

As Reported by the House Criminal Justice Committee

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H. B. No. 139

Representatives Roemer, Miller, J.

**Cosponsors: Representatives Bird, Brennan, Johnson, McNally, Miller, A.,
Plummer, Seitz, Troy, Williams, Miller, K.**

A BILL

To amend sections 2903.13 and 2929.13 of the
Revised Code to increase the penalties for
assault if the victim is acting as a sports
official or the assault is committed in
retaliation for the victim's actions as a sports
official.

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

Section 1. That sections 2903.13 and 2929.13 of the
Revised Code be amended to read as follows:

Sec. 2903.13. (A) No person shall knowingly cause or
attempt to cause physical harm to another or to another's
unborn.

(B) No person shall recklessly cause serious physical harm
to another or to another's unborn.

(C) (1) Whoever violates this section is guilty of assault,
and the court shall sentence the offender as provided in this
division and divisions (C) (1), (2), (3), (4), (5), (6), (7),
(8), (9), ~~and (10)~~, and (11) of this section. Except as

otherwise provided in division (C) (2), (3), (4), (5), (6), (7), 18
(8), or (9) of this section, assault is a misdemeanor of the 19
first degree. 20

(2) Except as otherwise provided in this division, if the 21
offense is committed by a caretaker against a person with a 22
functional impairment under the caretaker's care, assault is a 23
felony of the fourth degree. If the offense is committed by a 24
caretaker against a person with a functional impairment under 25
the caretaker's care, if the offender previously has been 26
convicted of or pleaded guilty to a violation of this section or 27
section 2903.11 or 2903.16 of the Revised Code, and if in 28
relation to the previous conviction the offender was a caretaker 29
and the victim was a person with a functional impairment under 30
the offender's care, assault is a felony of the third degree. 31

(3) If the offense occurs in or on the grounds of a state 32
correctional institution or an institution of the department of 33
youth services, the victim of the offense is an employee of the 34
department of rehabilitation and correction or the department of 35
youth services, and the offense is committed by a person 36
incarcerated in the state correctional institution or by a 37
person institutionalized in the department of youth services 38
institution pursuant to a commitment to the department of youth 39
services, assault is a felony of the third degree. 40

(4) If the offense is committed in any of the following 41
circumstances, assault is a felony of the fifth degree: 42

(a) The offense occurs in or on the grounds of a local 43
correctional facility, the victim of the offense is an employee 44
of the local correctional facility or a probation department or 45
is on the premises of the facility for business purposes or as a 46
visitor, and the offense is committed by a person who is under 47

custody in the facility subsequent to the person's arrest for 48
any crime or delinquent act, subsequent to the person's being 49
charged with or convicted of any crime, or subsequent to the 50
person's being alleged to be or adjudicated a delinquent child. 51

(b) The offense occurs off the grounds of a state 52
correctional institution and off the grounds of an institution 53
of the department of youth services, the victim of the offense 54
is an employee of the department of rehabilitation and 55
correction, the department of youth services, or a probation 56
department, the offense occurs during the employee's official 57
work hours and while the employee is engaged in official work 58
responsibilities, and the offense is committed by a person 59
incarcerated in a state correctional institution or 60
institutionalized in the department of youth services who 61
temporarily is outside of the institution for any purpose, by a 62
parolee, by an offender under transitional control, under a 63
community control sanction, or on an escorted visit, by a person 64
under post-release control, or by an offender under any other 65
type of supervision by a government agency. 66

(c) The offense occurs off the grounds of a local 67
correctional facility, the victim of the offense is an employee 68
of the local correctional facility or a probation department, 69
the offense occurs during the employee's official work hours and 70
while the employee is engaged in official work responsibilities, 71
and the offense is committed by a person who is under custody in 72
the facility subsequent to the person's arrest for any crime or 73
delinquent act, subsequent to the person being charged with or 74
convicted of any crime, or subsequent to the person being 75
alleged to be or adjudicated a delinquent child and who 76
temporarily is outside of the facility for any purpose or by a 77
parolee, by an offender under transitional control, under a 78

community control sanction, or on an escorted visit, by a person 79
under post-release control, or by an offender under any other 80
type of supervision by a government agency. 81

(d) The victim of the offense is a school teacher or 82
administrator or a school bus operator, and the offense occurs 83
in a school, on school premises, in a school building, on a 84
school bus, or while the victim is outside of school premises or 85
a school bus and is engaged in duties or official 86
responsibilities associated with the victim's employment or 87
position as a school teacher or administrator or a school bus 88
operator, including, but not limited to, driving, accompanying, 89
or chaperoning students at or on class or field trips, athletic 90
events, or other school extracurricular activities or functions 91
outside of school premises. 92

(e) All of the following apply: 93

(i) The victim of the offense is a sports official and the 94
offense occurs while the victim is engaged in the victim's 95
official duties at a sports event or immediately before or after 96
the sports event. 97

(ii) The offender previously has been convicted of or 98
pleaded guilty to a violation of this section under the 99
circumstances specified in division (C)(4)(e)(i) or (C)(4)(f)(i) 100
of this section. 101

(f) All of the following apply: 102

(i) The victim of the offense is a sports official and the 103
offense is committed in retaliation for an action taken by the 104
victim while the victim was engaged in the victim's official 105
duties at a sports event. 106

(ii) The offender previously has been convicted of or 107

pleaded guilty to a violation of this section under the 108
circumstances specified in division (C) (4) (e) (i) or (C) (4) (f) (i) 109
of this section. 110

(5) If the assault is committed in any of the following 111
circumstances, assault is a felony of the fourth degree: 112

(a) The victim of the offense is a peace officer or an 113
investigator of the bureau of criminal identification and 114
investigation, a firefighter, or a person performing emergency 115
medical service, while in the performance of the officer's, 116
investigator's, firefighter's, or person's official duties. 117

