

**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  
646

(3) Comply with all statutory duties and other laws applicable to joint county public defenders. 647  
648

**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, <del>or death</del> , 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  
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(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  
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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 2648  
equivalent offense, as defined in section 2941.1415 of the Revised 2649  
Code, or three or more violations of any combination of those 2650  
divisions and offenses, the court shall impose on the offender a 2651  
prison term of three years. If a court imposes a prison term on an 2652  
offender under division (B)(6) of this section, the prison term, 2653  
subject to divisions (C) to (I) of section 2967.19 of the Revised 2654  
Code, shall not be reduced pursuant to section 2929.20, section 2655  
2967.19, section 2967.193, or any other provision of Chapter 2967. 2656  
or Chapter 5120. of the Revised Code. A court shall not impose 2657  
more than one prison term on an offender under division (B)(6) of 2658  
this section for felonies committed as part of the same act. 2659

(7)(a) If an offender is convicted of or pleads guilty to a 2660  
felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2661  
2923.32, division (A)(1) or (2) of section 2907.323, or division 2662  
(B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised 2663  
Code and also is convicted of or pleads guilty to a specification 2664  
of the type described in section 2941.1422 of the Revised Code 2665  
that charges that the offender knowingly committed the offense in 2666  
furtherance of human trafficking, the court shall impose on the 2667  
offender a mandatory prison term that is one of the following: 2668

(i) If the offense is a felony of the first degree, a 2669  
definite prison term of not less than five years and not greater 2670  
than ten years; 2671

(ii) If the offense is a felony of the second or third 2672  
degree, a definite prison term of not less than three years and 2673  
not greater than the maximum prison term allowed for the offense 2674  
by division (A) of section 2929.14 of the Revised Code; 2675

(iii) If the offense is a felony of the fourth or fifth 2676  
degree, a definite prison term that is the maximum prison term 2677  
allowed for the offense by division (A) of section 2929.14 of the 2678  
Revised Code. 2679

(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