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Representative Hillyer

Cosponsors: Representatives Seitz, Weinstein, Crawley, Plummer, Leland, Crossman, Galonski, Rogers, West, Antani, Blessing, Brent, Callender, Denson, Ghanbari, Lepore-Hagan, Lightbody, Liston, Patton, Perales, Sheehy, Smith, K., Sobecki, Sykes, Upchurch

Senators Eklund, Manning, Antonio, Blessing, Burke, Craig, Dolan, Fedor, Hackett, Huffman, S., Maharath, Sykes, Thomas, Yuko

A BILL

To amend sections 2929.02, 2929.022, 2929.024, 1
2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2
2953.21, 2953.23, 2971.03, 2971.07, and 5120.61 3
and to enact section 2929.025 of the Revised 4
Code to prohibit imposing the death penalty for 5
aggravated murder when the offender had a 6
serious mental illness at the time of the 7
offense. 8

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

Section 1. That sections 2929.02, 2929.022, 2929.024, 9
2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2953.21, 2953.23, 10
2971.03, 2971.07, and 5120.61 be amended and section 2929.025 of 11
the Revised Code be enacted to read as follows: 12

Sec. 2929.02. (A) Whoever is convicted of or pleads guilty 13
to aggravated murder in violation of section 2903.01 of the 14
Revised Code shall suffer death or be imprisoned for life, as 15

determined pursuant to sections 2929.022, 2929.03, and 2929.04 16
of the Revised Code, except that no person who raises the matter 17
of age pursuant to section 2929.023 of the Revised Code and who 18
is not found to have been eighteen years of age or older at the 19
time of the commission of the offense and no person who raises 20
the matter of the person's serious mental illness at the time of 21
the alleged commission of the offense pursuant to section 22
2929.025 of the Revised Code and is found under that section to 23
be ineligible for a sentence of death due to serious mental 24
illness shall suffer death. In addition, the offender may be 25
fined an amount fixed by the court, but not more than twenty- 26
five thousand dollars. 27

(B) (1) Except as otherwise provided in division (B) (2) or 28
(3) of this section, whoever is convicted of or pleads guilty to 29
murder in violation of section 2903.02 of the Revised Code shall 30
be imprisoned for an indefinite term of fifteen years to life. 31

(2) Except as otherwise provided in division (B) (3) of 32
this section, if a person is convicted of or pleads guilty to 33
murder in violation of section 2903.02 of the Revised Code, the 34
victim of the offense was less than thirteen years of age, and 35
the offender also is convicted of or pleads guilty to a sexual 36
motivation specification that was included in the indictment, 37
count in the indictment, or information charging the offense, 38
the court shall impose an indefinite prison term of thirty years 39
to life pursuant to division (B) (3) of section 2971.03 of the 40
Revised Code. 41

(3) If a person is convicted of or pleads guilty to murder 42
in violation of section 2903.02 of the Revised Code and also is 43
convicted of or pleads guilty to a sexual motivation 44
specification and a sexually violent predator specification that 45

were included in the indictment, count in the indictment, or 46
information that charged the murder, the court shall impose upon 47
the offender a term of life imprisonment without parole that 48
shall be served pursuant to section 2971.03 of the Revised Code. 49

(4) In addition, the offender may be fined an amount fixed 50
by the court, but not more than fifteen thousand dollars. 51

(C) The court shall not impose a fine or fines for 52
aggravated murder or murder which, in the aggregate and to the 53
extent not suspended by the court, exceeds the amount which the 54
offender is or will be able to pay by the method and within the 55
time allowed without undue hardship to the offender or to the 56
dependents of the offender, or will prevent the offender from 57
making reparation for the victim's wrongful death. 58

(D) (1) In addition to any other sanctions imposed for a 59
violation of section 2903.01 or 2903.02 of the Revised Code, if 60
the offender used a motor vehicle as the means to commit the 61
violation, the court shall impose upon the offender a class two 62
suspension of the offender's driver's license, commercial 63
driver's license, temporary instruction permit, probationary 64
license, or nonresident operating privilege as specified in 65
division (A) (2) of section 4510.02 of the Revised Code. 66

(2) As used in division (D) of this section, "motor 67
vehicle" has the same meaning as in section 4501.01 of the 68
Revised Code. 69

Sec. 2929.022. (A) If an indictment or count in an 70
indictment charging a defendant with aggravated murder contains 71
a specification of the aggravating circumstance of a prior 72
conviction listed in division (A) (5) of section 2929.04 of the 73
Revised Code, the defendant may elect to have the panel of three 74

judges, if the defendant waives trial by jury, or the trial 75
judge, if the defendant is tried by jury, determine the 76
existence of that aggravating circumstance at the sentencing 77
hearing held pursuant to divisions (C) and (D) of section 78
2929.03 of the Revised Code. 79

(1) If the defendant does not elect to have the existence 80
of the aggravating circumstance determined at the sentencing 81
hearing, the defendant shall be tried on the charge of 82
aggravated murder, on the specification of the aggravating 83
circumstance of a prior conviction listed in division (A) (5) of 84
section 2929.04 of the Revised Code, and on any other 85
specifications of an aggravating circumstance listed in division 86
(A) of section 2929.04 of the Revised Code in a single trial as 87
in any other criminal case in which a person is charged with 88
aggravated murder and specifications. 89

(2) If the defendant does elect to have the existence of 90
the aggravating circumstance of a prior conviction listed in 91
division (A) (5) of section 2929.04 of the Revised Code 92
determined at the sentencing hearing, then, following a verdict 93
of guilty of the charge of aggravated murder, the panel of three 94
judges or the trial judge shall: 95

(a) Hold a sentencing hearing pursuant to division (B) of 96
this section, unless required to do otherwise under division (A) 97
(2) (b) of this section; 98

(b) If the offender raises the matter of age at trial 99
pursuant to section 2929.023 of the Revised Code and is not 100
found at trial to have been eighteen years of age or older at 101
the time of the commission of the offense or raises the matter 102
of the offender's serious mental illness at the time of the 103
alleged commission of the offense pursuant to section 2929.025 104

of the Revised Code and is found under that section to be 105
ineligible for a sentence of death due to serious mental 106
illness, conduct a hearing to determine if the specification of 107
the aggravating circumstance of a prior conviction listed in 108
division (A) (5) of section 2929.04 of the Revised Code is proven 109
beyond a reasonable doubt. After conducting the hearing, the 110
panel or judge shall proceed as follows: 111

(i) If that aggravating circumstance is proven beyond a 112
reasonable doubt or if the defendant at trial was convicted of 113
any other specification of an aggravating circumstance, the 114
panel or judge shall impose sentence according to division (E) 115
of section 2929.03 of the Revised Code. 116

(ii) If that aggravating circumstance is not proven beyond 117
a reasonable doubt and the defendant at trial was not convicted 118
of any other specification of an aggravating circumstance, 119
except as otherwise provided in this division, the panel or 120
judge shall impose sentence of life imprisonment with parole 121
eligibility after serving twenty years of imprisonment on the 122
offender. If that aggravating circumstance is not proven beyond 123
a reasonable doubt, the defendant at trial was not convicted of 124
any other specification of an aggravating circumstance, the 125
victim of the aggravated murder was less than thirteen years of 126
age, and the offender also is convicted of or pleads guilty to a 127
sexual motivation specification that was included in the 128
indictment, count in the indictment, or information charging the 129
offense, the panel or judge shall sentence the offender pursuant 130
to division (B) (3) of section 2971.03 of the Revised Code to an 131
indefinite term consisting of a minimum term of thirty years and 132
a maximum term of life imprisonment. 133

(B) At the sentencing hearing, the panel of judges, if the 134

defendant was tried by a panel of three judges, or the trial 135
judge, if the defendant was tried by jury, shall, when required 136
pursuant to division (A) (2) of this section, first determine if 137
the specification of the aggravating circumstance of a prior 138
conviction listed in division (A) (5) of section 2929.04 of the 139
Revised Code is proven beyond a reasonable doubt. If the panel 140
of judges or the trial judge determines that the specification 141
of the aggravating circumstance of a prior conviction listed in 142
division (A) (5) of section 2929.04 of the Revised Code is proven 143
beyond a reasonable doubt or if they do not determine that the 144
specification is proven beyond a reasonable doubt but the 145
defendant at trial was convicted of a specification of any other 146
aggravating circumstance listed in division (A) of section 147
2929.04 of the Revised Code, the panel of judges or the trial 148
judge and trial jury shall impose sentence on the offender 149
pursuant to division (D) of section 2929.03 and section 2929.04 150
of the Revised Code. If the panel of judges or the trial judge 151
does not determine that the specification of the aggravating 152
circumstance of a prior conviction listed in division (A) (5) of 153
section 2929.04 of the Revised Code is proven beyond a 154
reasonable doubt and the defendant at trial was not convicted of 155
any other specification of an aggravating circumstance listed in 156
division (A) of section 2929.04 of the Revised Code, the panel 157
of judges or the trial judge shall terminate the sentencing 158
hearing and impose sentence on the offender as follows: 159

(1) Subject to division (B) (2) of this section, the panel 160
or judge shall impose a sentence of life imprisonment with 161
parole eligibility after serving twenty years of imprisonment on 162
the offender. 163

(2) If the victim of the aggravated murder was less than 164
thirteen years of age and the offender also is convicted of or 165

pleads guilty to a sexual motivation specification that was 166
included in the indictment, count in the indictment, or 167
information charging the offense, the panel or judge shall 168
sentence the offender pursuant to division (B) (3) of section 169
2971.03 of the Revised Code to an indefinite term consisting of 170
a minimum term of thirty years and a maximum term of life 171
imprisonment. 172

Sec. 2929.024. ~~If (A) In a case described in division (B)~~ 173
~~of this section, if~~ the court determines that ~~the defendant is~~ 174
~~indigent and that~~ investigation services, experts, or other 175
services are reasonably necessary for the proper representation 176
of a defendant charged with aggravated murder at trial or at the 177
sentencing hearing, the court shall authorize the defendant's 178
counsel to obtain the necessary services for the defendant, and 179
shall order that payment of the fees and expenses for the 180
necessary services be made in the same manner that payment for 181
appointed counsel is made pursuant to Chapter 120. of the 182
Revised Code. If the court determines that the necessary 183
services had to be obtained prior to court authorization for 184
payment of the fees and expenses for the necessary services, the 185
court may, after the services have been obtained, authorize the 186
defendant's counsel to obtain the necessary services and order 187
that payment of the fees and expenses for the necessary services 188
be made as provided in this section. 189

(B) Division (A) of this section applies in a case in 190
which either of the following apply: 191

(1) The court determines that the defendant is indigent. 192

(2) The defendant is described in division (C) of section 193
2929.025 of the Revised Code and raises the matter of the 194
defendant's serious mental illness at the time of the alleged 195

commission of the aggravated murder as described in that 196
division. 197

Sec. 2929.025. (A) As used in this section: 198

(1) A person has a "serious mental illness" if both of the 199
following apply with respect to the person, subject to division 200
(A) (2) of this section: 201

(a) The person has been diagnosed as described in division 202
(B) of this section with one or more of the following 203
conditions: 204

(i) Schizophrenia; 205

(ii) Schizoaffective disorder; 206

(iii) Bipolar disorder; 207

(iv) Delusional disorder. 208

(b) At the time of the alleged aggravated murder with 209
which the person is charged, the condition or conditions 210
described in division (A) (1) (a) of this section with which the 211
person has been diagnosed, while not meeting the standard to be 212
found not guilty by reason of insanity as defined in section 213
2901.01 of the Revised Code or the standard to be found 214
incompetent to stand trial as described in division (G) of 215
section 2945.37 of the Revised Code, nevertheless significantly 216
impaired the person's capacity to exercise rational judgment in 217
relation to the person's conduct with respect to either of the 218
following: 219

(i) Conforming the person's conduct to the requirements of 220
law; 221

(ii) Appreciating the nature, consequences, or 222

wrongfulness of the person's conduct. 223

(2) A disorder manifested primarily by repeated criminal 224
conduct or attributable primarily to the acute effects of any 225
use of alcohol or any other drug of abuse does not, standing 226
alone, constitute a "serious mental illness" for purposes of 227
division (A) (1) of this section. 228

(3) "Examiner" means a person who makes an evaluation 229
ordered under division (F) (1) of this section. 230

(4) "Prosecutor" means a prosecuting attorney who has 231
authority to prosecute a charge of aggravated murder that is 232
before the court. 233

(B) The diagnosis of a person with a condition or 234
conditions described in division (A) (1) (a) of this section may 235
be made at any time prior to, on, or after the day of the 236
alleged aggravated murder with which the person is charged or 237
the day on which the person pursuant to division (C) of this 238
section raises the matter of the person's serious mental illness 239
at the time of the alleged commission of that aggravated murder. 240
Diagnosis of the condition or conditions after the date of the 241
alleged aggravated murder with which the person is charged does 242
not preclude the person from presenting evidence that the person 243
had a serious mental illness at the time of the alleged 244
commission of that offense. 245

(C) A person charged with aggravated murder and one or 246
more specifications of an aggravating circumstance listed in 247
division (A) of section 2929.04 of the Revised Code may, before 248
trial, raise the matter of the person's serious mental illness 249
at the time of the alleged commission of the offense. If a 250
person raises the matter of the person's serious mental illness 251

at the time of the alleged commission of the offense, the court 252
shall order an evaluation of the person in accordance with 253
division (F) of this section and shall hold a pretrial hearing 254
on the matter. The person who raises the matter may present 255
evidence, subject to division (D) (2) of this section, that the 256
person had a serious mental illness at the time of the alleged 257
commission of the offense, and the person has the burden of 258
raising that matter and of going forward with the evidence 259
relating to the diagnosis described in division (A) (1) (a) of 260
this section and the impairment described in division (A) (1) (b) 261
of this section. 262

(D) (1) If a person described in division (C) of this 263
section raises the matter of the person's serious mental illness 264
at the time of the alleged commission of the aggravated murder 265
and submits evidence that the person has been diagnosed with one 266
or more of the conditions set forth in division (A) (1) (a) of 267
this section and that the condition or conditions diagnosed 268
significantly impaired the person's capacity at the time of the 269
alleged offense in a manner described in division (A) (1) (b) of 270
this section, the prosecution shall have an opportunity to 271
present evidence to contest the diagnosis. The defendant has the 272
burden of proving, by a preponderance of the evidence, that the 273
person has been diagnosed with one or more of the conditions set 274
forth in division (A) (1) (a) of this section and that the 275
condition or conditions diagnosed significantly impaired the 276
person's capacity at the time of the alleged offense in a manner 277
described in division (A) (1) (b) of this section. 278

(2) If a person described in division (C) of this section 279
raises the matter of the person's serious mental illness at the 280
time of the alleged commission of the aggravated murder and, 281
prior to, on, or after the effective date of this section, the 282

person has or has had an evaluation performed other than 283
pursuant to a court order issued under division (F) of this 284
section, the person shall provide the results of the evaluation 285
to the prosecution at least thirty days prior to the pretrial 286
hearing. If the person does not provide the results of the 287
evaluation to the prosecution at least thirty days prior to the 288
pretrial hearing, the results of the evaluation are inadmissible 289
at the hearing. 290

(E) (1) Unless the court at the pretrial hearing finds that 291
the defendant has proved, by a preponderance of the evidence, 292
that the person has been diagnosed with one or more of the 293
conditions set forth in division (A) (1) (a) of this section and 294
that the condition or conditions diagnosed significantly 295
impaired the person's capacity at the time of the alleged 296
offense in a manner described in division (A) (1) (b) of this 297
section, the court shall issue a finding that the person is not 298
ineligible for a sentence of death due to serious mental 299
illness. 300

(2) If the court at the pretrial hearing finds that the 301
defendant has proved, by a preponderance of the evidence, that 302
the person has been diagnosed with one or more of the conditions 303
set forth in division (A) (1) (a) of this section and that the 304
condition or conditions diagnosed significantly impaired the 305
person's capacity at the time of the alleged offense in a manner 306
described in division (A) (1) (b) of this section, the court shall 307
issue a finding that the person is ineligible for a sentence of 308
death due to serious mental illness. 309

(F) (1) If a person described in division (C) of this 310
section raises the matter of the person's serious mental illness 311
at the time of the alleged commission of the aggravated murder 312

as described in that division, the court shall order an 313
evaluation of the person. Section 2929.024 of the Revised Code 314
applies with respect to an evaluation ordered under this 315
division. If the person refuses to submit to an evaluation 316
ordered under this division, the court shall issue a finding 317
that the person is not ineligible for a sentence of death due to 318
serious mental illness. 319

(2) No statement that a person makes in an evaluation 320
ordered under division (F)(1) of this section or in a pretrial 321
hearing under divisions (C) to (E) of this section relating to 322
the person's serious mental illness at the time of the alleged 323
commission of the aggravated murder with which the person is 324
charged shall be used against the person on the issue of guilt 325
in any criminal action or proceeding, but, in a criminal action 326
or proceeding, the prosecutor or defense counsel may call as a 327
witness any examiner who evaluated the person or prepared a 328
report pursuant to a referral under this section. Neither the 329
appointment nor the testimony of an examiner in an evaluation 330
ordered under division (F)(1) of this section precludes the 331
prosecutor or defense counsel from calling other witnesses or 332
presenting other evidence on the issue of the person's serious 333
mental illness at the time of the alleged commission of the 334
aggravated murder or on competency or insanity issues. 335

(G) A person's pleading of not guilty by reason of 336
insanity or incompetence to stand trial, or a finding after such 337
a plea that the person is not insane or that the person is 338
competent to stand trial, does not preclude the person from 339
raising the matter of the person's serious mental illness at the 340
time of the alleged commission of the offense pursuant to 341
division (C) of this section and, if a person so raises that 342
matter, does not limit or affect any of the procedures described 343

in this section or the authority of a court to make any finding 344
described in this section. 345

Sec. 2929.03. (A) If the indictment or count in the 346
indictment charging aggravated murder does not contain one or 347
more specifications of aggravating circumstances listed in 348
division (A) of section 2929.04 of the Revised Code, then, 349
following a verdict of guilty of the charge of aggravated 350
murder, the trial court shall impose sentence on the offender as 351
follows: 352

(1) Except as provided in division (A) (2) of this section, 353
the trial court shall impose one of the following sentences on 354
the offender: 355

(a) Life imprisonment without parole; 356

(b) Subject to division (A) (1) (e) of this section, life 357
imprisonment with parole eligibility after serving twenty years 358
of imprisonment; 359

(c) Subject to division (A) (1) (e) of this section, life 360
imprisonment with parole eligibility after serving twenty-five 361
full years of imprisonment; 362

(d) Subject to division (A) (1) (e) of this section, life 363
imprisonment with parole eligibility after serving thirty full 364
years of imprisonment; 365

(e) If the victim of the aggravated murder was less than 366
thirteen years of age, the offender also is convicted of or 367
pleads guilty to a sexual motivation specification that was 368
included in the indictment, count in the indictment, or 369
information charging the offense, and the trial court does not 370
impose a sentence of life imprisonment without parole on the 371
offender pursuant to division (A) (1) (a) of this section, the 372

trial court shall sentence the offender pursuant to division (B) 373
(3) of section 2971.03 of the Revised Code to an indefinite term 374
consisting of a minimum term of thirty years and a maximum term 375
of life imprisonment that shall be served pursuant to that 376
section. 377

