As Reported by the House Criminal Justice Committee

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Senators Manning, Hicks-Hudson

Cosponsors: Senators Antonio, Blessing, Cirino, DeMora, Gavarone, Hackett, Landis, Reineke, Reynolds, Smith, Wilson

Representatives Abrams, Williams, Hillyer, Schmidt

A BILL

To amend sections 2743.70, 2903.212, 2903.213, 2907.41, 2919.251, 2937.40, 2949.02, 2949.04, 2949.093, 2953.03, and 2953.09 and to enact section 2937.011 of the Revised Code to make changes regarding bail and to declare an emergency.

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

Section 1. That sections 2743.70, 2903.212, 2903.213, 2907.41, 2919.251, 2937.40, 2949.02, 2949.04, 2949.093, 2953.03, and 2953.09 be amended and section 2937.011 of the Revised Code be enacted to read as follows:

Sec. 2743.70. (A)(1) The court, in which any person is convicted of or pleads guilty to any offense other than a traffic offense that is not a moving violation, shall impose the following sum as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender:

(a) Thirty dollars, if the offense is a felony;

(b) Nine dollars, if the offense is a misdemeanor.

The court shall not waive the payment of the thirty- or nine-dollar court cost. All such moneys shall be transmitted on the first business day of each month by the clerk of the court to the treasurer of state and deposited by the treasurer in the reparations fund.

(2) The juvenile court in which a child is found to be a delinquent child or a juvenile traffic offender for an act which, if committed by an adult, would be an offense other than a traffic offense that is not a moving violation, shall impose the following sum as costs in the case in addition to any other court costs that the court is required or permitted by law to impose upon the delinquent child or juvenile traffic offender:

(a) Thirty dollars, if the act, if committed by an adult, would be a felony;

(b) Nine dollars, if the act, if committed by an adult, would be a misdemeanor.

The thirty- or nine-dollar court cost shall be collected in all cases. All such moneys collected during a month shall be transmitted on or before the twentieth day of the following month by the clerk of the court to the treasurer of state and deposited by the treasurer in the reparations fund.

(B) Whenever a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail pursuant to section 2937.011 or sections 2937.22 to 2937.46 of the Revised Code~~, Criminal Rule 46,~~ or Traffic Rule 4, the court shall add to the amount of the bail the thirty or nine dollars required to be paid by division (A)(1) of this section.

The thirty or nine dollars shall be retained by the clerk of the court until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the thirty or nine dollars to the treasurer of state, who shall deposit it in the reparations fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the thirty or nine dollars to the person.

(C) No person shall be placed or held in jail for failing to pay the additional thirty- or nine-dollar court cost or bail required to be paid by this section.

(D) As used in this section:

(1) "Moving violation" means any violation of any statute or ordinance, other than section 4513.263 of the Revised Code or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles.

(2) "Bail" means cash, a check, a money order, a credit card, or any other form of money that is posted by or for an offender pursuant to section 2937.011 or sections 2937.22 to 2937.46 of the Revised Code~~, Criminal Rule 46,~~ or Traffic Rule 4 to prevent the offender from being placed or held in a detention facility, as defined in section 2921.01 of the Revised Code.

Sec. 2903.212. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, if a person is charged with a

violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a violation of a municipal ordinance that is substantially similar to one of those sections, or a sexually oriented offense and if the person, at the time of the alleged violation, was subject to the terms of any order issued pursuant to section 2903.213, 2933.08, or 2945.04 of the Revised Code or previously had been convicted of or pleaded guilty to a violation of section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code that involves the same complainant, a violation of a municipal ordinance that is substantially similar to one of those sections and that involves the same complainant, or a sexually oriented offense that involves the same complainant, the court shall consider all of the following, in addition to any other circumstances considered by the court and notwithstanding any provisions to the contrary contained in ~~Criminal Rule 46~~section 2937.011 of the Revised Code, before setting the amount and conditions of the bail for the person:

(1) Whether the person has a history of violence toward the complainant or a history of other violent acts;

(2) The mental health of the person;

(3) Whether the person has a history of violating the orders of any court or governmental entity;

(4) Whether the person is potentially a threat to any other person;

(5) Whether setting bail at a high level will interfere with any treatment or counseling that the person is undergoing.

(B) Any court that has jurisdiction over violations of section 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, violations of a municipal ordinance that is substantially

similar to one of those sections, or sexually oriented offenses may set a schedule for bail to be used in cases involving those violations. The schedule shall require that a judge consider all of the factors listed in division (A) of this section and may require judges to set bail at a certain level or impose other reasonable conditions related to a release on bail or on recognizance if the history of the alleged offender or the circumstances of the alleged offense meet certain criteria in the schedule.

