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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

A BILL

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

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

Section 1. That sections 2929.02, 2929.022, 2929.024, 8
2929.03, 2929.04, 2929.06, 2941.148, 2953.21, 2953.23, 2971.03, 9
and 2971.07 be amended and section 2929.025 of the Revised Code 10
be enacted to read as follows: 11

Sec. 2929.02. (A) Whoever is convicted of or pleads guilty 12
to aggravated murder in violation of section 2903.01 of the 13
Revised Code shall suffer death or be imprisoned for life, as 14
determined pursuant to sections 2929.022, 2929.03, and 2929.04 15
of the Revised Code, except that no person who raises the matter 16

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

(B) (1) Except as otherwise provided in division (B) (2) or 27
(3) of this section, whoever is convicted of or pleads guilty to 28
murder in violation of section 2903.02 of the Revised Code shall 29
be imprisoned for an indefinite term of fifteen years to life. 30

(2) Except as otherwise provided in division (B) (3) of 31
this section, if a person is convicted of or pleads guilty to 32
murder in violation of section 2903.02 of the Revised Code, the 33
victim of the offense was less than thirteen years of age, and 34
the offender also is convicted of or pleads guilty to a sexual 35
motivation specification that was included in the indictment, 36
count in the indictment, or information charging the offense, 37
the court shall impose an indefinite prison term of thirty years 38
to life pursuant to division (B) (3) of section 2971.03 of the 39
Revised Code. 40

(3) If a person is convicted of or pleads guilty to murder 41
in violation of section 2903.02 of the Revised Code and also is 42
convicted of or pleads guilty to a sexual motivation 43
specification and a sexually violent predator specification that 44
were included in the indictment, count in the indictment, or 45
information that charged the murder, the court shall impose upon 46

the offender a term of life imprisonment without parole that 47
shall be served pursuant to section 2971.03 of the Revised Code. 48

(4) In addition, the offender may be fined an amount fixed 49
by the court, but not more than fifteen thousand dollars. 50

(C) The court shall not impose a fine or fines for 51
aggravated murder or murder which, in the aggregate and to the 52
extent not suspended by the court, exceeds the amount which the 53
offender is or will be able to pay by the method and within the 54
time allowed without undue hardship to the offender or to the 55
dependents of the offender, or will prevent the offender from 56
making reparation for the victim's wrongful death. 57

(D) (1) In addition to any other sanctions imposed for a 58
violation of section 2903.01 or 2903.02 of the Revised Code, if 59
the offender used a motor vehicle as the means to commit the 60
violation, the court shall impose upon the offender a class two 61
suspension of the offender's driver's license, commercial 62
driver's license, temporary instruction permit, probationary 63
license, or nonresident operating privilege as specified in 64
division (A) (2) of section 4510.02 of the Revised Code. 65

(2) As used in division (D) of this section, "motor 66
vehicle" has the same meaning as in section 4501.01 of the 67
Revised Code. 68

Sec. 2929.022. (A) If an indictment or count in an 69
indictment charging a defendant with aggravated murder contains 70
a specification of the aggravating circumstance of a prior 71
conviction listed in division (A) (5) of section 2929.04 of the 72
Revised Code, the defendant may elect to have the panel of three 73
judges, if the defendant waives trial by jury, or the trial 74
judge, if the defendant is tried by jury, determine the 75

existence of that aggravating circumstance at the sentencing 76
hearing held pursuant to divisions (C) and (D) of section 77
2929.03 of the Revised Code. 78

(1) If the defendant does not elect to have the existence 79
of the aggravating circumstance determined at the sentencing 80
hearing, the defendant shall be tried on the charge of 81
aggravated murder, on the specification of the aggravating 82
circumstance of a prior conviction listed in division (A) (5) of 83
section 2929.04 of the Revised Code, and on any other 84
specifications of an aggravating circumstance listed in division 85
(A) of section 2929.04 of the Revised Code in a single trial as 86
in any other criminal case in which a person is charged with 87
aggravated murder and specifications. 88

(2) If the defendant does elect to have the existence of 89
the aggravating circumstance of a prior conviction listed in 90
division (A) (5) of section 2929.04 of the Revised Code 91
determined at the sentencing hearing, then, following a verdict 92
of guilty of the charge of aggravated murder, the panel of three 93
judges or the trial judge shall: 94

(a) Hold a sentencing hearing pursuant to division (B) of 95
this section, unless required to do otherwise under division (A) 96
(2) (b) of this section; 97

(b) If the offender raises the matter of age at trial 98
pursuant to section 2929.023 of the Revised Code and is not 99
found at trial to have been eighteen years of age or older at 100
the time of the commission of the offense or raises the matter 101
of the offender's serious mental illness at the time of the 102
alleged commission of the offense pursuant to section 2929.025 103
of the Revised Code and is found under that section to be 104
ineligible for a sentence of death due to serious mental 105

illness, conduct a hearing to determine if the specification of 106
the aggravating circumstance of a prior conviction listed in 107
division (A) (5) of section 2929.04 of the Revised Code is proven 108
beyond a reasonable doubt. After conducting the hearing, the 109
panel or judge shall proceed as follows: 110

(i) If that aggravating circumstance is proven beyond a 111
reasonable doubt or if the defendant at trial was convicted of 112
any other specification of an aggravating circumstance, the 113
panel or judge shall impose sentence according to division (E) 114
of section 2929.03 of the Revised Code. 115

(ii) If that aggravating circumstance is not proven beyond 116
a reasonable doubt and the defendant at trial was not convicted 117
of any other specification of an aggravating circumstance, 118
except as otherwise provided in this division, the panel or 119
judge shall impose sentence of life imprisonment with parole 120
eligibility after serving twenty years of imprisonment on the 121
offender. If that aggravating circumstance is not proven beyond 122
a reasonable doubt, the defendant at trial was not convicted of 123
any other specification of an aggravating circumstance, the 124
victim of the aggravated murder was less than thirteen years of 125
age, and the offender also is convicted of or pleads guilty to a 126
sexual motivation specification that was included in the 127
indictment, count in the indictment, or information charging the 128
offense, the panel or judge shall sentence the offender pursuant 129
to division (B) (3) of section 2971.03 of the Revised Code to an 130
indefinite term consisting of a minimum term of thirty years and 131
a maximum term of life imprisonment. 132

(B) At the sentencing hearing, the panel of judges, if the 133
defendant was tried by a panel of three judges, or the trial 134
judge, if the defendant was tried by jury, shall, when required 135

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

(1) Subject to division (B) (2) of this section, the panel 159
or judge shall impose a sentence of life imprisonment with 160
parole eligibility after serving twenty years of imprisonment on 161
the offender. 162

(2) If the victim of the aggravated murder was less than 163
thirteen years of age and the offender also is convicted of or 164
pleads guilty to a sexual motivation specification that was 165
included in the indictment, count in the indictment, or 166

information charging the offense, the panel or judge shall 167
sentence the offender pursuant to division (B) (3) of section 168
2971.03 of the Revised Code to an indefinite term consisting of 169
a minimum term of thirty years and a maximum term of life 170
imprisonment. 171

Sec. 2929.024. ~~If~~ (A) In a case described in division (B) 172
of this section, if the court determines that ~~the defendant is~~ 173
~~indigent and that~~ investigation services, experts, or other 174
services are reasonably necessary for the proper representation 175
of a defendant charged with aggravated murder at trial or at the 176
sentencing hearing, the court shall authorize the defendant's 177
counsel to obtain the necessary services for the defendant, and 178
shall order that payment of the fees and expenses for the 179
necessary services be made in the same manner that payment for 180
appointed counsel is made pursuant to Chapter 120. of the 181
Revised Code. If the court determines that the necessary 182
services had to be obtained prior to court authorization for 183
payment of the fees and expenses for the necessary services, the 184
court may, after the services have been obtained, authorize the 185
defendant's counsel to obtain the necessary services and order 186
that payment of the fees and expenses for the necessary services 187
be made as provided in this section. 188

(B) Division (A) of this section applies in a case in 189
which either of the following apply: 190

(1) The court determines that the defendant is indigent. 191

(2) The defendant is described in division (C) of section 192
2929.025 of the Revised Code and raises the matter of the 193
defendant's serious mental illness at the time of the alleged 194
commission of the aggravated murder as described in that 195
division. 196

<u>Sec. 2929.025. (A) As used in this section:</u>	197
<u>(1) A person has a "serious mental illness" if both of the</u>	198
<u>following apply with respect to the person, subject to division</u>	199
<u>(A) (2) of this section:</u>	200
<u>(a) The person has been diagnosed as described in division</u>	201
<u>(B) of this section with one or more of the following</u>	202
<u>conditions:</u>	203
<u>(i) Schizophrenia;</u>	204
<u>(ii) Schizoaffective disorder;</u>	205
<u>(iii) Bipolar disorder;</u>	206
<u>(iv) Delusional disorder.</u>	207
<u>(b) At the time of the alleged aggravated murder with</u>	208
<u>which the person is charged, the condition or conditions</u>	209
<u>described in division (A) (1) (a) of this section with which the</u>	210
<u>person has been diagnosed, while not meeting the standard to be</u>	211
<u>found not guilty by reason of insanity as defined in section</u>	212
<u>2901.01 of the Revised Code or the standard to be found</u>	213
<u>incompetent to stand trial as described in division (G) of</u>	214
<u>section 2945.37 of the Revised Code, nevertheless significantly</u>	215
<u>impaired the person's capacity to exercise rational judgment in</u>	216
<u>relation to the person's conduct with respect to either of the</u>	217
<u>following:</u>	218
<u>(i) Conforming the person's conduct to the requirements of</u>	219
<u>law;</u>	220
<u>(ii) Appreciating the nature, consequences, or</u>	221
<u>wrongfulness of the person's conduct.</u>	222
<u>(2) A disorder manifested primarily by repeated criminal</u>	223

conduct or attributable solely to the acute effects of voluntary 224
use of alcohol or any other drug of abuse does not, standing 225
alone, constitute a "serious mental illness" for purposes of 226
division (A) (1) of this section. 227

(3) "Examiner" means a person who makes an evaluation 228
ordered under division (F) (1) of this section. 229

(4) "Prosecutor" means a prosecuting attorney who has 230
authority to prosecute a charge of aggravated murder that is 231
before the court. 232

(B) The diagnosis of a person with a condition or 233
conditions described in division (A) (1) (a) of this section may 234
be made at any time prior to, on, or after the day of the 235
alleged aggravated murder with which the person is charged or 236
the day on which the person pursuant to division (C) of this 237
section raises the matter of the person's serious mental illness 238
at the time of the alleged commission of that aggravated murder. 239
Diagnosis of the condition or conditions after the date of the 240
alleged aggravated murder with which the person is charged does 241
not preclude the person from presenting evidence that the person 242
had a serious mental illness at the time of the alleged 243
commission of that offense. 244

(C) A person charged with aggravated murder and one or 245
more specifications of an aggravating circumstance listed in 246
division (A) of section 2929.04 of the Revised Code may, before 247
trial, raise the matter of the person's serious mental illness 248
at the time of the alleged commission of the offense. If a 249
person raises the matter of the person's serious mental illness 250
at the time of the alleged commission of the offense, the court 251
shall order an evaluation of the person in accordance with 252
division (F) of this section and shall hold a pretrial hearing 253

on the matter. The person who raises the matter may present 254
evidence that the person had a serious mental illness at the 255
time of the alleged commission of the offense, and the person 256
has the burden of raising that matter and of going forward with 257
the evidence relating to the diagnosis described in division (A) 258
(1)(a) of this section and the impairment described in division 259
(A)(1)(b) of this section. 260

(D) If a person described in division (C) of this section 261
raises the matter of the person's serious mental illness at the 262
time of the alleged commission of the aggravated murder and 263
submits evidence that the person has been diagnosed with one or 264
more of the conditions set forth in division (A)(1)(a) of this 265
section and that the condition or conditions diagnosed 266
significantly impaired the person's capacity at the time of the 267
alleged offense in a manner described in division (A)(1)(b) of 268
this section, the prosecution shall have an opportunity to 269
present evidence to contest the diagnosis. The defendant has the 270
burden of proving, by a preponderance of the evidence, that the 271
person has been diagnosed with one or more of the conditions set 272
forth in division (A)(1)(a) of this section and that the 273
condition or conditions diagnosed significantly impaired the 274
person's capacity at the time of the alleged offense in a manner 275
described in division (A)(1)(b) of this section. 276