(2) If the offender also is convicted of or pleads guilty 378
to a sexual motivation specification and a sexually violent 379
predator specification that are included in the indictment, 380
count in the indictment, or information that charged the 381
aggravated murder, the trial court shall impose upon the 382
offender a sentence of life imprisonment without parole that 383
shall be served pursuant to section 2971.03 of the Revised Code. 384

(B) If the indictment or count in the indictment charging 385
aggravated murder contains one or more specifications of 386
aggravating circumstances listed in division (A) of section 387
2929.04 of the Revised Code, the verdict shall separately state 388
whether the accused is found guilty or not guilty of the 389
principal charge and, if guilty of the principal charge, whether 390
the offender was eighteen years of age or older at the time of 391
the commission of the offense, if the matter of age was raised 392
by the offender pursuant to section 2929.023 of the Revised 393
Code, and whether the offender is guilty or not guilty of each 394
specification. The jury shall be instructed on its duties in 395
this regard. The instruction to the jury shall include an 396
instruction that a specification shall be proved beyond a 397
reasonable doubt in order to support a guilty verdict on the 398
specification, but the instruction shall not mention the penalty 399
that may be the consequence of a guilty or not guilty verdict on 400
any charge or specification. 401

(C) (1) If the indictment or count in the indictment 402

charging aggravated murder contains one or more specifications 403
of aggravating circumstances listed in division (A) of section 404
2929.04 of the Revised Code, then, following a verdict of guilty 405
of the charge but not guilty of each of the specifications, and 406
regardless of whether the offender raised the matter of age 407
pursuant to section 2929.023 of the Revised Code or the matter 408
of serious mental illness at the time of the commission of the 409
offense pursuant to section 2929.025 of the Revised Code, the 410
trial court shall impose sentence on the offender as follows: 411

(a) Except as provided in division (C) (1) (b) of this 412
section, the trial court shall impose one of the following 413
sentences on the offender: 414

(i) Life imprisonment without parole; 415

(ii) Subject to division (C) (1) (a) (v) of this section, 416
life imprisonment with parole eligibility after serving twenty 417
years of imprisonment; 418

(iii) Subject to division (C) (1) (a) (v) of this section, 419
life imprisonment with parole eligibility after serving twenty- 420
five full years of imprisonment; 421

(iv) Subject to division (C) (1) (a) (v) of this section, 422
life imprisonment with parole eligibility after serving thirty 423
full years of imprisonment; 424

(v) If the victim of the aggravated murder was less than 425
thirteen years of age, the offender also is convicted of or 426
pleads guilty to a sexual motivation specification that was 427
included in the indictment, count in the indictment, or 428
information charging the offense, and the trial court does not 429
impose a sentence of life imprisonment without parole on the 430
offender pursuant to division (C) (1) (a) (i) of this section, the 431

trial court shall sentence the offender pursuant to division (B) 432
(3) of section 2971.03 of the Revised Code to an indefinite term 433
consisting of a minimum term of thirty years and a maximum term 434
of life imprisonment. 435

(b) If the offender also is convicted of or pleads guilty 436
to a sexual motivation specification and a sexually violent 437
predator specification that are included in the indictment, 438
count in the indictment, or information that charged the 439
aggravated murder, the trial court shall impose upon the 440
offender a sentence of life imprisonment without parole that 441
shall be served pursuant to section 2971.03 of the Revised Code. 442

(2) (a) If the indictment or count in the indictment 443
contains one or more specifications of aggravating circumstances 444
listed in division (A) of section 2929.04 of the Revised Code 445
and if the offender is found guilty of both the charge and one 446
or more of the specifications, the penalty to be imposed on the 447
offender shall be one of the following: 448

(i) Except as provided in division (C) (2) (a) (ii) or (iii), and subject to divisions (D) (1) and (E) of this section, the 449
penalty to be imposed on the offender shall be death, life 450
imprisonment without parole, life imprisonment with parole 451
eligibility after serving twenty-five full years of 452
imprisonment, or life imprisonment with parole eligibility after 453
serving thirty full years of imprisonment. 454
455

(ii) Except as provided in division (C) (2) (a) (iii) of this 456
section, if the victim of the aggravated murder was less than 457
thirteen years of age, the offender also is convicted of or 458
pleads guilty to a sexual motivation specification that was 459
included in the indictment, count in the indictment, or 460
information charging the offense, and the trial court does not 461

impose a sentence of death or life imprisonment without parole 462
on the offender pursuant to division (C) (2) (a) (i) of this 463
section, the penalty to be imposed on the offender shall be an 464
indefinite term consisting of a minimum term of thirty years and 465
a maximum term of life imprisonment that shall be imposed 466
pursuant to division (B) (3) of section 2971.03 of the Revised 467
Code and served pursuant to that section. 468

(iii) If the offender also is convicted of or pleads 469
guilty to a sexual motivation specification and a sexually 470
violent predator specification that are included in the 471
indictment, count in the indictment, or information that charged 472
the aggravated murder, the penalty to be imposed on the offender 473
shall be death or life imprisonment without parole that shall be 474
served pursuant to section 2971.03 of the Revised Code. 475

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 476
(ii), or (iii) of this section shall be determined pursuant to 477
divisions (D) and (E) of this section and shall be determined by 478
one of the following: 479

(i) By the panel of three judges that tried the offender 480
upon the offender's waiver of the right to trial by jury; 481

(ii) By the trial jury and the trial judge, if the 482
offender was tried by jury. 483

(D) (1) Death may not be imposed as a penalty for 484
aggravated murder if the offender raised the matter of age at 485
trial pursuant to section 2929.023 of the Revised Code and was 486
not found at trial to have been eighteen years of age or older 487
at the time of the commission of the offense or raised the 488
matter of the offender's serious mental illness at the time of 489
the commission of the offense pursuant to section 2929.025 of 490

the Revised Code and was found under that section to be 491
ineligible for a sentence of death due to serious mental illness 492
. When death may be imposed as a penalty for aggravated murder, 493
the court shall proceed under this division. When death may be 494
imposed as a penalty, the court, upon the request of the 495
defendant, shall require a pre-sentence investigation to be made 496
and, upon the request of the defendant, shall require a mental 497
examination to be made, and shall require reports of the 498
investigation and of any mental examination submitted to the 499
court, pursuant to section 2947.06 of the Revised Code. No 500
statement made or information provided by a defendant in a 501
mental examination or proceeding conducted pursuant to this 502
division shall be disclosed to any person, except as provided in 503
this division, or be used in evidence against the defendant on 504
the issue of guilt in any retrial. A pre-sentence investigation 505
or mental examination shall not be made except upon request of 506
the defendant. Copies of any reports prepared under this 507
division shall be furnished to the court, to the trial jury if 508
the offender was tried by a jury, to the prosecutor, and to the 509
offender or the offender's counsel for use under this division. 510
The court, and the trial jury if the offender was tried by a 511
jury, shall consider any report prepared pursuant to this 512
division and furnished to it and any evidence raised at trial 513
that is relevant to the aggravating circumstances the offender 514
was found guilty of committing or to any factors in mitigation 515
of the imposition of the sentence of death, shall hear testimony 516
and other evidence that is relevant to the nature and 517
circumstances of the aggravating circumstances the offender was 518
found guilty of committing, the mitigating factors set forth in 519
division (B) of section 2929.04 of the Revised Code, and any 520
other factors in mitigation of the imposition of the sentence of 521
death, and shall hear the statement, if any, of the offender, 522

and the arguments, if any, of counsel for the defense and 523
prosecution, that are relevant to the penalty that should be 524
imposed on the offender. The defendant shall be given great 525
latitude in the presentation of evidence of the mitigating 526
factors set forth in division (B) of section 2929.04 of the 527
Revised Code and of any other factors in mitigation of the 528
imposition of the sentence of death. If the offender chooses to 529
make a statement, the offender is subject to cross-examination 530
only if the offender consents to make the statement under oath 531
or affirmation. 532

The defendant shall have the burden of going forward with 533
the evidence of any factors in mitigation of the imposition of 534
the sentence of death. The prosecution shall have the burden of 535
proving, by proof beyond a reasonable doubt, that the 536
aggravating circumstances the defendant was found guilty of 537
committing are sufficient to outweigh the factors in mitigation 538
of the imposition of the sentence of death. 539

(2) Upon consideration of the relevant evidence raised at 540
trial, the testimony, other evidence, statement of the offender, 541
arguments of counsel, and, if applicable, the reports submitted 542
pursuant to division (D)(1) of this section, the trial jury, if 543
the offender was tried by a jury, shall determine whether the 544
aggravating circumstances the offender was found guilty of 545
committing are sufficient to outweigh the mitigating factors 546
present in the case. If the trial jury unanimously finds, by 547
proof beyond a reasonable doubt, that the aggravating 548
circumstances the offender was found guilty of committing 549
outweigh the mitigating factors, the trial jury shall recommend 550
to the court that the sentence of death be imposed on the 551
offender. Absent such a finding, the jury shall recommend that 552
the offender be sentenced to one of the following: 553

(a) Except as provided in division (D) (2) (b) or (c) of 554
this section, to life imprisonment without parole, life 555
imprisonment with parole eligibility after serving twenty-five 556
full years of imprisonment, or life imprisonment with parole 557
eligibility after serving thirty full years of imprisonment; 558

(b) Except as provided in division (D) (2) (c) of this 559
section, if the victim of the aggravated murder was less than 560
thirteen years of age, the offender also is convicted of or 561
pleads guilty to a sexual motivation specification that was 562
included in the indictment, count in the indictment, or 563
information charging the offense, and the jury does not 564
recommend a sentence of life imprisonment without parole 565
pursuant to division (D) (2) (a) of this section, to an indefinite 566
term consisting of a minimum term of thirty years and a maximum 567
term of life imprisonment to be imposed pursuant to division (B) 568
(3) of section 2971.03 of the Revised Code and served pursuant 569
to that section. 570

(c) If the offender also is convicted of or pleads guilty 571
to a sexual motivation specification and a sexually violent 572
predator specification that are included in the indictment, 573
count in the indictment, or information that charged the 574
aggravated murder, to life imprisonment without parole. 575

If the trial jury recommends that the offender be 576
sentenced to life imprisonment without parole, life imprisonment 577
with parole eligibility after serving twenty-five full years of 578
imprisonment, life imprisonment with parole eligibility after 579
serving thirty full years of imprisonment, or an indefinite term 580
consisting of a minimum term of thirty years and a maximum term 581
of life imprisonment to be imposed pursuant to division (B) (3) 582
of section 2971.03 of the Revised Code, the court shall impose 583

the sentence recommended by the jury upon the offender. If the 584
sentence is an indefinite term consisting of a minimum term of 585
thirty years and a maximum term of life imprisonment imposed as 586
described in division (D) (2) (b) of this section or a sentence of 587
life imprisonment without parole imposed under division (D) (2) 588
(c) of this section, the sentence shall be served pursuant to 589
section 2971.03 of the Revised Code. If the trial jury 590
recommends that the sentence of death be imposed upon the 591
offender, the court shall proceed to impose sentence pursuant to 592
division (D) (3) of this section. 593

(3) Upon consideration of the relevant evidence raised at 594
trial, the testimony, other evidence, statement of the offender, 595
arguments of counsel, and, if applicable, the reports submitted 596
to the court pursuant to division (D) (1) of this section, if, 597
after receiving pursuant to division (D) (2) of this section the 598
trial jury's recommendation that the sentence of death be 599
imposed, the court finds, by proof beyond a reasonable doubt, or 600
if the panel of three judges unanimously finds, by proof beyond 601
a reasonable doubt, that the aggravating circumstances the 602
offender was found guilty of committing outweigh the mitigating 603
factors, it shall impose sentence of death on the offender. 604
Absent such a finding by the court or panel, the court or the 605
panel shall impose one of the following sentences on the 606
offender: 607

(a) Except as provided in division (D) (3) (b) of this 608
section, one of the following: 609

(i) Life imprisonment without parole; 610

(ii) Subject to division (D) (3) (a) (iv) of this section, 611
life imprisonment with parole eligibility after serving twenty- 612
five full years of imprisonment; 613

(iii) Subject to division (D) (3) (a) (iv) of this section, 614
life imprisonment with parole eligibility after serving thirty 615
full years of imprisonment; 616

(iv) If the victim of the aggravated murder was less than 617
thirteen years of age, the offender also is convicted of or 618
pleads guilty to a sexual motivation specification that was 619
included in the indictment, count in the indictment, or 620
information charging the offense, and the trial court does not 621
impose a sentence of life imprisonment without parole on the 622
offender pursuant to division (D) (3) (a) (i) of this section, the 623
court or panel shall sentence the offender pursuant to division 624
(B) (3) of section 2971.03 of the Revised Code to an indefinite 625
term consisting of a minimum term of thirty years and a maximum 626
term of life imprisonment. 627

(b) If the offender also is convicted of or pleads guilty 628
to a sexual motivation specification and a sexually violent 629
predator specification that are included in the indictment, 630
count in the indictment, or information that charged the 631
aggravated murder, life imprisonment without parole that shall 632
be served pursuant to section 2971.03 of the Revised Code. 633

(E) (1) If the offender raised the matter of age at trial 634
pursuant to section 2929.023 of the Revised Code, was convicted 635
of aggravated murder and one or more specifications of an 636
aggravating circumstance listed in division (A) of section 637
2929.04 of the Revised Code, and was not found at trial to have 638
been eighteen years of age or older at the time of the 639
commission of the offense, the court or the panel of three 640
judges shall not impose a sentence of death on the offender. 641
Instead, the court or panel shall impose one of the following 642
sentences on the offender: 643

~~(1)~~ ~~(a)~~ Except as provided in division (E) ~~(2)~~ ~~(1)~~ ~~(b)~~ of 644
this section, one of the following: 645

~~(a)~~ ~~(i)~~ Life imprisonment without parole; 646

~~(b)~~ ~~(ii)~~ Subject to division (E) ~~(2)~~ ~~(d)~~ ~~(1)~~ ~~(a)~~ ~~(iv)~~ of this 647
section, life imprisonment with parole eligibility after serving 648
twenty-five full years of imprisonment; 649

~~(e)~~ ~~(iii)~~ Subject to division (E) ~~(2)~~ ~~(d)~~ ~~(1)~~ ~~(a)~~ ~~(iv)~~ of this 650
section, life imprisonment with parole eligibility after serving 651
thirty full years of imprisonment; 652

~~(d)~~ ~~(iv)~~ If the victim of the aggravated murder was less 653
than thirteen years of age, the offender also is convicted of or 654
pleads guilty to a sexual motivation specification that was 655
included in the indictment, count in the indictment, or 656
information charging the offense, and the trial court does not 657
impose a sentence of life imprisonment without parole on the 658
offender pursuant to division (E) ~~(2)~~ ~~(1)~~ ~~(a)~~ ~~(i)~~ of this section, 659
the court or panel shall sentence the offender pursuant to 660
division (B) (3) of section 2971.03 of the Revised Code to an 661
indefinite term consisting of a minimum term of thirty years and 662
a maximum term of life imprisonment. 663

~~(2)~~ ~~(b)~~ If the offender also is convicted of or pleads 664
guilty to a sexual motivation specification and a sexually 665
violent predator specification that are included in the 666
indictment, count in the indictment, or information that charged 667
the aggravated murder, life imprisonment without parole that 668
shall be served pursuant to section 2971.03 of the Revised Code. 669

(2) If the offender raised the matter of the offender's 670
serious mental illness at the time of the commission of the 671
offense pursuant to section 2929.025 of the Revised Code, was 672

found under that section to be ineligible for a sentence of 673
death due to serious mental illness, and was convicted of 674
aggravated murder and one or more specifications of an 675
aggravating circumstance listed in division (A) of section 676
2929.04 of the Revised Code, the court or panel of three judges 677
shall not impose a sentence of death on the offender. Instead, 678
the court or panel shall sentence the offender to life 679
imprisonment without parole. 680

(F) The court or the panel of three judges, when it 681
imposes sentence of death, shall state in a separate opinion its 682
specific findings as to the existence of any of the mitigating 683
factors set forth in division (B) of section 2929.04 of the 684
Revised Code, the existence of any other mitigating factors, the 685
aggravating circumstances the offender was found guilty of 686
committing, and the reasons why the aggravating circumstances 687
the offender was found guilty of committing were sufficient to 688
outweigh the mitigating factors. The court or panel, when it 689
imposes life imprisonment or an indefinite term consisting of a 690
minimum term of thirty years and a maximum term of life 691
imprisonment under division (D) of this section, shall state in 692
a separate opinion its specific findings of which of the 693
mitigating factors set forth in division (B) of section 2929.04 694
of the Revised Code it found to exist, what other mitigating 695
factors it found to exist, what aggravating circumstances the 696
offender was found guilty of committing, and why it could not 697
find that these aggravating circumstances were sufficient to 698
outweigh the mitigating factors. For cases in which a sentence 699
of death is imposed for an offense committed before January 1, 700
1995, the court or panel shall file the opinion required to be 701
prepared by this division with the clerk of the appropriate 702
court of appeals and with the clerk of the supreme court within 703

fifteen days after the court or panel imposes sentence. For 704
cases in which a sentence of death is imposed for an offense 705
committed on or after January 1, 1995, the court or panel shall 706
file the opinion required to be prepared by this division with 707
the clerk of the supreme court within fifteen days after the 708
court or panel imposes sentence. The judgment in a case in which 709
a sentencing hearing is held pursuant to this section is not 710
final until the opinion is filed. 711

(G) (1) Whenever the court or a panel of three judges 712
imposes a sentence of death for an offense committed before 713
January 1, 1995, the clerk of the court in which the judgment is 714
rendered shall make and retain a copy of the entire record in 715
the case, and shall deliver the original of the entire record in 716
the case to the appellate court. 717

(2) Whenever the court or a panel of three judges imposes 718
a sentence of death for an offense committed on or after January 719
1, 1995, the clerk of the court in which the judgment is 720
rendered shall make and retain a copy of the entire record in 721
the case, and shall deliver the original of the entire record in 722
the case to the supreme court. 723

Sec. 2929.04. (A) Imposition of the death penalty for 724
aggravated murder is precluded unless one or more of the 725
following is specified in the indictment or count in the 726
indictment pursuant to section 2941.14 of the Revised Code and 727
proved beyond a reasonable doubt: 728

(1) The offense was the assassination of the president of 729
the United States or a person in line of succession to the 730
presidency, the governor or lieutenant governor of this state, 731
the president-elect or vice president-elect of the United 732
States, the governor-elect or lieutenant governor-elect of this 733

state, or a candidate for any of the offices described in this 734
division. For purposes of this division, a person is a candidate 735
if the person has been nominated for election according to law, 736
if the person has filed a petition or petitions according to law 737
to have the person's name placed on the ballot in a primary or 738
general election, or if the person campaigns as a write-in 739
candidate in a primary or general election. 740

(2) The offense was committed for hire. 741

(3) The offense was committed for the purpose of escaping 742
detection, apprehension, trial, or punishment for another 743
offense committed by the offender. 744

(4) The offense was committed while the offender was under 745
detention or while the offender was at large after having broken 746
detention. As used in division (A)(4) of this section, 747
"detention" has the same meaning as in section 2921.01 of the 748
Revised Code, except that detention does not include 749
hospitalization, institutionalization, or confinement in a 750
mental health facility or intellectual disabilities facility 751
unless at the time of the commission of the offense either of 752
the following circumstances apply: 753