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

Sec. 2903.213. (A) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, upon the filing of a complaint that alleges a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, or the commission of a sexually oriented offense, the complainant, the alleged victim, or a family or household member of an alleged victim may file a motion that requests the issuance of a protection order as a pretrial condition of release of the alleged offender, in addition to any bail set ~~under Criminal Rule 46~~by the court. The motion shall be filed with the clerk of the court that has jurisdiction of the case at any time after the filing of the complaint. If the complaint involves a person who is a family or household member, the complainant, the alleged victim, or the family or household member may file a motion for a temporary protection order pursuant to section 2919.26 of the Revised Code.

(B) A motion for a protection order under this section shall be prepared on a form that is provided by the clerk of the court, and the form shall be substantially as follows:

"Motion for Protection Order

_____

Name and address of court

State of Ohio

v. No. _____

_____

Name of Defendant

(Name of person), moves the court to issue a protection order containing terms designed to ensure the safety and protection of the complainant or the alleged victim in the above-captioned case, in relation to the named defendant, pursuant to its authority to issue a protection order under section 2903.213 of the Revised Code.

A complaint, a copy of which has been attached to this motion, has been filed in this court charging the named defendant with a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, or the commission of a sexually oriented offense.

I understand that I must appear before the court, at a time set by the court not later than the next day that the court is in session after the filing of this motion, for a hearing on the motion, and that any protection order granted pursuant to

this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached complaint or until the issuance under section 2903.214 of the Revised Code of a protection order arising out of the same activities as those that were the basis of the attached complaint.

_____

Signature of person

_____

Address of person"

(C)(1) As soon as possible after the filing of a motion that requests the issuance of a protection order under this section, but not later than the next day that the court is in session after the filing of the motion, the court shall conduct a hearing to determine whether to issue the order. The person who requested the order shall appear before the court and provide the court with the information that it requests concerning the basis of the motion. If the court finds that the safety and protection of the complainant or the alleged victim may be impaired by the continued presence of the alleged offender, the court may issue a protection order under this section, as a pretrial condition of release, that contains terms designed to ensure the safety and protection of the complainant or the alleged victim, including a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the complainant or the alleged victim. The court may include within a protection order issued under this section a term requiring that the alleged offender not remove, damage, hide, harm, or dispose of any companion animal

owned or possessed by the complainant or the alleged victim, and may include within the order a term authorizing the complainant or the alleged victim to remove a companion animal owned by the complainant or the alleged victim from the possession of the alleged offender.

(2)(a) If the court issues a protection order under this section that includes a requirement that the alleged offender refrain from entering the residence, school, business, or place of employment of the complainant or the alleged victim, the order shall clearly state that the order cannot be waived or nullified by an invitation to the alleged offender from the complainant, the alleged victim, or a family or household member to enter the residence, school, business, or place of employment or by the alleged offender's entry into one of those places otherwise upon the consent of the complainant, the alleged victim, or a family or household member.

(b) Division (C)(2)(a) of this section does not limit any discretion of a court to determine that an alleged offender charged with a violation of section 2919.27 of the Revised Code, with a violation of a municipal ordinance substantially equivalent to that section, or with contempt of court, which charge is based on an alleged violation of a protection order issued under this section, did not commit the violation or was not in contempt of court.

(D)(1) Except when the complaint involves a person who is a family or household member as defined in section 2919.25 of the Revised Code, upon the filing of a complaint that alleges a violation specified in division (A) of this section, the court, upon its own motion, may issue a protection order under this section as a pretrial condition of release of the alleged

offender if it finds that the safety and protection of the complainant or the alleged victim may be impaired by the continued presence of the alleged offender.

(2) If the court issues a protection order under this section as an ex parte order, it shall conduct, as soon as possible after the issuance of the order but not later than the next day that the court is in session after its issuance, a hearing to determine whether the order should remain in effect, be modified, or be revoked. The hearing shall be conducted under the standards set forth in division (C) of this section.

(3) If a municipal court or a county court issues a protection order under this section and if, subsequent to the issuance of the order, the alleged offender who is the subject of the order is bound over to the court of common pleas for prosecution of a felony arising out of the same activities as those that were the basis of the complaint upon which the order is based, notwithstanding the fact that the order was issued by a municipal court or county court, the order shall remain in effect, as though it were an order of the court of common pleas, while the charges against the alleged offender are pending in the court of common pleas, for the period of time described in division (E)(2) of this section, and the court of common pleas has exclusive jurisdiction to modify the order issued by the municipal court or county court. This division applies when the alleged offender is bound over to the court of common pleas as a result of the person waiving a preliminary hearing on the felony charge, as a result of the municipal court or county court having determined at a preliminary hearing that there is probable cause to believe that the felony has been committed and that the alleged offender committed it, as a result of the alleged offender having been indicted for the felony, or in any

other manner.