(E)(1) Unless the court at the pretrial hearing finds that 277
the defendant has proved, by a preponderance of the evidence, 278
that the person has been diagnosed with one or more of the 279
conditions set forth in division (A)(1)(a) of this section and 280
that the condition or conditions diagnosed significantly 281
impaired the person's capacity at the time of the alleged 282
offense in a manner described in division (A)(1)(b) of this 283
section, the court shall issue a finding that the person is not 284

ineligible for a sentence of death due to serious mental 285
illness. 286

(2) If the court at the pretrial hearing finds that the 287
defendant has proved, by a preponderance of the evidence, that 288
the person has been diagnosed with one or more of the conditions 289
set forth in division (A)(1)(a) of this section and that the 290
condition or conditions diagnosed significantly impaired the 291
person's capacity at the time of the alleged offense in a manner 292
described in division (A)(1)(b) of this section, the court shall 293
issue a finding that the person is ineligible for a sentence of 294
death due to serious mental illness. 295

(F)(1) If a person described in division (C) of this 296
section raises the matter of the person's serious mental illness 297
at the time of the alleged commission of the aggravated murder 298
as described in that division, the court shall order an 299
evaluation of the person. Section 2929.024 of the Revised Code 300
applies with respect to an evaluation ordered under this 301
division. 302

(2) No statement that a person makes in an evaluation 303
ordered under division (F)(1) of this section or in a pretrial 304
hearing under divisions (C) to (E) of this section relating to 305
the person's serious mental illness at the time of the alleged 306
commission of the aggravated murder with which the person is 307
charged shall be used against the person on the issue of guilt 308
in any criminal action or proceeding, but, in a criminal action 309
or proceeding, the prosecutor or defense counsel may call as a 310
witness any examiner who evaluated the person or prepared a 311
report pursuant to a referral under this section. Neither the 312
appointment nor the testimony of an examiner in an evaluation 313
ordered under division (F)(1) of this section precludes the 314

prosecutor or defense counsel from calling other witnesses or 315
presenting other evidence on the issue of the person's serious 316
mental illness at the time of the alleged commission of the 317
aggravated murder or on competency or insanity issues. 318

(G) A person's pleading of not guilty by reason of 319
insanity or incompetence to stand trial, or a finding after such 320
a plea that the person is not insane or that the person is 321
competent to stand trial, does not preclude the person from 322
raising the matter of the person's serious mental illness at the 323
time of the alleged commission of the offense pursuant to 324
division (C) of this section and, if a person so raises that 325
matter, does not limit or affect any of the procedures described 326
in this section or the authority of a court to make any finding 327
described in this section. 328

Sec. 2929.03. (A) If the indictment or count in the 329
indictment charging aggravated murder does not contain one or 330
more specifications of aggravating circumstances listed in 331
division (A) of section 2929.04 of the Revised Code, then, 332
following a verdict of guilty of the charge of aggravated 333
murder, the trial court shall impose sentence on the offender as 334
follows: 335

(1) Except as provided in division (A) (2) of this section, 336
the trial court shall impose one of the following sentences on 337
the offender: 338

(a) Life imprisonment without parole; 339

(b) Subject to division (A) (1) (e) of this section, life 340
imprisonment with parole eligibility after serving twenty years 341
of imprisonment; 342

(c) Subject to division (A) (1) (e) of this section, life 343

imprisonment with parole eligibility after serving twenty-five 344
full years of imprisonment; 345

(d) Subject to division (A) (1) (e) of this section, life 346
imprisonment with parole eligibility after serving thirty full 347
years of imprisonment; 348

(e) If the victim of the aggravated murder was less than 349
thirteen years of age, the offender also is convicted of or 350
pleads guilty to a sexual motivation specification that was 351
included in the indictment, count in the indictment, or 352
information charging the offense, and the trial court does not 353
impose a sentence of life imprisonment without parole on the 354
offender pursuant to division (A) (1) (a) of this section, the 355
trial court shall sentence the offender pursuant to division (B) 356
(3) of section 2971.03 of the Revised Code to an indefinite term 357
consisting of a minimum term of thirty years and a maximum term 358
of life imprisonment that shall be served pursuant to that 359
section. 360

(2) If the offender also is convicted of or pleads guilty 361
to a sexual motivation specification and a sexually violent 362
predator specification that are included in the indictment, 363
count in the indictment, or information that charged the 364
aggravated murder, the trial court shall impose upon the 365
offender a sentence of life imprisonment without parole that 366
shall be served pursuant to section 2971.03 of the Revised Code. 367

(B) If the indictment or count in the indictment charging 368
aggravated murder contains one or more specifications of 369
aggravating circumstances listed in division (A) of section 370
2929.04 of the Revised Code, the verdict shall separately state 371
~~whether~~ all of the following: 372

(1) Whether the accused is found guilty or not guilty of 373
the principal charge ~~and, if;~~ 374

(2) If guilty of the principal charge, whether the 375
offender was eighteen years of age or older at the time of the 376
commission of the offense, ~~if the matter of age was raised by~~ 377
the offender pursuant to section 2929.023 of the Revised Code, ~~—~~ 378
~~and whether;~~ 379

(3) If guilty of the principal charge, whether the 380
offender was found under section 2929.025 of the Revised Code to 381
be ineligible for a sentence of death due to serious mental 382
illness if the matter of serious mental illness at the time of 383
the commission of the offense was raised by the offender 384
pursuant to that section; 385

(4) If guilty of the principal charge, whether the 386
offender is guilty or not guilty of each specification. ~~The~~ 387

The jury shall be instructed on its duties in this regard. 388
The instruction to the jury shall include an instruction that a 389
specification shall be proved beyond a reasonable doubt in order 390
to support a guilty verdict on the specification, but the 391
instruction shall not mention the penalty that may be the 392
consequence of a guilty or not guilty verdict on any charge or 393
specification. 394

(C) (1) If the indictment or count in the indictment 395
charging aggravated murder contains one or more specifications 396
of aggravating circumstances listed in division (A) of section 397
2929.04 of the Revised Code, then, following a verdict of guilty 398
of the charge but not guilty of each of the specifications, and 399
regardless of whether the offender raised the matter of age 400
pursuant to section 2929.023 of the Revised Code or the matter 401

of serious mental illness at the time of the commission of the 402
offense pursuant to section 2929.025 of the Revised Code, the 403
trial court shall impose sentence on the offender as follows: 404

(a) Except as provided in division (C)(1)(b) of this 405
section, the trial court shall impose one of the following 406
sentences on the offender: 407

(i) Life imprisonment without parole; 408

(ii) Subject to division (C)(1)(a)(v) of this section, 409
life imprisonment with parole eligibility after serving twenty 410
years of imprisonment; 411

(iii) Subject to division (C)(1)(a)(v) of this section, 412
life imprisonment with parole eligibility after serving twenty- 413
five full years of imprisonment; 414

(iv) Subject to division (C)(1)(a)(v) of this section, 415
life imprisonment with parole eligibility after serving thirty 416
full years of imprisonment; 417

(v) If the victim of the aggravated murder was less than 418
thirteen years of age, the offender also is convicted of or 419
pleads guilty to a sexual motivation specification that was 420
included in the indictment, count in the indictment, or 421
information charging the offense, and the trial court does not 422
impose a sentence of life imprisonment without parole on the 423
offender pursuant to division (C)(1)(a)(i) of this section, the 424
trial court shall sentence the offender pursuant to division (B) 425
(3) of section 2971.03 of the Revised Code to an indefinite term 426
consisting of a minimum term of thirty years and a maximum term 427
of life imprisonment. 428

(b) If the offender also is convicted of or pleads guilty 429
to a sexual motivation specification and a sexually violent 430

predator specification that are included in the indictment, 431
count in the indictment, or information that charged the 432
aggravated murder, the trial court shall impose upon the 433
offender a sentence of life imprisonment without parole that 434
shall be served pursuant to section 2971.03 of the Revised Code. 435

(2) (a) If the indictment or count in the indictment 436
contains one or more specifications of aggravating circumstances 437
listed in division (A) of section 2929.04 of the Revised Code 438
and if the offender is found guilty of both the charge and one 439
or more of the specifications, the penalty to be imposed on the 440
offender shall be one of the following: 441

(i) Except as provided in division (C) (2) (a) (ii) or (iii), and subject to divisions (D) (1) and (E) of this section, the 442
penalty to be imposed on the offender shall be death, life 443
imprisonment without parole, life imprisonment with parole 444
eligibility after serving twenty-five full years of 445
imprisonment, or life imprisonment with parole eligibility after 446
serving thirty full years of imprisonment. 447
448

(ii) Except as provided in division (C) (2) (a) (iii) of this 449
section, if the victim of the aggravated murder was less than 450
thirteen years of age, the offender also is convicted of or 451
pleads guilty to a sexual motivation specification that was 452
included in the indictment, count in the indictment, or 453
information charging the offense, and the trial court does not 454
impose a sentence of death or life imprisonment without parole 455
on the offender pursuant to division (C) (2) (a) (i) of this 456
section, the penalty to be imposed on the offender shall be an 457
indefinite term consisting of a minimum term of thirty years and 458
a maximum term of life imprisonment that shall be imposed 459
pursuant to division (B) (3) of section 2971.03 of the Revised 460

Code and served pursuant to that section. 461

(iii) If the offender also is convicted of or pleads 462
guilty to a sexual motivation specification and a sexually 463
violent predator specification that are included in the 464
indictment, count in the indictment, or information that charged 465
the aggravated murder, the penalty to be imposed on the offender 466
shall be death or life imprisonment without parole that shall be 467
served pursuant to section 2971.03 of the Revised Code. 468

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 469
(ii), or (iii) of this section shall be determined pursuant to 470
divisions (D) and (E) of this section and shall be determined by 471
one of the following: 472

(i) By the panel of three judges that tried the offender 473
upon the offender's waiver of the right to trial by jury; 474

(ii) By the trial jury and the trial judge, if the 475
offender was tried by jury. 476

(D) (1) Death may not be imposed as a penalty for 477
aggravated murder if the offender raised the matter of age at 478
trial pursuant to section 2929.023 of the Revised Code and was 479
not found at trial to have been eighteen years of age or older 480
at the time of the commission of the offense or raised the 481
matter of the offender's serious mental illness at the time of 482
the commission of the offense pursuant to section 2929.025 of 483
the Revised Code and was found under that section to be 484
ineligible for a sentence of death due to serious mental 485
illness. When death may be imposed as a penalty for aggravated 486
murder, the court shall proceed under this division. When death 487
may be imposed as a penalty, the court, upon the request of the 488
defendant, shall require a pre-sentence investigation to be made 489

and, upon the request of the defendant, shall require a mental 490
examination to be made, and shall require reports of the 491
investigation and of any mental examination submitted to the 492
court, pursuant to section 2947.06 of the Revised Code. No 493
statement made or information provided by a defendant in a 494
mental examination or proceeding conducted pursuant to this 495
division shall be disclosed to any person, except as provided in 496
this division, or be used in evidence against the defendant on 497
the issue of guilt in any retrial. A pre-sentence investigation 498
or mental examination shall not be made except upon request of 499
the defendant. Copies of any reports prepared under this 500
division shall be furnished to the court, to the trial jury if 501
the offender was tried by a jury, to the prosecutor, and to the 502
offender or the offender's counsel for use under this division. 503
The court, and the trial jury if the offender was tried by a 504
jury, shall consider any report prepared pursuant to this 505
division and furnished to it and any evidence raised at trial 506
that is relevant to the aggravating circumstances the offender 507
was found guilty of committing or to any factors in mitigation 508
of the imposition of the sentence of death, shall hear testimony 509
and other evidence that is relevant to the nature and 510
circumstances of the aggravating circumstances the offender was 511
found guilty of committing, the mitigating factors set forth in 512
division (B) of section 2929.04 of the Revised Code, and any 513
other factors in mitigation of the imposition of the sentence of 514
death, and shall hear the statement, if any, of the offender, 515
and the arguments, if any, of counsel for the defense and 516
prosecution, that are relevant to the penalty that should be 517
imposed on the offender. The defendant shall be given great 518
latitude in the presentation of evidence of the mitigating 519
factors set forth in division (B) of section 2929.04 of the 520
Revised Code and of any other factors in mitigation of the 521

imposition of the sentence of death. If the offender chooses to 522
make a statement, the offender is subject to cross-examination 523
only if the offender consents to make the statement under oath 524
or affirmation. 525