(a) The offender was in the facility as a result of being 754
charged with a violation of a section of the Revised Code. 755

(b) The offender was under detention as a result of being 756
convicted of or pleading guilty to a violation of a section of 757
the Revised Code. 758

(5) Prior to the offense at bar, the offender was 759
convicted of an offense an essential element of which was the 760
purposeful killing of or attempt to kill another, or the offense 761
at bar was part of a course of conduct involving the purposeful 762

killing of or attempt to kill two or more persons by the 763
offender. 764

(6) The victim of the offense was a law enforcement 765
officer, as defined in section 2911.01 of the Revised Code, whom 766
the offender had reasonable cause to know or knew to be a law 767
enforcement officer as so defined, and either the victim, at the 768
time of the commission of the offense, was engaged in the 769
victim's duties, or it was the offender's specific purpose to 770
kill a law enforcement officer as so defined. 771

(7) The offense was committed while the offender was 772
committing, attempting to commit, or fleeing immediately after 773
committing or attempting to commit kidnapping, rape, aggravated 774
arson, aggravated robbery, or aggravated burglary, and either 775
the offender was the principal offender in the commission of the 776
aggravated murder or, if not the principal offender, committed 777
the aggravated murder with prior calculation and design. 778

(8) The victim of the aggravated murder was a witness to 779
an offense who was purposely killed to prevent the victim's 780
testimony in any criminal proceeding and the aggravated murder 781
was not committed during the commission, attempted commission, 782
or flight immediately after the commission or attempted 783
commission of the offense to which the victim was a witness, or 784
the victim of the aggravated murder was a witness to an offense 785
and was purposely killed in retaliation for the victim's 786
testimony in any criminal proceeding. 787

(9) The offender, in the commission of the offense, 788
purposefully caused the death of another who was under thirteen 789
years of age at the time of the commission of the offense, and 790
either the offender was the principal offender in the commission 791
of the offense or, if not the principal offender, committed the 792

offense with prior calculation and design. 793

(10) The offense was committed while the offender was 794
committing, attempting to commit, or fleeing immediately after 795
committing or attempting to commit terrorism. 796

(B) If one or more of the aggravating circumstances listed 797
in division (A) of this section is specified in the indictment 798
or count in the indictment and proved beyond a reasonable doubt, 799
~~and if the offender did not raise the matter of age pursuant to~~ 800
~~section 2929.023 of the Revised Code or if the offender, after~~ 801
~~raising the that matter of age,~~ was found at trial to have been 802
eighteen years of age or older at the time of the commission of 803
the offense, and if the offender did not raise the matter of the 804
offender's serious mental illness at the time of the commission 805
of the offense pursuant to section 2929.025 of the Revised Code 806
or the offender after raising that matter was found by the court 807
to not be ineligible for a sentence of death, the court, trial 808
jury, or panel of three judges shall consider, and weigh against 809
the aggravating circumstances proved beyond a reasonable doubt, 810
the nature and circumstances of the offense, the history, 811
character, and background of the offender, and all of the 812
following factors: 813

(1) Whether the victim of the offense induced or 814
facilitated it; 815

(2) Whether it is unlikely that the offense would have 816
been committed, but for the fact that the offender was under 817
duress, coercion, or strong provocation; 818

(3) Whether, at the time of committing the offense, the 819
offender, because of a mental disease or defect, lacked 820
substantial capacity to appreciate the criminality of the 821

offender's conduct or to conform the offender's conduct to the 822
requirements of the law; 823

(4) The youth of the offender; 824

(5) The offender's lack of a significant history of prior 825
criminal convictions and delinquency adjudications; 826

(6) If the offender was a participant in the offense but 827
not the principal offender, the degree of the offender's 828
participation in the offense and the degree of the offender's 829
participation in the acts that led to the death of the victim; 830

(7) Any other factors that are relevant to the issue of 831
whether the offender should be sentenced to death. 832

(C) The defendant shall be given great latitude in the 833
presentation of evidence of the factors listed in division (B) 834
of this section and of any other factors in mitigation of the 835
imposition of the sentence of death. 836

The existence of any of the mitigating factors listed in 837
division (B) of this section does not preclude the imposition of 838
a sentence of death on the offender but shall be weighed 839
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 840
Revised Code by the trial court, trial jury, or the panel of 841
three judges against the aggravating circumstances the offender 842
was found guilty of committing. 843

Sec. 2929.06. (A) (1) If a sentence of death imposed upon 844
an offender is set aside, nullified, or vacated because the, or 845
voided for any of the following reasons, the trial court that 846
sentenced the offender shall conduct a hearing to resentence the 847
offender in accordance with division (A) (2) of this section: 848

(a) The court of appeals, in a case in which a sentence of 849

death was imposed for an offense committed before January 1, 850
1995, or the supreme court, in ~~cases~~ a case in which the supreme 851
court reviews the sentence upon appeal, could not affirm the 852
sentence of death under the standards imposed by section 2929.05 853
of the Revised Code, ~~is set aside, nullified, or vacated for~~ 854
~~the.~~ 855

(b) The sole reason that the statutory procedure for 856
imposing the sentence of death that is set forth in sections 857
2929.03 and 2929.04 of the Revised Code is unconstitutional~~7.~~ 858

(c) The sentence of death is set aside, nullified, or 859
vacated pursuant to division (C) of section 2929.05 of the 860
Revised Code, ~~or is set aside, nullified, or vacated because a.~~ 861

(d) A court has determined that the offender is a person 862
with an intellectual disability under standards set forth in 863
decisions of the supreme court of this state or the United 864
States supreme court, ~~the trial court that sentenced the~~ 865
~~offender shall conduct a hearing to resentence the offender.~~ 866

(e) The sentence of death is voided by a court pursuant to 867
division (H) of section 2953.21 of the Revised Code. 868

(2) At the ~~a~~ resentencing hearing conducted under division 869
(A) (1) of this section, the court shall impose upon the offender 870
a sentence of life imprisonment or an indefinite term consisting 871
of a minimum term of thirty years and a maximum term of life 872
imprisonment that is determined as specified in this division. 873
If the sentence of death was voided by a court pursuant to 874
division (H) of section 2953.21 of the Revised Code, the 875
offender has waived any right to be sentenced to any sentence 876
other than life imprisonment without parole as described in 877
division (A) (3) (b) of that section and the court shall impose a 878

sentence of life imprisonment without parole. If the immediately 879
preceding sentence does not apply and if division (D) of section 880
2929.03 of the Revised Code, at the time the offender committed 881
the aggravated murder for which the sentence of death was 882
imposed, required the imposition when a sentence of death was 883
not imposed of a sentence of life imprisonment without parole or 884
a sentence of an indefinite term consisting of a minimum term of 885
thirty years and a maximum term of life imprisonment to be 886
imposed pursuant to division (A) or (B)(3) of section 2971.03 of 887
the Revised Code and served pursuant to that section, the court 888
shall impose the sentence so required. In all other cases, the 889
sentences of life imprisonment that are available at the 890
hearing, and from which the court shall impose sentence, shall 891
be the same sentences of life imprisonment that were available 892
under division (D) of section 2929.03 or under section 2909.24 893
of the Revised Code at the time the offender committed the 894
offense for which the sentence of death was imposed. Nothing in 895
this division regarding the resentencing of an offender shall 896
affect the operation of section 2971.03 of the Revised Code. 897

(B) Whenever any court of this state or any federal court 898
sets aside, nullifies, or vacates a sentence of death imposed 899
upon an offender because of error that occurred in the 900
sentencing phase of the trial and if division (A) of this 901
section does not apply, the trial court that sentenced the 902
offender shall conduct a new hearing to resentence the offender. 903
If the offender was tried by a jury, the trial court shall 904
impanel a new jury for the hearing. If the offender was tried by 905
a panel of three judges, that panel or, if necessary, a new 906
panel of three judges shall conduct the hearing. At the hearing, 907
the court or panel shall follow the procedure set forth in 908
division (D) of section 2929.03 of the Revised Code in 909

determining whether to impose upon the offender a sentence of 910
death, a sentence of life imprisonment, or an indefinite term 911
consisting of a minimum term of thirty years and a maximum term 912
of life imprisonment. If, pursuant to that procedure, the court 913
or panel determines that it will impose a sentence other than a 914
sentence of death, the court or panel shall impose upon the 915
offender one of the sentences of life imprisonment that could 916
have been imposed at the time the offender committed the offense 917
for which the sentence of death was imposed, determined as 918
specified in this division, or an indefinite term consisting of 919
a minimum term of thirty years and a maximum term of life 920
imprisonment that is determined as specified in this division. 921
If division (D) of section 2929.03 of the Revised Code, at the 922
time the offender committed the aggravated murder for which the 923
sentence of death was imposed, required the imposition when a 924
sentence of death was not imposed of a sentence of life 925
imprisonment without parole or a sentence of an indefinite term 926
consisting of a minimum term of thirty years and a maximum term 927
of life imprisonment to be imposed pursuant to division (A) or 928
(B) (3) of section 2971.03 of the Revised Code and served 929
pursuant to that section, the court or panel shall impose the 930
sentence so required. In all other cases, the sentences of life 931
imprisonment that are available at the hearing, and from which 932
the court or panel shall impose sentence, shall be the same 933
sentences of life imprisonment that were available under 934
division (D) of section 2929.03 or under section 2909.24 of the 935
Revised Code at the time the offender committed the offense for 936
which the sentence of death was imposed. 937

(C) If a sentence of life imprisonment without parole 938
imposed upon an offender pursuant to section 2929.021 or 2929.03 939
of the Revised Code is set aside, nullified, or vacated for the 940

sole reason that the statutory procedure for imposing the 941
sentence of life imprisonment without parole that is set forth 942
in sections 2929.03 and 2929.04 of the Revised Code is 943
unconstitutional, the trial court that sentenced the offender 944
shall conduct a hearing to resentence the offender to life 945
imprisonment with parole eligibility after serving twenty-five 946
full years of imprisonment or to life imprisonment with parole 947
eligibility after serving thirty full years of imprisonment. 948

(D) Nothing in this section limits or restricts the rights 949
of the state to appeal any order setting aside, nullifying, or 950
vacating a conviction or sentence of death, when an appeal of 951
that nature otherwise would be available. 952

(E) This section, as amended by H.B. 184 of the 125th 953
general assembly, shall apply to all offenders who have been 954
sentenced to death for an aggravated murder that was committed 955
on or after October 19, 1981, or for terrorism that was 956
committed on or after May 15, 2002. This section, as amended by 957
H.B. 184 of the 125th general assembly, shall apply equally to 958
all such offenders sentenced to death prior to, on, or after 959
March 23, 2005, including offenders who, on March 23, 2005, are 960
challenging their sentence of death and offenders whose sentence 961
of death has been set aside, nullified, or vacated by any court 962
of this state or any federal court but who, as of March 23, 963
2005, have not yet been resentenced. 964

Sec. 2929.14. (A) Except as provided in division (B) (1), 965
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (B) (9), 966
(B) (10), (B) (11), (E), (G), (H), (J), or (K) of this section or 967
in division (D) (6) of section 2919.25 of the Revised Code and 968
except in relation to an offense for which a sentence of death 969
or life imprisonment is to be imposed, if the court imposing a 970

sentence upon an offender for a felony elects or is required to 971
impose a prison term on the offender pursuant to this chapter, 972
the court shall impose a prison term that shall be one of the 973
following: 974

(1) (a) For a felony of the first degree committed on or 975
after the effective date of this amendment, the prison term 976
shall be an indefinite prison term with a stated minimum term 977
selected by the court of three, four, five, six, seven, eight, 978
nine, ten, or eleven years and a maximum term that is determined 979
pursuant to section 2929.144 of the Revised Code, except that if 980
the section that criminalizes the conduct constituting the 981
felony specifies a different minimum term or penalty for the 982
offense, the specific language of that section shall control in 983
determining the minimum term or otherwise sentencing the 984
offender but the minimum term or sentence imposed under that 985
specific language shall be considered for purposes of the 986
Revised Code as if it had been imposed under this division. 987

(b) For a felony of the first degree committed prior to 988
the effective date of this amendment, the prison term shall be a 989
definite prison term of three, four, five, six, seven, eight, 990
nine, ten, or eleven years. 991

(2) (a) For a felony of the second degree committed on or 992
after the effective date of this amendment, the prison term 993
shall be an indefinite prison term with a stated minimum term 994
selected by the court of two, three, four, five, six, seven, or 995
eight years and a maximum term that is determined pursuant to 996
section 2929.144 of the Revised Code, except that if the section 997
that criminalizes the conduct constituting the felony specifies 998
a different minimum term or penalty for the offense, the 999
specific language of that section shall control in determining 1000

the minimum term or otherwise sentencing the offender but the 1001
minimum term or sentence imposed under that specific language 1002
shall be considered for purposes of the Revised Code as if it 1003
had been imposed under this division. 1004

(b) For a felony of the second degree committed prior to 1005
the effective date of this amendment, the prison term shall be a 1006
definite term of two, three, four, five, six, seven, or eight 1007
years. 1008

(3) (a) For a felony of the third degree that is a 1009
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 1010
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 1011
Code or that is a violation of section 2911.02 or 2911.12 of the 1012
Revised Code if the offender previously has been convicted of or 1013
pleaded guilty in two or more separate proceedings to two or 1014
more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 1015
of the Revised Code, the prison term shall be a definite term of 1016
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 1017
forty-eight, fifty-four, or sixty months. 1018

(b) For a felony of the third degree that is not an 1019
offense for which division (A) (3) (a) of this section applies, 1020
the prison term shall be a definite term of nine, twelve, 1021
eighteen, twenty-four, thirty, or thirty-six months. 1022

(4) For a felony of the fourth degree, the prison term 1023
shall be a definite term of six, seven, eight, nine, ten, 1024
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 1025
or eighteen months. 1026

(5) For a felony of the fifth degree, the prison term 1027
shall be a definite term of six, seven, eight, nine, ten, 1028
eleven, or twelve months. 1029

(B) (1) (a) Except as provided in division (B) (1) (e) of this 1030
section, if an offender who is convicted of or pleads guilty to 1031
a felony also is convicted of or pleads guilty to a 1032
specification of the type described in section 2941.141, 1033
2941.144, or 2941.145 of the Revised Code, the court shall 1034
impose on the offender one of the following prison terms: 1035

(i) A prison term of six years if the specification is of 1036
the type described in division (A) of section 2941.144 of the 1037
Revised Code that charges the offender with having a firearm 1038
that is an automatic firearm or that was equipped with a firearm 1039
muffler or suppressor on or about the offender's person or under 1040
the offender's control while committing the offense; 1041

(ii) A prison term of three years if the specification is 1042
of the type described in division (A) of section 2941.145 of the 1043
Revised Code that charges the offender with having a firearm on 1044
or about the offender's person or under the offender's control 1045
while committing the offense and displaying the firearm, 1046
brandishing the firearm, indicating that the offender possessed 1047
the firearm, or using it to facilitate the offense; 1048

(iii) A prison term of one year if the specification is of 1049
the type described in division (A) of section 2941.141 of the 1050
Revised Code that charges the offender with having a firearm on 1051
or about the offender's person or under the offender's control 1052
while committing the offense; 1053

(iv) A prison term of nine years if the specification is 1054
of the type described in division (D) of section 2941.144 of the 1055
Revised Code that charges the offender with having a firearm 1056
that is an automatic firearm or that was equipped with a firearm 1057
muffler or suppressor on or about the offender's person or under 1058
the offender's control while committing the offense and 1059

specifies that the offender previously has been convicted of or
pleaded guilty to a specification of the type described in
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of
the Revised Code;

(v) A prison term of fifty-four months if the
specification is of the type described in division (D) of
section 2941.145 of the Revised Code that charges the offender
with having a firearm on or about the offender's person or under
the offender's control while committing the offense and
displaying the firearm, brandishing the firearm, indicating that
the offender possessed the firearm, or using the firearm to
facilitate the offense and that the offender previously has been
convicted of or pleaded guilty to a specification of the type
described in section 2941.141, 2941.144, 2941.145, 2941.146, or
2941.1412 of the Revised Code;

(vi) A prison term of eighteen months if the specification
is of the type described in division (D) of section 2941.141 of
the Revised Code that charges the offender with having a firearm
on or about the offender's person or under the offender's
control while committing the offense and that the offender
previously has been convicted of or pleaded guilty to a
specification of the type described in section 2941.141,
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code.