(E) A protection order that is issued as a pretrial condition of release under this section:

(1) Is in addition to, but shall not be construed as a part of, any bail set ~~under Criminal Rule 46~~by the court;

(2) Is effective only until the disposition, by the court that issued the order or, in the circumstances described in division (D)(3) of this section, by the court of common pleas to which the alleged offender is bound over for prosecution, of the criminal proceeding arising out of the complaint upon which the order is based or until the issuance under section 2903.214 of the Revised Code of a protection order arising out of the same activities as those that were the basis of the complaint filed under this section;

(3) Shall not be construed as a finding that the alleged offender committed the alleged offense and shall not be introduced as evidence of the commission of the offense at the trial of the alleged offender on the complaint upon which the order is based.

(F) A person who meets the criteria for bail under ~~Criminal Rule 46~~ section 2937.011 of the Revised Code and who, if required to do so pursuant to that ~~rule~~section, executes or posts bond or deposits cash or securities as bail, shall not be held in custody pending a hearing before the court on a motion requesting a protection order under this section.

(G)(1) A copy of a protection order that is issued under this section shall be issued by the court to the complainant, to the alleged victim, to the person who requested the order, to the defendant, and to all law enforcement agencies that have

jurisdiction to enforce the order. The court shall direct that a copy of the order be delivered to the defendant on the same day that the order is entered. If a municipal court or a county court issues a protection order under this section and if, subsequent to the issuance of the order, the defendant who is the subject of the order is bound over to the court of common pleas for prosecution as described in division (D)(3) of this section, the municipal court or county court shall direct that a copy of the order be delivered to the court of common pleas to which the defendant is bound over.

(2) All law enforcement agencies shall establish and maintain an index for the protection orders delivered to the agencies pursuant to division (G)(1) of this section. With respect to each order delivered, each agency shall note on the index the date and time of the agency's receipt of the order.

(3) Regardless of whether the petitioner has registered the protection order in the county in which the officer's agency has jurisdiction, any officer of a law enforcement agency shall enforce a protection order issued pursuant to this section in accordance with the provisions of the order.

(H) Upon a violation of a protection order issued pursuant to this section, the court may issue another protection order under this section, as a pretrial condition of release, that modifies the terms of the order that was violated.

(I)(1) Subject to division (I)(2) of this section and regardless of whether a protection order is issued or a consent agreement is approved by a court of another county or by a court of another state, no court or unit of state or local government shall charge the movant any fee, cost, deposit, or money in connection with the filing of a motion pursuant to this section,

in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order, consent agreement, or witness subpoena or for obtaining certified copies of a protection order or consent agreement.

(2) Regardless of whether a protection order is issued or a consent agreement is approved pursuant to this section, if the defendant is convicted the court may assess costs against the defendant in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order, consent agreement, or witness subpoena or for obtaining a certified copy of a protection order or consent agreement.

(J) As used in this section:

(1) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.

(2) "Companion animal" has the same meaning as in section 959.131 of the Revised Code.

Sec. 2907.41. (A) Subject to division (D) of this section, a person who is charged with the commission of any sexually oriented offense or with a violation of section 2907.09 of the Revised Code shall appear before the court for the setting of bail if the person charged previously was convicted of or pleaded guilty to a sexually oriented offense, a violation of section 2907.09 of the Revised Code, or a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to section 2907.09 of the Revised Code.

(B) To the extent that information about any of the

following is available to the court, the court, in addition to any other circumstances considered by the court and notwithstanding any provisions to the contrary contained in ~~Criminal Rule 46~~section 2937.011 of the Revised Code, shall consider all of the following before setting bail for a person who appears before the court pursuant to division (A) of this section:

(1) Whether the person previously has been adjudicated a sexual predator or child-victim predator pursuant to Chapter 2950. of the Revised Code, previously has been determined to be a habitual sex offender or habitual child-victim offender pursuant to that ~~Chapter~~chapter, has a history of committing sexually oriented offenses or child-victim oriented offenses, or has a history of committing violations of section 2907.09 of the Revised Code or violations of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to that section;

(2) The mental health of the person;

(3) Whether the person has a history of violating the orders of any court or governmental entity;

(4) Whether the person is potentially a threat to any other person;

(5) Whether the person has access to deadly weapons or a history of using deadly weapons;

(6) Whether the person has a history of abusing alcohol or any controlled substance;

(7) The severity of the alleged conduct of the person that is the basis of the offense, including but not limited to, the duration of the alleged conduct, and whether the alleged conduct

involved physical injury, assault, violence, or forcible entry to gain access to an alleged victim;

(8) Whether the person has exhibited obsessive or controlling behaviors toward another person, including, but not limited to, stalking, surveillance, or isolation of another person;

(9) Whether the person has expressed suicidal or homicidal ideations;

(10) Any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint.