The defendant shall have the burden of going forward with 526
the evidence of any factors in mitigation of the imposition of 527
the sentence of death. The prosecution shall have the burden of 528
proving, by proof beyond a reasonable doubt, that the 529
aggravating circumstances the defendant was found guilty of 530
committing are sufficient to outweigh the factors in mitigation 531
of the imposition of the sentence of death. 532

(2) Upon consideration of the relevant evidence raised at 533
trial, the testimony, other evidence, statement of the offender, 534
arguments of counsel, and, if applicable, the reports submitted 535
pursuant to division (D) (1) of this section, the trial jury, if 536
the offender was tried by a jury, shall determine whether the 537
aggravating circumstances the offender was found guilty of 538
committing are sufficient to outweigh the mitigating factors 539
present in the case. If the trial jury unanimously finds, by 540
proof beyond a reasonable doubt, that the aggravating 541
circumstances the offender was found guilty of committing 542
outweigh the mitigating factors, the trial jury shall recommend 543
to the court that the sentence of death be imposed on the 544
offender. Absent such a finding, the jury shall recommend that 545
the offender be sentenced to one of the following: 546

(a) Except as provided in division (D) (2) (b) or (c) of 547
this section, to life imprisonment without parole, life 548
imprisonment with parole eligibility after serving twenty-five 549
full years of imprisonment, or life imprisonment with parole 550
eligibility after serving thirty full years of imprisonment; 551

(b) Except as provided in division (D) (2) (c) of this 552
section, if the victim of the aggravated murder was less than 553
thirteen years of age, the offender also is convicted of or 554
pleads guilty to a sexual motivation specification that was 555
included in the indictment, count in the indictment, or 556
information charging the offense, and the jury does not 557
recommend a sentence of life imprisonment without parole 558
pursuant to division (D) (2) (a) of this section, to an indefinite 559
term consisting of a minimum term of thirty years and a maximum 560
term of life imprisonment to be imposed pursuant to division (B) 561
(3) of section 2971.03 of the Revised Code and served pursuant 562
to that section. 563

(c) If the offender also is convicted of or pleads guilty 564
to a sexual motivation specification and a sexually violent 565
predator specification that are included in the indictment, 566
count in the indictment, or information that charged the 567
aggravated murder, to life imprisonment without parole. 568

If the trial jury recommends that the offender be 569
sentenced to life imprisonment without parole, life imprisonment 570
with parole eligibility after serving twenty-five full years of 571
imprisonment, life imprisonment with parole eligibility after 572
serving thirty full years of imprisonment, or an indefinite term 573
consisting of a minimum term of thirty years and a maximum term 574
of life imprisonment to be imposed pursuant to division (B) (3) 575
of section 2971.03 of the Revised Code, the court shall impose 576
the sentence recommended by the jury upon the offender. If the 577
sentence is an indefinite term consisting of a minimum term of 578
thirty years and a maximum term of life imprisonment imposed as 579
described in division (D) (2) (b) of this section or a sentence of 580
life imprisonment without parole imposed under division (D) (2) 581
(c) of this section, the sentence shall be served pursuant to 582

section 2971.03 of the Revised Code. If the trial jury 583
recommends that the sentence of death be imposed upon the 584
offender, the court shall proceed to impose sentence pursuant to 585
division (D) (3) of this section. 586

(3) Upon consideration of the relevant evidence raised at 587
trial, the testimony, other evidence, statement of the offender, 588
arguments of counsel, and, if applicable, the reports submitted 589
to the court pursuant to division (D) (1) of this section, if, 590
after receiving pursuant to division (D) (2) of this section the 591
trial jury's recommendation that the sentence of death be 592
imposed, the court finds, by proof beyond a reasonable doubt, or 593
if the panel of three judges unanimously finds, by proof beyond 594
a reasonable doubt, that the aggravating circumstances the 595
offender was found guilty of committing outweigh the mitigating 596
factors, it shall impose sentence of death on the offender. 597
Absent such a finding by the court or panel, the court or the 598
panel shall impose one of the following sentences on the 599
offender: 600

(a) Except as provided in division (D) (3) (b) of this 601
section, one of the following: 602

(i) Life imprisonment without parole; 603

(ii) Subject to division (D) (3) (a) (iv) of this section, 604
life imprisonment with parole eligibility after serving twenty- 605
five full years of imprisonment; 606

(iii) Subject to division (D) (3) (a) (iv) of this section, 607
life imprisonment with parole eligibility after serving thirty 608
full years of imprisonment; 609

(iv) If the victim of the aggravated murder was less than 610
thirteen years of age, the offender also is convicted of or 611

pleads guilty to a sexual motivation specification that was 612
included in the indictment, count in the indictment, or 613
information charging the offense, and the trial court does not 614
impose a sentence of life imprisonment without parole on the 615
offender pursuant to division (D) (3) (a) (i) of this section, the 616
court or panel shall sentence the offender pursuant to division 617
(B) (3) of section 2971.03 of the Revised Code to an indefinite 618
term consisting of a minimum term of thirty years and a maximum 619
term of life imprisonment. 620

(b) If the offender also is convicted of or pleads guilty 621
to a sexual motivation specification and a sexually violent 622
predator specification that are included in the indictment, 623
count in the indictment, or information that charged the 624
aggravated murder, life imprisonment without parole that shall 625
be served pursuant to section 2971.03 of the Revised Code. 626

(E) (1) If the offender raised the matter of age at trial 627
pursuant to section 2929.023 of the Revised Code, was convicted 628
of aggravated murder and one or more specifications of an 629
aggravating circumstance listed in division (A) of section 630
2929.04 of the Revised Code, and was not found at trial to have 631
been eighteen years of age or older at the time of the 632
commission of the offense, the court or the panel of three 633
judges shall not impose a sentence of death on the offender. 634
Instead, the court or panel shall impose one of the following 635
sentences on the offender: 636

~~(1)~~ (a) Except as provided in division (E) ~~(2)~~ (1) (b) of 637
this section, one of the following: 638

~~(a)~~ (i) Life imprisonment without parole; 639

~~(b)~~ (ii) Subject to division (E) ~~(2)~~ (1) (a) (iv) of this 640

section, life imprisonment with parole eligibility after serving 641
twenty-five full years of imprisonment; 642

~~(e)~~ (iii) Subject to division (E) ~~(2)~~ ~~(d)~~ (1) (a) (iv) of this 643
section, life imprisonment with parole eligibility after serving 644
thirty full years of imprisonment; 645

~~(d)~~ (iv) If the victim of the aggravated murder was less 646
than thirteen years of age, the offender also is convicted of or 647
pleads guilty to a sexual motivation specification that was 648
included in the indictment, count in the indictment, or 649
information charging the offense, and the trial court does not 650
impose a sentence of life imprisonment without parole on the 651
offender pursuant to division (E) ~~(2)~~ (1) (a) (i) of this section, 652
the court or panel shall sentence the offender pursuant to 653
division (B) (3) of section 2971.03 of the Revised Code to an 654
indefinite term consisting of a minimum term of thirty years and 655
a maximum term of life imprisonment. 656

~~(2)~~ (b) If the offender also is convicted of or pleads 657
guilty to a sexual motivation specification and a sexually 658
violent predator specification that are included in the 659
indictment, count in the indictment, or information that charged 660
the aggravated murder, life imprisonment without parole that 661
shall be served pursuant to section 2971.03 of the Revised Code. 662

(2) If the offender raised the matter of the offender's 663
serious mental illness at the time of the commission of the 664
offense pursuant to section 2929.025 of the Revised Code, was 665
found under that section to be ineligible for a sentence of 666
death due to serious mental illness, and was convicted of 667
aggravated murder and one or more specifications of an 668
aggravating circumstance listed in division (A) of section 669
2929.04 of the Revised Code, the court or panel of three judges 670

shall not impose a sentence of death on the offender. Instead, 671
the court or panel shall sentence the offender to life 672
imprisonment without parole. 673

(F) The court or the panel of three judges, when it 674
imposes sentence of death, shall state in a separate opinion its 675
specific findings as to the existence of any of the mitigating 676
factors set forth in division (B) of section 2929.04 of the 677
Revised Code, the existence of any other mitigating factors, the 678
aggravating circumstances the offender was found guilty of 679
committing, and the reasons why the aggravating circumstances 680
the offender was found guilty of committing were sufficient to 681
outweigh the mitigating factors. The court or panel, when it 682
imposes life imprisonment or an indefinite term consisting of a 683
minimum term of thirty years and a maximum term of life 684
imprisonment under division (D) of this section, shall state in 685
a separate opinion its specific findings of which of the 686
mitigating factors set forth in division (B) of section 2929.04 687
of the Revised Code it found to exist, what other mitigating 688
factors it found to exist, what aggravating circumstances the 689
offender was found guilty of committing, and why it could not 690
find that these aggravating circumstances were sufficient to 691
outweigh the mitigating factors. For cases in which a sentence 692
of death is imposed for an offense committed before January 1, 693
1995, the court or panel shall file the opinion required to be 694
prepared by this division with the clerk of the appropriate 695
court of appeals and with the clerk of the supreme court within 696
fifteen days after the court or panel imposes sentence. For 697
cases in which a sentence of death is imposed for an offense 698
committed on or after January 1, 1995, the court or panel shall 699
file the opinion required to be prepared by this division with 700
the clerk of the supreme court within fifteen days after the 701

court or panel imposes sentence. The judgment in a case in which 702
a sentencing hearing is held pursuant to this section is not 703
final until the opinion is filed. 704

(G) (1) Whenever the court or a panel of three judges 705
imposes a sentence of death for an offense committed before 706
January 1, 1995, the clerk of the court in which the judgment is 707
rendered shall make and retain a copy of the entire record in 708
the case, and shall deliver the original of the entire record in 709
the case to the appellate court. 710

(2) Whenever the court or a panel of three judges imposes 711
a sentence of death for an offense committed on or after January 712
1, 1995, the clerk of the court in which the judgment is 713
rendered shall make and retain a copy of the entire record in 714
the case, and shall deliver the original of the entire record in 715
the case to the supreme court. 716

Sec. 2929.04. (A) Imposition of the death penalty for 717
aggravated murder is precluded unless one or more of the 718
following is specified in the indictment or count in the 719
indictment pursuant to section 2941.14 of the Revised Code and 720
proved beyond a reasonable doubt: 721

(1) The offense was the assassination of the president of 722
the United States or a person in line of succession to the 723
presidency, the governor or lieutenant governor of this state, 724
the president-elect or vice president-elect of the United 725
States, the governor-elect or lieutenant governor-elect of this 726
state, or a candidate for any of the offices described in this 727
division. For purposes of this division, a person is a candidate 728
if the person has been nominated for election according to law, 729
if the person has filed a petition or petitions according to law 730
to have the person's name placed on the ballot in a primary or 731

general election, or if the person campaigns as a write-in 732
candidate in a primary or general election. 733

(2) The offense was committed for hire. 734

(3) The offense was committed for the purpose of escaping 735
detection, apprehension, trial, or punishment for another 736
offense committed by the offender. 737

(4) The offense was committed while the offender was under 738
detention or while the offender was at large after having broken 739
detention. As used in division (A)(4) of this section, 740
"detention" has the same meaning as in section 2921.01 of the 741
Revised Code, except that detention does not include 742
hospitalization, institutionalization, or confinement in a 743
mental health facility or intellectual disabilities facility 744
unless at the time of the commission of the offense either of 745
the following circumstances apply: 746

(a) The offender was in the facility as a result of being 747
charged with a violation of a section of the Revised Code. 748