(b) The victim of the offense is an emergency service 118
responder, the offender knows or reasonably should know that the 119
victim is an emergency service responder, and it is the 120
offender's specific purpose to commit the offense against an 121
emergency service responder. 122

(c) The victim of the offense is a family or household 123
member or co-worker of a person who is an emergency service 124
responder, the offender knows or reasonably should know that the 125
victim is a family or household member or co-worker of an 126
emergency service responder, and it is the offender's specific 127
purpose to commit the offense against a family or household 128
member or co-worker of an emergency service responder. 129

(6) If the offense is a felony of the fourth degree under 130
division (C) (5) (a) of this section, if the victim of the offense 131
is a peace officer or an investigator of the bureau of criminal 132
identification and investigation, and if the victim suffered 133
serious physical harm as a result of the commission of the 134
offense, the court, pursuant to division (F) of section 2929.13 135
of the Revised Code, shall impose as a mandatory prison term one 136

of the prison terms prescribed for a felony of the fourth degree 137
that is at least twelve months in duration. 138

(7) If the victim of the offense is an officer or employee 139
of a public children services agency or a private child placing 140
agency and the offense relates to the officer's or employee's 141
performance or anticipated performance of official 142
responsibilities or duties, assault is either a felony of the 143
fifth degree or, if the offender previously has been convicted 144
of or pleaded guilty to an offense of violence, the victim of 145
that prior offense was an officer or employee of a public 146
children services agency or private child placing agency, and 147
that prior offense related to the officer's or employee's 148
performance or anticipated performance of official 149
responsibilities or duties, a felony of the fourth degree. 150

(8) If the victim of the offense is a health care 151
professional of a hospital, a health care worker of a hospital, 152
or a security officer of a hospital whom the offender knows or 153
has reasonable cause to know is a health care professional of a 154
hospital, a health care worker of a hospital, or a security 155
officer of a hospital, if the victim is engaged in the 156
performance of the victim's duties, and if the hospital offers 157
de-escalation or crisis intervention training for such 158
professionals, workers, or officers, assault is one of the 159
following: 160

(a) Except as otherwise provided in division (C) (8) (b) of 161
this section, assault committed in the specified circumstances 162
is a misdemeanor of the first degree. Notwithstanding the fine 163
specified in division (A) (2) (a) of section 2929.28 of the 164
Revised Code for a misdemeanor of the first degree, in 165
sentencing the offender under this division and if the court 166

decides to impose a fine, the court may impose upon the offender 167
a fine of not more than five thousand dollars. 168

(b) If the offender previously has been convicted of or 169
pleaded guilty to one or more assault or homicide offenses 170
committed against hospital personnel, assault committed in the 171
specified circumstances is a felony of the fifth degree. 172

(9) If the victim of the offense is a judge, magistrate, 173
prosecutor, or court official or employee whom the offender 174
knows or has reasonable cause to know is a judge, magistrate, 175
prosecutor, or court official or employee, and if the victim is 176
engaged in the performance of the victim's duties, assault is 177
one of the following: 178

(a) Except as otherwise provided in division (C) (9) (b) of 179
this section, assault committed in the specified circumstances 180
is a misdemeanor of the first degree. In sentencing the offender 181
under this division, if the court decides to impose a fine, 182
notwithstanding the fine specified in division (A) (2) (a) of 183
section 2929.28 of the Revised Code for a misdemeanor of the 184
first degree, the court may impose upon the offender a fine of 185
not more than five thousand dollars. 186

(b) If the offender previously has been convicted of or 187
pleaded guilty to one or more assault or homicide offenses 188
committed against justice system personnel, assault committed in 189
the specified circumstances is a felony of the fifth degree. 190

(10) If an offender who is convicted of or pleads guilty 191
to assault when it is a misdemeanor also is convicted of or 192
pleads guilty to a specification as described in section 193
2941.1423 of the Revised Code that was included in the 194
indictment, count in the indictment, or information charging the 195

offense, the court shall sentence the offender to a mandatory 196
jail term as provided in division (F) of section 2929.24 of the 197
Revised Code. 198

If an offender who is convicted of or pleads guilty to 199
assault when it is a felony also is convicted of or pleads 200
guilty to a specification as described in section 2941.1423 of 201
the Revised Code that was included in the indictment, count in 202
the indictment, or information charging the offense, except as 203
otherwise provided in division (C) (6) of this section, the court 204
shall sentence the offender to a mandatory prison term as 205
provided in division (B) (8) of section 2929.14 of the Revised 206
Code. 207

(11) If an offender is convicted of or pleads guilty to 208
assault when it is a misdemeanor of the first degree, in 209
addition to the sentence for that misdemeanor, the court shall 210
impose a mandatory fine of one thousand five hundred dollars, 211
notwithstanding the fine specified in division (A) (2) (a) of 212
section 2929.28 of the Revised Code for a misdemeanor of the 213
first degree, and shall impose forty hours of community service 214
if either of the following applies: 215

(a) The victim of the offense is a sports official and the 216
offense occurs while the victim is engaged in the victim's 217
official duties at a sports event or immediately before or after 218
the sports event. 219

(b) The victim of the offense is a sports official and the 220
offense is committed in retaliation for an action taken by the 221
victim while the victim was engaged in the victim's official 222
duties at a sports event. 223

(D) A prosecution for a violation of this section does not 224

preclude a prosecution of a violation of any other section of 225
the Revised Code. One or more acts, a series of acts, or a 226
course of behavior that can be prosecuted under this section or 227
any other section of the Revised Code may be prosecuted under 228
this section, the other section of the Revised Code, or both 229
sections. However, if an offender is convicted of or pleads 230
guilty to a violation of this section and also is convicted of 231
or pleads guilty to a violation of section 2903.22 of the 232
Revised Code based on the same conduct involving the same victim 233
that was the basis of the violation of this section, the two 234
offenses are allied offenses of similar import under section 235
2941.25 of the Revised Code. 236