(C) Any court that has jurisdiction over charges alleging the commission of a sexually oriented offense or a violation of section 2907.09 of the Revised Code, in circumstances in which the person charged previously was convicted of or pleaded guilty to any of the offenses or violations described in division (A) of this section, may set a schedule for bail to be used in cases involving those offenses and violations. The schedule shall require that a judge consider all of the factors listed in division (B) of this section and may require judges to set bail at a certain level if the history of the alleged offender or the circumstances of the alleged offense meet certain criteria in the schedule.

(D)(1) Upon the court's own motion or the motion of a party and upon any terms that the court may direct, a court may permit a person who is required to appear before it by division (A) of this section to appear by video conferencing equipment.

(2) If, in the opinion of the court, the appearance in person or by video conferencing equipment of a person who is

charged with a misdemeanor and who is required to appear before the court by division (A) of this section is not practicable, the court may waive the appearance and release the person on bail in accordance with the court's schedule for bail set under division (C) of this section or, if the court has not set a schedule for bail under that division, on one or both of the following types of bail in an amount set by the court:

(a) A bail bond secured by a deposit of ten per cent of the amount of the bond in cash;

(b) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the person.

(3) Division (A) of this section does not create a right in a person to appear before the court for the setting of bail or prohibit a court from requiring any person charged with a sexually oriented offense or a violation of section 2907.09 of the Revised Code who is not described in that division from appearing before the court for the setting of bail.

(E) As used in this section, "child-victim oriented offense," "child-victim predator," "habitual child-victim offender," "habitual sex offender," "sexually oriented offense," and "sexual predator" have the same meanings as in section 2950.01 of the Revised Code.

Sec. 2919.251. (A) Subject to division (D) of this section, a person who is charged with the commission of any offense of violence shall appear before the court for the setting of bail if the alleged victim of the offense charged was a family or household member at the time of the offense and if any of the following applies:

(1) The person charged, at the time of the alleged offense, was subject to the terms of a protection order issued or consent agreement approved pursuant to section 2919.26 or 3113.31 of the Revised Code or previously was convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code or a violation of section 2919.27 of the Revised Code involving a protection order or consent agreement of that type, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to either section, a violation of section 2909.06, 2909.07, 2911.12, or 2911.211 of the Revised Code if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the offense;

(2) The arresting officer indicates in a police report or other document accompanying the complaint any of the following:

(a) That the arresting officer observed on the alleged victim objective manifestations of physical harm that the arresting officer reasonably believes are a result of the alleged offense;

(b) That the arresting officer reasonably believes that the person had on the person's person at the time of the alleged offense a deadly weapon or dangerous ordnance;

(c) That the arresting officer reasonably believes that the person presents a credible threat of serious physical harm

to the alleged victim or to any other person if released on bail before trial.

(B) To the extent that information about any of the following is available to the court, the court shall consider all of the following, in addition to any other circumstances considered by the court and notwithstanding any provisions to the contrary contained in ~~Criminal Rule 46~~section 2937.011 of the Revised Code, before setting bail for a person who appears before the court pursuant to division (A) of this section:

(1) Whether the person has a history of domestic violence or a history of other violent acts;

(2) The mental health of the person;

(3) Whether the person has a history of violating the orders of any court or governmental entity;

(4) Whether the person is potentially a threat to any other person;

(5) Whether the person has access to deadly weapons or a history of using deadly weapons;

(6) Whether the person has a history of abusing alcohol or any controlled substance;

(7) The severity of the alleged violence that is the basis of the offense, including but not limited to, the duration of the alleged violent incident, and whether the alleged violent incident involved serious physical injury, sexual assault, strangulation, abuse during the alleged victim's pregnancy, abuse of pets, or forcible entry to gain access to the alleged victim;

(8) Whether a separation of the person from the alleged

victim or a termination of the relationship between the person and the alleged victim has recently occurred or is pending;

(9) Whether the person has exhibited obsessive or controlling behaviors toward the alleged victim, including but not limited to, stalking, surveillance, or isolation of the alleged victim;

(10) Whether the person has expressed suicidal or homicidal ideations;

(11) Any information contained in the complaint and any police reports, affidavits, or other documents accompanying the complaint.