(b) The offender was under detention as a result of being 749
convicted of or pleading guilty to a violation of a section of 750
the Revised Code. 751

(5) Prior to the offense at bar, the offender was 752
convicted of an offense an essential element of which was the 753
purposeful killing of or attempt to kill another, or the offense 754
at bar was part of a course of conduct involving the purposeful 755
killing of or attempt to kill two or more persons by the 756
offender. 757

(6) The victim of the offense was a law enforcement 758
officer, as defined in section 2911.01 of the Revised Code, whom 759
the offender had reasonable cause to know or knew to be a law 760

enforcement officer as so defined, and either the victim, at the 761
time of the commission of the offense, was engaged in the 762
victim's duties, or it was the offender's specific purpose to 763
kill a law enforcement officer as so defined. 764

(7) The offense was committed while the offender was 765
committing, attempting to commit, or fleeing immediately after 766
committing or attempting to commit kidnapping, rape, aggravated 767
arson, aggravated robbery, or aggravated burglary, and either 768
the offender was the principal offender in the commission of the 769
aggravated murder or, if not the principal offender, committed 770
the aggravated murder with prior calculation and design. 771

(8) The victim of the aggravated murder was a witness to 772
an offense who was purposely killed to prevent the victim's 773
testimony in any criminal proceeding and the aggravated murder 774
was not committed during the commission, attempted commission, 775
or flight immediately after the commission or attempted 776
commission of the offense to which the victim was a witness, or 777
the victim of the aggravated murder was a witness to an offense 778
and was purposely killed in retaliation for the victim's 779
testimony in any criminal proceeding. 780

(9) The offender, in the commission of the offense, 781
purposefully caused the death of another who was under thirteen 782
years of age at the time of the commission of the offense, and 783
either the offender was the principal offender in the commission 784
of the offense or, if not the principal offender, committed the 785
offense with prior calculation and design. 786

(10) The offense was committed while the offender was 787
committing, attempting to commit, or fleeing immediately after 788
committing or attempting to commit terrorism. 789

(B) If one or more of the aggravating circumstances listed 790
in division (A) of this section is specified in the indictment 791
or count in the indictment and proved beyond a reasonable doubt, 792
~~and if the offender did not raise the matter of age pursuant to~~ 793
~~section 2929.023 of the Revised Code or if the offender,~~ after 794
raising ~~the~~ that ~~matter of age,~~ was found at trial to have been 795
eighteen years of age or older at the time of the commission of 796
the offense, and if the offender did not raise the matter of the 797
offender's serious mental illness at the time of the commission 798
of the offense pursuant to section 2929.025 of the Revised Code 799
or the offender after raising that matter was found by the court 800
to not be ineligible for a sentence of death, the court, trial 801
jury, or panel of three judges shall consider, and weigh against 802
the aggravating circumstances proved beyond a reasonable doubt, 803
the nature and circumstances of the offense, the history, 804
character, and background of the offender, and all of the 805
following factors: 806

(1) Whether the victim of the offense induced or 807
facilitated it; 808

(2) Whether it is unlikely that the offense would have 809
been committed, but for the fact that the offender was under 810
duress, coercion, or strong provocation; 811

(3) Whether, at the time of committing the offense, the 812
offender, because of a mental disease or defect, lacked 813
substantial capacity to appreciate the criminality of the 814
offender's conduct or to conform the offender's conduct to the 815
requirements of the law; 816

(4) The youth of the offender; 817

(5) The offender's lack of a significant history of prior 818

criminal convictions and delinquency adjudications; 819

(6) If the offender was a participant in the offense but 820
not the principal offender, the degree of the offender's 821
participation in the offense and the degree of the offender's 822
participation in the acts that led to the death of the victim; 823

(7) Any other factors that are relevant to the issue of 824
whether the offender should be sentenced to death. 825

(C) The defendant shall be given great latitude in the 826
presentation of evidence of the factors listed in division (B) 827
of this section and of any other factors in mitigation of the 828
imposition of the sentence of death. 829

The existence of any of the mitigating factors listed in 830
division (B) of this section does not preclude the imposition of 831
a sentence of death on the offender but shall be weighed 832
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 833
Revised Code by the trial court, trial jury, or the panel of 834
three judges against the aggravating circumstances the offender 835
was found guilty of committing. 836

Sec. 2929.06. (A) (1) If a sentence of death imposed upon 837
an offender is set aside, nullified, ~~or vacated because the, or~~ 838
voided for any of the following reasons, the trial court that 839
sentenced the offender shall conduct a hearing to resentence the 840
offender in accordance with division (A) (2) of this section: 841

(a) The court of appeals, in a case in which a sentence of 842
death was imposed for an offense committed before January 1, 843
1995, or the supreme court, in ~~cases~~ a case in which the supreme 844
court reviews the sentence upon appeal, could not affirm the 845
sentence of death under the standards imposed by section 2929.05 846
of the Revised Code, ~~is set aside, nullified, or vacated for~~ 847

the. 848

(b) The sole reason that the statutory procedure for 849
imposing the sentence of death that is set forth in sections 850
2929.03 and 2929.04 of the Revised Code is unconstitutional, 851

(c) The sentence of death is set aside, nullified, or 852
vacated pursuant to division (C) of section 2929.05 of the 853
Revised Code, ~~or is set aside, nullified, or vacated because a.~~ 854

(d) A court has determined that the offender is a person 855
with an intellectual disability under standards set forth in 856
decisions of the supreme court of this state or the United 857
States supreme court, ~~the trial court that sentenced the~~ 858
~~offender shall conduct a hearing to resentence the offender.~~ 859

(e) The sentence of death is voided by a court pursuant to 860
division (H) of section 2953.21 of the Revised Code. 861

(2) At ~~the a~~ resentencing hearing conducted under division 862
(A) (1) of this section, the court shall impose upon the offender 863
a sentence of life imprisonment or an indefinite term consisting 864
of a minimum term of thirty years and a maximum term of life 865
imprisonment that is determined as specified in this division. 866
If the sentence of death was voided by a court pursuant to 867
division (H) of section 2953.21 of the Revised Code, the court 868
shall impose a sentence of life imprisonment without parole. If 869
the immediately preceding sentence does not apply and if 870
division (D) of section 2929.03 of the Revised Code, at the time 871
the offender committed the aggravated murder for which the 872
sentence of death was imposed, required the imposition when a 873
sentence of death was not imposed of a sentence of life 874
imprisonment without parole or a sentence of an indefinite term 875
consisting of a minimum term of thirty years and a maximum term 876

of life imprisonment to be imposed pursuant to division (A) or 877
(B) (3) of section 2971.03 of the Revised Code and served 878
pursuant to that section, the court shall impose the sentence so 879
required. In all other cases, the sentences of life imprisonment 880
that are available at the hearing, and from which the court 881
shall impose sentence, shall be the same sentences of life 882
imprisonment that were available under division (D) of section 883
2929.03 or under section 2909.24 of the Revised Code at the time 884
the offender committed the offense for which the sentence of 885
death was imposed. Nothing in this division regarding the 886
resentencing of an offender shall affect the operation of 887
section 2971.03 of the Revised Code. 888

(B) Whenever any court of this state or any federal court 889
sets aside, nullifies, or vacates a sentence of death imposed 890
upon an offender because of error that occurred in the 891
sentencing phase of the trial and if division (A) of this 892
section does not apply, the trial court that sentenced the 893
offender shall conduct a new hearing to resentence the offender. 894
If the offender was tried by a jury, the trial court shall 895
impanel a new jury for the hearing. If the offender was tried by 896
a panel of three judges, that panel or, if necessary, a new 897
panel of three judges shall conduct the hearing. At the hearing, 898
the court or panel shall follow the procedure set forth in 899
division (D) of section 2929.03 of the Revised Code in 900
determining whether to impose upon the offender a sentence of 901
death, a sentence of life imprisonment, or an indefinite term 902
consisting of a minimum term of thirty years and a maximum term 903
of life imprisonment. If, pursuant to that procedure, the court 904
or panel determines that it will impose a sentence other than a 905
sentence of death, the court or panel shall impose upon the 906
offender one of the sentences of life imprisonment that could 907

have been imposed at the time the offender committed the offense 908
for which the sentence of death was imposed, determined as 909
specified in this division, or an indefinite term consisting of 910
a minimum term of thirty years and a maximum term of life 911
imprisonment that is determined as specified in this division. 912
If division (D) of section 2929.03 of the Revised Code, at the 913
time the offender committed the aggravated murder for which the 914
sentence of death was imposed, required the imposition when a 915
sentence of death was not imposed of a sentence of life 916
imprisonment without parole or a sentence of an indefinite term 917
consisting of a minimum term of thirty years and a maximum term 918
of life imprisonment to be imposed pursuant to division (A) or 919
(B) (3) of section 2971.03 of the Revised Code and served 920
pursuant to that section, the court or panel shall impose the 921
sentence so required. In all other cases, the sentences of life 922
imprisonment that are available at the hearing, and from which 923
the court or panel shall impose sentence, shall be the same 924
sentences of life imprisonment that were available under 925
division (D) of section 2929.03 or under section 2909.24 of the 926
Revised Code at the time the offender committed the offense for 927
which the sentence of death was imposed. 928

(C) If a sentence of life imprisonment without parole 929
imposed upon an offender pursuant to section 2929.021 or 2929.03 930
of the Revised Code is set aside, nullified, or vacated for the 931
sole reason that the statutory procedure for imposing the 932
sentence of life imprisonment without parole that is set forth 933
in sections 2929.03 and 2929.04 of the Revised Code is 934
unconstitutional, the trial court that sentenced the offender 935
shall conduct a hearing to resentence the offender to life 936
imprisonment with parole eligibility after serving twenty-five 937
full years of imprisonment or to life imprisonment with parole 938

eligibility after serving thirty full years of imprisonment. 939

(D) Nothing in this section limits or restricts the rights 940
of the state to appeal any order setting aside, nullifying, or 941
vacating a conviction or sentence of death, when an appeal of 942
that nature otherwise would be available. 943

(E) This section, as amended by H.B. 184 of the 125th 944
general assembly, shall apply to all offenders who have been 945
sentenced to death for an aggravated murder that was committed 946
on or after October 19, 1981, or for terrorism that was 947
committed on or after May 15, 2002. This section, as amended by 948
H.B. 184 of the 125th general assembly, shall apply equally to 949
all such offenders sentenced to death prior to, on, or after 950
March 23, 2005, including offenders who, on March 23, 2005, are 951
challenging their sentence of death and offenders whose sentence 952
of death has been set aside, nullified, or vacated by any court 953
of this state or any federal court but who, as of March 23, 954
2005, have not yet been resentenced. 955

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 956
the Revised Code to an offender is precluded unless one of the 957
following applies: 958

(a) The offender is charged with a violent sex offense, 959
and the indictment, count in the indictment, or information 960
charging the violent sex offense also includes a specification 961
that the offender is a sexually violent predator, or the 962
offender is charged with a designated homicide, assault, or 963
kidnapping offense, and the indictment, count in the indictment, 964
or information charging the designated homicide, assault, or 965
kidnapping offense also includes both a specification of the 966
type described in section 2941.147 of the Revised Code and a 967
specification that the offender is a sexually violent predator. 968

(b) The offender is convicted of or pleads guilty to a 969
violation of division (A) (1) (b) of section 2907.02 of the 970
Revised Code committed on or after January 2, 2007, and division 971
(B) of section 2907.02 of the Revised Code does not prohibit the 972
court from sentencing the offender pursuant to section 2971.03 973
of the Revised Code. 974

(c) The offender is convicted of or pleads guilty to 975
attempted rape committed on or after January 2, 2007, and to a 976
specification of the type described in section 2941.1418, 977
2941.1419, or 2941.1420 of the Revised Code. 978

(d) The offender is convicted of or pleads guilty to a 979
violation of section 2905.01 of the Revised Code and to a 980
specification of the type described in section 2941.147 of the 981
Revised Code, and section 2905.01 of the Revised Code requires a 982
court to sentence the offender pursuant to section 2971.03 of 983
the Revised Code. 984