(E) Nothing in division (C) (4) (e) or (f) of this section 237
prevents an offender from being prosecuted for a violation of 238
section 2903.11 or 2903.12 of the Revised Code if the elements 239
of the offense under either of those sections are present, the 240
victim of the offense is a sports official, and the offense 241
occurs while the victim is engaged in the victim's official 242
duties at a sports event or immediately before or after the 243
sports event. 244

(F) As used in this section: 245

(1) "Peace officer" has the same meaning as in section 246
2935.01 of the Revised Code. 247

(2) "Firefighter" means any person who is a firefighter as 248
defined in section 3937.41 of the Revised Code and, for purposes 249
of division ~~(E) (21)~~ (F) (21) of this section, also includes a 250
member of a fire department as defined in section 742.01 of the 251
Revised Code. 252

(3) "Emergency medical service" has the same meaning as in 253

section 4765.01 of the Revised Code. 254

(4) "Local correctional facility" means a county, 255
multicounty, municipal, municipal-county, or multicounty- 256
municipal jail or workhouse, a minimum security jail established 257
under section 341.23 or 753.21 of the Revised Code, or another 258
county, multicounty, municipal, municipal-county, or 259
multicounty-municipal facility used for the custody of persons 260
arrested for any crime or delinquent act, persons charged with 261
or convicted of any crime, or persons alleged to be or 262
adjudicated a delinquent child. 263

(5) "Employee of a local correctional facility" means a 264
person who is an employee of the political subdivision or of one 265
or more of the affiliated political subdivisions that operates 266
the local correctional facility and who operates or assists in 267
the operation of the facility. 268

(6) "School teacher or administrator" means either of the 269
following: 270

(a) A person who is employed in the public schools of the 271
state under a contract described in section 3311.77 or 3319.08 272
of the Revised Code in a position in which the person is 273
required to have a certificate issued pursuant to sections 274
3319.22 to 3319.311 of the Revised Code. 275

(b) A person who is employed by a nonpublic school for 276
which the state board of education prescribes minimum standards 277
under section 3301.07 of the Revised Code and who is 278
certificated in accordance with section 3301.071 of the Revised 279
Code. 280

(7) "Community control sanction" has the same meaning as 281
in section 2929.01 of the Revised Code. 282

(8) "Escorted visit" means an escorted visit granted under	283
section 2967.27 of the Revised Code.	284
(9) "Post-release control" and "transitional control" have	285
the same meanings as in section 2967.01 of the Revised Code.	286
(10) "Investigator of the bureau of criminal	287
identification and investigation" has the same meaning as in	288
section 2903.11 of the Revised Code.	289
(11) "Health care professional" and "health care worker"	290
have the same meanings as in section 2305.234 of the Revised	291
Code.	292
(12) "Assault or homicide offense committed against	293
hospital personnel" means a violation of this section or of	294
section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11,	295
2903.12, or 2903.14 of the Revised Code committed in	296
circumstances in which all of the following apply:	297
(a) The victim of the offense was a health care	298
professional of a hospital, a health care worker of a hospital,	299
or a security officer of a hospital.	300
(b) The offender knew or had reasonable cause to know that	301
the victim was a health care professional of a hospital, a	302
health care worker of a hospital, or a security officer of a	303
hospital.	304
(c) The victim was engaged in the performance of the	305
victim's duties.	306
(d) The hospital offered de-escalation or crisis	307
intervention training for such professionals, workers, or	308
officers.	309
(13) "De-escalation or crisis intervention training" means	310

de-escalation or crisis intervention training for health care 311
professionals of a hospital, health care workers of a hospital, 312
and security officers of a hospital to facilitate interaction 313
with patients, members of a patient's family, and visitors, 314
including those with mental impairments. 315

(14) "Assault or homicide offense committed against 316
justice system personnel" means a violation of this section or 317
of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 318
2903.11, 2903.12, or 2903.14 of the Revised Code committed in 319
circumstances in which the victim of the offense was a judge, 320
magistrate, prosecutor, or court official or employee whom the 321
offender knew or had reasonable cause to know was a judge, 322
magistrate, prosecutor, or court official or employee, and the 323
victim was engaged in the performance of the victim's duties. 324

(15) "Court official or employee" means any official or 325
employee of a court created under the constitution or statutes 326
of this state or of a United States court located in this state. 327

(16) "Judge" means a judge of a court created under the 328
constitution or statutes of this state or of a United States 329
court located in this state. 330

(17) "Magistrate" means an individual who is appointed by 331
a court of record of this state and who has the powers and may 332
perform the functions specified in Civil Rule 53, Criminal Rule 333
19, or Juvenile Rule 40, or an individual who is appointed by a 334
United States court located in this state who has similar powers 335
and functions. 336

(18) "Prosecutor" has the same meaning as in section 337
2935.01 of the Revised Code. 338

(19) (a) "Hospital" means, subject to division ~~(E) (19) (b)~~ 339

(F) (19) (b) of this section, an institution classified as a 340
hospital under section 3701.01 of the Revised Code in which are 341
provided to patients diagnostic, medical, surgical, obstetrical, 342
psychiatric, or rehabilitation care or a hospital operated by a 343
health maintenance organization. 344

(b) "Hospital" does not include any of the following: 345

(i) A facility licensed under Chapter 3721. of the Revised 346
Code, a health care facility operated by the department of 347
mental health and addiction services or the department of 348
developmental disabilities, a health maintenance organization 349
that does not operate a hospital, or the office of any private, 350
licensed health care professional, whether organized for 351
individual or group practice; 352

