imposed pursuant to division (A)(3), 5029
(B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), 5030
(c), or (d) of this section, the court, in accordance with section 5031
2971.05 of the Revised Code, may terminate the prison term or 5032
modify the requirement that the offender serve the entire term in 5033

a state correctional institution if all of the following apply: 5034

(a) The offender has served at least the minimum term imposed 5035
as part of that prison term. 5036

(b) The parole board, pursuant to section 2971.04 of the 5037
Revised Code, has terminated its control over the offender's 5038
service of that prison term. 5039

(c) The court has held a hearing and found, by clear and 5040
convincing evidence, one of the following: 5041

(i) In the case of termination of the prison term, that the 5042
offender is unlikely to commit a sexually violent offense in the 5043
future; 5044

(ii) In the case of modification of the requirement, that the 5045
offender does not represent a substantial risk of physical harm to 5046
others. 5047

(4) An offender who has been sentenced to a term of life 5048
imprisonment without parole pursuant to division (A)(1), (2), or 5049
(4) of this section shall not be released from the term of life 5050
imprisonment or be permitted to serve a portion of it in a place 5051
other than a state correctional institution. 5052

(D) If a court sentences an offender to a prison term or term 5053
of life imprisonment without parole pursuant to division (A) of 5054
this section and the court also imposes on the offender one or 5055
more additional prison terms pursuant to division (B) of section 5056
2929.14 of the Revised Code, all of the additional prison terms 5057
shall be served consecutively with, and prior to, the prison term 5058
or term of life imprisonment without parole imposed upon the 5059
offender pursuant to division (A) of this section. 5060

(E) If the offender is convicted of or pleads guilty to two 5061
or more offenses for which a prison term or term of life 5062
imprisonment without parole is required to be imposed pursuant to 5063

division (A) of this section, divisions (A) to (D) of this section 5064
shall be applied for each offense. All minimum terms imposed upon 5065
the offender pursuant to division (A)(3) or (B) of this section 5066
for those offenses shall be aggregated and served consecutively, 5067
as if they were a single minimum term imposed under that division. 5068

(F)(1) If an offender is convicted of or pleads guilty to a 5069
violent sex offense and also is convicted of or pleads guilty to a 5070
sexually violent predator specification that was included in the 5071
indictment, count in the indictment, or information charging that 5072
offense, or is convicted of or pleads guilty to a designated 5073
homicide, assault, or kidnapping offense and also is convicted of 5074
or pleads guilty to both a sexual motivation specification and a 5075
sexually violent predator specification that were included in the 5076
indictment, count in the indictment, or information charging that 5077
offense, the conviction of or plea of guilty to the offense and 5078
the sexually violent predator specification automatically 5079
classifies the offender as a tier III sex offender/child-victim 5080
offender for purposes of Chapter 2950. of the Revised Code. 5081

(2) If an offender is convicted of or pleads guilty to 5082
committing on or after January 2, 2007, a violation of division 5083
(A)(1)(b) of section 2907.02 of the Revised Code and either the 5084
offender is sentenced under section 2971.03 of the Revised Code or 5085
a sentence of life without parole is imposed under division (B) of 5086
section 2907.02 of the Revised Code, the conviction of or plea of 5087
guilty to the offense automatically classifies the offender as a 5088
tier III sex offender/child-victim offender for purposes of 5089
Chapter 2950. of the Revised Code. 5090

(3) If a person is convicted of or pleads guilty to 5091
committing on or after January 2, 2007, attempted rape and also is 5092
convicted of or pleads guilty to a specification of the type 5093
described in section 2941.1418, 2941.1419, or 2941.1420 of the 5094
Revised Code, the conviction of or plea of guilty to the offense 5095

and the specification automatically classify the offender as a 5096
tier III sex offender/child-victim offender for purposes of 5097
Chapter 2950. of the Revised Code. 5098

(4) If a person is convicted of or pleads guilty to one of 5099
the offenses described in division (B)(3)(a), (b), (c), or (d) of 5100
this section and a sexual motivation specification related to the 5101
offense and the victim of the offense is less than thirteen years 5102
of age, the conviction of or plea of guilty to the offense 5103
automatically classifies the offender as a tier III sex 5104
offender/child-victim offender for purposes of Chapter 2950. of 5105
the Revised Code. 5106

Sec. 2971.07. (A) This chapter does not apply to any offender 5107
unless the offender is one of the following: 5108

(1) The offender is convicted of or pleads guilty to a 5109
violent sex offense and also is convicted of or pleads guilty to a 5110
sexually violent predator specification that was included in the 5111
indictment, count in the indictment, or information charging that 5112
offense. 5113

(2) The offender is convicted of or pleads guilty to a 5114
designated homicide, assault, or kidnapping offense and also is 5115
convicted of or pleads guilty to both a sexual motivation 5116
specification and a sexually violent predator specification that 5117
were included in the indictment, count in the indictment, or 5118
information charging that offense. 5119