(e) The offender is convicted of or pleads guilty to 985
aggravated murder and to a specification of the type described 986
in section 2941.147 of the Revised Code, and division (A) (2) (b) 987
(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) 988
(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of 989
section 2929.03, or division (A) or (B) of section 2929.06 of 990
the Revised Code requires a court to sentence the offender 991
pursuant to division (B) (3) of section 2971.03 of the Revised 992
Code. 993

(f) The offender is convicted of or pleads guilty to 994
murder and to a specification of the type described in section 995
2941.147 of the Revised Code, and division (B) (2) of section 996
2929.02 of the Revised Code requires a court to sentence the 997
offender pursuant to section 2971.03 of the Revised Code. 998

(2) A specification required under division (A) (1) (a) of 999
this section that an offender is a sexually violent predator 1000
shall be stated at the end of the body of the indictment, count, 1001
or information and shall be stated in substantially the 1002
following form: 1003

"Specification (or, specification to the first count). The 1004
grand jury (or insert the person's or prosecuting attorney's 1005
name when appropriate) further find and specify that the 1006
offender is a sexually violent predator." 1007

(B) In determining for purposes of this section whether a 1008
person is a sexually violent predator, all of the factors set 1009
forth in divisions (H) (1) to (6) of section 2971.01 of the 1010
Revised Code that apply regarding the person may be considered 1011
as evidence tending to indicate that it is likely that the 1012
person will engage in the future in one or more sexually violent 1013
offenses. 1014

(C) As used in this section, "designated homicide, 1015
assault, or kidnapping offense," "violent sex offense," and 1016
"sexually violent predator" have the same meanings as in section 1017
2971.01 of the Revised Code. 1018

Sec. 2953.21. (A) (1) (a) A person in any of the following 1019
categories may file a petition in the court that imposed 1020
sentence, stating the grounds for relief relied upon, and asking 1021
the court to vacate or set aside the judgment or sentence or to 1022
grant other appropriate relief: 1023

(i) Any person who has been convicted of a criminal 1024
offense or adjudicated a delinquent child and who claims that 1025
there was such a denial or infringement of the person's rights 1026
as to render the judgment void or voidable under the Ohio 1027

Constitution or the Constitution of the United States, ~~any;~~ 1028

(ii) Any person who has been convicted of a criminal 1029
offense and sentenced to death and who claims that there was a 1030
denial or infringement of the person's rights under either of 1031
those Constitutions that creates a reasonable probability of an 1032
altered verdict, ~~and any;~~ 1033

(iii) Any person who has been convicted of a criminal 1034
offense that is a felony and who is an offender for whom DNA 1035
testing that was performed under sections 2953.71 to 2953.81 of 1036
the Revised Code or under former section 2953.82 of the Revised 1037
Code and analyzed in the context of and upon consideration of 1038
all available admissible evidence related to the person's case 1039
as described in division (D) of section 2953.74 of the Revised 1040
Code provided results that establish, by clear and convincing 1041
evidence, actual innocence of that felony offense or, if the 1042
person was sentenced to death, establish, by clear and 1043
convincing evidence, actual innocence of the aggravating 1044
circumstance or circumstances the person was found guilty of 1045
committing and that is or are the basis of that sentence of 1046
death, ~~may file a petition in the court that imposed sentence,~~ 1047
~~stating the grounds for relief relied upon, and asking the court~~ 1048
~~to vacate or set aside the judgment or sentence or to grant~~ 1049
~~other appropriate relief;~~ 1050

(iv) Any person who has been convicted of aggravated 1051
murder and sentenced to death for the offense and who claims 1052
that the person had a serious mental illness at the time of the 1053
commission of the offense and that as a result the court should 1054
render void the sentence of death. 1055

~~The~~ (b) A petitioner under division (A)(1)(a) of this 1056
section may file a supporting affidavit and other documentary 1057

evidence in support of the claim for relief. 1058

~~(b)~~ (c) As used in division (A) (1) (a) of this section, 1059
"actual": 1060

(i) "Actual innocence" means that, had the results of the 1061
DNA testing conducted under sections 2953.71 to 2953.81 of the 1062
Revised Code or under former section 2953.82 of the Revised Code 1063
been presented at trial, and had those results been analyzed in 1064
the context of and upon consideration of all available 1065
admissible evidence related to the person's case as described in 1066
division (D) of section 2953.74 of the Revised Code, no 1067
reasonable factfinder would have found the petitioner guilty of 1068
the offense of which the petitioner was convicted, or, if the 1069
person was sentenced to death, no reasonable factfinder would 1070
have found the petitioner guilty of the aggravating circumstance 1071
or circumstances the petitioner was found guilty of committing 1072
and that is or are the basis of that sentence of death. 1073

(ii) "Serious mental illness" has the same meaning as in 1074
section 2929.025 of the Revised Code. 1075

~~(e)~~ (d) As used in divisions (A) (1) (a) and ~~(b)~~ (c) of this 1076
section, "former section 2953.82 of the Revised Code" means 1077
section 2953.82 of the Revised Code as it existed prior to July 1078
6, 2010. 1079

~~(d)~~ (e) At any time in conjunction with the filing of a 1080
petition for postconviction relief under division (A) of this 1081
section by a person who has been sentenced to death, or with the 1082
litigation of a petition so filed, the court, for good cause 1083
shown, may authorize the petitioner in seeking the 1084
postconviction relief and the prosecuting attorney of the county 1085
served by the court in defending the proceeding, to take 1086

depositions and to issue subpoenas and subpoenas duces tecum in 1087
accordance with divisions (A) (1) ~~(d)~~ (e), (A) (1) ~~(e)~~ (f), and (C) of 1088
this section, and to any other form of discovery as in a civil 1089
action that the court in its discretion permits. The court may 1090
limit the extent of discovery under this division. In addition 1091
to discovery that is relevant to the claim and was available 1092
under Criminal Rule 16 through conclusion of the original 1093
criminal trial, the court, for good cause shown, may authorize 1094
the petitioner or prosecuting attorney to take depositions and 1095
issue subpoenas and subpoenas duces tecum in either of the 1096
following circumstances: 1097

(i) For any witness who testified at trial or who was 1098
disclosed by the state prior to trial, except as otherwise 1099
provided in this division, the petitioner or prosecuting 1100
attorney shows clear and convincing evidence that the witness is 1101
material and that a deposition of the witness or the issuing of 1102
a subpoena or subpoena duces tecum is of assistance in order to 1103
substantiate or refute the petitioner's claim that there is a 1104
reasonable probability of an altered verdict. This division does 1105
not apply if the witness was unavailable for trial or would not 1106
voluntarily be interviewed by the defendant or prosecuting 1107
attorney. 1108

(ii) For any witness with respect to whom division (A) (1) 1109
~~(d)~~ (e) (i) of this section does not apply, the petitioner or 1110
prosecuting attorney shows good cause that the witness is 1111
material and that a deposition of the witness or the issuing of 1112
a subpoena or subpoena duces tecum is of assistance in order to 1113
substantiate or refute the petitioner's claim that there is a 1114
reasonable probability of an altered verdict. 1115

~~(e)~~ (f) If a person who has been sentenced to death and who 1116

files a petition for postconviction relief under division (A) of 1117
this section requests postconviction discovery as described in 1118
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 1119
attorney of the county served by the court requests 1120
postconviction discovery as described in that division, within 1121
ten days after the docketing of the request, or within any other 1122
time that the court sets for good cause shown, the prosecuting 1123
attorney shall respond by answer or motion to the petitioner's 1124
request or the petitioner shall respond by answer or motion to 1125
the prosecuting attorney's request, whichever is applicable. 1126

~~(f)~~ (g) If a person who has been sentenced to death and who 1127
files a petition for postconviction relief under division (A) of 1128
this section requests postconviction discovery as described in 1129
division (A) (1) ~~(d)~~ (e) of this section or if the prosecuting 1130
attorney of the county served by the court requests 1131
postconviction discovery as described in that division, upon 1132
motion by the petitioner, the prosecuting attorney, or the 1133
person from whom discovery is sought, and for good cause shown, 1134
the court in which the action is pending may make any order that 1135
justice requires to protect a party or person from oppression or 1136
undue burden or expense, including but not limited to the orders 1137
described in divisions (A) (1) ~~(g)~~ (h) (i) to (viii) of this 1138
section. The court also may make any such order if, in its 1139
discretion, it determines that the discovery sought would be 1140
irrelevant to the claims made in the petition; and if the court 1141
makes any such order on that basis, it shall explain in the 1142
order the reasons why the discovery would be irrelevant. 1143

~~(g)~~ (h) If a petitioner, prosecuting attorney, or person 1144
from whom discovery is sought makes a motion for an order under 1145
division (A) (1) ~~(f)~~ (g) of this section and the order is denied in 1146
whole or in part, the court, on terms and conditions as are 1147

just, may order that any party or person provide or permit 1148
discovery as described in division (A) (1) ~~(d)~~ (e) of this section. 1149
The provisions of Civil Rule 37(A) (4) apply to the award of 1150
expenses incurred in relation to the motion, except that in no 1151
case shall a court require a petitioner who is indigent to pay 1152
expenses under those provisions. 1153

Before any person moves for an order under division (A) (1) 1154
~~(f)~~ (g) of this section, that person shall make a reasonable 1155
effort to resolve the matter through discussion with the 1156
petitioner or prosecuting attorney seeking discovery. A motion 1157
for an order under division (A) (1) ~~(f)~~ (g) of this section shall 1158
be accompanied by a statement reciting the effort made to 1159
resolve the matter in accordance with this paragraph. 1160

The orders that may be made under division (A) (1) ~~(f)~~ (g) of 1161
this section include, but are not limited to, any of the 1162
following: 1163

(i) That the discovery not be had; 1164

(ii) That the discovery may be had only on specified terms 1165
and conditions, including a designation of the time or place; 1166

(iii) That the discovery may be had only by a method of 1167
discovery other than that selected by the party seeking 1168
discovery; 1169

(iv) That certain matters not be inquired into or that the 1170
scope of the discovery be limited to certain matters; 1171

(v) That discovery be conducted with no one present except 1172
persons designated by the court; 1173

(vi) That a deposition after being sealed be opened only 1174
by order of the court; 1175

(vii) That a trade secret or other confidential research, 1176
development, or commercial information not be disclosed or be 1177
disclosed only in a designated way; 1178

(viii) That the parties simultaneously file specified 1179
documents or information enclosed in sealed envelopes to be 1180
opened as directed by the court. 1181

~~(h)~~ (i) Any postconviction discovery authorized under 1182
division (A) (1) ~~(d)~~ (e) of this section shall be completed not 1183
later than eighteen months after the start of the discovery 1184
proceedings unless, for good cause shown, the court extends that 1185
period for completing the discovery. 1186

~~(i)~~ (j) Nothing in division (A) (1) ~~(d)~~ (e) of this section 1187
authorizes, or shall be construed as authorizing, the 1188
relitigation, or discovery in support of relitigation, of any 1189
matter barred by the doctrine of res judicata. 1190

~~(j)~~ (k) Division (A) (1) of this section does not apply to 1191
any person who has been convicted of a criminal offense and 1192
sentenced to death and who has unsuccessfully raised the same 1193
claims in a petition for postconviction relief. 1194

(2) (a) Except as otherwise provided in section 2953.23 of 1195
the Revised Code, a petition under division (A) (1) (a) (i), (ii), 1196
or (iii) of this section shall be filed no later than three 1197
hundred sixty-five days after the date on which the trial 1198
transcript is filed in the court of appeals in the direct appeal 1199
of the judgment of conviction or adjudication or, if the direct 1200
appeal involves a sentence of death, the date on which the trial 1201
transcript is filed in the supreme court. If no appeal is taken, 1202
except as otherwise provided in section 2953.23 of the Revised 1203
Code, the petition shall be filed no later than three hundred 1204

sixty-five days after the expiration of the time for filing the 1205
appeal. 1206

(b) Except as otherwise provided in section 2953.23 of the 1207
Revised Code, a petition under division (A)(1)(a)(iv) of this 1208
section shall be filed not later than three hundred sixty-five 1209
days after the effective date of this amendment. 1210

(3) In a petition filed under division (A)(1)(a)(i), (ii), 1211
or (iii) of this section, a person who has been sentenced to 1212
death may ask the court to render void or voidable the judgment 1213
with respect to the conviction of aggravated murder or the 1214
specification of an aggravating circumstance or the sentence of 1215
death. A person sentenced to death who files a petition under 1216
division (A)(1)(a)(iv) of this section may ask the court to 1217
render void the sentence of death and to order the resentencing 1218
of the person under division (A) of section 2929.06 of the 1219
Revised Code. 1220

(4) A petitioner shall state in the original or amended 1221
petition filed under division (A) of this section all grounds 1222
for relief claimed by the petitioner. Except as provided in 1223
section 2953.23 of the Revised Code, any ground for relief that 1224
is not so stated in the petition is waived. 1225

(5) If the petitioner in a petition filed under division 1226
(A)(1)(a)(i), (ii), or (iii) of this section was convicted of or 1227
pleaded guilty to a felony, the petition may include a claim 1228
that the petitioner was denied the equal protection of the laws 1229
in violation of the Ohio Constitution or the United States 1230
Constitution because the sentence imposed upon the petitioner 1231
for the felony was part of a consistent pattern of disparity in 1232
sentencing by the judge who imposed the sentence, with regard to 1233
the petitioner's race, gender, ethnic background, or religion. 1234

If the supreme court adopts a rule requiring a court of common
pleas to maintain information with regard to an offender's race,
gender, ethnic background, or religion, the supporting evidence
for the petition shall include, but shall not be limited to, a
copy of that type of information relative to the petitioner's
sentence and copies of that type of information relative to
sentences that the same judge imposed upon other persons.