(C) Any court that has jurisdiction over charges alleging the commission of an offense of violence in circumstances in which the alleged victim of the offense was a family or household member at the time of the offense may set a schedule for bail to be used in cases involving those offenses. The schedule shall require that a judge consider all of the factors listed in division (B) of this section and may require judges to set bail at a certain level if the history of the alleged offender or the circumstances of the alleged offense meet certain criteria in the schedule.

(D)(1) Upon the court's own motion or the motion of a party and upon any terms that the court may direct, a court may permit a person who is required to appear before it by division (A) of this section to appear by video conferencing equipment.

(2) If in the opinion of the court the appearance in person or by video conferencing equipment of a person who is charged with a misdemeanor and who is required to appear before the court by division (A) of this section is not practicable,

the court may waive the appearance and release the person on bail in accordance with the court's schedule for bail set under division (C) of this section or, if the court has not set a schedule for bail under that division, on one or both of the following types of bail in an amount set by the court:

(a) A bail bond secured by a deposit of ten per cent of the amount of the bond in cash;

(b) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the person.

(3) Division (A) of this section does not create a right in a person to appear before the court for the setting of bail or prohibit a court from requiring any person charged with an offense of violence who is not described in that division from appearing before the court for the setting of bail.

(E) As used in this section:

(1) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(2) "Dangerous ordnance" and "deadly weapon" have the same meanings as in section 2923.11 of the Revised Code.

Sec. 2937.011. (A) Unless the court orders the defendant detained pursuant to section 2937.222 of the Revised Code or other applicable law, the court shall release the defendant on the least restrictive conditions that, in the discretion of the court, will reasonably assure the defendant's appearance in court, the protection or safety of any person or the community, and that the defendant will not obstruct the criminal justice process. If the court orders financial conditions of release, those financial conditions shall be related to public safety,

the defendant's risk of nonappearance in court, the seriousness of the offense, and the previous criminal record of the defendant.

(B) Any financial conditions shall be in an amount and type that are least costly to the defendant while also sufficient to reasonably assure the defendant's future appearance in court.

(C) Any defendant who is entitled to release may be released upon one or more of the following types of bail in the amount set by the court:

(1) An unsecured bail bond;

(2) A bail bond secured by the deposit of ten per cent of the amount of the bond in cash. The court shall return ninety per cent of the deposit upon compliance with all conditions of the bond.

(3) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the defendant.

(D) The court may impose any of the following conditions of release:

(1) The personal recognizance of the defendant;

(2) Placing the defendant in the custody of a designated person or organization that agrees to supervise the defendant;

(3) Placing restrictions on the travel, association, or place of abode of the defendant during the period of release;

(4) Placing the defendant under a house arrest, electronic monitoring, or work release program;

(5) Regulating or prohibiting the defendant's contact with the victim;

(6) Regulating the defendant's contact with witnesses or others associated with the case upon proof of the likelihood that the defendant will threaten, harass, cause injury, or seek to intimidate those persons;

(7) For any defendant charged with an offense that is alcohol or drug related, or where alcohol or drug influence or addiction appears to be a contributing factor in the offense, and who appears based upon an evaluation, prior treatment history, or recent alcohol or drug use, to be in need of treatment, requiring completion of a drug or alcohol assessment and compliance with treatment recommendations;

(8) Requiring compliance with alternatives to pretrial detention, including diversion programs, day reporting, or comparable alternatives, to ensure the defendant's appearance at future court proceedings;

(9) Any other constitutional condition considered reasonably necessary to reasonably assure the defendant's appearance or public safety.

(E) Subject to division (I)(2) of this section, in determining the types, amounts, and conditions of bail, the court shall consider all relevant information, including the following:

(1) The nature and circumstances of the crime charged, and specifically whether the defendant used or had access to a weapon;

(2) The weight of the evidence against the defendant;

(3) The confirmation of the defendant's identity;

(4) The defendant's family ties, employment, financial resources, character, mental condition, length of residence in the community, jurisdiction of residence, record of convictions, record of appearance at court proceedings or of flight to avoid prosecution;

(5) Whether the defendant is on probation, a community control sanction, parole, post-release control, bail, or under a court protection order;

(6) The considerations required under Section 9 of Article I, Ohio Constitution.

(F) Absent good cause, there is a presumption of release on personal recognizance when the defendant appears pursuant to a summons issued by the court.