(ii) An institution for the sick that is operated 353
exclusively for patients who use spiritual means for healing and 354
for whom the acceptance of medical care is inconsistent with 355
their religious beliefs, accredited by a national accrediting 356
organization, exempt from federal income taxation under section 357
501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 358
U.S.C. 1, as amended, and providing twenty-four-hour nursing 359
care pursuant to the exemption in division (E) of section 360
4723.32 of the Revised Code from the licensing requirements of 361
Chapter 4723. of the Revised Code. 362

(20) "Health maintenance organization" has the same 363
meaning as in section 3727.01 of the Revised Code. 364

(21) "Emergency service responder" means any law 365
enforcement officer, first responder, emergency medical 366
technician-basic, emergency medical technician-intermediate, 367
emergency medical technician-paramedic, firefighter, or 368

volunteer firefighter. 369

(22) "Family or household member" means any of the 370
following: 371

(a) Any of the following who is residing or has resided 372
with a person who is employed as an emergency service responder: 373

(i) A spouse, a person living as a spouse, or a former 374
spouse of a person who is employed as an emergency service 375
responder; 376

(ii) A parent, a foster parent, or a child of a person who 377
is employed as an emergency service responder, or another person 378
related by consanguinity or affinity to a person who is employed 379
as an emergency service responder; 380

(iii) A parent or a child of a spouse, person living as a 381
spouse, or former spouse of a person who is employed as an 382
emergency service responder, or another person related by 383
consanguinity or affinity to a spouse, person living as a 384
spouse, or former spouse of a person who is employed as an 385
emergency service responder. 386

(b) The natural parent of any child of whom a person who 387
is employed as an emergency service responder is the other 388
natural parent or is the putative other natural parent. 389

(23) "First responder," "emergency medical technician- 390
basic," "emergency medical technician-intermediate," and 391
"emergency medical technician-paramedic" have the same meanings 392
as in section 4765.01 of the Revised Code. 393

(24) "Volunteer firefighter" has the same meaning as in 394
section 146.01 of the Revised Code. 395

(25) "Person living as a spouse" means a person who is 396

living or has lived with a person who is employed as an 397
emergency service responder in a common law marital 398
relationship, who otherwise is cohabiting with a person who is 399
employed as an emergency service responder, or who otherwise has 400
cohabited with a person who is employed as an emergency service 401
responder within five years prior to the date of the alleged 402
commission of the act in question. 403

(26) "Co-worker" means a person who is employed by the 404
organization or entity that is served by a person who is 405
employed as an emergency service responder. 406

(27) "Sports official" means any person who is paid or 407
volunteers to enforce the rules of a sports event as a referee, 408
umpire, linesperson, timer, scorekeeper, or in a similar 409
capacity. 410

(28) "Sports event" includes all of the following: 411

(a) Any interscholastic or intramural athletic event or 412
athletic activity at an elementary or secondary school, college, 413
or university or in which an elementary or secondary school, 414
college, or university participates; 415

(b) Any organized athletic activity, including an 416
organized athletic activity that is sponsored by a community, 417
business, or nonprofit organization; 418

(c) Any athletic activity that is a professional or 419
semiprofessional event. 420

Sec. 2929.13. (A) Except as provided in division (E), (F), 421
or (G) of this section and unless a specific sanction is 422
required to be imposed or is precluded from being imposed 423
pursuant to law, a court that imposes a sentence upon an 424
offender for a felony may impose any sanction or combination of 425

sanctions on the offender that are provided in sections 2929.14 426
to 2929.18 of the Revised Code. 427

If the offender is eligible to be sentenced to community 428
control sanctions, the court shall consider the appropriateness 429
of imposing a financial sanction pursuant to section 2929.18 of 430
the Revised Code or a sanction of community service pursuant to 431
section 2929.17 of the Revised Code as the sole sanction for the 432
offense. Except as otherwise provided in this division, if the 433
court is required to impose a mandatory prison term for the 434
offense for which sentence is being imposed, the court also 435
shall impose any financial sanction pursuant to section 2929.18 436
of the Revised Code that is required for the offense and may 437
impose any other financial sanction pursuant to that section but 438
may not impose any additional sanction or combination of 439
sanctions under section 2929.16 or 2929.17 of the Revised Code. 440

If the offender is being sentenced for a fourth degree 441
felony OVI offense or for a third degree felony OVI offense, in 442
addition to the mandatory term of local incarceration or the 443
mandatory prison term required for the offense by division (G) 444
(1) or (2) of this section, the court shall impose upon the 445
offender a mandatory fine in accordance with division (B)(3) of 446
section 2929.18 of the Revised Code and may impose whichever of 447
the following is applicable: 448

(1) For a fourth degree felony OVI offense for which 449
sentence is imposed under division (G)(1) of this section, an 450
additional community control sanction or combination of 451
community control sanctions under section 2929.16 or 2929.17 of 452
the Revised Code. If the court imposes upon the offender a 453
community control sanction and the offender violates any 454
condition of the community control sanction, the court may take 455

any action prescribed in division (B) of section 2929.15 of the
Revised Code relative to the offender, including imposing a
prison term on the offender pursuant to that division.