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

(B) The clerk of the court in which the petition for
postconviction relief and, if applicable, a request for
postconviction discovery described in division (A) (1) ~~(d)~~ (e) of
this section is filed shall docket the petition and the request
and bring them promptly to the attention of the court. The clerk
of the court in which the petition for postconviction relief
and, if applicable, a request for postconviction discovery
described in division (A) (1) ~~(d)~~ (e) of this section is filed
immediately shall forward a copy of the petition and a copy of
the request if filed by the petitioner to the prosecuting
attorney of the county served by the court. If the request for
postconviction discovery is filed by the prosecuting attorney,

the clerk of the court immediately shall forward a copy of the 1266
request to the petitioner or the petitioner's counsel. 1267

(C) If a person who has been sentenced to death and who 1268
files a petition for postconviction relief under division (A) (1) 1269
(a) (i), (ii), (iii), or (iv) of this section requests a 1270
deposition or the prosecuting attorney in the case requests a 1271
deposition, and if the court grants the request under division 1272
(A) ~~(1) (d)~~ (e) of this section, the court shall notify the 1273
petitioner or the petitioner's counsel and the prosecuting 1274
attorney. The deposition shall be conducted pursuant to 1275
divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding 1276
division (C) of Criminal Rule 15, the petitioner is not entitled 1277
to attend the deposition. The prosecuting attorney shall be 1278
permitted to attend and participate in any deposition. 1279

(D) The court shall consider a petition that is timely 1280
filed ~~under~~ within the period specified in division (A) (2) of 1281
this section even if a direct appeal of the judgment is pending. 1282
Before granting a hearing on a petition filed under division (A) 1283
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall 1284
determine whether there are substantive grounds for relief. In 1285
making such a determination, the court shall consider, in 1286
addition to the petition, the supporting affidavits, and the 1287
documentary evidence, all the files and records pertaining to 1288
the proceedings against the petitioner, including, but not 1289
limited to, the indictment, the court's journal entries, the 1290
journalized records of the clerk of the court, and the court 1291
reporter's transcript. The court reporter's transcript, if 1292
ordered and certified by the court, shall be taxed as court 1293
costs. If the court dismisses the petition, it shall make and 1294
file findings of fact and conclusions of law with respect to 1295
such dismissal. If the petition was filed by a person who has 1296

been sentenced to death, the findings of fact and conclusions of 1297
law shall state specifically the reasons for the dismissal of 1298
the petition and of each claim it contains. 1299

(E) Within ten days after the docketing of the petition, 1300
or within any further time that the court may fix for good cause 1301
shown, the prosecuting attorney shall respond by answer or 1302
motion. Division (A)(6) of this section applies with respect to 1303
the prosecuting attorney's response. Within twenty days from the 1304
date the issues are raised, either party may move for summary 1305
judgment. The right to summary judgment shall appear on the face 1306
of the record. 1307

(F) Unless the petition and the files and records of the 1308
case show the petitioner is not entitled to relief, the court 1309
shall proceed to a prompt hearing on the issues even if a direct 1310
appeal of the case is pending. If the court notifies the parties 1311
that it has found grounds for granting relief, either party may 1312
request an appellate court in which a direct appeal of the 1313
judgment is pending to remand the pending case to the court. 1314

With respect to a petition filed under division (A)(1)(a) 1315
(iv) of this section, the procedures and rules regarding 1316
introduction of evidence and burden of proof at the pretrial 1317
hearing that are set forth in divisions (C), (D), and (F) of 1318
section 2929.025 of the Revised Code apply in considering the 1319
petition. With respect to such a petition, the grounds for 1320
granting relief are that the person has been diagnosed with one 1321
or more of the conditions set forth in division (A)(1)(a) of 1322
section 2929.025 of the Revised Code and that, at the time of 1323
the aggravated murder that was the basis of the sentence of 1324
death, the condition or conditions significantly impaired the 1325
person's capacity in a manner described in division (A)(1)(b) of 1326

that section. 1327

(G) A petitioner who files a petition under division (A) 1328
(1)(a)(i), (ii), (iii), or (iv) of this section may amend the 1329
petition as follows: 1330

(1) If the petition was filed by a person who has been 1331
sentenced to death, at any time that is not later than one 1332
hundred eighty days after the petition is filed, the petitioner 1333
may amend the petition with or without leave or prejudice to the 1334
proceedings. 1335

(2) If division (G)(1) of this section does not apply, at 1336
any time before the answer or motion is filed, the petitioner 1337
may amend the petition with or without leave or prejudice to the 1338
proceedings. 1339

(3) The petitioner may amend the petition with leave of 1340
court at any time after the expiration of the applicable period 1341
specified in division (G)(1) or (2) of this section. 1342

(H) If the court does not find grounds for granting 1343
relief, it shall make and file findings of fact and conclusions 1344
of law and shall enter judgment denying relief on the petition. 1345
If the petition was filed by a person who has been sentenced to 1346
death, the findings of fact and conclusions of law shall state 1347
specifically the reasons for the denial of relief on the 1348
petition and of each claim it contains. If no direct appeal of 1349
the case is pending and the court finds grounds for relief or if 1350
a pending direct appeal of the case has been remanded to the 1351
court pursuant to a request made pursuant to division (F) of 1352
this section and the court finds grounds for granting relief, it 1353
shall make and file findings of fact and conclusions of law and 1354
shall enter a judgment that vacates and sets aside the judgment 1355

in question, and, in the case of a petitioner who is a prisoner 1356
in custody, except as otherwise described in this division, 1357
shall discharge or resentence the petitioner or grant a new 1358
trial as the court determines appropriate. If the court finds 1359
grounds for relief in the case of a petitioner who filed a 1360
petition under division (A)(1)(a)(iv) of this section, the court 1361
shall render void the sentence of death and order the 1362
resentencing of the offender under division (A) of section 1363
2929.06 of the Revised Code. If the petitioner has been 1364
sentenced to death, the findings of fact and conclusions of law 1365
shall state specifically the reasons for the finding of grounds 1366
for granting the relief, with respect to each claim contained in 1367
the petition. The court also may make supplementary orders to 1368
the relief granted, concerning such matters as rearraignment, 1369
retrial, custody, and bail. If the trial court's order granting 1370
the petition is reversed on appeal and if the direct appeal of 1371
the case has been remanded from an appellate court pursuant to a 1372
request under division (F) of this section, the appellate court 1373
reversing the order granting the petition shall notify the 1374
appellate court in which the direct appeal of the case was 1375
pending at the time of the remand of the reversal and remand of 1376
the trial court's order. Upon the reversal and remand of the 1377
trial court's order granting the petition, regardless of whether 1378
notice is sent or received, the direct appeal of the case that 1379
was remanded is reinstated. 1380

(I) Upon the filing of a petition pursuant to division (A) 1381
(1)(a)(i), (ii), (iii), or (iv) of this section by a person 1382
sentenced to death, only the supreme court may stay execution of 1383
the sentence of death. 1384

(J)(1) If a person sentenced to death intends to file a 1385
petition under this section, the court shall appoint counsel to 1386

represent the person upon a finding that the person is indigent 1387
and that the person either accepts the appointment of counsel or 1388
is unable to make a competent decision whether to accept or 1389
reject the appointment of counsel. The court may decline to 1390
appoint counsel for the person only upon a finding, after a 1391
hearing if necessary, that the person rejects the appointment of 1392
counsel and understands the legal consequences of that decision 1393
or upon a finding that the person is not indigent. 1394

(2) The court shall not appoint as counsel under division 1395
(J) (1) of this section an attorney who represented the 1396
petitioner at trial in the case to which the petition relates 1397
unless the person and the attorney expressly request the 1398
appointment. The court shall appoint as counsel under division 1399
(J) (1) of this section only an attorney who is certified under 1400
Rule 20 of the Rules of Superintendence for the Courts of Ohio 1401
to represent indigent defendants charged with or convicted of an 1402
offense for which the death penalty can be or has been imposed. 1403
The ineffectiveness or incompetence of counsel during 1404
proceedings under this section does not constitute grounds for 1405
relief in a proceeding under this section, in an appeal of any 1406
action under this section, or in an application to reopen a 1407
direct appeal. 1408

(3) Division (J) of this section does not preclude 1409
attorneys who represent the state of Ohio from invoking the 1410
provisions of 28 U.S.C. 154 with respect to capital cases that 1411
were pending in federal habeas corpus proceedings prior to July 1412
1, 1996, insofar as the petitioners in those cases were 1413
represented in proceedings under this section by one or more 1414
counsel appointed by the court under this section or section 1415
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those 1416
appointed counsel meet the requirements of division (J) (2) of 1417

this section. 1418

(K) Subject to the appeal of a sentence for a felony that 1419
is authorized by section 2953.08 of the Revised Code, the remedy 1420
set forth in this section is the exclusive remedy by which a 1421
person may bring a collateral challenge to the validity of a 1422
conviction or sentence in a criminal case or to the validity of 1423
an adjudication of a child as a delinquent child for the 1424
commission of an act that would be a criminal offense if 1425
committed by an adult or the validity of a related order of 1426
disposition. 1427

Sec. 2953.23. (A) Whether a hearing is or is not held on a 1428
petition filed pursuant to section 2953.21 of the Revised Code, 1429
a court may not entertain a petition filed after the expiration 1430
of the period prescribed in division (A) of that section or a 1431
second petition or successive petitions for similar relief on 1432
behalf of a petitioner unless division (A)(1) or (2) of this 1433
section applies: 1434

(1) Both of the following apply: 1435

(a) Either the petitioner shows that the petitioner was 1436
unavoidably prevented from discovery of the facts upon which the 1437
petitioner must rely to present the claim for relief, or, 1438
subsequent to the period prescribed in division (A)(2) of 1439
section 2953.21 of the Revised Code or to the filing of an 1440
earlier petition, the United States Supreme Court recognized a 1441
new federal or state right that applies retroactively to persons 1442
in the petitioner's situation, and the petition asserts a claim 1443
based on that right. 1444

(b) The petitioner shows by clear and convincing evidence 1445
that, but for constitutional error at trial, no reasonable 1446

factfinder would have found the petitioner guilty of the offense 1447
of which the petitioner was convicted or, if the claim 1448
challenges a sentence of death that, but for constitutional 1449
error at the sentencing hearing, no reasonable factfinder would 1450
have found the petitioner eligible for the death sentence. 1451