(b) If a court imposes a prison term on an offender under
division (B)(1)(a) of this section, the prison term shall not be
reduced pursuant to section 2967.19, section 2929.20, section
2967.193, or any other provision of Chapter 2967. or Chapter
5120. of the Revised Code. Except as provided in division (B)(1)
(g) of this section, a court shall not impose more than one
prison term on an offender under division (B)(1)(a) of this

section for felonies committed as part of the same act or 1090
transaction. 1091

(c) (i) Except as provided in division (B) (1) (e) of this 1092
section, if an offender who is convicted of or pleads guilty to 1093
a violation of section 2923.161 of the Revised Code or to a 1094
felony that includes, as an essential element, purposely or 1095
knowingly causing or attempting to cause the death of or 1096
physical harm to another, also is convicted of or pleads guilty 1097
to a specification of the type described in division (A) of 1098
section 2941.146 of the Revised Code that charges the offender 1099
with committing the offense by discharging a firearm from a 1100
motor vehicle other than a manufactured home, the court, after 1101
imposing a prison term on the offender for the violation of 1102
section 2923.161 of the Revised Code or for the other felony 1103
offense under division (A), (B) (2), or (B) (3) of this section, 1104
shall impose an additional prison term of five years upon the 1105
offender that shall not be reduced pursuant to section 2929.20, 1106
section 2967.19, section 2967.193, or any other provision of 1107
Chapter 2967. or Chapter 5120. of the Revised Code. 1108

(ii) Except as provided in division (B) (1) (e) of this 1109
section, if an offender who is convicted of or pleads guilty to 1110
a violation of section 2923.161 of the Revised Code or to a 1111
felony that includes, as an essential element, purposely or 1112
knowingly causing or attempting to cause the death of or 1113
physical harm to another, also is convicted of or pleads guilty 1114
to a specification of the type described in division (C) of 1115
section 2941.146 of the Revised Code that charges the offender 1116
with committing the offense by discharging a firearm from a 1117
motor vehicle other than a manufactured home and that the 1118
offender previously has been convicted of or pleaded guilty to a 1119
specification of the type described in section 2941.141, 1120

2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 1121
the court, after imposing a prison term on the offender for the 1122
violation of section 2923.161 of the Revised Code or for the 1123
other felony offense under division (A), (B) (2), or (3) of this 1124
section, shall impose an additional prison term of ninety months 1125
upon the offender that shall not be reduced pursuant to section 1126
2929.20, 2967.19, 2967.193, or any other provision of Chapter 1127
2967. or Chapter 5120. of the Revised Code. 1128

(iii) A court shall not impose more than one additional 1129
prison term on an offender under division (B) (1) (c) of this 1130
section for felonies committed as part of the same act or 1131
transaction. If a court imposes an additional prison term on an 1132
offender under division (B) (1) (c) of this section relative to an 1133
offense, the court also shall impose a prison term under 1134
division (B) (1) (a) of this section relative to the same offense, 1135
provided the criteria specified in that division for imposing an 1136
additional prison term are satisfied relative to the offender 1137
and the offense. 1138

(d) If an offender who is convicted of or pleads guilty to 1139
an offense of violence that is a felony also is convicted of or 1140
pleads guilty to a specification of the type described in 1141
section 2941.1411 of the Revised Code that charges the offender 1142
with wearing or carrying body armor while committing the felony 1143
offense of violence, the court shall impose on the offender an 1144
additional prison term of two years. The prison term so imposed, 1145
subject to divisions (C) to (I) of section 2967.19 of the 1146
Revised Code, shall not be reduced pursuant to section 2929.20, 1147
section 2967.19, section 2967.193, or any other provision of 1148
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1149
shall not impose more than one prison term on an offender under 1150
division (B) (1) (d) of this section for felonies committed as 1151

part of the same act or transaction. If a court imposes an 1152
additional prison term under division (B)(1)(a) or (c) of this 1153
section, the court is not precluded from imposing an additional 1154
prison term under division (B)(1)(d) of this section. 1155

(e) The court shall not impose any of the prison terms 1156
described in division (B)(1)(a) of this section or any of the 1157
additional prison terms described in division (B)(1)(c) of this 1158
section upon an offender for a violation of section 2923.12 or 1159
2923.123 of the Revised Code. The court shall not impose any of 1160
the prison terms described in division (B)(1)(a) or (b) of this 1161
section upon an offender for a violation of section 2923.122 1162
that involves a deadly weapon that is a firearm other than a 1163
dangerous ordnance, section 2923.16, or section 2923.121 of the 1164
Revised Code. The court shall not impose any of the prison terms 1165
described in division (B)(1)(a) of this section or any of the 1166
additional prison terms described in division (B)(1)(c) of this 1167
section upon an offender for a violation of section 2923.13 of 1168
the Revised Code unless all of the following apply: 1169

(i) The offender previously has been convicted of 1170
aggravated murder, murder, or any felony of the first or second 1171
degree. 1172

(ii) Less than five years have passed since the offender 1173
was released from prison or post-release control, whichever is 1174
later, for the prior offense. 1175

(f)(i) If an offender is convicted of or pleads guilty to 1176
a felony that includes, as an essential element, causing or 1177
attempting to cause the death of or physical harm to another and 1178
also is convicted of or pleads guilty to a specification of the 1179
type described in division (A) of section 2941.1412 of the 1180
Revised Code that charges the offender with committing the 1181

offense by discharging a firearm at a peace officer as defined 1182
in section 2935.01 of the Revised Code or a corrections officer, 1183
as defined in section 2941.1412 of the Revised Code, the court, 1184
after imposing a prison term on the offender for the felony 1185
offense under division (A), (B) (2), or (B) (3) of this section, 1186
shall impose an additional prison term of seven years upon the 1187
offender that shall not be reduced pursuant to section 2929.20, 1188
section 2967.19, section 2967.193, or any other provision of 1189
Chapter 2967. or Chapter 5120. of the Revised Code. 1190

(ii) If an offender is convicted of or pleads guilty to a 1191
felony that includes, as an essential element, causing or 1192
attempting to cause the death of or physical harm to another and 1193
also is convicted of or pleads guilty to a specification of the 1194
type described in division (B) of section 2941.1412 of the 1195
Revised Code that charges the offender with committing the 1196
offense by discharging a firearm at a peace officer, as defined 1197
in section 2935.01 of the Revised Code, or a corrections 1198
officer, as defined in section 2941.1412 of the Revised Code, 1199
and that the offender previously has been convicted of or 1200
pleaded guilty to a specification of the type described in 1201
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1202
the Revised Code, the court, after imposing a prison term on the 1203
offender for the felony offense under division (A), (B) (2), or 1204
(3) of this section, shall impose an additional prison term of 1205
one hundred twenty-six months upon the offender that shall not 1206
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 1207
any other provision of Chapter 2967. or 5120. of the Revised 1208
Code. 1209

(iii) If an offender is convicted of or pleads guilty to 1210
two or more felonies that include, as an essential element, 1211
causing or attempting to cause the death or physical harm to 1212

another and also is convicted of or pleads guilty to a 1213
specification of the type described under division (B)(1)(f) of 1214
this section in connection with two or more of the felonies of 1215
which the offender is convicted or to which the offender pleads 1216
guilty, the sentencing court shall impose on the offender the 1217
prison term specified under division (B)(1)(f) of this section 1218
for each of two of the specifications of which the offender is 1219
convicted or to which the offender pleads guilty and, in its 1220
discretion, also may impose on the offender the prison term 1221
specified under that division for any or all of the remaining 1222
specifications. If a court imposes an additional prison term on 1223
an offender under division (B)(1)(f) of this section relative to 1224
an offense, the court shall not impose a prison term under 1225
division (B)(1)(a) or (c) of this section relative to the same 1226
offense. 1227

(g) If an offender is convicted of or pleads guilty to two 1228
or more felonies, if one or more of those felonies are 1229
aggravated murder, murder, attempted aggravated murder, 1230
attempted murder, aggravated robbery, felonious assault, or 1231
rape, and if the offender is convicted of or pleads guilty to a 1232
specification of the type described under division (B)(1)(a) of 1233
this section in connection with two or more of the felonies, the 1234
sentencing court shall impose on the offender the prison term 1235
specified under division (B)(1)(a) of this section for each of 1236
the two most serious specifications of which the offender is 1237
convicted or to which the offender pleads guilty and, in its 1238
discretion, also may impose on the offender the prison term 1239
specified under that division for any or all of the remaining 1240
specifications. 1241

(2)(a) If division (B)(2)(b) of this section does not 1242
apply, the court may impose on an offender, in addition to the 1243

longest prison term authorized or required for the offense or, 1244
for offenses for which division (A) (1) (a) or (2) (a) of this 1245
section applies, in addition to the longest minimum prison term 1246
authorized or required for the offense, an additional definite 1247
prison term of one, two, three, four, five, six, seven, eight, 1248
nine, or ten years if all of the following criteria are met: 1249

(i) The offender is convicted of or pleads guilty to a 1250
specification of the type described in section 2941.149 of the 1251
Revised Code that the offender is a repeat violent offender. 1252

(ii) The offense of which the offender currently is 1253
convicted or to which the offender currently pleads guilty is 1254
aggravated murder and the court does not impose a sentence of 1255
death or life imprisonment without parole, murder, terrorism and 1256
the court does not impose a sentence of life imprisonment 1257
without parole, any felony of the first degree that is an 1258
offense of violence and the court does not impose a sentence of 1259
life imprisonment without parole, or any felony of the second 1260
degree that is an offense of violence and the trier of fact 1261
finds that the offense involved an attempt to cause or a threat 1262
to cause serious physical harm to a person or resulted in 1263
serious physical harm to a person. 1264

(iii) The court imposes the longest prison term for the 1265
offense or the longest minimum prison term for the offense, 1266
whichever is applicable, that is not life imprisonment without 1267
parole. 1268

(iv) The court finds that the prison terms imposed 1269
pursuant to division (B) (2) (a) (iii) of this section and, if 1270
applicable, division (B) (1) or (3) of this section are 1271
inadequate to punish the offender and protect the public from 1272
future crime, because the applicable factors under section 1273

2929.12 of the Revised Code indicating a greater likelihood of 1274
recidivism outweigh the applicable factors under that section 1275
indicating a lesser likelihood of recidivism. 1276

(v) The court finds that the prison terms imposed pursuant 1277
to division (B)(2)(a)(iii) of this section and, if applicable, 1278
division (B)(1) or (3) of this section are demeaning to the 1279
seriousness of the offense, because one or more of the factors 1280
under section 2929.12 of the Revised Code indicating that the 1281
offender's conduct is more serious than conduct normally 1282
constituting the offense are present, and they outweigh the 1283
applicable factors under that section indicating that the 1284
offender's conduct is less serious than conduct normally 1285
constituting the offense. 1286

(b) The court shall impose on an offender the longest 1287
prison term authorized or required for the offense or, for 1288
offenses for which division (A)(1)(a) or (2)(a) of this section 1289
applies, the longest minimum prison term authorized or required 1290
for the offense, and shall impose on the offender an additional 1291
definite prison term of one, two, three, four, five, six, seven, 1292
eight, nine, or ten years if all of the following criteria are 1293
met: 1294

(i) The offender is convicted of or pleads guilty to a 1295
specification of the type described in section 2941.149 of the 1296
Revised Code that the offender is a repeat violent offender. 1297

(ii) The offender within the preceding twenty years has 1298
been convicted of or pleaded guilty to three or more offenses 1299
described in division (CC)(1) of section 2929.01 of the Revised 1300
Code, including all offenses described in that division of which 1301
the offender is convicted or to which the offender pleads guilty 1302
in the current prosecution and all offenses described in that 1303

division of which the offender previously has been convicted or 1304
to which the offender previously pleaded guilty, whether 1305
prosecuted together or separately. 1306

(iii) The offense or offenses of which the offender 1307
currently is convicted or to which the offender currently pleads 1308
guilty is aggravated murder and the court does not impose a 1309
sentence of death or life imprisonment without parole, murder, 1310
terrorism and the court does not impose a sentence of life 1311
imprisonment without parole, any felony of the first degree that 1312
is an offense of violence and the court does not impose a 1313
sentence of life imprisonment without parole, or any felony of 1314
the second degree that is an offense of violence and the trier 1315
of fact finds that the offense involved an attempt to cause or a 1316
threat to cause serious physical harm to a person or resulted in 1317
serious physical harm to a person. 1318

(c) For purposes of division (B) (2) (b) of this section, 1319
two or more offenses committed at the same time or as part of 1320
the same act or event shall be considered one offense, and that 1321
one offense shall be the offense with the greatest penalty. 1322

(d) A sentence imposed under division (B) (2) (a) or (b) of 1323
this section shall not be reduced pursuant to section 2929.20, 1324
section 2967.19, or section 2967.193, or any other provision of 1325
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 1326
shall serve an additional prison term imposed under division (B) 1327
(2) (a) or (b) of this section consecutively to and prior to the 1328
prison term imposed for the underlying offense. 1329

(e) When imposing a sentence pursuant to division (B) (2) 1330
(a) or (b) of this section, the court shall state its findings 1331
explaining the imposed sentence. 1332

(3) Except when an offender commits a violation of section 1333
2903.01 or 2907.02 of the Revised Code and the penalty imposed 1334
for the violation is life imprisonment or commits a violation of 1335
section 2903.02 of the Revised Code, if the offender commits a 1336
violation of section 2925.03 or 2925.11 of the Revised Code and 1337
that section classifies the offender as a major drug offender, 1338
if the offender commits a violation of section 2925.05 of the 1339
Revised Code and division (E)(1) of that section classifies the 1340
offender as a major drug offender, if the offender commits a 1341
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 1342
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 1343
division (C) or (D) of section 3719.172, division (E) of section 1344
4729.51, or division (J) of section 4729.54 of the Revised Code 1345
that includes the sale, offer to sell, or possession of a 1346
schedule I or II controlled substance, with the exception of 1347
marihuana, and the court imposing sentence upon the offender 1348
finds that the offender is guilty of a specification of the type 1349
described in division (A) of section 2941.1410 of the Revised 1350
Code charging that the offender is a major drug offender, if the 1351
court imposing sentence upon an offender for a felony finds that 1352
the offender is guilty of corrupt activity with the most serious 1353
offense in the pattern of corrupt activity being a felony of the 1354
first degree, or if the offender is guilty of an attempted 1355
violation of section 2907.02 of the Revised Code and, had the 1356
offender completed the violation of section 2907.02 of the 1357
Revised Code that was attempted, the offender would have been 1358
subject to a sentence of life imprisonment or life imprisonment 1359
without parole for the violation of section 2907.02 of the 1360
Revised Code, the court shall impose upon the offender for the 1361
felony violation a mandatory prison term determined as described 1362
in this division that, subject to divisions (C) to (I) of 1363
section 2967.19 of the Revised Code, cannot be reduced pursuant 1364

to section 2929.20, section 2967.19, or any other provision of 1365
Chapter 2967. or 5120. of the Revised Code. The mandatory prison 1366
term shall be the maximum definite prison term prescribed in 1367
division (A) (1) (b) of this section for a felony of the first 1368
degree, except that for offenses for which division (A) (1) (a) of 1369
this section applies, the mandatory prison term shall be the 1370
longest minimum prison term prescribed in that division for the 1371
offense. 1372

(4) If the offender is being sentenced for a third or 1373
fourth degree felony OVI offense under division (G) (2) of 1374
section 2929.13 of the Revised Code, the sentencing court shall 1375
impose upon the offender a mandatory prison term in accordance 1376
with that division. In addition to the mandatory prison term, if 1377
the offender is being sentenced for a fourth degree felony OVI 1378
offense, the court, notwithstanding division (A) (4) of this 1379
section, may sentence the offender to a definite prison term of 1380
not less than six months and not more than thirty months, and if 1381
the offender is being sentenced for a third degree felony OVI 1382
offense, the sentencing court may sentence the offender to an 1383
additional prison term of any duration specified in division (A) 1384
(3) of this section. In either case, the additional prison term 1385
imposed shall be reduced by the sixty or one hundred twenty days 1386
imposed upon the offender as the mandatory prison term. The 1387
total of the additional prison term imposed under division (B) 1388
(4) of this section plus the sixty or one hundred twenty days 1389
imposed as the mandatory prison term shall equal a definite term 1390
in the range of six months to thirty months for a fourth degree 1391
felony OVI offense and shall equal one of the authorized prison 1392
terms specified in division (A) (3) of this section for a third 1393
degree felony OVI offense. If the court imposes an additional 1394
prison term under division (B) (4) of this section, the offender 1395

shall serve the additional prison term after the offender has 1396
served the mandatory prison term required for the offense. In 1397
addition to the mandatory prison term or mandatory and 1398
additional prison term imposed as described in division (B) (4) 1399
of this section, the court also may sentence the offender to a 1400
community control sanction under section 2929.16 or 2929.17 of 1401
the Revised Code, but the offender shall serve all of the prison 1402
terms so imposed prior to serving the community control 1403
sanction. 1404

If the offender is being sentenced for a fourth degree 1405
felony OVI offense under division (G) (1) of section 2929.13 of 1406
the Revised Code and the court imposes a mandatory term of local 1407
incarceration, the court may impose a prison term as described 1408
in division (A) (1) of that section. 1409

(5) If an offender is convicted of or pleads guilty to a 1410
violation of division (A) (1) or (2) of section 2903.06 of the 1411
Revised Code and also is convicted of or pleads guilty to a 1412
specification of the type described in section 2941.1414 of the 1413
Revised Code that charges that the victim of the offense is a 1414
peace officer, as defined in section 2935.01 of the Revised 1415
Code, or an investigator of the bureau of criminal 1416
identification and investigation, as defined in section 2903.11 1417
of the Revised Code, the court shall impose on the offender a 1418
prison term of five years. If a court imposes a prison term on 1419
an offender under division (B) (5) of this section, the prison 1420
term, subject to divisions (C) to (I) of section 2967.19 of the 1421
Revised Code, shall not be reduced pursuant to section 2929.20, 1422
section 2967.19, section 2967.193, or any other provision of 1423
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1424
shall not impose more than one prison term on an offender under 1425
division (B) (5) of this section for felonies committed as part 1426

of the same act. 1427

(6) If an offender is convicted of or pleads guilty to a 1428
violation of division (A) (1) or (2) of section 2903.06 of the 1429
Revised Code and also is convicted of or pleads guilty to a 1430
specification of the type described in section 2941.1415 of the 1431
Revised Code that charges that the offender previously has been 1432
convicted of or pleaded guilty to three or more violations of 1433
division (A) or (B) of section 4511.19 of the Revised Code or an 1434
equivalent offense, as defined in section 2941.1415 of the 1435
Revised Code, or three or more violations of any combination of 1436
those divisions and offenses, the court shall impose on the 1437
offender a prison term of three years. If a court imposes a 1438
prison term on an offender under division (B) (6) of this 1439
section, the prison term, subject to divisions (C) to (I) of 1440
section 2967.19 of the Revised Code, shall not be reduced 1441
pursuant to section 2929.20, section 2967.19, section 2967.193, 1442
or any other provision of Chapter 2967. or Chapter 5120. of the 1443
Revised Code. A court shall not impose more than one prison term 1444
on an offender under division (B) (6) of this section for 1445
felonies committed as part of the same act. 1446

(7) (a) If an offender is convicted of or pleads guilty to 1447
a felony violation of section 2905.01, 2905.02, 2907.21, 1448
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 1449
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 1450
section 2919.22 of the Revised Code and also is convicted of or 1451
pleads guilty to a specification of the type described in 1452
section 2941.1422 of the Revised Code that charges that the 1453
offender knowingly committed the offense in furtherance of human 1454
trafficking, the court shall impose on the offender a mandatory 1455
prison term that is one of the following: 1456

(i) If the offense is a felony of the first degree, a 1457
definite prison term of not less than five years and not greater 1458
than eleven years, except that if the offense is a felony of the 1459
first degree committed on or after the effective date of this 1460
amendment, the court shall impose as the minimum prison term a 1461
mandatory term of not less than five years and not greater than 1462
eleven years; 1463

(ii) If the offense is a felony of the second or third 1464
degree, a definite prison term of not less than three years and 1465
not greater than the maximum prison term allowed for the offense 1466
by division (A) (2) (b) or (3) of this section, except that if the 1467
offense is a felony of the second degree committed on or after 1468
the effective date of this amendment, the court shall impose as 1469
the minimum prison term a mandatory term of not less than three 1470
years and not greater than eight years; 1471

(iii) If the offense is a felony of the fourth or fifth 1472
degree, a definite prison term that is the maximum prison term 1473
allowed for the offense by division (A) of section 2929.14 of 1474
the Revised Code. 1475

(b) Subject to divisions (C) to (I) of section 2967.19 of 1476
the Revised Code, the prison term imposed under division (B) (7) 1477
(a) of this section shall not be reduced pursuant to section 1478
2929.20, section 2967.19, section 2967.193, or any other 1479
provision of Chapter 2967. of the Revised Code. A court shall 1480
not impose more than one prison term on an offender under 1481
division (B) (7) (a) of this section for felonies committed as 1482
part of the same act, scheme, or plan. 1483

(8) If an offender is convicted of or pleads guilty to a 1484
felony violation of section 2903.11, 2903.12, or 2903.13 of the 1485
Revised Code and also is convicted of or pleads guilty to a 1486

specification of the type described in section 2941.1423 of the 1487
Revised Code that charges that the victim of the violation was a 1488
woman whom the offender knew was pregnant at the time of the 1489
violation, notwithstanding the range prescribed in division (A) 1490
of this section as the definite prison term or minimum prison 1491
term for felonies of the same degree as the violation, the court 1492
shall impose on the offender a mandatory prison term that is 1493
either a definite prison term of six months or one of the prison 1494
terms prescribed in division (A) of this section for felonies of 1495
the same degree as the violation, except that if the violation 1496
is a felony of the first or second degree committed on or after 1497
the effective date of this amendment, the court shall impose as 1498
the minimum prison term under division (A) (1) (a) or (2) (a) of 1499
this section a mandatory term that is one of the terms 1500
prescribed in that division, whichever is applicable, for the 1501
offense. 1502