(G) When a judicial officer, either on motion of a party or on the court's own motion, determines that the considerations set forth in divisions (D) and (E) of this section require a modification of the conditions of release, the judicial officer may order additional or different types, amounts, or conditions of bail, or may eliminate or lessen conditions of bail the court determines to be no longer necessary. Unless the parties agree to a modification, the court shall hold a hearing on the modification of bond as promptly as possible. Unless modified by the judicial officer, or if application is made by a surety for discharge from a bond pursuant to section 2937.40 of the Revised Code, conditions of release shall continue until the return of a verdict or the entry of a guilty plea or a no-contest plea and may continue thereafter pending sentence or disposition of the case on review.

(H) Information stated in or offered in connection with any order entered pursuant to this section does not need to conform to the rules pertaining to the admissibility of evidence in a court of law. The court shall not receive as substantive evidence in the trial of the case statements or admissions of the defendant made at a bail proceeding or in the course of compliance with a condition of bail.

(I)(1) In order to expedite the prompt release of a defendant prior to an initial appearance, each court shall establish a bail bond schedule covering all misdemeanors including traffic offenses, either specifically, by type, by potential penalty, or by some other reasonable method of classification. The court also may include requirements for release in consideration of divisions (D) and (E)(5) of this section. The sole purpose of a bail schedule is to allow for the consideration of release prior to the defendant's initial appearance.

(2) A bond schedule is not relevant information under division (E) of this section.

(3) Each municipal or county court shall, by rule, establish a method whereby a defendant may make bail by use of a credit card.

(4) Each court shall review its bail bond schedule biennially by the thirty-first day of January of each even-numbered year beginning in 2024, to ensure an appropriate bail bond schedule that does not result in the unnecessary detention of a defendant due to the defendant's inability to pay.

(J)(1) A person who has been arrested, either pursuant to a warrant or without a warrant, and who has not been released on

bail, shall be brought before a judicial officer for an initial bail hearing not later than the second court day following the person's arrest. That bail hearing may be combined with the initial appearance provided for in the Rules of Criminal Procedure.

(2) If, at the initial bail hearing before a judicial officer, the defendant was not represented by counsel, and if the defendant has not yet been released on bail, the court shall hold a second bail hearing on the second court day following the initial bail hearing. An indigent defendant shall be afforded representation by appointed counsel at the state's expense at this second bail hearing.

(K) Any person who fails to appear before any court as required is subject to the punishment provided by the law, and any bail given for the defendant's release may be forfeited. If there is a breach of a condition of release, the court may amend the bail.

(L) Every surety, except a corporate surety licensed as provided by law, shall justify by affidavit, and may be required to describe in the affidavit, the property that the surety proposes as security and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by the surety and remaining undischarged, and all of the surety's other liabilities. The surety shall provide other evidence of financial responsibility as the court or clerk may require. The court shall not approve a bail bond unless the surety or sureties appear, in the opinion of the court or clerk, to be financially responsible in at least the amount of the bond. A licensed attorney at law may not be a surety.

Sec. 2937.40. (A) Bail of any type that is deposited under

section 2937.011 or sections 2937.22 to 2937.45 of the Revised Code ~~or Criminal Rule 46~~ by a person other than the accused shall be discharged and released, and sureties on recognizances shall be released, in any of the following ways:

(1) When a surety on a recognizance or the depositor of cash or securities as bail for an accused desires to surrender the accused before the appearance date, the surety is discharged from further responsibility or the deposit is redeemed in either of the following ways:

(a) By delivery of the accused into open court;

(b) When, on the written request of the surety or depositor, the clerk of the court to which recognizance is returnable or in which deposit is made issues to the sheriff a warrant for the arrest of the accused and the sheriff indicates on the return that ~~he~~the sheriff holds the accused in ~~his~~the sheriff's jail.

(2) By appearance of the accused in accordance with the terms of the recognizance or deposit and the entry of judgment by the court or magistrate;

(3) By payment into court, after default, of the sum fixed in the recognizance or the sum fixed in the order of forfeiture, if it is less.

(B) When cash or securities have been deposited as bail by a person other than the accused and the bail is discharged and released pursuant to division (A) of this section, or when property has been pledged by a surety on recognizance and the surety on recognizance has been released pursuant to division (A) of this section, the court shall not deduct any amount from the cash or securities or declare forfeited and levy or execute

against pledged property. The court shall not apply any of the deposited cash or securities toward, or declare forfeited and levy or execute against property pledged for a recognizance for, the satisfaction of any penalty or fine, and court costs, assessed against the accused upon ~~his~~the accused's conviction or guilty plea, except upon express approval of the person who deposited the cash or securities or the surety.