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

(B)(1)(a) Except as provided in division (B)(1)(b) of this
section, if an offender 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, the court
shall sentence the offender to a community control sanction or
combination of community control sanctions if all of the
following apply:

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

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

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

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

(i) The offender committed the offense while having a

firearm on or about the offender's person or under the 485
offender's control. 486

(ii) If the offense is a qualifying assault offense, the 487
offender caused serious physical harm to another person while 488
committing the offense, and, if the offense is not a qualifying 489
assault offense, the offender caused physical harm to another 490
person while committing the offense. 491

(iii) The offender violated a term of the conditions of 492
bond as set by the court. 493

(iv) The offense is a sex offense that is a fourth or 494
fifth degree felony violation of any provision of Chapter 2907. 495
of the Revised Code. 496

(v) In committing the offense, the offender attempted to 497
cause or made an actual threat of physical harm to a person with 498
a deadly weapon. 499

(vi) In committing the offense, the offender attempted to 500
cause or made an actual threat of physical harm to a person, and 501
the offender previously was convicted of an offense that caused 502
physical harm to a person. 503

(vii) The offender held a public office or position of 504
trust, and the offense related to that office or position; the 505
offender's position obliged the offender to prevent the offense 506
or to bring those committing it to justice; or the offender's 507
professional reputation or position facilitated the offense or 508
was likely to influence the future conduct of others. 509

(viii) The offender committed the offense for hire or as 510
part of an organized criminal activity. 511

(ix) The offender at the time of the offense was serving, 512

or the offender previously had served, a prison term. 513

(x) The offender committed the offense while under a 514
community control sanction, while on probation, or while 515
released from custody on a bond or personal recognizance. 516

(c) A sentencing court may impose an additional penalty 517
under division (B) of section 2929.15 of the Revised Code upon 518
an offender sentenced to a community control sanction under 519
division (B)(1)(a) of this section if the offender violates the 520
conditions of the community control sanction, violates a law, or 521
leaves the state without the permission of the court or the 522
offender's probation officer. 523

(2) If division (B)(1) of this section does not apply, 524
except as provided in division (E), (F), or (G) of this section, 525
in determining whether to impose a prison term as a sanction for 526
a felony of the fourth or fifth degree, the sentencing court 527
shall comply with the purposes and principles of sentencing 528
under section 2929.11 of the Revised Code and with section 529
2929.12 of the Revised Code. 530

(C) Except as provided in division (D), (E), (F), or (G) 531
of this section, in determining whether to impose a prison term 532
as a sanction for a felony of the third degree or a felony drug 533
offense that is a violation of a provision of Chapter 2925. of 534
the Revised Code and that is specified as being subject to this 535
division for purposes of sentencing, the sentencing court shall 536
comply with the purposes and principles of sentencing under 537
section 2929.11 of the Revised Code and with section 2929.12 of 538
the Revised Code. 539

(D)(1) Except as provided in division (E) or (F) of this 540
section, for a felony of the first or second degree, for a 541

felony drug offense that is a violation of any provision of 542
Chapter 2925., 3719., or 4729. of the Revised Code for which a 543
presumption in favor of a prison term is specified as being 544
applicable, and for a violation of division (A) (4) or (B) of 545
section 2907.05 of the Revised Code for which a presumption in 546
favor of a prison term is specified as being applicable, it is 547
presumed that a prison term is necessary in order to comply with 548
the purposes and principles of sentencing under section 2929.11 549
of the Revised Code. Division (D) (2) of this section does not 550
apply to a presumption established under this division for a 551
violation of division (A) (4) of section 2907.05 of the Revised 552
Code. 553

(2) Notwithstanding the presumption established under 554
division (D) (1) of this section for the offenses listed in that 555
division other than a violation of division (A) (4) or (B) of 556
section 2907.05 of the Revised Code, the sentencing court may 557
impose a community control sanction or a combination of 558
community control sanctions instead of a prison term on an 559
offender for a felony of the first or second degree or for a 560
felony drug offense that is a violation of any provision of 561
Chapter 2925., 3719., or 4729. of the Revised Code for which a 562
presumption in favor of a prison term is specified as being 563
applicable if it makes both of the following findings: 564

(a) A community control sanction or a combination of 565
community control sanctions would adequately punish the offender 566
and protect the public from future crime, because the applicable 567
factors under section 2929.12 of the Revised Code indicating a 568
lesser likelihood of recidivism outweigh the applicable factors 569
under that section indicating a greater likelihood of 570
recidivism. 571

(b) A community control sanction or a combination of 572
community control sanctions would not demean the seriousness of 573
the offense, because one or more factors under section 2929.12 574
of the Revised Code that indicate that the offender's conduct 575
was less serious than conduct normally constituting the offense 576
are applicable, and they outweigh the applicable factors under 577
that section that indicate that the offender's conduct was more 578
serious than conduct normally constituting the offense. 579

(E) (1) Except as provided in division (F) of this section, 580
for any drug offense that is a violation of any provision of 581
Chapter 2925. of the Revised Code and that is a felony of the 582
third, fourth, or fifth degree, the applicability of a 583
presumption under division (D) of this section in favor of a 584
prison term or of division (B) or (C) of this section in 585
determining whether to impose a prison term for the offense 586
shall be determined as specified in section 2925.02, 2925.03, 587
2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 588
2925.36, or 2925.37 of the Revised Code, whichever is applicable 589
regarding the violation. 590

(2) If an offender who was convicted of or pleaded guilty 591
to a felony violates the conditions of a community control 592
sanction imposed for the offense solely by reason of producing 593
positive results on a drug test, the court, as punishment for 594
the violation of the sanction, shall not order that the offender 595
be imprisoned unless the court determines on the record either 596
of the following: 597

(a) The offender had been ordered as a sanction for the 598
felony to participate in a drug treatment program, in a drug 599
education program, or in narcotics anonymous or a similar 600
program, and the offender continued to use illegal drugs after a 601

reasonable period of participation in the program. 602

(b) The imprisonment of the offender for the violation is 603
consistent with the purposes and principles of sentencing set 604
forth in section 2929.11 of the Revised Code. 605