(3) The offender is convicted of or pleads guilty to a 5120
violation of division (A)(1)(b) of section 2907.02 of the Revised 5121
Code committed on or after January 2, 2007, and the court does not 5122
sentence the offender to a term of life without parole pursuant to 5123
division (B) of section 2907.02 of the Revised Code or division 5124
(B) of that section prohibits the court from sentencing the 5125
offender pursuant to section 2971.03 of the Revised Code. 5126

(4) The offender is convicted of or pleads guilty to 5127
attempted rape committed on or after January 2, 2007, and also is 5128
convicted of or pleads guilty to a specification of the type 5129
described in section 2941.1418, 2941.1419, or 2941.1420 of the 5130
Revised Code. 5131

(5) The offender is convicted of or pleads guilty to a 5132
violation of section 2905.01 of the Revised Code and also is 5133
convicted of or pleads guilty to a sexual motivation specification 5134
that was included in the indictment, count in the indictment, or 5135
information charging that offense, and that section requires a 5136
court to sentence the offender pursuant to section 2971.03 of the 5137
Revised Code. 5138

(6) The offender is convicted of or pleads guilty to 5139
aggravated murder and also is convicted of or pleads guilty to a 5140
sexual motivation specification that was included in the 5141
indictment, count in the indictment, or information charging that 5142
offense, and division ~~(A)(2)(b)(ii) of section 2929.022, division~~ 5143
~~(A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv),~~ 5144
~~or (E)(1)(d) of section 2929.03, or division (A) or (B)(C) of~~ 5145
section ~~2929.06~~ 2929.02 of the Revised Code requires a court to 5146
sentence the offender pursuant to division (B)(3) of section 5147
2971.03 of the Revised Code. 5148

(7) The offender is convicted of or pleads guilty to murder 5149
and also is convicted of or pleads guilty to a sexual motivation 5150
specification that was included in the indictment, count in the 5151
indictment, or information charging that offense, and division 5152
~~(B)(2)(C)~~ of section 2929.02 of the Revised Code requires a court 5153
to sentence the offender pursuant to section 2971.03 of the 5154
Revised Code. 5155

(B) This chapter does not limit or affect a court in imposing 5156
upon an offender described in divisions (A)(1) to (9) of this 5157
section any financial sanction under section 2929.18 or any other 5158

section of the Revised Code, or, except as specifically provided 5159
in this chapter, any other sanction that is authorized or required 5160
for the offense or violation by any other provision of law. 5161

(C) If an offender is sentenced to a prison term under 5162
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 5163
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 5164
Code and if, pursuant to section 2971.05 of the Revised Code, the 5165
court modifies the requirement that the offender serve the entire 5166
prison term in a state correctional institution or places the 5167
offender on conditional release that involves the placement of the 5168
offender under the supervision of the adult parole authority, 5169
authorized field officers of the authority who are engaged within 5170
the scope of their supervisory duties or responsibilities may 5171
search, with or without a warrant, the person of the offender, the 5172
place of residence of the offender, and a motor vehicle, another 5173
item of tangible or intangible personal property, or any other 5174
real property in which the offender has the express or implied 5175
permission of a person with a right, title, or interest to use, 5176
occupy, or possess if the field officer has reasonable grounds to 5177
believe that the offender is not abiding by the law or otherwise 5178
is not complying with the terms and conditions of the offender's 5179
modification or release. The authority shall provide each offender 5180
with a written notice that informs the offender that authorized 5181
field officers of the authority who are engaged within the scope 5182
of their supervisory duties or responsibilities may conduct those 5183
types of searches during the period of the modification or release 5184
if they have reasonable grounds to believe that the offender is 5185
not abiding by the law or otherwise is not complying with the 5186
terms and conditions of the offender's modification or release. 5187

Sec. 5120.113. (A) For each inmate committed to the 5188
department of rehabilitation and correction, except as provided in 5189
division (B) of this section, the department shall prepare a 5190

written reentry plan for the inmate to help guide the inmate's 5191
rehabilitation program during imprisonment, to assist in the 5192
inmate's reentry into the community, and to assess the inmate's 5193
needs upon release. 5194

(B) Division (A) of this section does not apply to an inmate 5195
who has been sentenced to life imprisonment without parole or ~~who~~ 5196
~~has been~~ sentenced to death before the effective date of this 5197
amendment. Division (A) of this section does not apply to any 5198
inmate who is expected to be imprisoned for thirty days or less, 5199
but the department may prepare a written reentry plan of the type 5200
described in that division if the department determines that the 5201
plan is needed. 5202

(C) The department may collect, if available, any social and 5203
other information that will aid in the preparation of reentry 5204
plans under this section. 5205