(9) (a) If an offender is convicted of or pleads guilty to 1503
a violation of division (A) (1) or (2) of section 2903.11 of the 1504
Revised Code and also is convicted of or pleads guilty to a 1505
specification of the type described in section 2941.1425 of the 1506
Revised Code, the court shall impose on the offender a mandatory 1507
prison term of six years if either of the following applies: 1508

(i) The violation is a violation of division (A) (1) of 1509
section 2903.11 of the Revised Code and the specification 1510
charges that the offender used an accelerant in committing the 1511
violation and the serious physical harm to another or to 1512
another's unborn caused by the violation resulted in a 1513
permanent, serious disfigurement or permanent, substantial 1514
incapacity; 1515

(ii) The violation is a violation of division (A) (2) of 1516

section 2903.11 of the Revised Code and the specification 1517
charges that the offender used an accelerant in committing the 1518
violation, that the violation caused physical harm to another or 1519
to another's unborn, and that the physical harm resulted in a 1520
permanent, serious disfigurement or permanent, substantial 1521
incapacity. 1522

(b) If a court imposes a prison term on an offender under 1523
division (B) (9) (a) of this section, the prison term shall not be 1524
reduced pursuant to section 2929.20, section 2967.19, section 1525
2967.193, or any other provision of Chapter 2967. or Chapter 1526
5120. of the Revised Code. A court shall not impose more than 1527
one prison term on an offender under division (B) (9) of this 1528
section for felonies committed as part of the same act. 1529

(c) The provisions of divisions (B) (9) and (C) (6) of this 1530
section and of division (D) (2) of section 2903.11, division (F) 1531
(20) of section 2929.13, and section 2941.1425 of the Revised 1532
Code shall be known as "Judy's Law." 1533

(10) If an offender is convicted of or pleads guilty to a 1534
violation of division (A) of section 2903.11 of the Revised Code 1535
and also is convicted of or pleads guilty to a specification of 1536
the type described in section 2941.1426 of the Revised Code that 1537
charges that the victim of the offense suffered permanent 1538
disabling harm as a result of the offense and that the victim 1539
was under ten years of age at the time of the offense, 1540
regardless of whether the offender knew the age of the victim, 1541
the court shall impose upon the offender an additional definite 1542
prison term of six years. A prison term imposed on an offender 1543
under division (B) (10) of this section shall not be reduced 1544
pursuant to section 2929.20, section 2967.193, or any other 1545
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 1546

If a court imposes an additional prison term on an offender 1547
under this division relative to a violation of division (A) of 1548
section 2903.11 of the Revised Code, the court shall not impose 1549
any other additional prison term on the offender relative to the 1550
same offense. 1551

(11) If an offender is convicted of or pleads guilty to a 1552
felony violation of section 2925.03 or 2925.05 of the Revised 1553
Code or a felony violation of section 2925.11 of the Revised 1554
Code for which division (C) (11) of that section applies in 1555
determining the sentence for the violation, if the drug involved 1556
in the violation is a fentanyl-related compound or a compound, 1557
mixture, preparation, or substance containing a fentanyl-related 1558
compound, and if the offender also is convicted of or pleads 1559
guilty to a specification of the type described in division (B) 1560
of section 2941.1410 of the Revised Code that charges that the 1561
offender is a major drug offender, in addition to any other 1562
penalty imposed for the violation, the court shall impose on the 1563
offender a mandatory prison term of three, four, five, six, 1564
seven, or eight years. If a court imposes a prison term on an 1565
offender under division (B) (11) of this section, the prison 1566
term, subject to divisions (C) to (I) of section 2967.19 of the 1567
Revised Code, shall not be reduced pursuant to section 2929.20, 1568
2967.19, or 2967.193, or any other provision of Chapter 2967. or 1569
5120. of the Revised Code. A court shall not impose more than 1570
one prison term on an offender under division (B) (11) of this 1571
section for felonies committed as part of the same act. 1572

(C) (1) (a) Subject to division (C) (1) (b) of this section, 1573
if a mandatory prison term is imposed upon an offender pursuant 1574
to division (B) (1) (a) of this section for having a firearm on or 1575
about the offender's person or under the offender's control 1576
while committing a felony, if a mandatory prison term is imposed 1577

upon an offender pursuant to division (B)(1)(c) of this section 1578
for committing a felony specified in that division by 1579
discharging a firearm from a motor vehicle, or if both types of 1580
mandatory prison terms are imposed, the offender shall serve any 1581
mandatory prison term imposed under either division 1582
consecutively to any other mandatory prison term imposed under 1583
either division or under division (B)(1)(d) of this section, 1584
consecutively to and prior to any prison term imposed for the 1585
underlying felony pursuant to division (A), (B)(2), or (B)(3) of 1586
this section or any other section of the Revised Code, and 1587
consecutively to any other prison term or mandatory prison term 1588
previously or subsequently imposed upon the offender. 1589

(b) If a mandatory prison term is imposed upon an offender 1590
pursuant to division (B)(1)(d) of this section for wearing or 1591
carrying body armor while committing an offense of violence that 1592
is a felony, the offender shall serve the mandatory term so 1593
imposed consecutively to any other mandatory prison term imposed 1594
under that division or under division (B)(1)(a) or (c) of this 1595
section, consecutively to and prior to any prison term imposed 1596
for the underlying felony under division (A), (B)(2), or (B)(3) 1597
of this section or any other section of the Revised Code, and 1598
consecutively to any other prison term or mandatory prison term 1599
previously or subsequently imposed upon the offender. 1600

(c) If a mandatory prison term is imposed upon an offender 1601
pursuant to division (B)(1)(f) of this section, the offender 1602
shall serve the mandatory prison term so imposed consecutively 1603
to and prior to any prison term imposed for the underlying 1604
felony under division (A), (B)(2), or (B)(3) of this section or 1605
any other section of the Revised Code, and consecutively to any 1606
other prison term or mandatory prison term previously or 1607
subsequently imposed upon the offender. 1608

(d) If a mandatory prison term is imposed upon an offender 1609
pursuant to division (B) (7) or (8) of this section, the offender 1610
shall serve the mandatory prison term so imposed consecutively 1611
to any other mandatory prison term imposed under that division 1612
or under any other provision of law and consecutively to any 1613
other prison term or mandatory prison term previously or 1614
subsequently imposed upon the offender. 1615

(e) If a mandatory prison term is imposed upon an offender 1616
pursuant to division (B) (11) of this section, the offender shall 1617
serve the mandatory prison term consecutively to any other 1618
mandatory prison term imposed under that division, consecutively 1619
to and prior to any prison term imposed for the underlying 1620
felony, and consecutively to any other prison term or mandatory 1621
prison term previously or subsequently imposed upon the 1622
offender. 1623

(2) If an offender who is an inmate in a jail, prison, or 1624
other residential detention facility violates section 2917.02, 1625
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 1626
(2) of section 2921.34 of the Revised Code, if an offender who 1627
is under detention at a detention facility commits a felony 1628
violation of section 2923.131 of the Revised Code, or if an 1629
offender who is an inmate in a jail, prison, or other 1630
residential detention facility or is under detention at a 1631
detention facility commits another felony while the offender is 1632
an escapee in violation of division (A) (1) or (2) of section 1633
2921.34 of the Revised Code, any prison term imposed upon the 1634
offender for one of those violations shall be served by the 1635
offender consecutively to the prison term or term of 1636
imprisonment the offender was serving when the offender 1637
committed that offense and to any other prison term previously 1638
or subsequently imposed upon the offender. 1639

(3) If a prison term is imposed for a violation of 1640
division (B) of section 2911.01 of the Revised Code, a violation 1641
of division (A) of section 2913.02 of the Revised Code in which 1642
the stolen property is a firearm or dangerous ordnance, or a 1643
felony violation of division (B) of section 2921.331 of the 1644
Revised Code, the offender shall serve that prison term 1645
consecutively to any other prison term or mandatory prison term 1646
previously or subsequently imposed upon the offender. 1647

(4) If multiple prison terms are imposed on an offender 1648
for convictions of multiple offenses, the court may require the 1649
offender to serve the prison terms consecutively if the court 1650
finds that the consecutive service is necessary to protect the 1651
public from future crime or to punish the offender and that 1652
consecutive sentences are not disproportionate to the 1653
seriousness of the offender's conduct and to the danger the 1654
offender poses to the public, and if the court also finds any of 1655
the following: 1656

(a) The offender committed one or more of the multiple 1657
offenses while the offender was awaiting trial or sentencing, 1658
was under a sanction imposed pursuant to section 2929.16, 1659
2929.17, or 2929.18 of the Revised Code, or was under post- 1660
release control for a prior offense. 1661

(b) At least two of the multiple offenses were committed 1662
as part of one or more courses of conduct, and the harm caused 1663
by two or more of the multiple offenses so committed was so 1664
great or unusual that no single prison term for any of the 1665
offenses committed as part of any of the courses of conduct 1666
adequately reflects the seriousness of the offender's conduct. 1667

(c) The offender's history of criminal conduct 1668
demonstrates that consecutive sentences are necessary to protect 1669

the public from future crime by the offender. 1670

(5) If a mandatory prison term is imposed upon an offender 1671
pursuant to division (B) (5) or (6) of this section, the offender 1672
shall serve the mandatory prison term consecutively to and prior 1673
to any prison term imposed for the underlying violation of 1674
division (A) (1) or (2) of section 2903.06 of the Revised Code 1675
pursuant to division (A) of this section or section 2929.142 of 1676
the Revised Code. If a mandatory prison term is imposed upon an 1677
offender pursuant to division (B) (5) of this section, and if a 1678
mandatory prison term also is imposed upon the offender pursuant 1679
to division (B) (6) of this section in relation to the same 1680
violation, the offender shall serve the mandatory prison term 1681
imposed pursuant to division (B) (5) of this section 1682
consecutively to and prior to the mandatory prison term imposed 1683
pursuant to division (B) (6) of this section and consecutively to 1684
and prior to any prison term imposed for the underlying 1685
violation of division (A) (1) or (2) of section 2903.06 of the 1686
Revised Code pursuant to division (A) of this section or section 1687
2929.142 of the Revised Code. 1688

(6) If a mandatory prison term is imposed on an offender 1689
pursuant to division (B) (9) of this section, the offender shall 1690
serve the mandatory prison term consecutively to and prior to 1691
any prison term imposed for the underlying violation of division 1692
(A) (1) or (2) of section 2903.11 of the Revised Code and 1693
consecutively to and prior to any other prison term or mandatory 1694
prison term previously or subsequently imposed on the offender. 1695

(7) If a mandatory prison term is imposed on an offender 1696
pursuant to division (B) (10) of this section, the offender shall 1697
serve that mandatory prison term consecutively to and prior to 1698
any prison term imposed for the underlying felonious assault. 1699

Except as otherwise provided in division (C) of this section, 1700
any other prison term or mandatory prison term previously or 1701
subsequently imposed upon the offender may be served 1702
concurrently with, or consecutively to, the prison term imposed 1703
pursuant to division (B)(10) of this section. 1704

(8) Any prison term imposed for a violation of section 1705
2903.04 of the Revised Code that is based on a violation of 1706
section 2925.03 or 2925.11 of the Revised Code or on a violation 1707
of section 2925.05 of the Revised Code that is not funding of 1708
marihuana trafficking shall run consecutively to any prison term 1709
imposed for the violation of section 2925.03 or 2925.11 of the 1710
Revised Code or for the violation of section 2925.05 of the 1711
Revised Code that is not funding of marihuana trafficking. 1712

(9) When consecutive prison terms are imposed pursuant to 1713
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 1714
division (H)(1) or (2) of this section, subject to division (C) 1715
(10) of this section, the term to be served is the aggregate of 1716
all of the terms so imposed. 1717

(10) When a court sentences an offender to a non-life 1718
felony indefinite prison term, any definite prison term or 1719
mandatory definite prison term previously or subsequently 1720
imposed on the offender in addition to that indefinite sentence 1721
that is required to be served consecutively to that indefinite 1722
sentence shall be served prior to the indefinite sentence. 1723

(11) If a court is sentencing an offender for a felony of 1724
the first or second degree, if division (A)(1)(a) or (2)(a) of 1725
this section applies with respect to the sentencing for the 1726
offense, and if the court is required under the Revised Code 1727
section that sets forth the offense or any other Revised Code 1728
provision to impose a mandatory prison term for the offense, the 1729

court shall impose the required mandatory prison term as the 1730
minimum term imposed under division (A)(1)(a) or (2)(a) of this 1731
section, whichever is applicable. 1732

(D)(1) If a court imposes a prison term, other than a term 1733
of life imprisonment, for a felony of the first degree, for a 1734
felony of the second degree, for a felony sex offense, or for a 1735
felony of the third degree that is an offense of violence and 1736
that is not a felony sex offense, it shall include in the 1737
sentence a requirement that the offender be subject to a period 1738
of post-release control after the offender's release from 1739
imprisonment, in accordance with section 2967.28 of the Revised 1740
Code. If a court imposes a sentence including a prison term of a 1741
type described in this division on or after July 11, 2006, the 1742
failure of a court to include a post-release control requirement 1743
in the sentence pursuant to this division does not negate, 1744
limit, or otherwise affect the mandatory period of post-release 1745
control that is required for the offender under division (B) of 1746
section 2967.28 of the Revised Code. Section 2929.191 of the 1747
Revised Code applies if, prior to July 11, 2006, a court imposed 1748
a sentence including a prison term of a type described in this 1749
division and failed to include in the sentence pursuant to this 1750
division a statement regarding post-release control. 1751

(2) If a court imposes a prison term for a felony of the 1752
third, fourth, or fifth degree that is not subject to division 1753
(D)(1) of this section, it shall include in the sentence a 1754
requirement that the offender be subject to a period of post- 1755
release control after the offender's release from imprisonment, 1756
in accordance with that division, if the parole board determines 1757
that a period of post-release control is necessary. Section 1758
2929.191 of the Revised Code applies if, prior to July 11, 2006, 1759
a court imposed a sentence including a prison term of a type 1760

described in this division and failed to include in the sentence 1761
pursuant to this division a statement regarding post-release 1762
control. 1763

(E) The court shall impose sentence upon the offender in 1764
accordance with section 2971.03 of the Revised Code, and Chapter 1765
2971. of the Revised Code applies regarding the prison term or 1766
term of life imprisonment without parole imposed upon the 1767
offender and the service of that term of imprisonment if any of 1768
the following apply: 1769

(1) A person is convicted of or pleads guilty to a violent 1770
sex offense or a designated homicide, assault, or kidnapping 1771
offense, and, in relation to that offense, the offender is 1772
adjudicated a sexually violent predator. 1773

(2) A person is convicted of or pleads guilty to a 1774
violation of division (A) (1) (b) of section 2907.02 of the 1775
Revised Code committed on or after January 2, 2007, and either 1776
the court does not impose a sentence of life without parole when 1777
authorized pursuant to division (B) of section 2907.02 of the 1778
Revised Code, or division (B) of section 2907.02 of the Revised 1779
Code provides that the court shall not sentence the offender 1780
pursuant to section 2971.03 of the Revised Code. 1781

(3) A person is convicted of or pleads guilty to attempted 1782
rape committed on or after January 2, 2007, and a specification 1783
of the type described in section 2941.1418, 2941.1419, or 1784
2941.1420 of the Revised Code. 1785

(4) A person is convicted of or pleads guilty to a 1786
violation of section 2905.01 of the Revised Code committed on or 1787
after January 1, 2008, and that section requires the court to 1788
sentence the offender pursuant to section 2971.03 of the Revised 1789

Code. 1790

(5) A person is convicted of or pleads guilty to 1791
aggravated murder committed on or after January 1, 2008, and 1792
division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), 1793
(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1)~~ 1794
~~(d) (E) (1) (a) (iv)~~ of section 2929.03, or division (A) or (B) of 1795
section 2929.06 of the Revised Code requires the court to 1796
sentence the offender pursuant to division (B) (3) of section 1797
2971.03 of the Revised Code. 1798

(6) A person is convicted of or pleads guilty to murder 1799
committed on or after January 1, 2008, and division (B) (2) of 1800
section 2929.02 of the Revised Code requires the court to 1801
sentence the offender pursuant to section 2971.03 of the Revised 1802
Code. 1803

(F) If a person who has been convicted of or pleaded 1804
guilty to a felony is sentenced to a prison term or term of 1805
imprisonment under this section, sections 2929.02 to 2929.06 of 1806
the Revised Code, section 2929.142 of the Revised Code, section 1807
2971.03 of the Revised Code, or any other provision of law, 1808
section 5120.163 of the Revised Code applies regarding the 1809
person while the person is confined in a state correctional 1810
institution. 1811

(G) If an offender who is convicted of or pleads guilty to 1812
a felony that is an offense of violence also is convicted of or 1813
pleads guilty to a specification of the type described in 1814
section 2941.142 of the Revised Code that charges the offender 1815
with having committed the felony while participating in a 1816
criminal gang, the court shall impose upon the offender an 1817
additional prison term of one, two, or three years. 1818

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

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

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

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

(b) In lieu of imposing an additional prison term under division (H) (2) (a) of this section, the court may directly

impose on the offender a sanction that requires the offender to 1849
wear a real-time processing, continual tracking electronic 1850
monitoring device during the period of time specified by the 1851
court. The period of time specified by the court shall equal the 1852
duration of an additional prison term that the court could have 1853
imposed upon the offender under division (H) (2) (a) of this 1854
section. A sanction imposed under this division shall commence 1855
on the date specified by the court, provided that the sanction 1856
shall not commence until after the offender has served the 1857
prison term imposed for the felony violation of section 2907.22, 1858
2907.24, 2907.241, or 2907.25 of the Revised Code and any 1859
residential sanction imposed for the violation under section 1860
2929.16 of the Revised Code. A sanction imposed under this 1861
division shall be considered to be a community control sanction 1862
for purposes of section 2929.15 of the Revised Code, and all 1863
provisions of the Revised Code that pertain to community control 1864
sanctions shall apply to a sanction imposed under this division, 1865
except to the extent that they would by their nature be clearly 1866
inapplicable. The offender shall pay all costs associated with a 1867
sanction imposed under this division, including the cost of the 1868
use of the monitoring device. 1869

(I) At the time of sentencing, the court may recommend the 1870
offender for placement in a program of shock incarceration under 1871
section 5120.031 of the Revised Code or for placement in an 1872
intensive program prison under section 5120.032 of the Revised 1873
Code, disapprove placement of the offender in a program of shock 1874
incarceration or an intensive program prison of that nature, or 1875
make no recommendation on placement of the offender. In no case 1876
shall the department of rehabilitation and correction place the 1877
offender in a program or prison of that nature unless the 1878
department determines as specified in section 5120.031 or 1879

5120.032 of the Revised Code, whichever is applicable, that the 1880
offender is eligible for the placement. 1881

If the court disapproves placement of the offender in a 1882
program or prison of that nature, the department of 1883
rehabilitation and correction shall not place the offender in 1884
any program of shock incarceration or intensive program prison. 1885

If the court recommends placement of the offender in a 1886
program of shock incarceration or in an intensive program 1887
prison, and if the offender is subsequently placed in the 1888
recommended program or prison, the department shall notify the 1889
court of the placement and shall include with the notice a brief 1890
description of the placement. 1891

