

**As Reported by the Senate Judiciary Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**Sub. H. B. No. 136**

**Representative Hillyer**

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

**Senators Eklund, Manning**

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**A BILL**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Schizophrenia; 205

(ii) Schizoaffective disorder; 206

(iii) Bipolar disorder; 207

(iv) Delusional disorder. 208

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

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

(ii) Appreciating the nature, consequences, or 222



wrongfulness of the person's conduct. 223

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

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

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

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

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

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

(D) If a person described in division (C) of this section 262  
raises the matter of the person's serious mental illness at the 263  
time of the alleged commission of the aggravated murder and 264  
submits evidence that the person has been diagnosed with one or 265  
more of the conditions set forth in division (A) (1) (a) of this 266  
section and that the condition or conditions diagnosed 267  
significantly impaired the person's capacity at the time of the 268  
alleged offense in a manner described in division (A) (1) (b) of 269  
this section, the prosecution shall have an opportunity to 270  
present evidence to contest the diagnosis. The defendant has the 271  
burden of proving, by a preponderance of the evidence, that the 272  
person has been diagnosed with one or more of the conditions set 273  
forth in division (A) (1) (a) of this section and that the 274  
condition or conditions diagnosed significantly impaired the 275  
person's capacity at the time of the alleged offense in a manner 276  
described in division (A) (1) (b) of this section. 277

(E) (1) Unless the court at the pretrial hearing finds that 278  
the defendant has proved, by a preponderance of the evidence, 279  
that the person has been diagnosed with one or more of the 280  
conditions set forth in division (A) (1) (a) of this section and 281  
that the condition or conditions diagnosed significantly 282

impaired the person's capacity at the time of the alleged 283  
offense in a manner described in division (A) (1) (b) of this 284  
section, the court shall issue a finding that the person is not 285  
ineligible for a sentence of death due to serious mental 286  
illness. 287

(2) If the court at the pretrial hearing finds that the 288  
defendant has proved, by a preponderance of the evidence, that 289  
the person has been diagnosed with one or more of the conditions 290  
set forth in division (A) (1) (a) of this section and that the 291  
condition or conditions diagnosed significantly impaired the 292  
person's capacity at the time of the alleged offense in a manner 293  
described in division (A) (1) (b) of this section, the court shall 294  
issue a finding that the person is ineligible for a sentence of 295  
death due to serious mental illness. 296

(F) (1) If a person described in division (C) of this 297  
section raises the matter of the person's serious mental illness 298  
at the time of the alleged commission of the aggravated murder 299  
as described in that division, the court shall order an 300  
evaluation of the person. Section 2929.024 of the Revised Code 301  
applies with respect to an evaluation ordered under this 302  
division. 303

(2) No statement that a person makes in an evaluation 304  
ordered under division (F) (1) of this section or in a pretrial 305  
hearing under divisions (C) to (E) of this section relating to 306  
the person's serious mental illness at the time of the alleged 307  
commission of the aggravated murder with which the person is 308  
charged shall be used against the person on the issue of guilt 309  
in any criminal action or proceeding, but, in a criminal action 310  
or proceeding, the prosecutor or defense counsel may call as a 311  
witness any examiner who evaluated the person or prepared a 312

report pursuant to a referral under this section. Neither the 313  
appointment nor the testimony of an examiner in an evaluation 314  
ordered under division (F) (1) of this section precludes the 315  
prosecutor or defense counsel from calling other witnesses or 316  
presenting other evidence on the issue of the person's serious 317  
mental illness at the time of the alleged commission of the 318  
aggravated murder or on competency or insanity issues. 319

(G) A person's pleading of not guilty by reason of 320  
insanity or incompetence to stand trial, or a finding after such 321  
a plea that the person is not insane or that the person is 322  
competent to stand trial, does not preclude the person from 323  
raising the matter of the person's serious mental illness at the 324  
time of the alleged commission of the offense pursuant to 325  
division (C) of this section and, if a person so raises that 326  
matter, does not limit or affect any of the procedures described 327  
in this section or the authority of a court to make any finding 328  
described in this section. 329