(3) A court that sentences an offender for a drug abuse 606
offense that is a felony of the third, fourth, or fifth degree 607
may require that the offender be assessed by a properly 608
credentialed professional within a specified period of time. The 609
court shall require the professional to file a written 610
assessment of the offender with the court. If the offender is 611
eligible for a community control sanction and after considering 612
the written assessment, the court may impose a community control 613
sanction that includes addiction services and recovery supports 614
included in a community-based continuum of care established 615
under section 340.032 of the Revised Code. If the court imposes 616
addiction services and recovery supports as a community control 617
sanction, the court shall direct the level and type of addiction 618
services and recovery supports after considering the assessment 619
and recommendation of community addiction services providers. 620

(F) Notwithstanding divisions (A) to (E) of this section, 621
the court shall impose a prison term or terms under sections 622
2929.02 to 2929.06, section 2929.14, section 2929.142, or 623
section 2971.03 of the Revised Code and except as specifically 624
provided in section 2929.20, or section 2967.191 of the Revised 625
Code or when parole is authorized for the offense under section 626
2967.13 of the Revised Code shall not reduce the term or terms 627
pursuant to section 2929.20, division (A) (2) or (3) of section 628
2967.193 or 2967.194, or any other provision of Chapter 2967. or 629
Chapter 5120. of the Revised Code for any of the following 630
offenses: 631

- (1) Aggravated murder when death is not imposed or murder; 632
- (2) Any rape, regardless of whether force was involved and 633
regardless of the age of the victim, or an attempt to commit 634
rape if, had the offender completed the rape that was attempted, 635
the offender would have been guilty of a violation of division 636
(A) (1) (b) of section 2907.02 of the Revised Code and would be 637
sentenced under section 2971.03 of the Revised Code; 638
- (3) Gross sexual imposition or sexual battery, if the 639
victim is less than thirteen years of age and if any of the 640
following applies: 641
- (a) Regarding gross sexual imposition, the offender 642
previously was convicted of or pleaded guilty to rape, the 643
former offense of felonious sexual penetration, gross sexual 644
imposition, or sexual battery, and the victim of the previous 645
offense was less than thirteen years of age; 646
- (b) Regarding gross sexual imposition, the offense was 647
committed on or after August 3, 2006, and evidence other than 648
the testimony of the victim was admitted in the case 649
corroborating the violation. 650
- (c) Regarding sexual battery, either of the following 651
applies: 652
- (i) The offense was committed prior to August 3, 2006, the 653
offender previously was convicted of or pleaded guilty to rape, 654
the former offense of felonious sexual penetration, or sexual 655
battery, and the victim of the previous offense was less than 656
thirteen years of age. 657
- (ii) The offense was committed on or after August 3, 2006. 658
- (4) A felony violation of section 2903.04, 2903.06, 659

2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 660
or 2923.132 of the Revised Code if the section requires the 661
imposition of a prison term; 662

(5) A first, second, or third degree felony drug offense 663
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 664
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 665
or 4729.99 of the Revised Code, whichever is applicable 666
regarding the violation, requires the imposition of a mandatory 667
prison term; 668

(6) Any offense that is a first or second degree felony 669
and that is not set forth in division (F) (1), (2), (3), or (4) 670
of this section, if the offender previously was convicted of or 671
pleaded guilty to aggravated murder, murder, any first or second 672
degree felony, or an offense under an existing or former law of 673
this state, another state, or the United States that is or was 674
substantially equivalent to one of those offenses; 675

(7) Any offense that is a third degree felony and either 676
is a violation of section 2903.04 of the Revised Code or an 677
attempt to commit a felony of the second degree that is an 678
offense of violence and involved an attempt to cause serious 679
physical harm to a person or that resulted in serious physical 680
harm to a person if the offender previously was convicted of or 681
pleaded guilty to any of the following offenses: 682

(a) Aggravated murder, murder, involuntary manslaughter, 683
rape, felonious sexual penetration as it existed under section 684
2907.12 of the Revised Code prior to September 3, 1996, a felony 685
of the first or second degree that resulted in the death of a 686
person or in physical harm to a person, or complicity in or an 687
attempt to commit any of those offenses; 688

(b) An offense under an existing or former law of this 689
state, another state, or the United States that is or was 690
substantially equivalent to an offense listed in division (F) (7) 691
(a) of this section that resulted in the death of a person or in 692
physical harm to a person. 693

(8) Any offense, other than a violation of section 2923.12 694
of the Revised Code, that is a felony, if the offender had a 695
firearm on or about the offender's person or under the 696
offender's control while committing the felony, with respect to 697
a portion of the sentence imposed pursuant to division (B) (1) (a) 698
of section 2929.14 of the Revised Code for having the firearm; 699

(9) Any offense of violence that is a felony, if the 700
offender wore or carried body armor while committing the felony 701
offense of violence, with respect to the portion of the sentence 702
imposed pursuant to division (B) (1) (d) of section 2929.14 of the 703
Revised Code for wearing or carrying the body armor; 704

(10) Corrupt activity in violation of section 2923.32 of 705
the Revised Code when the most serious offense in the pattern of 706
corrupt activity that is the basis of the offense is a felony of 707
the first degree; 708

(11) Any violent sex offense or designated homicide, 709
assault, or kidnapping offense if, in relation to that offense, 710
the offender is adjudicated a sexually violent predator; 711

(12) A violation of division (A) (1) or (2) of section 712
2921.36 of the Revised Code, or a violation of division (C) of 713
that section involving an item listed in division (A) (1) or (2) 714
of that section, if the offender is an officer or employee of 715
the department of rehabilitation and correction; 716

(13) A violation of division (A) (1) or (2) of section 717

2903.06 of the Revised Code if the victim of the offense is a 718
peace officer, as defined in section 2935.01 of the Revised 719
Code, or an investigator of the bureau of criminal 720
identification and investigation, as defined in section 2903.11 721
of the Revised Code, with respect to the portion of the sentence 722
imposed pursuant to division (B) (5) of section 2929.14 of the 723
Revised Code; 724