If the court recommends placement of the offender in a 1892
program of shock incarceration or in an intensive program prison 1893
and the department does not subsequently place the offender in 1894
the recommended program or prison, the department shall send a 1895
notice to the court indicating why the offender was not placed 1896
in the recommended program or prison. 1897

If the court does not make a recommendation under this 1898
division with respect to an offender and if the department 1899
determines as specified in section 5120.031 or 5120.032 of the 1900
Revised Code, whichever is applicable, that the offender is 1901
eligible for placement in a program or prison of that nature, 1902
the department shall screen the offender and determine if there 1903
is an available program of shock incarceration or an intensive 1904
program prison for which the offender is suited. If there is an 1905
available program of shock incarceration or an intensive program 1906
prison for which the offender is suited, the department shall 1907
notify the court of the proposed placement of the offender as 1908
specified in section 5120.031 or 5120.032 of the Revised Code 1909

and shall include with the notice a brief description of the 1910
placement. The court shall have ten days from receipt of the 1911
notice to disapprove the placement. 1912

(J) If a person is convicted of or pleads guilty to 1913
aggravated vehicular homicide in violation of division (A) (1) of 1914
section 2903.06 of the Revised Code and division (B) (2) (c) of 1915
that section applies, the person shall be sentenced pursuant to 1916
section 2929.142 of the Revised Code. 1917

(K) (1) The court shall impose an additional mandatory 1918
prison term of two, three, four, five, six, seven, eight, nine, 1919
ten, or eleven years on an offender who is convicted of or 1920
pleads guilty to a violent felony offense if the offender also 1921
is convicted of or pleads guilty to a specification of the type 1922
described in section 2941.1424 of the Revised Code that charges 1923
that the offender is a violent career criminal and had a firearm 1924
on or about the offender's person or under the offender's 1925
control while committing the presently charged violent felony 1926
offense and displayed or brandished the firearm, indicated that 1927
the offender possessed a firearm, or used the firearm to 1928
facilitate the offense. The offender shall serve the prison term 1929
imposed under this division consecutively to and prior to the 1930
prison term imposed for the underlying offense. The prison term 1931
shall not be reduced pursuant to section 2929.20 or 2967.19 or 1932
any other provision of Chapter 2967. or 5120. of the Revised 1933
Code. A court may not impose more than one sentence under 1934
division (B) (2) (a) of this section and this division for acts 1935
committed as part of the same act or transaction. 1936

(2) As used in division (K) (1) of this section, "violent 1937
career criminal" and "violent felony offense" have the same 1938
meanings as in section 2923.132 of the Revised Code. 1939

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 1940
the Revised Code to an offender is precluded unless one of the 1941
following applies: 1942

(a) The offender is charged with a violent sex offense, 1943
and the indictment, count in the indictment, or information 1944
charging the violent sex offense also includes a specification 1945
that the offender is a sexually violent predator, or the 1946
offender is charged with a designated homicide, assault, or 1947
kidnapping offense, and the indictment, count in the indictment, 1948
or information charging the designated homicide, assault, or 1949
kidnapping offense also includes both a specification of the 1950
type described in section 2941.147 of the Revised Code and a 1951
specification that the offender is a sexually violent predator. 1952

(b) The offender is convicted of or pleads guilty to a 1953
violation of division (A) (1) (b) of section 2907.02 of the 1954
Revised Code committed on or after January 2, 2007, and division 1955
(B) of section 2907.02 of the Revised Code does not prohibit the 1956
court from sentencing the offender pursuant to section 2971.03 1957
of the Revised Code. 1958

(c) The offender is convicted of or pleads guilty to 1959
attempted rape committed on or after January 2, 2007, and to a 1960
specification of the type described in section 2941.1418, 1961
2941.1419, or 2941.1420 of the Revised Code. 1962

(d) The offender is convicted of or pleads guilty to a 1963
violation of section 2905.01 of the Revised Code and to a 1964
specification of the type described in section 2941.147 of the 1965
Revised Code, and section 2905.01 of the Revised Code requires a 1966
court to sentence the offender pursuant to section 2971.03 of 1967
the Revised Code. 1968

(e) The offender is convicted of or pleads guilty to aggravated murder and to a specification of the type described in section 2941.147 of the Revised Code, and division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires a court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

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

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

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

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

(C) As used in this section, "designated homicide, 1999
assault, or kidnapping offense," "violent sex offense," and 2000
"sexually violent predator" have the same meanings as in section 2001
2971.01 of the Revised Code. 2002

Sec. 2953.21. (A) (1) (a) A person in any of the following 2003
categories may file a petition in the court that imposed 2004
sentence, stating the grounds for relief relied upon, and asking 2005
the court to vacate or set aside the judgment or sentence or to 2006
grant other appropriate relief: 2007

(i) Any person who has been convicted of a criminal 2008
offense or adjudicated a delinquent child and who claims that 2009
there was such a denial or infringement of the person's rights 2010
as to render the judgment void or voidable under the Ohio 2011
Constitution or the Constitution of the United States, ~~any;~~ 2012

(ii) Any person who has been convicted of a criminal 2013
offense and sentenced to death and who claims that there was a 2014
denial or infringement of the person's rights under either of 2015
those Constitutions that creates a reasonable probability of an 2016
altered verdict, ~~and any;~~ 2017

(iii) Any person who has been convicted of a criminal 2018
offense that is a felony and who is an offender for whom DNA 2019
testing that was performed under sections 2953.71 to 2953.81 of 2020
the Revised Code or under former section 2953.82 of the Revised 2021
Code and analyzed in the context of and upon consideration of 2022
all available admissible evidence related to the person's case 2023
as described in division (D) of section 2953.74 of the Revised 2024
Code provided results that establish, by clear and convincing 2025
evidence, actual innocence of that felony offense or, if the 2026
person was sentenced to death, establish, by clear and 2027
convincing evidence, actual innocence of the aggravating 2028

circumstance or circumstances the person was found guilty of 2029
committing and that is or are the basis of that sentence of 2030
death, ~~may file a petition in the court that imposed sentence,~~ 2031
~~stating the grounds for relief relied upon, and asking the court~~ 2032
~~to vacate or set aside the judgment or sentence or to grant~~ 2033
~~other appropriate relief;~~ 2034

(iv) Any person who has been convicted of aggravated 2035
murder and sentenced to death for the offense and who claims 2036
that the person had a serious mental illness at the time of the 2037
commission of the offense and that as a result the court should 2038
render void the sentence of death, with the filing of the 2039
petition constituting the waiver described in division (A) (3) (b) 2040
of this section. 2041

~~The~~ (b) A petitioner under division (A) (1) (a) of this 2042
section may file a supporting affidavit and other documentary 2043
evidence in support of the claim for relief. 2044

~~(b) (c)~~ As used in division (A) (1) (a) of this section, 2045
"actual: 2046

(i) "Actual innocence" means that, had the results of the 2047
DNA testing conducted under sections 2953.71 to 2953.81 of the 2048
Revised Code or under former section 2953.82 of the Revised Code 2049
been presented at trial, and had those results been analyzed in 2050
the context of and upon consideration of all available 2051
admissible evidence related to the person's case as described in 2052
division (D) of section 2953.74 of the Revised Code, no 2053
reasonable factfinder would have found the petitioner guilty of 2054
the offense of which the petitioner was convicted, or, if the 2055
person was sentenced to death, no reasonable factfinder would 2056
have found the petitioner guilty of the aggravating circumstance 2057
or circumstances the petitioner was found guilty of committing 2058

and that is or are the basis of that sentence of death. 2059

(ii) "Serious mental illness" has the same meaning as in 2060
section 2929.025 of the Revised Code. 2061

~~(e)~~(d) As used in divisions (A) (1) (a) and ~~(b)~~(c) of this 2062
section, "former section 2953.82 of the Revised Code" means 2063
section 2953.82 of the Revised Code as it existed prior to July 2064
6, 2010. 2065

~~(d)~~(e) At any time in conjunction with the filing of a 2066
petition for postconviction relief under division (A) of this 2067
section by a person who has been sentenced to death, or with the 2068
litigation of a petition so filed, the court, for good cause 2069
shown, may authorize the petitioner in seeking the 2070
postconviction relief and the prosecuting attorney of the county 2071
served by the court in defending the proceeding, to take 2072
depositions and to issue subpoenas and subpoenas duces tecum in 2073
accordance with divisions (A) (1) ~~(d)~~(e), (A) (1) ~~(e)~~(f), and (C) of 2074
this section, and to any other form of discovery as in a civil 2075
action that the court in its discretion permits. The court may 2076
limit the extent of discovery under this division. In addition 2077
to discovery that is relevant to the claim and was available 2078
under Criminal Rule 16 through conclusion of the original 2079
criminal trial, the court, for good cause shown, may authorize 2080
the petitioner or prosecuting attorney to take depositions and 2081
issue subpoenas and subpoenas duces tecum in either of the 2082
following circumstances: 2083

(i) For any witness who testified at trial or who was 2084
disclosed by the state prior to trial, except as otherwise 2085
provided in this division, the petitioner or prosecuting 2086
attorney shows clear and convincing evidence that the witness is 2087
material and that a deposition of the witness or the issuing of 2088

a subpoena or subpoena duces tecum is of assistance in order to 2089
substantiate or refute the petitioner's claim that there is a 2090
reasonable probability of an altered verdict. This division does 2091
not apply if the witness was unavailable for trial or would not 2092
voluntarily be interviewed by the defendant or prosecuting 2093
attorney. 2094

(ii) For any witness with respect to whom division (A) (1) 2095
~~(d)~~ (e) (i) of this section does not apply, the petitioner or 2096
prosecuting attorney shows good cause that the witness is 2097
material and that a deposition of the witness or the issuing of 2098
a subpoena or subpoena duces tecum is of assistance in order to 2099
substantiate or refute the petitioner's claim that there is a 2100
reasonable probability of an altered verdict. 2101

~~(e)~~ (f) If a person who has been sentenced to death and who 2102
files a petition for postconviction relief under division (A) of 2103
this section requests postconviction discovery as described in 2104
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 2105
attorney of the county served by the court requests 2106
postconviction discovery as described in that division, within 2107
ten days after the docketing of the request, or within any other 2108
time that the court sets for good cause shown, the prosecuting 2109
attorney shall respond by answer or motion to the petitioner's 2110
request or the petitioner shall respond by answer or motion to 2111
the prosecuting attorney's request, whichever is applicable. 2112

~~(f)~~ (g) If a person who has been sentenced to death and who 2113
files a petition for postconviction relief under division (A) of 2114
this section requests postconviction discovery as described in 2115
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 2116
attorney of the county served by the court requests 2117
postconviction discovery as described in that division, upon 2118

motion by the petitioner, the prosecuting attorney, or the 2119
person from whom discovery is sought, and for good cause shown, 2120
the court in which the action is pending may make any order that 2121
justice requires to protect a party or person from oppression or 2122
undue burden or expense, including but not limited to the orders 2123
described in divisions (A) (1) ~~(g)~~ (h) (i) to (viii) of this 2124
section. The court also may make any such order if, in its 2125
discretion, it determines that the discovery sought would be 2126
irrelevant to the claims made in the petition; and if the court 2127
makes any such order on that basis, it shall explain in the 2128
order the reasons why the discovery would be irrelevant. 2129

~~(g)~~ (h) If a petitioner, prosecuting attorney, or person 2130
from whom discovery is sought makes a motion for an order under 2131
division (A) (1) ~~(f)~~ (g) of this section and the order is denied in 2132
whole or in part, the court, on terms and conditions as are 2133
just, may order that any party or person provide or permit 2134
discovery as described in division (A) (1) ~~(d)~~ (e) of this section. 2135
The provisions of Civil Rule 37(A) (4) apply to the award of 2136
expenses incurred in relation to the motion, except that in no 2137
case shall a court require a petitioner who is indigent to pay 2138
expenses under those provisions. 2139

Before any person moves for an order under division (A) (1) 2140
~~(f)~~ (g) of this section, that person shall make a reasonable 2141
effort to resolve the matter through discussion with the 2142
petitioner or prosecuting attorney seeking discovery. A motion 2143
for an order under division (A) (1) ~~(f)~~ (g) of this section shall 2144
be accompanied by a statement reciting the effort made to 2145
resolve the matter in accordance with this paragraph. 2146

The orders that may be made under division (A) (1) ~~(f)~~ (g) of 2147
this section include, but are not limited to, any of the 2148

following: 2149

(i) That the discovery not be had; 2150

(ii) That the discovery may be had only on specified terms 2151
and conditions, including a designation of the time or place; 2152

(iii) That the discovery may be had only by a method of 2153
discovery other than that selected by the party seeking 2154
discovery; 2155

(iv) That certain matters not be inquired into or that the 2156
scope of the discovery be limited to certain matters; 2157

(v) That discovery be conducted with no one present except 2158
persons designated by the court; 2159

(vi) That a deposition after being sealed be opened only 2160
by order of the court; 2161

(vii) That a trade secret or other confidential research, 2162
development, or commercial information not be disclosed or be 2163
disclosed only in a designated way; 2164

(viii) That the parties simultaneously file specified 2165
documents or information enclosed in sealed envelopes to be 2166
opened as directed by the court. 2167

~~(h)~~ (i) Any postconviction discovery authorized under 2168
division (A) (1) ~~(d)~~ (e) of this section shall be completed not 2169
later than eighteen months after the start of the discovery 2170
proceedings unless, for good cause shown, the court extends that 2171
period for completing the discovery. 2172

~~(i)~~ (j) Nothing in division (A) (1) ~~(d)~~ (e) of this section 2173
authorizes, or shall be construed as authorizing, the 2174
relitigation, or discovery in support of relitigation, of any 2175

matter barred by the doctrine of res judicata. 2176

~~(j)~~(k) Division (A) (1) of this section does not apply to 2177
any person who has been convicted of a criminal offense and 2178
sentenced to death and who has unsuccessfully raised the same 2179
claims in a petition for postconviction relief. 2180

(2)(a) Except as otherwise provided in section 2953.23 of 2181
the Revised Code, a petition under division (A) (1) (a) (i), (ii), 2182
or (iii) of this section shall be filed no later than three 2183
hundred sixty-five days after the date on which the trial 2184
transcript is filed in the court of appeals in the direct appeal 2185
of the judgment of conviction or adjudication or, if the direct 2186
appeal involves a sentence of death, the date on which the trial 2187
transcript is filed in the supreme court. If no appeal is taken, 2188
except as otherwise provided in section 2953.23 of the Revised 2189
Code, the petition shall be filed no later than three hundred 2190
sixty-five days after the expiration of the time for filing the 2191
appeal. 2192

(b) Except as otherwise provided in section 2953.23 of the 2193
Revised Code, a petition under division (A) (1) (a) (iv) of this 2194
section shall be filed not later than three hundred sixty-five 2195
days after the effective date of this amendment. 2196

(3)(a) In a petition filed under division (A) (1) (a) (i), 2197
(ii), or (iii) of this section, a person who has been sentenced 2198
to death may ask the court to render void or voidable the 2199
judgment with respect to the conviction of aggravated murder or 2200
the specification of an aggravating circumstance or the sentence 2201
of death. 2202

(b) A person sentenced to death who files a petition under 2203
division (A) (1) (a) (iv) of this section may ask the court to 2204

render void the sentence of death and to order the resentencing 2205
of the person under division (A) of section 2929.06 of the 2206
Revised Code. If a person sentenced to death files such a 2207
petition and asks the court to render void the sentence of death 2208
and to order the resentencing of the person under division (A) 2209
of section 2929.06 of the Revised Code, the act of filing the 2210
petition constitutes a waiver of any right to be sentenced under 2211
the law that existed at the time the offense was committed and 2212
constitutes consent to be sentenced to life imprisonment without 2213
parole under division (A) of section 2929.06 of the Revised 2214
Code. 2215

(4) A petitioner shall state in the original or amended 2216
petition filed under division (A) of this section all grounds 2217
for relief claimed by the petitioner. Except as provided in 2218
section 2953.23 of the Revised Code, any ground for relief that 2219
is not so stated in the petition is waived. 2220

(5) If the petitioner in a petition filed under division 2221
(A) (1)(a)(i), (ii), or (iii) of this section was convicted of or 2222
pleaded guilty to a felony, the petition may include a claim 2223
that the petitioner was denied the equal protection of the laws 2224
in violation of the Ohio Constitution or the United States 2225
Constitution because the sentence imposed upon the petitioner 2226
for the felony was part of a consistent pattern of disparity in 2227
sentencing by the judge who imposed the sentence, with regard to 2228
the petitioner's race, gender, ethnic background, or religion. 2229
If the supreme court adopts a rule requiring a court of common 2230
pleas to maintain information with regard to an offender's race, 2231
gender, ethnic background, or religion, the supporting evidence 2232
for the petition shall include, but shall not be limited to, a 2233
copy of that type of information relative to the petitioner's 2234
sentence and copies of that type of information relative to 2235

sentences that the same judge imposed upon other persons. 2236

(6) Notwithstanding any law or court rule to the contrary, 2237
there is no limit on the number of pages in, or on the length 2238
of, a petition filed under division (A) (1) (a) (i), (ii), (iii), 2239
or (iv) of this section by a person who has been sentenced to 2240
death. If any court rule specifies a limit on the number of 2241
pages in, or on the length of, a petition filed under division 2242
(A) (1) (a) (i), (ii), (iii), or (iv) of this section or on a 2243
prosecuting attorney's response to such a petition by answer or 2244
motion and a person who has been sentenced to death files a 2245
petition that exceeds the limit specified for the petition, the 2246
prosecuting attorney may respond by an answer or motion that 2247
exceeds the limit specified for the response. 2248

(B) The clerk of the court in which the petition for 2249
postconviction relief and, if applicable, a request for 2250
postconviction discovery described in division (A) (1) ~~(d)~~ (e) of 2251
this section is filed shall docket the petition and the request 2252
and bring them promptly to the attention of the court. The clerk 2253
of the court in which the petition for postconviction relief 2254
and, if applicable, a request for postconviction discovery 2255
described in division (A) (1) ~~(d)~~ (e) of this section is filed 2256
immediately shall forward a copy of the petition and a copy of 2257
the request if filed by the petitioner to the prosecuting 2258
attorney of the county served by the court. If the request for 2259
postconviction discovery is filed by the prosecuting attorney, 2260
the clerk of the court immediately shall forward a copy of the 2261
request to the petitioner or the petitioner's counsel. 2262

(C) If a person who has been sentenced to death and who 2263
files a petition for postconviction relief under division (A) (1) 2264
(a) (i), (ii), (iii), or (iv) of this section requests a 2265

deposition or the prosecuting attorney in the case requests a 2266
deposition, and if the court grants the request under division 2267
(A) (1) ~~(d)~~ (e) of this section, the court shall notify the 2268
petitioner or the petitioner's counsel and the prosecuting 2269
attorney. The deposition shall be conducted pursuant to 2270
divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding 2271
division (C) of Criminal Rule 15, the petitioner is not entitled 2272
to attend the deposition. The prosecuting attorney shall be 2273
permitted to attend and participate in any deposition. 2274