**Sec. 2929.03.** (A) If the indictment or count in the 330  
indictment charging aggravated murder does not contain one or 331  
more specifications of aggravating circumstances listed in 332  
division (A) of section 2929.04 of the Revised Code, then, 333  
following a verdict of guilty of the charge of aggravated 334  
murder, the trial court shall impose sentence on the offender as 335  
follows: 336

(1) Except as provided in division (A) (2) of this section, 337  
the trial court shall impose one of the following sentences on 338  
the offender: 339

(a) Life imprisonment without parole; 340

(b) Subject to division (A) (1) (e) of this section, life 341

imprisonment with parole eligibility after serving twenty years 342  
of imprisonment; 343

(c) Subject to division (A) (1) (e) of this section, life 344  
imprisonment with parole eligibility after serving twenty-five 345  
full years of imprisonment; 346

(d) Subject to division (A) (1) (e) of this section, life 347  
imprisonment with parole eligibility after serving thirty full 348  
years of imprisonment; 349

(e) If the victim of the aggravated murder was less than 350  
thirteen years of age, the offender also is convicted of or 351  
pleads guilty to a sexual motivation specification that was 352  
included in the indictment, count in the indictment, or 353  
information charging the offense, and the trial court does not 354  
impose a sentence of life imprisonment without parole on the 355  
offender pursuant to division (A) (1) (a) of this section, the 356  
trial court shall sentence the offender pursuant to division (B) 357  
(3) of section 2971.03 of the Revised Code to an indefinite term 358  
consisting of a minimum term of thirty years and a maximum term 359  
of life imprisonment that shall be served pursuant to that 360  
section. 361

(2) If the offender also is convicted of or pleads guilty 362  
to a sexual motivation specification and a sexually violent 363  
predator specification that are included in the indictment, 364  
count in the indictment, or information that charged the 365  
aggravated murder, the trial court shall impose upon the 366  
offender a sentence of life imprisonment without parole that 367  
shall be served pursuant to section 2971.03 of the Revised Code. 368

(B) If the indictment or count in the indictment charging 369  
aggravated murder contains one or more specifications of 370

aggravating circumstances listed in division (A) of section 371  
2929.04 of the Revised Code, the verdict shall separately state 372  
whether the accused is found guilty or not guilty of the 373  
principal charge and, if guilty of the principal charge, whether 374  
the offender was eighteen years of age or older at the time of 375  
the commission of the offense, if the matter of age was raised 376  
by the offender pursuant to section 2929.023 of the Revised 377  
Code, and whether the offender is guilty or not guilty of each 378  
specification. The jury shall be instructed on its duties in 379  
this regard. The instruction to the jury shall include an 380  
instruction that a specification shall be proved beyond a 381  
reasonable doubt in order to support a guilty verdict on the 382  
specification, but the instruction shall not mention the penalty 383  
that may be the consequence of a guilty or not guilty verdict on 384  
any charge or specification. 385

(C) (1) If the indictment or count in the indictment 386  
charging aggravated murder contains one or more specifications 387  
of aggravating circumstances listed in division (A) of section 388  
2929.04 of the Revised Code, then, following a verdict of guilty 389  
of the charge but not guilty of each of the specifications, and 390  
regardless of whether the offender raised the matter of age 391  
pursuant to section 2929.023 of the Revised Code or the matter 392  
of serious mental illness at the time of the commission of the 393  
offense pursuant to section 2929.025 of the Revised Code, the 394  
trial court shall impose sentence on the offender as follows: 395

(a) Except as provided in division (C) (1) (b) of this 396  
section, the trial court shall impose one of the following 397  
sentences on the offender: 398

(i) Life imprisonment without parole; 399

(ii) Subject to division (C) (1) (a) (v) of this section, 400

life imprisonment with parole eligibility after serving twenty 401  
years of imprisonment; 402

(iii) Subject to division (C) (1) (a) (v) of this section, 403  
life imprisonment with parole eligibility after serving twenty- 404  
five full years of imprisonment; 405

(iv) Subject to division (C) (1) (a) (v) of this section, 406  
life imprisonment with parole eligibility after serving thirty 407  
full years of imprisonment; 408