(14) A violation of division (A) (1) or (2) of section 725
2903.06 of the Revised Code if the offender has been convicted 726
of or pleaded guilty to three or more violations of division (A) 727
of section 4511.19 of the Revised Code or an equivalent offense, 728
as defined in section 2941.1415 of the Revised Code, or three or 729
more violations of any combination of those offenses, with 730
respect to the portion of the sentence imposed pursuant to 731
division (B) (6) of section 2929.14 of the Revised Code; 732

(15) Kidnapping, in the circumstances specified in section 733
2971.03 of the Revised Code and when no other provision of 734
division (F) of this section applies; 735

(16) Kidnapping, abduction, compelling prostitution, 736
promoting prostitution, engaging in a pattern of corrupt 737
activity, a violation of division (A) (1) or (2) of section 738
2907.323 of the Revised Code that involves a minor, or 739
endangering children in violation of division (B) (1), (2), (3), 740
(4), or (5) of section 2919.22 of the Revised Code, if the 741
offender is convicted of or pleads guilty to a specification as 742
described in section 2941.1422 of the Revised Code that was 743
included in the indictment, count in the indictment, or 744
information charging the offense; 745

(17) A felony violation of division (A) or (B) of section 746
2919.25 of the Revised Code if division (D) (3), (4), or (5) of 747

that section, and division (D) (6) of that section, require the 748
imposition of a prison term; 749

(18) A felony violation of section 2903.11, 2903.12, or 750
2903.13 of the Revised Code, if the victim of the offense was a 751
woman that the offender knew was pregnant at the time of the 752
violation, with respect to a portion of the sentence imposed 753
pursuant to division (B) (8) of section 2929.14 of the Revised 754
Code; 755

(19) (a) Any violent felony offense if the offender is a 756
violent career criminal and had a firearm on or about the 757
offender's person or under the offender's control during the 758
commission of the violent felony offense and displayed or 759
brandished the firearm, indicated that the offender possessed a 760
firearm, or used the firearm to facilitate the offense, with 761
respect to the portion of the sentence imposed under division 762
(K) of section 2929.14 of the Revised Code. 763

(b) As used in division (F) (19) (a) of this section, 764
"violent career criminal" and "violent felony offense" have the 765
same meanings as in section 2923.132 of the Revised Code. 766

(20) Any violation of division (A) (1) of section 2903.11 767
of the Revised Code if the offender used an accelerant in 768
committing the violation and the serious physical harm to 769
another or another's unborn caused by the violation resulted in 770
a permanent, serious disfigurement or permanent, substantial 771
incapacity or any violation of division (A) (2) of that section 772
if the offender used an accelerant in committing the violation, 773
the violation caused physical harm to another or another's 774
unborn, and the physical harm resulted in a permanent, serious 775
disfigurement or permanent, substantial incapacity, with respect 776
to a portion of the sentence imposed pursuant to division (B) (9) 777

of section 2929.14 of the Revised Code. The provisions of this 778
division and of division (D) (2) of section 2903.11, divisions 779
(B) (9) and (C) (6) of section 2929.14, and section 2941.1425 of 780
the Revised Code shall be known as "Judy's Law." 781

(21) Any violation of division (A) of section 2903.11 of 782
the Revised Code if the victim of the offense suffered permanent 783
disabling harm as a result of the offense and the victim was 784
under ten years of age at the time of the offense, with respect 785
to a portion of the sentence imposed pursuant to division (B) 786
(10) of section 2929.14 of the Revised Code. 787

(22) A felony violation of section 2925.03, 2925.05, or 788
2925.11 of the Revised Code, if the drug involved in the 789
violation is a fentanyl-related compound or a compound, mixture, 790
preparation, or substance containing a fentanyl-related compound 791
and the offender is convicted of or pleads guilty to a 792
specification of the type described in division (B) of section 793
2941.1410 of the Revised Code that was included in the 794
indictment, count in the indictment, or information charging the 795
offense, with respect to the portion of the sentence imposed 796
under division (B) (11) of section 2929.14 of the Revised Code. 797

(G) Notwithstanding divisions (A) to (E) of this section, 798
if an offender is being sentenced for a fourth degree felony OVI 799
offense or for a third degree felony OVI offense, the court 800
shall impose upon the offender a mandatory term of local 801
incarceration or a mandatory prison term in accordance with the 802
following: 803

(1) If the offender is being sentenced for a fourth degree 804
felony OVI offense and if the offender has not been convicted of 805
and has not pleaded guilty to a specification of the type 806
described in section 2941.1413 of the Revised Code, the court 807

may impose upon the offender a mandatory term of local 808
incarceration of sixty days or one hundred twenty days as 809
specified in division (G) (1) (d) of section 4511.19 of the 810
Revised Code. The court shall not reduce the term pursuant to 811
section 2929.20, division (A) (2) or (3) of section 2967.193 or 812
2967.194, or any other provision of the Revised Code. The court 813
that imposes a mandatory term of local incarceration under this 814
division shall specify whether the term is to be served in a 815
jail, a community-based correctional facility, a halfway house, 816
or an alternative residential facility, and the offender shall 817
serve the term in the type of facility specified by the court. A 818
mandatory term of local incarceration imposed under division (G) 819
(1) of this section is not subject to any other Revised Code 820
provision that pertains to a prison term except as provided in 821
division (A) (1) of this section. 822