(2) The petitioner was convicted of a felony, the 1452
petitioner is an offender for whom DNA testing was performed 1453
under sections 2953.71 to 2953.81 of the Revised Code or under 1454
former section 2953.82 of the Revised Code and analyzed in the 1455
context of and upon consideration of all available admissible 1456
evidence related to the inmate's case as described in division 1457
(D) of section 2953.74 of the Revised Code, and the results of 1458
the DNA testing establish, by clear and convincing evidence, 1459
actual innocence of that felony offense or, if the person was 1460
sentenced to death, establish, by clear and convincing evidence, 1461
actual innocence of the aggravating circumstance or 1462
circumstances the person was found guilty of committing and that 1463
is or are the basis of that sentence of death. 1464

As used in this division, "actual innocence" has the same 1465
meaning as in division (A) (1) ~~(b)~~ (c) of section 2953.21 of the 1466
Revised Code, and "former section 2953.82 of the Revised Code" 1467
has the same meaning as in division (A) (1) ~~(c)~~ (d) of section 1468
2953.21 of the Revised Code. 1469

(B) An order awarding or denying relief sought in a 1470
petition filed pursuant to section 2953.21 of the Revised Code 1471
is a final judgment and may be appealed pursuant to Chapter 1472
2953. of the Revised Code. 1473

If a petition filed pursuant to section 2953.21 of the 1474
Revised Code by a person who has been sentenced to death is 1475
denied and the person appeals the judgment, notwithstanding any 1476

law or court rule to the contrary, there is no limit on the 1477
number of pages in, or on the length of, a notice of appeal or 1478
briefs related to an appeal filed by the person. If any court 1479
rule specifies a limit on the number of pages in, or on the 1480
length of, a notice of appeal or briefs described in this 1481
division or on a prosecuting attorney's response or briefs with 1482
respect to such an appeal and a person who has been sentenced to 1483
death files a notice of appeal or briefs that exceed the limit 1484
specified for the petition, the prosecuting attorney may file a 1485
response or briefs that exceed the limit specified for the 1486
answer or briefs. 1487

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 1488
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 1489
another section of the Revised Code, other than divisions (B) 1490
and (C) of section 2929.14 of the Revised Code, that authorizes 1491
or requires a specified prison term or a mandatory prison term 1492
for a person who is convicted of or pleads guilty to a felony or 1493
that specifies the manner and place of service of a prison term 1494
or term of imprisonment, the court shall impose a sentence upon 1495
a person who is convicted of or pleads guilty to a violent sex 1496
offense and who also is convicted of or pleads guilty to a 1497
sexually violent predator specification that was included in the 1498
indictment, count in the indictment, or information charging 1499
that offense, and upon a person who is convicted of or pleads 1500
guilty to a designated homicide, assault, or kidnapping offense 1501
and also is convicted of or pleads guilty to both a sexual 1502
motivation specification and a sexually violent predator 1503
specification that were included in the indictment, count in the 1504
indictment, or information charging that offense, as follows: 1505

(1) If the offense for which the sentence is being imposed 1506
is aggravated murder and if the court does not impose upon the 1507

offender a sentence of death, it shall impose upon the offender 1508
a term of life imprisonment without parole. If the court 1509
sentences the offender to death and the sentence of death is 1510
vacated, overturned, or otherwise set aside, the court shall 1511
impose upon the offender a term of life imprisonment without 1512
parole. 1513

(2) If the offense for which the sentence is being imposed 1514
is murder; or if the offense is rape committed in violation of 1515
division (A) (1) (b) of section 2907.02 of the Revised Code when 1516
the offender purposely compelled the victim to submit by force 1517
or threat of force, when the victim was less than ten years of 1518
age, when the offender previously has been convicted of or 1519
pleaded guilty to either rape committed in violation of that 1520
division or a violation of an existing or former law of this 1521
state, another state, or the United States that is substantially 1522
similar to division (A) (1) (b) of section 2907.02 of the Revised 1523
Code, or when the offender during or immediately after the 1524
commission of the rape caused serious physical harm to the 1525
victim; or if the offense is an offense other than aggravated 1526
murder or murder for which a term of life imprisonment may be 1527
imposed, it shall impose upon the offender a term of life 1528
imprisonment without parole. 1529

(3) (a) Except as otherwise provided in division (A) (3) (b), 1530
(c), (d), or (e) or (A) (4) of this section, if the offense for 1531
which the sentence is being imposed is an offense other than 1532
aggravated murder, murder, or rape and other than an offense for 1533
which a term of life imprisonment may be imposed, it shall 1534
impose an indefinite prison term consisting of a minimum term 1535
fixed by the court as described in this division, but not less 1536
than two years, and a maximum term of life imprisonment. Except 1537
as otherwise specified in this division, the minimum term shall 1538

be fixed by the court from among the range of terms available as 1539
a definite term for the offense. If the offense is a felony of 1540
the first or second degree committed on or after ~~the effective~~ 1541
~~date of this amendment~~ March 22, 2019, the minimum term shall be 1542
fixed by the court from among the range of terms available as a 1543
minimum term for the offense under division (A)(1)(a) or (2)(a) 1544
of that section. 1545

(b) Except as otherwise provided in division (A)(4) of 1546
this section, if the offense for which the sentence is being 1547
imposed is kidnapping that is a felony of the first degree, it 1548
shall impose an indefinite prison term as follows: 1549

(i) If the kidnapping is committed on or after January 1, 1550
2008, and the victim of the offense is less than thirteen years 1551
of age, except as otherwise provided in this division, it shall 1552
impose an indefinite prison term consisting of a minimum term of 1553
fifteen years and a maximum term of life imprisonment. If the 1554
kidnapping is committed on or after January 1, 2008, the victim 1555
of the offense is less than thirteen years of age, and the 1556
offender released the victim in a safe place unharmed, it shall 1557
impose an indefinite prison term consisting of a minimum term of 1558
ten years and a maximum term of life imprisonment. 1559

(ii) If the kidnapping is committed prior to January 1, 1560
2008, or division (A)(3)(b)(i) of this section does not apply, 1561
it shall impose an indefinite term consisting of a minimum term 1562
fixed by the court that is not less than ten years and a maximum 1563
term of life imprisonment. 1564

(c) Except as otherwise provided in division (A)(4) of 1565
this section, if the offense for which the sentence is being 1566
imposed is kidnapping that is a felony of the second degree, it 1567
shall impose an indefinite prison term consisting of a minimum 1568

term fixed by the court that is not less than eight years, and a 1569
maximum term of life imprisonment. 1570

(d) Except as otherwise provided in division (A)(4) of 1571
this section, if the offense for which the sentence is being 1572
imposed is rape for which a term of life imprisonment is not 1573
imposed under division (A)(2) of this section or division (B) of 1574
section 2907.02 of the Revised Code, it shall impose an 1575
indefinite prison term as follows: 1576

(i) If the rape is committed on or after January 2, 2007, 1577
in violation of division (A)(1)(b) of section 2907.02 of the 1578
Revised Code, it shall impose an indefinite prison term 1579
consisting of a minimum term of twenty-five years and a maximum 1580
term of life imprisonment. 1581

(ii) If the rape is committed prior to January 2, 2007, or 1582
the rape is committed on or after January 2, 2007, other than in 1583
violation of division (A)(1)(b) of section 2907.02 of the 1584
Revised Code, it shall impose an indefinite prison term 1585
consisting of a minimum term fixed by the court that is not less 1586
than ten years, and a maximum term of life imprisonment. 1587

(e) Except as otherwise provided in division (A)(4) of 1588
this section, if the offense for which sentence is being imposed 1589
is attempted rape, it shall impose an indefinite prison term as 1590
follows: 1591

(i) Except as otherwise provided in division (A)(3)(e) 1592
(ii), (iii), or (iv) of this section, it shall impose an 1593
indefinite prison term pursuant to division (A)(3)(a) of this 1594
section. 1595

(ii) If the attempted rape for which sentence is being 1596
imposed was committed on or after January 2, 2007, and if the 1597

offender also is convicted of or pleads guilty to a 1598
specification of the type described in section 2941.1418 of the 1599
Revised Code, it shall impose an indefinite prison term 1600
consisting of a minimum term of five years and a maximum term of 1601
twenty-five years. 1602

(iii) If the attempted rape for which sentence is being 1603
imposed was committed on or after January 2, 2007, and if the 1604
offender also is convicted of or pleads guilty to a 1605
specification of the type described in section 2941.1419 of the 1606
Revised Code, it shall impose an indefinite prison term 1607
consisting of a minimum term of ten years and a maximum of life 1608
imprisonment. 1609

(iv) If the attempted rape for which sentence is being 1610
imposed was committed on or after January 2, 2007, and if the 1611
offender also is convicted of or pleads guilty to a 1612
specification of the type described in section 2941.1420 of the 1613
Revised Code, it shall impose an indefinite prison term 1614
consisting of a minimum term of fifteen years and a maximum of 1615
life imprisonment. 1616

(4) For any offense for which the sentence is being 1617
imposed, if the offender previously has been convicted of or 1618
pleaded guilty to a violent sex offense and also to a sexually 1619
violent predator specification that was included in the 1620
indictment, count in the indictment, or information charging 1621
that offense, or previously has been convicted of or pleaded 1622
guilty to a designated homicide, assault, or kidnapping offense 1623
and also to both a sexual motivation specification and a 1624
sexually violent predator specification that were included in 1625
the indictment, count in the indictment, or information charging 1626
that offense, it shall impose upon the offender a term of life 1627

imprisonment without parole. 1628

(B) (1) Notwithstanding section 2929.13, division (A) or 1629
(D) of section 2929.14, or another section of the Revised Code 1630
other than division (B) of section 2907.02 or divisions (B) and 1631
(C) of section 2929.14 of the Revised Code that authorizes or 1632
requires a specified prison term or a mandatory prison term for 1633
a person who is convicted of or pleads guilty to a felony or 1634
that specifies the manner and place of service of a prison term 1635
or term of imprisonment, if a person is convicted of or pleads 1636
guilty to a violation of division (A) (1) (b) of section 2907.02 1637
of the Revised Code committed on or after January 2, 2007, if 1638
division (A) of this section does not apply regarding the 1639
person, and if the court does not impose a sentence of life 1640
without parole when authorized pursuant to division (B) of 1641
section 2907.02 of the Revised Code, the court shall impose upon 1642
the person an indefinite prison term consisting of one of the 1643
following: 1644

(a) Except as otherwise required in division (B) (1) (b) or 1645
(c) of this section, a minimum term of ten years and a maximum 1646
term of life imprisonment. 1647

(b) If the victim was less than ten years of age, a 1648
minimum term of fifteen years and a maximum of life 1649
imprisonment. 1650

(c) If the offender purposely compels the victim to submit 1651
by force or threat of force, or if the offender previously has 1652
been convicted of or pleaded guilty to violating division (A) (1) 1653
(b) of section 2907.02 of the Revised Code or to violating an 1654
existing or former law of this state, another state, or the 1655
United States that is substantially similar to division (A) (1) 1656
(b) of that section, or if the offender during or immediately 1657

after the commission of the offense caused serious physical harm 1658
to the victim, a minimum term of twenty-five years and a maximum 1659
of life imprisonment. 1660

(2) Notwithstanding section 2929.13, division (A) or (D) 1661
of section 2929.14, or another section of the Revised Code other 1662
than divisions (B) and (C) of section 2929.14 of the Revised 1663
Code that authorizes or requires a specified prison term or a 1664
mandatory prison term for a person who is convicted of or pleads 1665
guilty to a felony or that specifies the manner and place of 1666
service of a prison term or term of imprisonment and except as 1667
otherwise provided in division (B) of section 2907.02 of the 1668
Revised Code, if a person is convicted of or pleads guilty to 1669
attempted rape committed on or after January 2, 2007, and if 1670
division (A) of this section does not apply regarding the 1671
person, the court shall impose upon the person an indefinite 1672
prison term consisting of one of the following: 1673

(a) If the person also is convicted of or pleads guilty to 1674
a specification of the type described in section 2941.1418 of 1675
the Revised Code, the court shall impose upon the person an 1676
indefinite prison term consisting of a minimum term of five 1677
years and a maximum term of twenty-five years. 1678

(b) If the person also is convicted of or pleads guilty to 1679
a specification of the type described in section 2941.1419 of 1680
the Revised Code, the court shall impose upon the person an 1681
indefinite prison term consisting of a minimum term of ten years 1682
and a maximum term of life imprisonment. 1683