(D) In the event the department does not prepare a written 5206
reentry plan as specified in division (A) of this section, or 5207
makes a decision to not prepare a written reentry plan under 5208
division (B) of this section or to not collect information under 5209
division (C) of this section, that fact does not give rise to a 5210
claim for damages against the state, the department, the director 5211
of the department, or any employee of the department. 5212

Sec. 5120.61. (A)(1) Not later than ninety days after January 5213
1, 1997, the department of rehabilitation and correction shall 5214
adopt standards that it will use under this section to assess the 5215
following criminal offenders and may periodically revise the 5216
standards: 5217

(a) A criminal offender who is convicted of or pleads guilty 5218
to a violent sex offense or designated homicide, assault, or 5219
kidnapping offense and is adjudicated a sexually violent predator 5220

in relation to that offense; 5221

(b) A criminal offender who is convicted of or pleads guilty 5222
to a violation of division (A)(1)(b) of section 2907.02 of the 5223
Revised Code committed on or after January 2, 2007, and either who 5224
is sentenced under section 2971.03 of the Revised Code or upon 5225
whom a sentence of life without parole is imposed under division 5226
(B) of section 2907.02 of the Revised Code; 5227

(c) A criminal offender who is convicted of or pleads guilty 5228
to attempted rape committed on or after January 2, 2007, and a 5229
specification of the type described in section 2941.1418, 5230
2941.1419, or 2941.1420 of the Revised Code; 5231

(d) A criminal offender who is convicted of or pleads guilty 5232
to a violation of section 2905.01 of the Revised Code and also is 5233
convicted of or pleads guilty to a sexual motivation specification 5234
that was included in the indictment, count in the indictment, or 5235
information charging that offense, and who is sentenced pursuant 5236
to section 2971.03 of the Revised Code; 5237

(e) A criminal offender who is convicted of or pleads guilty 5238
to aggravated murder and also is convicted of or pleads guilty to 5239
a sexual motivation specification that was included in the 5240
indictment, count in the indictment, or information charging that 5241
offense, and who pursuant to ~~division (A)(2)(b)(ii) of section~~ 5242
~~2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii),~~ 5243
~~(D)(2)(b), (D)(3)(a)(iv), or (E)(1)(d) of section 2929.03, or~~ 5244
~~division (A) or (B)(C) of section 2929.06~~ 2929.02 of the Revised 5245
Code is sentenced pursuant to division (B)(3) of section 2971.03 5246
of the Revised Code; 5247

(f) A criminal offender who is convicted of or pleads guilty 5248
to murder and also is convicted of or pleads guilty to a sexual 5249
motivation specification that was included in the indictment, 5250
count in the indictment, or information charging that offense, and 5251

who pursuant to division ~~(B)(2)~~(C)(1) of section 2929.02 of the Revised Code is sentenced pursuant to section 2971.03 of the Revised Code.

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

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

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

(c) Upon the request of the court.

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

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

following:	5283
(a) The parole board for its use in determining pursuant to section 2971.04 of the Revised Code whether it should terminate its control over an offender's service of a prison term imposed upon the offender under division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code, if the parole board has not terminated its control over the offender;	5284 5285 5286 5287 5288 5289 5290
(b) The court for use in determining, pursuant to section 2971.05 of the Revised Code, whether to modify the requirement that the offender serve the entire prison term imposed upon the offender under division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code in a state correctional institution, whether to revise any modification previously made, or whether to terminate the prison term;	5291 5292 5293 5294 5295 5296 5297 5298
(c) The prosecuting attorney who prosecuted the case, or the successor in office to that prosecuting attorney;	5299 5300
(d) The offender.	5301
(B) When the department of rehabilitation and correction provides a risk assessment report regarding an offender to the parole board or court pursuant to division (A)(4)(a) or (b) of this section, the department, prior to the parole board's or court's hearing, also shall provide to the offender or to the offender's attorney of record a copy of the report and a copy of any other relevant documents the department possesses regarding the offender that the department does not consider to be confidential.	5302 5303 5304 5305 5306 5307 5308 5309 5310
(C) As used in this section:	5311
(1) "Adjudicated a sexually violent predator" has the same meaning as in section 2929.01 of the Revised Code, and a person is	5312 5313

"adjudicated a sexually violent predator" in the same manner and 5314
the same circumstances as are described in that section. 5315

(2) "Designated homicide, assault, or kidnapping offense" and 5316
"violent sex offense" have the same meanings as in section 2971.01 5317
of the Revised Code. 5318

Sec. 5919.16. (A) Commissioned and warrant officers in the 5319
Ohio national guard shall be discharged by the adjutant general 5320
upon either of the following: 5321

(1) The officer's resignation; 5322

(2) Approval of a board's recommendation for withdrawal of 5323
federal recognition by the chief of the national guard bureau. 5324