(2) If the offender is being sentenced for a third degree 823
felony OVI offense, or if the offender is being sentenced for a 824
fourth degree felony OVI offense and the court does not impose a 825
mandatory term of local incarceration under division (G) (1) of 826
this section, the court shall impose upon the offender a 827
mandatory prison term of one, two, three, four, or five years if 828
the offender also is convicted of or also pleads guilty to a 829
specification of the type described in section 2941.1413 of the 830
Revised Code or shall impose upon the offender a mandatory 831
prison term of sixty days or one hundred twenty days as 832
specified in division (G) (1) (d) or (e) of section 4511.19 of the 833
Revised Code if the offender has not been convicted of and has 834
not pleaded guilty to a specification of that type. The court 835
shall not reduce the term pursuant to section 2929.20, division 836
(A) (2) or (3) of section 2967.193 or 2967.194, or any other 837
provision of the Revised Code. The offender shall serve the 838

one-, two-, three-, four-, or five-year mandatory prison term 839
consecutively to and prior to the prison term imposed for the 840
underlying offense and consecutively to any other mandatory 841
prison term imposed in relation to the offense. In no case shall 842
an offender who once has been sentenced to a mandatory term of 843
local incarceration pursuant to division (G)(1) of this section 844
for a fourth degree felony OVI offense be sentenced to another 845
mandatory term of local incarceration under that division for 846
any violation of division (A) of section 4511.19 of the Revised 847
Code. In addition to the mandatory prison term described in 848
division (G)(2) of this section, the court may sentence the 849
offender to a community control sanction under section 2929.16 850
or 2929.17 of the Revised Code, but the offender shall serve the 851
prison term prior to serving the community control sanction. The 852
department of rehabilitation and correction may place an 853
offender sentenced to a mandatory prison term under this 854
division in an intensive program prison established pursuant to 855
section 5120.033 of the Revised Code if the department gave the 856
sentencing judge prior notice of its intent to place the 857
offender in an intensive program prison established under that 858
section and if the judge did not notify the department that the 859
judge disapproved the placement. Upon the establishment of the 860
initial intensive program prison pursuant to section 5120.033 of 861
the Revised Code that is privately operated and managed by a 862
contractor pursuant to a contract entered into under section 863
9.06 of the Revised Code, both of the following apply: 864

(a) The department of rehabilitation and correction shall 865
make a reasonable effort to ensure that a sufficient number of 866
offenders sentenced to a mandatory prison term under this 867
division are placed in the privately operated and managed prison 868
so that the privately operated and managed prison has full 869

occupancy. 870

(b) Unless the privately operated and managed prison has 871
full occupancy, the department of rehabilitation and correction 872
shall not place any offender sentenced to a mandatory prison 873
term under this division in any intensive program prison 874
established pursuant to section 5120.033 of the Revised Code 875
other than the privately operated and managed prison. 876

(H) If an offender is being sentenced for a sexually 877
oriented offense or child-victim oriented offense that is a 878
felony committed on or after January 1, 1997, the judge shall 879
require the offender to submit to a DNA specimen collection 880
procedure pursuant to section 2901.07 of the Revised Code. 881

(I) If an offender is being sentenced for a sexually 882
oriented offense or a child-victim oriented offense committed on 883
or after January 1, 1997, the judge shall include in the 884
sentence a summary of the offender's duties imposed under 885
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 886
Code and the duration of the duties. The judge shall inform the 887
offender, at the time of sentencing, of those duties and of 888
their duration. If required under division (A) (2) of section 889
2950.03 of the Revised Code, the judge shall perform the duties 890
specified in that section, or, if required under division (A) (6) 891
of section 2950.03 of the Revised Code, the judge shall perform 892
the duties specified in that division. 893

(J) (1) Except as provided in division (J) (2) of this 894
section, when considering sentencing factors under this section 895
in relation to an offender who is convicted of or pleads guilty 896
to an attempt to commit an offense in violation of section 897
2923.02 of the Revised Code, the sentencing court shall consider 898
the factors applicable to the felony category of the violation 899

of section 2923.02 of the Revised Code instead of the factors 900
applicable to the felony category of the offense attempted. 901

(2) When considering sentencing factors under this section 902
in relation to an offender who is convicted of or pleads guilty 903
to an attempt to commit a drug abuse offense for which the 904
penalty is determined by the amount or number of unit doses of 905
the controlled substance involved in the drug abuse offense, the 906
sentencing court shall consider the factors applicable to the 907
felony category that the drug abuse offense attempted would be 908
if that drug abuse offense had been committed and had involved 909
an amount or number of unit doses of the controlled substance 910
that is within the next lower range of controlled substance 911
amounts than was involved in the attempt. 912

(K) As used in this section: 913

(1) "Community addiction services provider" has the same 914
meaning as in section 5119.01 of the Revised Code. 915

(2) "Drug abuse offense" has the same meaning as in 916
section 2925.01 of the Revised Code. 917

(3) "Minor drug possession offense" has the same meaning 918
as in section 2925.11 of the Revised Code. 919

(4) "Qualifying assault offense" means a violation of 920
section 2903.13 of the Revised Code for which the penalty 921
provision in division (C) (4) (e), (C) (4) (f), (C) (8) (b), or (C) (9) 922
(b) of that section applies. 923

(L) At the time of sentencing an offender for any sexually 924
oriented offense, if the offender is a tier III sex 925
offender/child-victim offender relative to that offense and the 926
offender does not serve a prison term or jail term, the court 927
may require that the offender be monitored by means of a global 928

positioning device. If the court requires such monitoring, the 929
cost of monitoring shall be borne by the offender. If the 930
offender is indigent, the cost of compliance shall be paid by 931
the crime victims reparations fund. 932

Section 2. That existing sections 2903.13 and 2929.13 of 933
the Revised Code are hereby repealed. 934

Section 3. Section 2903.13 of the Revised Code is 935
presented in this act as a composite of the section as amended 936
by H.B. 281, S.B. 16 and S.B. 288, all of the 134th General 937
Assembly. The General Assembly, applying the principle stated in 938
division (B) of section 1.52 of the Revised Code that amendments 939
are to be harmonized if reasonably capable of simultaneous 940
operation, finds that the composite is the resulting version of 941
the section in effect prior to the effective date of the section 942
as presented in this act. 943