(D) The court shall consider a petition that is timely 2275
filed ~~under~~ within the period specified in division (A) (2) of 2276
this section even if a direct appeal of the judgment is pending. 2277
Before granting a hearing on a petition filed under division (A) 2278
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall 2279
determine whether there are substantive grounds for relief. In 2280
making such a determination, the court shall consider, in 2281
addition to the petition, the supporting affidavits, and the 2282
documentary evidence, all the files and records pertaining to 2283
the proceedings against the petitioner, including, but not 2284
limited to, the indictment, the court's journal entries, the 2285
journalized records of the clerk of the court, and the court 2286
reporter's transcript. The court reporter's transcript, if 2287
ordered and certified by the court, shall be taxed as court 2288
costs. If the court dismisses the petition, it shall make and 2289
file findings of fact and conclusions of law with respect to 2290
such dismissal. If the petition was filed by a person who has 2291
been sentenced to death, the findings of fact and conclusions of 2292
law shall state specifically the reasons for the dismissal of 2293
the petition and of each claim it contains. 2294

(E) Within ten days after the docketing of the petition, 2295
or within any further time that the court may fix for good cause 2296

shown, the prosecuting attorney shall respond by answer or 2297
motion. Division (A) (6) of this section applies with respect to 2298
the prosecuting attorney's response. Within twenty days from the 2299
date the issues are raised, either party may move for summary 2300
judgment. The right to summary judgment shall appear on the face 2301
of the record. 2302

(F) Unless the petition and the files and records of the 2303
case show the petitioner is not entitled to relief, the court 2304
shall proceed to a prompt hearing on the issues even if a direct 2305
appeal of the case is pending. If the court notifies the parties 2306
that it has found grounds for granting relief, either party may 2307
request an appellate court in which a direct appeal of the 2308
judgment is pending to remand the pending case to the court. 2309

With respect to a petition filed under division (A) (1) (a) 2310
(iv) of this section, the procedures and rules regarding 2311
introduction of evidence and burden of proof at the pretrial 2312
hearing that are set forth in divisions (C), (D), and (F) of 2313
section 2929.025 of the Revised Code apply in considering the 2314
petition. With respect to such a petition, the grounds for 2315
granting relief are that the person has been diagnosed with one 2316
or more of the conditions set forth in division (A) (1) (a) of 2317
section 2929.025 of the Revised Code and that, at the time of 2318
the aggravated murder that was the basis of the sentence of 2319
death, the condition or conditions significantly impaired the 2320
person's capacity in a manner described in division (A) (1) (b) of 2321
that section. 2322

(G) A petitioner who files a petition under division (A) 2323
(1) (a) (i), (ii), (iii), or (iv) of this section may amend the 2324
petition as follows: 2325

(1) If the petition was filed by a person who has been 2326

sentenced to death, at any time that is not later than one 2327
hundred eighty days after the petition is filed, the petitioner 2328
may amend the petition with or without leave or prejudice to the 2329
proceedings. 2330

(2) If division (G)(1) of this section does not apply, at 2331
any time before the answer or motion is filed, the petitioner 2332
may amend the petition with or without leave or prejudice to the 2333
proceedings. 2334

(3) The petitioner may amend the petition with leave of 2335
court at any time after the expiration of the applicable period 2336
specified in division (G)(1) or (2) of this section. 2337

(H) If the court does not find grounds for granting 2338
relief, it shall make and file findings of fact and conclusions 2339
of law and shall enter judgment denying relief on the petition. 2340
If the petition was filed by a person who has been sentenced to 2341
death, the findings of fact and conclusions of law shall state 2342
specifically the reasons for the denial of relief on the 2343
petition and of each claim it contains. If no direct appeal of 2344
the case is pending and the court finds grounds for relief or if 2345
a pending direct appeal of the case has been remanded to the 2346
court pursuant to a request made pursuant to division (F) of 2347
this section and the court finds grounds for granting relief, it 2348
shall make and file findings of fact and conclusions of law and 2349
shall enter a judgment that vacates and sets aside the judgment 2350
in question, and, in the case of a petitioner who is a prisoner 2351
in custody, except as otherwise described in this division, 2352
shall discharge or resentence the petitioner or grant a new 2353
trial as the court determines appropriate. If the court finds 2354
grounds for relief in the case of a petitioner who filed a 2355
petition under division (A)(1)(a)(iv) of this section, the court 2356

shall render void the sentence of death and order the 2357
resentencing of the offender under division (A) of section 2358
2929.06 of the Revised Code. If the petitioner has been 2359
sentenced to death, the findings of fact and conclusions of law 2360
shall state specifically the reasons for the finding of grounds 2361
for granting the relief, with respect to each claim contained in 2362
the petition. The court also may make supplementary orders to 2363
the relief granted, concerning such matters as rearraignment, 2364
retrial, custody, and bail. If the trial court's order granting 2365
the petition is reversed on appeal and if the direct appeal of 2366
the case has been remanded from an appellate court pursuant to a 2367
request under division (F) of this section, the appellate court 2368
reversing the order granting the petition shall notify the 2369
appellate court in which the direct appeal of the case was 2370
pending at the time of the remand of the reversal and remand of 2371
the trial court's order. Upon the reversal and remand of the 2372
trial court's order granting the petition, regardless of whether 2373
notice is sent or received, the direct appeal of the case that 2374
was remanded is reinstated. 2375

(I) Upon the filing of a petition pursuant to division (A) 2376
(1)(a)(i), (ii), (iii), or (iv) of this section by a person 2377
sentenced to death, only the supreme court may stay execution of 2378
the sentence of death. 2379

(J) (1) If a person sentenced to death intends to file a 2380
petition under this section, the court shall appoint counsel to 2381
represent the person upon a finding that the person is indigent 2382
and that the person either accepts the appointment of counsel or 2383
is unable to make a competent decision whether to accept or 2384
reject the appointment of counsel. The court may decline to 2385
appoint counsel for the person only upon a finding, after a 2386
hearing if necessary, that the person rejects the appointment of 2387

counsel and understands the legal consequences of that decision 2388
or upon a finding that the person is not indigent. 2389

(2) The court shall not appoint as counsel under division 2390
(J) (1) of this section an attorney who represented the 2391
petitioner at trial in the case to which the petition relates 2392
unless the person and the attorney expressly request the 2393
appointment. The court shall appoint as counsel under division 2394
(J) (1) of this section only an attorney who is certified under 2395
Rule 20 of the Rules of Superintendence for the Courts of Ohio 2396
to represent indigent defendants charged with or convicted of an 2397
offense for which the death penalty can be or has been imposed. 2398
The ineffectiveness or incompetence of counsel during 2399
proceedings under this section does not constitute grounds for 2400
relief in a proceeding under this section, in an appeal of any 2401
action under this section, or in an application to reopen a 2402
direct appeal. 2403

(3) Division (J) of this section does not preclude 2404
attorneys who represent the state of Ohio from invoking the 2405
provisions of 28 U.S.C. 154 with respect to capital cases that 2406
were pending in federal habeas corpus proceedings prior to July 2407
1, 1996, insofar as the petitioners in those cases were 2408
represented in proceedings under this section by one or more 2409
counsel appointed by the court under this section or section 2410
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those 2411
appointed counsel meet the requirements of division (J) (2) of 2412
this section. 2413

(K) Subject to the appeal of a sentence for a felony that 2414
is authorized by section 2953.08 of the Revised Code, the remedy 2415
set forth in this section is the exclusive remedy by which a 2416
person may bring a collateral challenge to the validity of a 2417

conviction or sentence in a criminal case or to the validity of 2418
an adjudication of a child as a delinquent child for the 2419
commission of an act that would be a criminal offense if 2420
committed by an adult or the validity of a related order of 2421
disposition. 2422

Sec. 2953.23. (A) Whether a hearing is or is not held on a 2423
petition filed pursuant to section 2953.21 of the Revised Code, 2424
a court may not entertain a petition filed after the expiration 2425
of the period prescribed in division (A) of that section or a 2426
second petition or successive petitions for similar relief on 2427
behalf of a petitioner unless division (A)(1) or (2) of this 2428
section applies: 2429

(1) Both of the following apply: 2430

(a) Either the petitioner shows that the petitioner was 2431
unavoidably prevented from discovery of the facts upon which the 2432
petitioner must rely to present the claim for relief, or, 2433
subsequent to the period prescribed in division (A)(2) of 2434
section 2953.21 of the Revised Code or to the filing of an 2435
earlier petition, the United States Supreme Court recognized a 2436
new federal or state right that applies retroactively to persons 2437
in the petitioner's situation, and the petition asserts a claim 2438
based on that right. 2439

(b) The petitioner shows by clear and convincing evidence 2440
that, but for constitutional error at trial, no reasonable 2441
factfinder would have found the petitioner guilty of the offense 2442
of which the petitioner was convicted or, if the claim 2443
challenges a sentence of death that, but for constitutional 2444
error at the sentencing hearing, no reasonable factfinder would 2445
have found the petitioner eligible for the death sentence. 2446

(2) The petitioner was convicted of a felony, the 2447
petitioner is an offender for whom DNA testing was performed 2448
under sections 2953.71 to 2953.81 of the Revised Code or under 2449
former section 2953.82 of the Revised Code and analyzed in the 2450
context of and upon consideration of all available admissible 2451
evidence related to the inmate's case as described in division 2452
(D) of section 2953.74 of the Revised Code, and the results of 2453
the DNA testing establish, by clear and convincing evidence, 2454
actual innocence of that felony offense or, if the person was 2455
sentenced to death, establish, by clear and convincing evidence, 2456
actual innocence of the aggravating circumstance or 2457
circumstances the person was found guilty of committing and that 2458
is or are the basis of that sentence of death. 2459

As used in this division, "actual innocence" has the same 2460
meaning as in division (A) (1) ~~(b)~~ (c) of section 2953.21 of the 2461
Revised Code, and "former section 2953.82 of the Revised Code" 2462
has the same meaning as in division (A) (1) ~~(e)~~ (d) of section 2463
2953.21 of the Revised Code. 2464

(B) An order awarding or denying relief sought in a 2465
petition filed pursuant to section 2953.21 of the Revised Code 2466
is a final judgment and may be appealed pursuant to Chapter 2467
2953. of the Revised Code. 2468

If a petition filed pursuant to section 2953.21 of the 2469
Revised Code by a person who has been sentenced to death is 2470
denied and the person appeals the judgment, notwithstanding any 2471
law or court rule to the contrary, there is no limit on the 2472
number of pages in, or on the length of, a notice of appeal or 2473
briefs related to an appeal filed by the person. If any court 2474
rule specifies a limit on the number of pages in, or on the 2475
length of, a notice of appeal or briefs described in this 2476

division or on a prosecuting attorney's response or briefs with 2477
respect to such an appeal and a person who has been sentenced to 2478
death files a notice of appeal or briefs that exceed the limit 2479
specified for the petition, the prosecuting attorney may file a 2480
response or briefs that exceed the limit specified for the 2481
answer or briefs. 2482

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 2483
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 2484
another section of the Revised Code, other than divisions (B) 2485
and (C) of section 2929.14 of the Revised Code, that authorizes 2486
or requires a specified prison term or a mandatory prison term 2487
for a person who is convicted of or pleads guilty to a felony or 2488
that specifies the manner and place of service of a prison term 2489
or term of imprisonment, the court shall impose a sentence upon 2490
a person who is convicted of or pleads guilty to a violent sex 2491
offense and who also is convicted of or pleads guilty to a 2492
sexually violent predator specification that was included in the 2493
indictment, count in the indictment, or information charging 2494
that offense, and upon a person who is convicted of or pleads 2495
guilty to a designated homicide, assault, or kidnapping offense 2496
and also is convicted of or pleads guilty to both a sexual 2497
motivation specification and a sexually violent predator 2498
specification that were included in the indictment, count in the 2499
indictment, or information charging that offense, as follows: 2500

(1) If the offense for which the sentence is being imposed 2501
is aggravated murder and if the court does not impose upon the 2502
offender a sentence of death, it shall impose upon the offender 2503
a term of life imprisonment without parole. If the court 2504
sentences the offender to death and the sentence of death is 2505
vacated, overturned, or otherwise set aside, the court shall 2506
impose upon the offender a term of life imprisonment without 2507

parole. 2508

(2) If the offense for which the sentence is being imposed 2509
is murder; or if the offense is rape committed in violation of 2510
division (A)(1)(b) of section 2907.02 of the Revised Code when 2511
the offender purposely compelled the victim to submit by force 2512
or threat of force, when the victim was less than ten years of 2513
age, when the offender previously has been convicted of or 2514
pleaded guilty to either rape committed in violation of that 2515
division or a violation of an existing or former law of this 2516
state, another state, or the United States that is substantially 2517
similar to division (A)(1)(b) of section 2907.02 of the Revised 2518
Code, or when the offender during or immediately after the 2519
commission of the rape caused serious physical harm to the 2520
victim; or if the offense is an offense other than aggravated 2521
murder or murder for which a term of life imprisonment may be 2522
imposed, it shall impose upon the offender a term of life 2523
imprisonment without parole. 2524

(3) (a) Except as otherwise provided in division (A)(3)(b), 2525
(c), (d), or (e) or (A)(4) of this section, if the offense for 2526
which the sentence is being imposed is an offense other than 2527
aggravated murder, murder, or rape and other than an offense for 2528
which a term of life imprisonment may be imposed, it shall 2529
impose an indefinite prison term consisting of a minimum term 2530
fixed by the court as described in this division, but not less 2531
than two years, and a maximum term of life imprisonment. Except 2532
as otherwise specified in this division, the minimum term shall 2533
be fixed by the court from among the range of terms available as 2534
a definite term for the offense. If the offense is a felony of 2535
the first or second degree committed on or after ~~the effective~~ 2536
~~date of this amendment~~ March 22, 2019, the minimum term shall be 2537
fixed by the court from among the range of terms available as a 2538

minimum term for the offense under division (A) (1) (a) or (2) (a) 2539
of that section. 2540

(b) Except as otherwise provided in division (A) (4) of 2541
this section, if the offense for which the sentence is being 2542
imposed is kidnapping that is a felony of the first degree, it 2543
shall impose an indefinite prison term as follows: 2544

(i) If the kidnapping is committed on or after January 1, 2545
2008, and the victim of the offense is less than thirteen years 2546
of age, except as otherwise provided in this division, it shall 2547
impose an indefinite prison term consisting of a minimum term of 2548
fifteen years and a maximum term of life imprisonment. If the 2549
kidnapping is committed on or after January 1, 2008, the victim 2550
of the offense is less than thirteen years of age, and the 2551
offender released the victim in a safe place unharmed, it shall 2552
impose an indefinite prison term consisting of a minimum term of 2553
ten years and a maximum term of life imprisonment. 2554

(ii) If the kidnapping is committed prior to January 1, 2555
2008, or division (A) (3) (b) (i) of this section does not apply, 2556
it shall impose an indefinite term consisting of a minimum term 2557
fixed by the court that is not less than ten years and a maximum 2558
term of life imprisonment. 2559

(c) Except as otherwise provided in division (A) (4) of 2560
this section, if the offense for which the sentence is being 2561
imposed is kidnapping that is a felony of the second degree, it 2562
shall impose an indefinite prison term consisting of a minimum 2563
term fixed by the court that is not less than eight years, and a 2564
maximum term of life imprisonment. 2565

(d) Except as otherwise provided in division (A) (4) of 2566
this section, if the offense for which the sentence is being 2567

imposed is rape for which a term of life imprisonment is not 2568
imposed under division (A) (2) of this section or division (B) of 2569
section 2907.02 of the Revised Code, it shall impose an 2570
indefinite prison term as follows: 2571

(i) If the rape is committed on or after January 2, 2007, 2572
in violation of division (A) (1) (b) of section 2907.02 of the 2573
Revised Code, it shall impose an indefinite prison term 2574
consisting of a minimum term of twenty-five years and a maximum 2575
term of life imprisonment. 2576

(ii) If the rape is committed prior to January 2, 2007, or 2577
the rape is committed on or after January 2, 2007, other than in 2578
violation of division (A) (1) (b) of section 2907.02 of the 2579
Revised Code, it shall impose an indefinite prison term 2580
consisting of a minimum term fixed by the court that is not less 2581
than ten years, and a maximum term of life imprisonment. 2582

(e) Except as otherwise provided in division (A) (4) of 2583
this section, if the offense for which sentence is being imposed 2584
is attempted rape, it shall impose an indefinite prison term as 2585
follows: 2586

(i) Except as otherwise provided in division (A) (3) (e) 2587
(ii), (iii), or (iv) of this section, it shall impose an 2588
indefinite prison term pursuant to division (A) (3) (a) of this 2589
section. 2590

(ii) If the attempted rape for which sentence is being 2591
imposed was committed on or after January 2, 2007, and if the 2592
offender also is convicted of or pleads guilty to a 2593
specification of the type described in section 2941.1418 of the 2594
Revised Code, it shall impose an indefinite prison term 2595
consisting of a minimum term of five years and a maximum term of 2596

twenty-five years. 2597

(iii) If the attempted rape for which sentence is being 2598
imposed was committed on or after January 2, 2007, and if the 2599
offender also is convicted of or pleads guilty to a 2600
specification of the type described in section 2941.1419 of the 2601
Revised Code, it shall impose an indefinite prison term 2602
consisting of a minimum term of ten years and a maximum of life 2603
imprisonment. 2604

(iv) If the attempted rape for which sentence is being 2605
imposed was committed on or after January 2, 2007, and if the 2606
offender also is convicted of or pleads guilty to a 2607
specification of the type described in section 2941.1420 of the 2608
Revised Code, it shall impose an indefinite prison term 2609
consisting of a minimum term of fifteen years and a maximum of 2610
life imprisonment. 2611

(4) For any offense for which the sentence is being 2612
imposed, if the offender previously has been convicted of or 2613
pleaded guilty to a violent sex offense and also to a sexually 2614
violent predator specification that was included in the 2615
indictment, count in the indictment, or information charging 2616
that offense, or previously has been convicted of or pleaded 2617
guilty to a designated homicide, assault, or kidnapping offense 2618
and also to both a sexual motivation specification and a 2619
sexually violent predator specification that were included in 2620
the indictment, count in the indictment, or information charging 2621
that offense, it shall impose upon the offender a term of life 2622
imprisonment without parole. 2623

(B) (1) Notwithstanding section 2929.13, division (A) or 2624
(D) of section 2929.14, or another section of the Revised Code 2625
other than division (B) of section 2907.02 or divisions (B) and 2626

(C) of section 2929.14 of the Revised Code that authorizes or 2627
requires a specified prison term or a mandatory prison term for 2628
a person who is convicted of or pleads guilty to a felony or 2629
that specifies the manner and place of service of a prison term 2630
or term of imprisonment, if a person is convicted of or pleads 2631
guilty to a violation of division (A) (1) (b) of section 2907.02 2632
of the Revised Code committed on or after January 2, 2007, if 2633
division (A) of this section does not apply regarding the 2634
person, and if the court does not impose a sentence of life 2635
without parole when authorized pursuant to division (B) of 2636
section 2907.02 of the Revised Code, the court shall impose upon 2637
the person an indefinite prison term consisting of one of the 2638
following: 2639

(a) Except as otherwise required in division (B) (1) (b) or 2640
(c) of this section, a minimum term of ten years and a maximum 2641
term of life imprisonment. 2642

(b) If the victim was less than ten years of age, a 2643
minimum term of fifteen years and a maximum of life 2644
imprisonment. 2645