(C) Bail of any type that is deposited under section 2937.011 or sections 2937.22 to 2937.45 of the Revised Code ~~or Criminal Rule 46~~ by an accused shall be discharged and released to the accused, and property pledged by an accused for a recognizance shall be discharged, upon the appearance of the accused in accordance with the terms of the recognizance or deposit and the entry of judgment by the court or magistrate, except that, if the defendant is not indigent, the court may apply deposited bail toward the satisfaction of a penalty or fine, and court costs, assessed against the accused upon ~~his~~the accused's conviction or guilty plea, and may declare forfeited and levy or execute against pledged property for the satisfaction of a penalty or fine, and court costs, assessed against the accused upon ~~his~~the accused's conviction or guilty plea.

(D) Notwithstanding any other provision of this section, an Ohio driver's or commercial driver's license that is deposited as bond may be forfeited and otherwise handled as provided in section 2937.221 of the Revised Code.

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~~section 2937.011 of the Revised Code, 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~~ section 2937.011 of the Revised Code 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 section 2937.011 of the Revised Code and Appellate Rule 8~~ and Criminal~~

~~Rule 46~~, and the bail shall at least be conditioned as described in division (A) of this section.

Sec. 2949.04. When bail is fixed pursuant to division (B) of section 2953.03 or section 2949.02 or 2953.09 of the Revised Code in connection with an appeal, a reduction or increase in the amount of that bail or other change in that bail shall not be required of the accused during the pendency of the appeal unless the trial judge or magistrate, or the court in which the appeal is being prosecuted, finds that there is good cause to reduce or increase the amount of that bail or good cause for any other change in that bail. If the court in which the appeal is being prosecuted finds there is good cause to reduce or increase the amount of that bail or good cause for any other change in that bail, it shall order the reduction, increase, or other change in accordance with ~~Criminal Rule 46~~section 2937.011 of the Revised Code, and the new bail shall be in the amount and form so ordered and otherwise be to the approval of and filed with the clerk of the court in which the appeal is being prosecuted.

Sec. 2949.093. (A) A board of county commissioners of any county containing fifty-five or more law enforcement agencies by resolution may elect to participate in a criminal justice regional information system, either by creating and maintaining a new criminal justice regional information system or by participating in an existing criminal justice regional information system.

(B) A county is not eligible to participate in any criminal justice regional information system unless it creates in its county treasury, pursuant to section 305.28 of the Revised Code, a criminal justice regional information fund.

(C) A county that elects to participate in a criminal justice regional information system shall obtain revenues to fund its participation by establishing an additional court cost not exceeding five dollars to be imposed for moving violations that occur in that county. The board of county commissioners of that county shall establish the amount of the additional court cost by resolution. The board shall give written notice to all courts located in that county that adjudicate or otherwise process moving violations that occur in that county of the county's election to participate in the system and of the amount of the additional court cost. Upon receipt of such notice, each recipient court shall impose that amount as an additional court cost for all moving violations the court adjudicates or otherwise processes, in accordance with divisions (D) and (E) of this section.

(D)(1) The court in which any person is convicted of or pleads guilty to any moving violation that occurs in a county that has elected to participate in a criminal justice regional information system shall impose the sum established by the board pursuant to division (C) of this section as costs in the case in addition to any other court costs that the court is required by law to impose upon the offender. The court shall not waive the payment of the additional court cost established by the board pursuant to division (C) of this section unless the court determines that the offender is indigent and waives the payment of all court costs imposed upon the indigent offender.

All such money collected during a month shall be transmitted on the first business day of the following month by the clerk of the court to the county treasurer of the county in which the court is located and thereafter the county treasurer shall deposit the money in that county's criminal justice

regional information fund.

(2) The juvenile court in which a child is found to be a juvenile traffic offender for an act that is a moving violation occurring in a county participating in a criminal justice regional information system shall impose the sum established by the board pursuant to division (C) of this section as costs in the case in addition to any other court costs that the court is required by law to impose upon the juvenile traffic offender. The juvenile court shall not waive the payment of the additional court cost established by the board pursuant to division (C) of this section unless the court determines that the juvenile is indigent and waives the payment of all court costs imposed upon the indigent offender.

All such money collected during a month shall be transmitted on the first business day of the following month by the clerk of the court to the county treasurer of the county in which the juvenile court is located and thereafter the county treasurer shall deposit the money in that county's criminal justice regional information fund.

(E) Whenever a person is charged with any offense that is a moving violation and posts bail, the court shall add to the amount of the bail the set sum required to be paid by division (D)(1) of this section. The clerk of the court shall retain that set sum until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. If the person is convicted, pleads guilty, or forfeits bail, the clerk shall transmit the set sum to the county treasurer, who shall deposit it in the county criminal justice regional information fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the set sum to the person.