(v) If the victim of the aggravated murder was less than 409  
thirteen years of age, the offender also is convicted of or 410  
pleads guilty to a sexual motivation specification that was 411  
included in the indictment, count in the indictment, or 412  
information charging the offense, and the trial court does not 413  
impose a sentence of life imprisonment without parole on the 414  
offender pursuant to division (C) (1) (a) (i) of this section, the 415  
trial court shall sentence the offender pursuant to division (B) 416  
(3) of section 2971.03 of the Revised Code to an indefinite term 417  
consisting of a minimum term of thirty years and a maximum term 418  
of life imprisonment. 419

(b) If the offender also is convicted of or pleads guilty 420  
to a sexual motivation specification and a sexually violent 421  
predator specification that are included in the indictment, 422  
count in the indictment, or information that charged the 423  
aggravated murder, the trial court shall impose upon the 424  
offender a sentence of life imprisonment without parole that 425  
shall be served pursuant to section 2971.03 of the Revised Code. 426

(2) (a) If the indictment or count in the indictment 427  
contains one or more specifications of aggravating circumstances 428  
listed in division (A) of section 2929.04 of the Revised Code 429

and if the offender is found guilty of both the charge and one 430  
or more of the specifications, the penalty to be imposed on the 431  
offender shall be one of the following: 432

(i) Except as provided in division (C) (2) (a) (ii) or (iii), and 433  
subject to divisions (D) (1) and (E) of this section, the 434  
penalty to be imposed on the offender shall be death, life 435  
imprisonment without parole, life imprisonment with parole 436  
eligibility after serving twenty-five full years of 437  
imprisonment, or life imprisonment with parole eligibility after 438  
serving thirty full years of imprisonment. 439

(ii) Except as provided in division (C) (2) (a) (iii) of this 440  
section, if the victim of the aggravated murder was less than 441  
thirteen years of age, the offender also is convicted of or 442  
pleads guilty to a sexual motivation specification that was 443  
included in the indictment, count in the indictment, or 444  
information charging the offense, and the trial court does not 445  
impose a sentence of death or life imprisonment without parole 446  
on the offender pursuant to division (C) (2) (a) (i) of this 447  
section, the penalty to be imposed on the offender shall be an 448  
indefinite term consisting of a minimum term of thirty years and 449  
a maximum term of life imprisonment that shall be imposed 450  
pursuant to division (B) (3) of section 2971.03 of the Revised 451  
Code and served pursuant to that section. 452

(iii) If the offender also is convicted of or pleads 453  
guilty to a sexual motivation specification and a sexually 454  
violent predator specification that are included in the 455  
indictment, count in the indictment, or information that charged 456  
the aggravated murder, the penalty to be imposed on the offender 457  
shall be death or life imprisonment without parole that shall be 458  
served pursuant to section 2971.03 of the Revised Code. 459



(b) A penalty imposed pursuant to division (C) (2) (a) (i), 460  
(ii), or (iii) of this section shall be determined pursuant to 461  
divisions (D) and (E) of this section and shall be determined by 462  
one of the following: 463

(i) By the panel of three judges that tried the offender 464  
upon the offender's waiver of the right to trial by jury; 465

(ii) By the trial jury and the trial judge, if the 466  
offender was tried by jury. 467

(D) (1) Death may not be imposed as a penalty for 468  
aggravated murder if the offender raised the matter of age at 469  
trial pursuant to section 2929.023 of the Revised Code and was 470  
not found at trial to have been eighteen years of age or older 471  
at the time of the commission of the offense or raised the 472  
matter of the offender's serious mental illness at the time of 473  
the commission of the offense pursuant to section 2929.025 of 474  
the Revised Code and was found under that section to be 475  
ineligible for a sentence of death due to serious mental illness 476  
. When death may be imposed as a penalty for aggravated murder, 477  
the court shall proceed under this division. When death may be 478  
imposed as a penalty, the court, upon the request of the 479  
defendant, shall require a pre-sentence investigation to be made 480  
and, upon the request of the defendant, shall require a mental 481  
examination to be made, and shall require reports of the 482  
investigation and of any mental examination submitted to the 483  
court, pursuant to section 2947.06 of the Revised Code. No 484  
statement made or information provided by a defendant in a 485  
mental examination or proceeding conducted pursuant to this 486  
division shall be disclosed to any person, except as provided in 487  
this division, or be used in evidence against the defendant on 488  
the issue of guilt in any retrial. A pre-sentence investigation 489