(B) An officer also may be discharged under any of the 5325
following circumstances: 5326

(1) Pursuant to other federal regulations; 5327

(2) If absent without leave for three months, upon 5328
recommendation of an efficiency board; 5329

(3) Pursuant to sentence by court-martial; 5330

(4) If the officer has been convicted of a crime classified 5331
as a felony as described in division (C) or (D) ~~or (E)~~ of section 5332
2901.02 of the Revised Code. 5333

Section 2. That existing sections 120.03, 120.06, 120.14, 5334
120.16, 120.18, 120.24, 120.26, 120.28, 120.33, 120.34, 1901.183, 5335
2152.13, 2152.67, 2301.20, 2307.60, 2701.07, 2743.51, 2901.02, 5336
2909.24, 2929.02, 2929.13, 2929.14, 2941.021, 2941.14, 2941.148, 5337
2941.401, 2941.43, 2941.51, 2945.06, 2945.21, 2945.25, 2945.33, 5338
2945.38, 2949.02, 2949.03, 2953.02, 2953.07, 2953.08, 2953.09, 5339
2953.10, 2953.21, 2953.23, 2953.71, 2953.72, 2953.81, 2967.05, 5340
2967.13, 2967.193, 2971.03, 2971.07, 5120.113, 5120.61, and 5341
5919.16 and sections 109.97, 120.35, 2929.021, 2929.022, 2929.023, 5342

2929.024, 2929.03, 2929.04, 2929.05, 2929.06, 2947.08, 2949.21, 5343
2949.22, 2949.24, 2949.25, 2949.26, 2949.27, 2949.28, 2949.29, 5344
2949.31, and 2967.08 of the Revised Code are hereby repealed. 5345

5346

Section 3. (A) An offender whose sentence of death has been 5347
set aside, nullified, or vacated pursuant to section 2929.06 of 5348
the Revised Code as it existed immediately before the effective 5349
date of this act but who has not been resentenced under that 5350
section as of the effective date of this act shall be resentenced 5351
in accordance with that section as it existed immediately before 5352
the effective date of this act. 5353

(B) Nothing in this act is intended to nullify or mitigate 5354
the sentence of an offender who was sentenced to death before the 5355
effective date of this act. An offender who was sentenced to death 5356
before the effective date of this act shall have the same rights 5357
to appeal and to postconviction remedies as the offender had under 5358
the provisions of Chapter 2953. of the Revised Code as those 5359
provisions existed immediately before the effective date of this 5360
act or as those provisions may hereafter be amended, and courts 5361
shall have the same powers and duties with respect to those 5362
offenders under those provisions as courts had before the 5363
effective date of this act. 5364

(C) All reports and payments relating to capital cases that 5365
were required to be made under any provision of Chapter 120. or 5366
section 109.97 or 2941.51 of the Revised Code as those provisions 5367
existed immediately before the effective date of this act shall be 5368
made for each calendar or fiscal year, as applicable, in 5369
accordance with those provisions as they existed immediately 5370
before the effective date of this act until each case in which a 5371
defendant was sentenced to death before the effective date of this 5372
act is finally resolved. 5373

(D) In an action in which an offender was sentenced to death 5374
before the effective date of this act, a court of common pleas 5375
shall preserve the records of the action as required by section 5376
2301.20 of the Revised Code as it existed immediately before the 5377
effective date of this act. 5378

Section 4. Attorneys appointed to represent indigent 5379
defendants in post-conviction relief proceedings in cases in which 5380
the defendant was sentenced to death before the effective date of 5381
this act shall be certified under Rule 20 of the Rules of 5382
Superintendence for the Courts of Ohio as required by sections 5383
120.06, 120.14, 120.26, and 120.33 of the Revised Code as those 5384
sections existed immediately before the effective date of this 5385
act. 5386

Section 5. The General Assembly, applying the principle 5387
stated in division (B) of section 1.52 of the Revised Code that 5388
amendments are to be harmonized if reasonably capable of 5389
simultaneous operation, finds that the following sections, 5390
presented in this act as composites of the sections as amended by 5391
the acts indicated, are the resulting versions of the sections in 5392
effect prior to the effective date of the sections as presented in 5393
this act: 5394

Section 2929.13 of the Revised Code as amended by Am. Sub. 5395
H.B. 62, Am. Sub. H.B. 262, and Am. Sub. S.B. 160, all of the 5396
129th General Assembly. 5397

Section 2953.07 of the Revised Code as amended by both Am. 5398
Sub. S.B. 2 and Am. Sub. S.B. 4 of the 121st General Assembly. 5399

Section 2953.08 of the Revised Code as amended by Sub. H.B. 5400
247, Am. Sub. S.B. 160, and Am. Sub. S.B. 337, all of the 129th 5401
General Assembly. 5402