(F) No person shall be placed or held in a detention facility as defined in section 2921.01 of the Revised Code for failing to pay the court cost or bail that is required to be paid by this section.

(G)(1) Except as provided in division (G)(2) of this section, all funds collected by a county under this section shall be used by that county only to pay the costs it incurs in creating and maintaining a new criminal justice regional information system or to pay the costs it incurs in participating in an existing criminal justice regional information system.

(2) If the board of county commissioners of a county determines that the funds in that county's criminal justice regional information fund are more than sufficient to satisfy the purpose for which the additional court cost described in division (C) of this section was imposed, the board may declare a surplus in the fund. The county may expend the surplus only to pay the costs it incurs in improving the law enforcement computer technology of local law enforcement agencies located in that county.

(H) As used in this section:

(1) "Moving violation" means any violation of any statute or ordinance, other than section 4513.263 of the Revised Code or an ordinance that is substantially equivalent to that section, that regulates the operation of vehicles, streetcars, or trackless trolleys on highways or streets or that regulates size or load limitations or fitness requirements of vehicles. "Moving violation" does not include the violation of any statute or ordinance that regulates pedestrians or the parking of vehicles.

(2) "Bail" means cash, a check, a money order, a credit card, or any other form of money that is posted by or for an offender pursuant to section 2937.011 or sections 2937.22 to 2937.46 of the Revised Code~~, Criminal Rule 46,~~ or Traffic Rule 4 to prevent the offender from being placed or held in a detention facility, as defined in section 2921.01 of the Revised Code.

(3) "Criminal justice regional information system" means a governmental computer system that serves as a cooperative between political subdivisions in a particular region for the purpose of providing a consolidated computerized information system for criminal justice agencies in that region.

Sec. 2953.03. (A) If a motion for a new trial is filed pursuant to Criminal Rule 33 by a defendant who is convicted of a misdemeanor under the Revised Code or an ordinance of a municipal corporation, and if that defendant was on bail at the time of the conviction of that offense, the trial judge or magistrate shall suspend execution of the sentence or judgment imposed pending the determination on the motion for a new trial and shall determine the amount and nature of any bail that is required of the defendant in accordance with ~~Criminal Rule 46~~section 2937.011 of the Revised Code.

(B) If a notice of appeal is filed pursuant to the Rules of Appellate Procedure or Chapter 1905. of the Revised Code by a defendant who is convicted in a municipal, county, or mayor's court or a court of common pleas of a misdemeanor under the Revised Code or an ordinance of a municipal corporation, if that defendant was on bail at the time of the conviction of that offense, and if execution of the sentence or judgment imposed is suspended, the trial court or magistrate or the court in which

the appeal is being prosecuted shall determine the amount and nature of any bail that is required of the defendant as follows:

(1) In the case of an appeal to a court of appeals by a defendant who is convicted in a municipal or county court or a court of common pleas, in accordance with section 2937.011 of the Revised Code and Appellate Rule 8~~ and Criminal Rule 46~~;

(2) In the case of an appeal to a municipal or county court by a defendant who is convicted in a mayor's court, in accordance with ~~Criminal Rule 46~~section 2937.011 of the Revised Code.

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, section 2937.011 of the Revised Code, and Appellate Rule 8, ~~and Criminal Rule 46,~~ the municipal or county court, court of common pleas, or court of appeals may suspend execution of the sentence or judgment imposed during the pendency of the appeal and shall determine whether that defendant is entitled to bail and the amount and nature of any bail that is required. The bail shall at least be conditioned that the defendant will prosecute the appeal without delay and abide by the judgment and sentence of the court.

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

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

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

(B) Notwithstanding any provision of ~~Criminal Rule 46~~ section 2937.011 of the Revised Code to the contrary, a trial judge of a court of common pleas shall not release on bail pursuant to division (A)(2)(a) of this section a defendant who is convicted of a bailable offense if the defendant 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)(2)(a) of this section a defendant 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 the defendant and for good cause shown, may release the defendant on bail in accordance with division (A)(2) of this section.

Section 2. That existing sections 2743.70, 2903.212, 2903.213, 2907.41, 2919.251, 2937.40, 2949.02, 2949.04, 2949.093, 2953.03, and 2953.09 of the Revised Code are hereby repealed.

Section 3. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to codify Criminal Rule 46 prior to the Rule's anticipated repeal, effective July 1, 2023. Therefore, this act shall go into immediate effect.