(c) If the person also is convicted of or pleads guilty to 1684
a specification of the type described in section 2941.1420 of 1685
the Revised Code, the court shall impose upon the person an 1686
indefinite prison term consisting of a minimum term of fifteen 1687

years and a maximum term of life imprisonment. 1688

(3) Notwithstanding section 2929.13, division (A) or (D) 1689
of section 2929.14, or another section of the Revised Code other 1690
than divisions (B) and (C) of section 2929.14 of the Revised 1691
Code that authorizes or requires a specified prison term or a 1692
mandatory prison term for a person who is convicted of or pleads 1693
guilty to a felony or that specifies the manner and place of 1694
service of a prison term or term of imprisonment, if a person is 1695
convicted of or pleads guilty to an offense described in 1696
division (B) (3) (a), (b), (c), or (d) of this section committed 1697
on or after January 1, 2008, if the person also is convicted of 1698
or pleads guilty to a sexual motivation specification that was 1699
included in the indictment, count in the indictment, or 1700
information charging that offense, and if division (A) of this 1701
section does not apply regarding the person, the court shall 1702
impose upon the person an indefinite prison term consisting of 1703
one of the following: 1704

(a) An indefinite prison term consisting of a minimum of 1705
ten years and a maximum term of life imprisonment if the offense 1706
for which the sentence is being imposed is kidnapping, the 1707
victim of the offense is less than thirteen years of age, and 1708
the offender released the victim in a safe place unharmed; 1709

(b) An indefinite prison term consisting of a minimum of 1710
fifteen years and a maximum term of life imprisonment if the 1711
offense for which the sentence is being imposed is kidnapping 1712
when the victim of the offense is less than thirteen years of 1713
age and division (B) (3) (a) of this section does not apply; 1714

(c) An indefinite term consisting of a minimum of thirty 1715
years and a maximum term of life imprisonment if the offense for 1716
which the sentence is being imposed is aggravated murder, when 1717

the victim of the offense is less than thirteen years of age, a 1718
sentence of death or life imprisonment without parole is not 1719
imposed for the offense, and division (A) (2) (b) (ii) of section 1720
2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) 1721
(2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, 1722
or division (A) or (B) of section 2929.06 of the Revised Code 1723
requires that the sentence for the offense be imposed pursuant 1724
to this division; 1725

(d) An indefinite prison term consisting of a minimum of 1726
thirty years and a maximum term of life imprisonment if the 1727
offense for which the sentence is being imposed is murder when 1728
the victim of the offense is less than thirteen years of age. 1729

(C) (1) If the offender is sentenced to a prison term 1730
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 1731
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 1732
parole board shall have control over the offender's service of 1733
the term during the entire term unless the parole board 1734
terminates its control in accordance with section 2971.04 of the 1735
Revised Code. 1736

(2) Except as provided in division (C) (3) of this section, 1737
an offender sentenced to a prison term or term of life 1738
imprisonment without parole pursuant to division (A) of this 1739
section shall serve the entire prison term or term of life 1740
imprisonment in a state correctional institution. The offender 1741
is not eligible for judicial release under section 2929.20 of 1742
the Revised Code. 1743

(3) For a prison term imposed pursuant to division (A) (3), 1744
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 1745
(b), (c), or (d) of this section, the court, in accordance with 1746
section 2971.05 of the Revised Code, may terminate the prison 1747

term or modify the requirement that the offender serve the 1748
entire term in a state correctional institution if all of the 1749
following apply: 1750

(a) The offender has served at least the minimum term 1751
imposed as part of that prison term. 1752

(b) The parole board, pursuant to section 2971.04 of the 1753
Revised Code, has terminated its control over the offender's 1754
service of that prison term. 1755

(c) The court has held a hearing and found, by clear and 1756
convincing evidence, one of the following: 1757

(i) In the case of termination of the prison term, that 1758
the offender is unlikely to commit a sexually violent offense in 1759
the future; 1760

(ii) In the case of modification of the requirement, that 1761
the offender does not represent a substantial risk of physical 1762
harm to others. 1763

(4) An offender who has been sentenced to a term of life 1764
imprisonment without parole pursuant to division (A)(1), (2), or 1765
(4) of this section shall not be released from the term of life 1766
imprisonment or be permitted to serve a portion of it in a place 1767
other than a state correctional institution. 1768

(D) If a court sentences an offender to a prison term or 1769
term of life imprisonment without parole pursuant to division 1770
(A) of this section and the court also imposes on the offender 1771
one or more additional prison terms pursuant to division (B) of 1772
section 2929.14 of the Revised Code, all of the additional 1773
prison terms shall be served consecutively with, and prior to, 1774
the prison term or term of life imprisonment without parole 1775
imposed upon the offender pursuant to division (A) of this 1776

section. 1777

(E) If the offender is convicted of or pleads guilty to 1778
two or more offenses for which a prison term or term of life 1779
imprisonment without parole is required to be imposed pursuant 1780
to division (A) of this section, divisions (A) to (D) of this 1781
section shall be applied for each offense. All minimum terms 1782
imposed upon the offender pursuant to division (A) (3) or (B) of 1783
this section for those offenses shall be aggregated and served 1784
consecutively, as if they were a single minimum term imposed 1785
under that division. 1786

(F) (1) If an offender is convicted of or pleads guilty to 1787
a violent sex offense and also is convicted of or pleads guilty 1788
to a sexually violent predator specification that was included 1789
in the indictment, count in the indictment, or information 1790
charging that offense, or is convicted of or pleads guilty to a 1791
designated homicide, assault, or kidnapping offense and also is 1792
convicted of or pleads guilty to both a sexual motivation 1793
specification and a sexually violent predator specification that 1794
were included in the indictment, count in the indictment, or 1795
information charging that offense, the conviction of or plea of 1796
guilty to the offense and the sexually violent predator 1797
specification automatically classifies the offender as a tier 1798
III sex offender/child-victim offender for purposes of Chapter 1799
2950. of the Revised Code. 1800

(2) If an offender is convicted of or pleads guilty to 1801
committing on or after January 2, 2007, a violation of division 1802
(A) (1) (b) of section 2907.02 of the Revised Code and either the 1803
offender is sentenced under section 2971.03 of the Revised Code 1804
or a sentence of life without parole is imposed under division 1805
(B) of section 2907.02 of the Revised Code, the conviction of or 1806

plea of guilty to the offense automatically classifies the 1807
offender as a tier III sex offender/child-victim offender for 1808
purposes of Chapter 2950. of the Revised Code. 1809

(3) If a person is convicted of or pleads guilty to 1810
committing on or after January 2, 2007, attempted rape and also 1811
is convicted of or pleads guilty to a specification of the type 1812
described in section 2941.1418, 2941.1419, or 2941.1420 of the 1813
Revised Code, the conviction of or plea of guilty to the offense 1814
and the specification automatically classify the offender as a 1815
tier III sex offender/child-victim offender for purposes of 1816
Chapter 2950. of the Revised Code. 1817

(4) If a person is convicted of or pleads guilty to one of 1818
the offenses described in division (B) (3) (a), (b), (c), or (d) 1819
of this section and a sexual motivation specification related to 1820
the offense and the victim of the offense is less than thirteen 1821
years of age, the conviction of or plea of guilty to the offense 1822
automatically classifies the offender as a tier III sex 1823
offender/child-victim offender for purposes of Chapter 2950. of 1824
the Revised Code. 1825

Sec. 2971.07. (A) This chapter does not apply to any 1826
offender unless the offender is one of the following: 1827

(1) The offender is convicted of or pleads guilty to a 1828
violent sex offense and also is convicted of or pleads guilty to 1829
a sexually violent predator specification that was included in 1830
the indictment, count in the indictment, or information charging 1831
that offense. 1832

(2) The offender is convicted of or pleads guilty to a 1833
designated homicide, assault, or kidnapping offense and also is 1834
convicted of or pleads guilty to both a sexual motivation 1835

specification and a sexually violent predator specification that 1836
were included in the indictment, count in the indictment, or 1837
information charging that offense. 1838

(3) The offender is convicted of or pleads guilty to a 1839
violation of division (A) (1) (b) of section 2907.02 of the 1840
Revised Code committed on or after January 2, 2007, and the 1841
court does not sentence the offender to a term of life without 1842
parole pursuant to division (B) of section 2907.02 of the 1843
Revised Code or division (B) of that section prohibits the court 1844
from sentencing the offender pursuant to section 2971.03 of the 1845
Revised Code. 1846

(4) The offender is convicted of or pleads guilty to 1847
attempted rape committed on or after January 2, 2007, and also 1848
is convicted of or pleads guilty to a specification of the type 1849
described in section 2941.1418, 2941.1419, or 2941.1420 of the 1850
Revised Code. 1851

(5) The offender is convicted of or pleads guilty to a 1852
violation of section 2905.01 of the Revised Code and also is 1853
convicted of or pleads guilty to a sexual motivation 1854
specification that was included in the indictment, count in the 1855
indictment, or information charging that offense, and that 1856
section requires a court to sentence the offender pursuant to 1857
section 2971.03 of the Revised Code. 1858

(6) The offender is convicted of or pleads guilty to 1859
aggravated murder and also is convicted of or pleads guilty to a 1860
sexual motivation specification that was included in the 1861
indictment, count in the indictment, or information charging 1862
that offense, and division (A) (2) (b) (ii) of section 2929.022, 1863
division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) 1864
(3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division 1865

(A) or (B) of section 2929.06 of the Revised Code requires a 1866
court to sentence the offender pursuant to division (B)(3) of 1867
section 2971.03 of the Revised Code. 1868

(7) The offender is convicted of or pleads guilty to 1869
murder and also is convicted of or pleads guilty to a sexual 1870
motivation specification that was included in the indictment, 1871
count in the indictment, or information charging that offense, 1872
and division (B)(2) of section 2929.02 of the Revised Code 1873
requires a court to sentence the offender pursuant to section 1874
2971.03 of the Revised Code. 1875

(B) This chapter does not limit or affect a court in 1876
imposing upon an offender described in divisions (A)(1) to (9) 1877
of this section any financial sanction under section 2929.18 or 1878
any other section of the Revised Code, or, except as 1879
specifically provided in this chapter, any other sanction that 1880
is authorized or required for the offense or violation by any 1881
other provision of law. 1882

(C) If an offender is sentenced to a prison term under 1883
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 1884
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 1885
Code and if, pursuant to section 2971.05 of the Revised Code, 1886
the court modifies the requirement that the offender serve the 1887
entire prison term in a state correctional institution or places 1888
the offender on conditional release that involves the placement 1889
of the offender under the supervision of the adult parole 1890
authority, authorized field officers of the authority who are 1891
engaged within the scope of their supervisory duties or 1892
responsibilities may search, with or without a warrant, the 1893
person of the offender, the place of residence of the offender, 1894
and a motor vehicle, another item of tangible or intangible 1895

personal property, or any other real property in which the 1896
offender has the express or implied permission of a person with 1897
a right, title, or interest to use, occupy, or possess if the 1898
field officer has reasonable grounds to believe that the 1899
offender is not abiding by the law or otherwise is not complying 1900
with the terms and conditions of the offender's modification or 1901
release. The authority shall provide each offender with a 1902
written notice that informs the offender that authorized field 1903
officers of the authority who are engaged within the scope of 1904
their supervisory duties or responsibilities may conduct those 1905
types of searches during the period of the modification or 1906
release if they have reasonable grounds to believe that the 1907
offender is not abiding by the law or otherwise is not complying 1908
with the terms and conditions of the offender's modification or 1909
release. 1910

Section 2. That existing sections 2929.02, 2929.022, 1911
2929.024, 2929.03, 2929.04, 2929.06, 2941.148, 2953.21, 2953.23, 1912
2971.03, and 2971.07 of the Revised Code are hereby repealed. 1913

Section 3. Notwithstanding section 1.50 of the Revised 1914
Code, if any provision of a section as amended or enacted by 1915
this act is determined to be unconstitutional or otherwise 1916
invalid in a final judgment by a court of last resort, the 1917
remainder of the enactments and amendments made in Section 1 of 1918
this act are void. 1919