(c) If the offender purposely compels the victim to submit 2646
by force or threat of force, or if the offender previously has 2647
been convicted of or pleaded guilty to violating division (A) (1) 2648
(b) of section 2907.02 of the Revised Code or to violating an 2649
existing or former law of this state, another state, or the 2650
United States that is substantially similar to division (A) (1) 2651
(b) of that section, or if the offender during or immediately 2652
after the commission of the offense caused serious physical harm 2653
to the victim, a minimum term of twenty-five years and a maximum 2654
of life imprisonment. 2655

(2) Notwithstanding section 2929.13, division (A) or (D) 2656

of section 2929.14, or another section of the Revised Code other 2657
than divisions (B) and (C) of section 2929.14 of the Revised 2658
Code that authorizes or requires a specified prison term or a 2659
mandatory prison term for a person who is convicted of or pleads 2660
guilty to a felony or that specifies the manner and place of 2661
service of a prison term or term of imprisonment and except as 2662
otherwise provided in division (B) of section 2907.02 of the 2663
Revised Code, if a person is convicted of or pleads guilty to 2664
attempted rape committed on or after January 2, 2007, and if 2665
division (A) of this section does not apply regarding the 2666
person, the court shall impose upon the person an indefinite 2667
prison term consisting of one of the following: 2668

(a) If the person also is convicted of or pleads guilty to 2669
a specification of the type described in section 2941.1418 of 2670
the Revised Code, the court shall impose upon the person an 2671
indefinite prison term consisting of a minimum term of five 2672
years and a maximum term of twenty-five years. 2673

(b) If the person also is convicted of or pleads guilty to 2674
a specification of the type described in section 2941.1419 of 2675
the Revised Code, the court shall impose upon the person an 2676
indefinite prison term consisting of a minimum term of ten years 2677
and a maximum term of life imprisonment. 2678

(c) If the person also is convicted of or pleads guilty to 2679
a specification of the type described in section 2941.1420 of 2680
the Revised Code, the court shall impose upon the person an 2681
indefinite prison term consisting of a minimum term of fifteen 2682
years and a maximum term of life imprisonment. 2683

(3) Notwithstanding section 2929.13, division (A) or (D) 2684
of section 2929.14, or another section of the Revised Code other 2685
than divisions (B) and (C) of section 2929.14 of the Revised 2686

Code that authorizes or requires a specified prison term or a 2687
mandatory prison term for a person who is convicted of or pleads 2688
guilty to a felony or that specifies the manner and place of 2689
service of a prison term or term of imprisonment, if a person is 2690
convicted of or pleads guilty to an offense described in 2691
division (B) (3) (a), (b), (c), or (d) of this section committed 2692
on or after January 1, 2008, if the person also is convicted of 2693
or pleads guilty to a sexual motivation specification that was 2694
included in the indictment, count in the indictment, or 2695
information charging that offense, and if division (A) of this 2696
section does not apply regarding the person, the court shall 2697
impose upon the person an indefinite prison term consisting of 2698
one of the following: 2699

(a) An indefinite prison term consisting of a minimum of 2700
ten years and a maximum term of life imprisonment if the offense 2701
for which the sentence is being imposed is kidnapping, the 2702
victim of the offense is less than thirteen years of age, and 2703
the offender released the victim in a safe place unharmed; 2704

(b) An indefinite prison term consisting of a minimum of 2705
fifteen years and a maximum term of life imprisonment if the 2706
offense for which the sentence is being imposed is kidnapping 2707
when the victim of the offense is less than thirteen years of 2708
age and division (B) (3) (a) of this section does not apply; 2709

(c) An indefinite term consisting of a minimum of thirty 2710
years and a maximum term of life imprisonment if the offense for 2711
which the sentence is being imposed is aggravated murder, when 2712
the victim of the offense is less than thirteen years of age, a 2713
sentence of death or life imprisonment without parole is not 2714
imposed for the offense, and division (A) (2) (b) (ii) of section 2715
2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) 2716

(2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, 2717
or division (A) or (B) of section 2929.06 of the Revised Code 2718
requires that the sentence for the offense be imposed pursuant 2719
to this division; 2720

(d) An indefinite prison term consisting of a minimum of 2721
thirty years and a maximum term of life imprisonment if the 2722
offense for which the sentence is being imposed is murder when 2723
the victim of the offense is less than thirteen years of age. 2724

(C) (1) If the offender is sentenced to a prison term 2725
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 2726
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 2727
parole board shall have control over the offender's service of 2728
the term during the entire term unless the parole board 2729
terminates its control in accordance with section 2971.04 of the 2730
Revised Code. 2731

(2) Except as provided in division (C) (3) of this section, 2732
an offender sentenced to a prison term or term of life 2733
imprisonment without parole pursuant to division (A) of this 2734
section shall serve the entire prison term or term of life 2735
imprisonment in a state correctional institution. The offender 2736
is not eligible for judicial release under section 2929.20 of 2737
the Revised Code. 2738

(3) For a prison term imposed pursuant to division (A) (3), 2739
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 2740
(b), (c), or (d) of this section, the court, in accordance with 2741
section 2971.05 of the Revised Code, may terminate the prison 2742
term or modify the requirement that the offender serve the 2743
entire term in a state correctional institution if all of the 2744
following apply: 2745

(a) The offender has served at least the minimum term 2746
imposed as part of that prison term. 2747

(b) The parole board, pursuant to section 2971.04 of the 2748
Revised Code, has terminated its control over the offender's 2749
service of that prison term. 2750

(c) The court has held a hearing and found, by clear and 2751
convincing evidence, one of the following: 2752

(i) In the case of termination of the prison term, that 2753
the offender is unlikely to commit a sexually violent offense in 2754
the future; 2755

(ii) In the case of modification of the requirement, that 2756
the offender does not represent a substantial risk of physical 2757
harm to others. 2758

(4) An offender who has been sentenced to a term of life 2759
imprisonment without parole pursuant to division (A)(1), (2), or 2760
(4) of this section shall not be released from the term of life 2761
imprisonment or be permitted to serve a portion of it in a place 2762
other than a state correctional institution. 2763

(D) If a court sentences an offender to a prison term or 2764
term of life imprisonment without parole pursuant to division 2765
(A) of this section and the court also imposes on the offender 2766
one or more additional prison terms pursuant to division (B) of 2767
section 2929.14 of the Revised Code, all of the additional 2768
prison terms shall be served consecutively with, and prior to, 2769
the prison term or term of life imprisonment without parole 2770
imposed upon the offender pursuant to division (A) of this 2771
section. 2772

(E) If the offender is convicted of or pleads guilty to 2773
two or more offenses for which a prison term or term of life 2774

imprisonment without parole is required to be imposed pursuant 2775
to division (A) of this section, divisions (A) to (D) of this 2776
section shall be applied for each offense. All minimum terms 2777
imposed upon the offender pursuant to division (A) (3) or (B) of 2778
this section for those offenses shall be aggregated and served 2779
consecutively, as if they were a single minimum term imposed 2780
under that division. 2781

(F) (1) If an offender is convicted of or pleads guilty to 2782
a violent sex offense and also is convicted of or pleads guilty 2783
to a sexually violent predator specification that was included 2784
in the indictment, count in the indictment, or information 2785
charging that offense, or is convicted of or pleads guilty to a 2786
designated homicide, assault, or kidnapping offense and also is 2787
convicted of or pleads guilty to both a sexual motivation 2788
specification and a sexually violent predator specification that 2789
were included in the indictment, count in the indictment, or 2790
information charging that offense, the conviction of or plea of 2791
guilty to the offense and the sexually violent predator 2792
specification automatically classifies the offender as a tier 2793
III sex offender/child-victim offender for purposes of Chapter 2794
2950. of the Revised Code. 2795

(2) If an offender is convicted of or pleads guilty to 2796
committing on or after January 2, 2007, a violation of division 2797
(A) (1) (b) of section 2907.02 of the Revised Code and either the 2798
offender is sentenced under section 2971.03 of the Revised Code 2799
or a sentence of life without parole is imposed under division 2800
(B) of section 2907.02 of the Revised Code, the conviction of or 2801
plea of guilty to the offense automatically classifies the 2802
offender as a tier III sex offender/child-victim offender for 2803
purposes of Chapter 2950. of the Revised Code. 2804

(3) If a person is convicted of or pleads guilty to 2805
committing on or after January 2, 2007, attempted rape and also 2806
is convicted of or pleads guilty to a specification of the type 2807
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2808
Revised Code, the conviction of or plea of guilty to the offense 2809
and the specification automatically classify the offender as a 2810
tier III sex offender/child-victim offender for purposes of 2811
Chapter 2950. of the Revised Code. 2812

(4) If a person is convicted of or pleads guilty to one of 2813
the offenses described in division (B) (3) (a), (b), (c), or (d) 2814
of this section and a sexual motivation specification related to 2815
the offense and the victim of the offense is less than thirteen 2816
years of age, the conviction of or plea of guilty to the offense 2817
automatically classifies the offender as a tier III sex 2818
offender/child-victim offender for purposes of Chapter 2950. of 2819
the Revised Code. 2820

Sec. 2971.07. (A) This chapter does not apply to any 2821
offender unless the offender is one of the following: 2822

(1) The offender is convicted of or pleads guilty to a 2823
violent sex offense and also is convicted of or pleads guilty to 2824
a sexually violent predator specification that was included in 2825
the indictment, count in the indictment, or information charging 2826
that offense. 2827

(2) The offender is convicted of or pleads guilty to a 2828
designated homicide, assault, or kidnapping offense and also is 2829
convicted of or pleads guilty to both a sexual motivation 2830
specification and a sexually violent predator specification that 2831
were included in the indictment, count in the indictment, or 2832
information charging that offense. 2833

(3) The offender is convicted of or pleads guilty to a 2834
violation of division (A) (1) (b) of section 2907.02 of the 2835
Revised Code committed on or after January 2, 2007, and the 2836
court does not sentence the offender to a term of life without 2837
parole pursuant to division (B) of section 2907.02 of the 2838
Revised Code or division (B) of that section prohibits the court 2839
from sentencing the offender pursuant to section 2971.03 of the 2840
Revised Code. 2841

(4) The offender is convicted of or pleads guilty to 2842
attempted rape committed on or after January 2, 2007, and also 2843
is convicted of or pleads guilty to a specification of the type 2844
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2845
Revised Code. 2846

(5) The offender is convicted of or pleads guilty to a 2847
violation of section 2905.01 of the Revised Code and also is 2848
convicted of or pleads guilty to a sexual motivation 2849
specification that was included in the indictment, count in the 2850
indictment, or information charging that offense, and that 2851
section requires a court to sentence the offender pursuant to 2852
section 2971.03 of the Revised Code. 2853

(6) The offender is convicted of or pleads guilty to 2854
aggravated murder and also is convicted of or pleads guilty to a 2855
sexual motivation specification that was included in the 2856
indictment, count in the indictment, or information charging 2857
that offense, and division (A) (2) (b) (ii) of section 2929.022, 2858
division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) 2859
(3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division 2860
(A) or (B) of section 2929.06 of the Revised Code requires a 2861
court to sentence the offender pursuant to division (B) (3) of 2862
section 2971.03 of the Revised Code. 2863

(7) The offender is convicted of or pleads guilty to 2864
murder and also is convicted of or pleads guilty to a sexual 2865
motivation specification that was included in the indictment, 2866
count in the indictment, or information charging that offense, 2867
and division (B) (2) of section 2929.02 of the Revised Code 2868
requires a court to sentence the offender pursuant to section 2869
2971.03 of the Revised Code. 2870

(B) This chapter does not limit or affect a court in 2871
imposing upon an offender described in divisions (A) (1) to (9) 2872
of this section any financial sanction under section 2929.18 or 2873
any other section of the Revised Code, or, except as 2874
specifically provided in this chapter, any other sanction that 2875
is authorized or required for the offense or violation by any 2876
other provision of law. 2877

(C) If an offender is sentenced to a prison term under 2878
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2879
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2880
Code and if, pursuant to section 2971.05 of the Revised Code, 2881
the court modifies the requirement that the offender serve the 2882
entire prison term in a state correctional institution or places 2883
the offender on conditional release that involves the placement 2884
of the offender under the supervision of the adult parole 2885
authority, authorized field officers of the authority who are 2886
engaged within the scope of their supervisory duties or 2887
responsibilities may search, with or without a warrant, the 2888
person of the offender, the place of residence of the offender, 2889
and a motor vehicle, another item of tangible or intangible 2890
personal property, or any other real property in which the 2891
offender has the express or implied permission of a person with 2892
a right, title, or interest to use, occupy, or possess if the 2893
field officer has reasonable grounds to believe that the 2894

offender is not abiding by the law or otherwise is not complying 2895
with the terms and conditions of the offender's modification or 2896
release. The authority shall provide each offender with a 2897
written notice that informs the offender that authorized field 2898
officers of the authority who are engaged within the scope of 2899
their supervisory duties or responsibilities may conduct those 2900
types of searches during the period of the modification or 2901
release if they have reasonable grounds to believe that the 2902
offender is not abiding by the law or otherwise is not complying 2903
with the terms and conditions of the offender's modification or 2904
release. 2905

Sec. 5120.61. (A) (1) Not later than ninety days after 2906
January 1, 1997, the department of rehabilitation and correction 2907
shall adopt standards that it will use under this section to 2908
assess the following criminal offenders and may periodically 2909
revise the standards: 2910

(a) A criminal offender who is convicted of or pleads 2911
guilty to a violent sex offense or designated homicide, assault, 2912
or kidnapping offense and is adjudicated a sexually violent 2913
predator in relation to that offense; 2914

(b) A criminal offender who is convicted of or pleads 2915
guilty to a violation of division (A) (1) (b) of section 2907.02 2916
of the Revised Code committed on or after January 2, 2007, and 2917
either who is sentenced under section 2971.03 of the Revised 2918
Code or upon whom a sentence of life without parole is imposed 2919
under division (B) of section 2907.02 of the Revised Code; 2920

(c) A criminal offender who is convicted of or pleads 2921
guilty to attempted rape committed on or after January 2, 2007, 2922
and a specification of the type described in section 2941.1418, 2923
2941.1419, or 2941.1420 of the Revised Code; 2924

(d) A criminal offender who is convicted of or pleads 2925
guilty to a violation of section 2905.01 of the Revised Code and 2926
also is convicted of or pleads guilty to a sexual motivation 2927
specification that was included in the indictment, count in the 2928
indictment, or information charging that offense, and who is 2929
sentenced pursuant to section 2971.03 of the Revised Code; 2930

(e) A criminal offender who is convicted of or pleads 2931
guilty to aggravated murder and also is convicted of or pleads 2932
guilty to a sexual motivation specification that was included in 2933
the indictment, count in the indictment, or information charging 2934
that offense, and who pursuant to division (A) (2) (b) (ii) of 2935
section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) 2936
(ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1) (d)~~ (E) (1) (a) (iv) of 2937
section 2929.03, or division (A) or (B) of section 2929.06 of 2938
the Revised Code is sentenced pursuant to division (B) (3) of 2939
section 2971.03 of the Revised Code; 2940

(f) A criminal offender who is convicted of or pleads 2941
guilty to murder and also is convicted of or pleads guilty to a 2942
sexual motivation specification that was included in the 2943
indictment, count in the indictment, or information charging 2944
that offense, and who pursuant to division (B) (2) of section 2945
2929.02 of the Revised Code is sentenced pursuant to section 2946
2971.03 of the Revised Code. 2947

(2) When the department is requested by the parole board 2948
or the court to provide a risk assessment report of the offender 2949
under section 2971.04 or 2971.05 of the Revised Code, it shall 2950
assess the offender and complete the assessment as soon as 2951
possible after the offender has commenced serving the prison 2952
term or term of life imprisonment without parole imposed under 2953
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 2954

(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2955
Code. Thereafter, the department shall update a risk assessment 2956
report pertaining to an offender as follows: 2957

(a) Periodically, in the discretion of the department, 2958
provided that each report shall be updated no later than two 2959
years after its initial preparation or most recent update; 2960

(b) Upon the request of the parole board for use in 2961
determining pursuant to section 2971.04 of the Revised Code 2962
whether it should terminate its control over an offender's 2963
service of a prison term imposed upon the offender under 2964
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2965
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2966
Code; 2967

(c) Upon the request of the court. 2968

(3) After the department of rehabilitation and correction 2969
assesses an offender pursuant to division (A) (2) of this 2970
section, it shall prepare a report that contains its risk 2971
assessment for the offender or, if a risk assessment report 2972
previously has been prepared, it shall update the risk 2973
assessment report. 2974

(4) The department of rehabilitation and correction shall 2975
provide each risk assessment report that it prepares or updates 2976
pursuant to this section regarding an offender to all of the 2977
following: 2978

(a) The parole board for its use in determining pursuant 2979
to section 2971.04 of the Revised Code whether it should 2980
terminate its control over an offender's service of a prison 2981
term imposed upon the offender under division (A) (3), (B) (1) (a), 2982
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 2983

(d) of section 2971.03 of the Revised Code, if the parole board 2984
has not terminated its control over the offender; 2985

(b) The court for use in determining, pursuant to section 2986
2971.05 of the Revised Code, whether to modify the requirement 2987
that the offender serve the entire prison term imposed upon the 2988
offender under division (A)(3), (B)(1)(a), (b), or (c), (B)(2) 2989
(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2990
2971.03 of the Revised Code in a state correctional institution, 2991
whether to revise any modification previously made, or whether 2992
to terminate the prison term; 2993

(c) The prosecuting attorney who prosecuted the case, or 2994
the successor in office to that prosecuting attorney; 2995

(d) The offender. 2996

(B) When the department of rehabilitation and correction 2997
provides a risk assessment report regarding an offender to the 2998
parole board or court pursuant to division (A)(4)(a) or (b) of 2999
this section, the department, prior to the parole board's or 3000
court's hearing, also shall provide to the offender or to the 3001
offender's attorney of record a copy of the report and a copy of 3002
any other relevant documents the department possesses regarding 3003
the offender that the department does not consider to be 3004
confidential. 3005

(C) As used in this section: 3006

(1) "Adjudicated a sexually violent predator" has the same 3007
meaning as in section 2929.01 of the Revised Code, and a person 3008
is "adjudicated a sexually violent predator" in the same manner 3009
and the same circumstances as are described in that section. 3010

(2) "Designated homicide, assault, or kidnapping offense" 3011
and "violent sex offense" have the same meanings as in section 3012

2971.01 of the Revised Code. 3013

Section 2. That existing sections 2929.02, 2929.022, 3014
2929.024, 2929.03, 2929.04, 2929.06, 2929.14, 2941.148, 2953.21, 3015
2953.23, 2971.03, 2971.07, and 5120.61 of the Revised Code are 3016
hereby repealed. 3017

Section 3. Notwithstanding section 1.50 of the Revised 3018
Code, if any provision of a section as amended or enacted by 3019
this act is determined to be unconstitutional or otherwise 3020
invalid in a final judgment by a court of last resort, the 3021
remainder of the enactments and amendments made in Section 1 of 3022
this act are void. 3023

Section 4. Section 2929.14 of the Revised Code is 3024
presented in this act as a composite of the section as amended 3025
by H.B. 63, S.B. 1, S.B. 20, and S.B. 201, all of the 132nd 3026
General Assembly. The General Assembly, applying the principle 3027
stated in division (B) of section 1.52 of the Revised Code that 3028
amendments are to be harmonized if reasonably capable of 3029
simultaneous operation, finds that the composite is the 3030
resulting version of the section in effect prior to the 3031
effective date of the section as presented in this act. 3032