or mental examination shall not be made except upon request of 490  
the defendant. Copies of any reports prepared under this 491  
division shall be furnished to the court, to the trial jury if 492  
the offender was tried by a jury, to the prosecutor, and to the 493  
offender or the offender's counsel for use under this division. 494  
The court, and the trial jury if the offender was tried by a 495  
jury, shall consider any report prepared pursuant to this 496  
division and furnished to it and any evidence raised at trial 497  
that is relevant to the aggravating circumstances the offender 498  
was found guilty of committing or to any factors in mitigation 499  
of the imposition of the sentence of death, shall hear testimony 500  
and other evidence that is relevant to the nature and 501  
circumstances of the aggravating circumstances the offender was 502  
found guilty of committing, the mitigating factors set forth in 503  
division (B) of section 2929.04 of the Revised Code, and any 504  
other factors in mitigation of the imposition of the sentence of 505  
death, and shall hear the statement, if any, of the offender, 506  
and the arguments, if any, of counsel for the defense and 507  
prosecution, that are relevant to the penalty that should be 508  
imposed on the offender. The defendant shall be given great 509  
latitude in the presentation of evidence of the mitigating 510  
factors set forth in division (B) of section 2929.04 of the 511  
Revised Code and of any other factors in mitigation of the 512  
imposition of the sentence of death. If the offender chooses to 513  
make a statement, the offender is subject to cross-examination 514  
only if the offender consents to make the statement under oath 515  
or affirmation. 516

The defendant shall have the burden of going forward with 517  
the evidence of any factors in mitigation of the imposition of 518  
the sentence of death. The prosecution shall have the burden of 519  
proving, by proof beyond a reasonable doubt, that the 520

aggravating circumstances the defendant was found guilty of 521  
committing are sufficient to outweigh the factors in mitigation 522  
of the imposition of the sentence of death. 523

(2) Upon consideration of the relevant evidence raised at 524  
trial, the testimony, other evidence, statement of the offender, 525  
arguments of counsel, and, if applicable, the reports submitted 526  
pursuant to division (D)(1) of this section, the trial jury, if 527  
the offender was tried by a jury, shall determine whether the 528  
aggravating circumstances the offender was found guilty of 529  
committing are sufficient to outweigh the mitigating factors 530  
present in the case. If the trial jury unanimously finds, by 531  
proof beyond a reasonable doubt, that the aggravating 532  
circumstances the offender was found guilty of committing 533  
outweigh the mitigating factors, the trial jury shall recommend 534  
to the court that the sentence of death be imposed on the 535  
offender. Absent such a finding, the jury shall recommend that 536  
the offender be sentenced to one of the following: 537

(a) Except as provided in division (D)(2)(b) or (c) of 538  
this section, to life imprisonment without parole, life 539  
imprisonment with parole eligibility after serving twenty-five 540  
full years of imprisonment, or life imprisonment with parole 541  
eligibility after serving thirty full years of imprisonment; 542

(b) Except as provided in division (D)(2)(c) of this 543  
section, if the victim of the aggravated murder was less than 544  
thirteen years of age, the offender also is convicted of or 545  
pleads guilty to a sexual motivation specification that was 546  
included in the indictment, count in the indictment, or 547  
information charging the offense, and the jury does not 548  
recommend a sentence of life imprisonment without parole 549  
pursuant to division (D)(2)(a) of this section, to an indefinite 550

term consisting of a minimum term of thirty years and a maximum 551  
term of life imprisonment to be imposed pursuant to division (B) 552  
(3) of section 2971.03 of the Revised Code and served pursuant 553  
to that section. 554

(c) If the offender also is convicted of or pleads guilty 555  
to a sexual motivation specification and a sexually violent 556  
predator specification that are included in the indictment, 557  
count in the indictment, or information that charged the 558  
aggravated murder, to life imprisonment without parole. 559

If the trial jury recommends that the offender be 560  
sentenced to life imprisonment without parole, life imprisonment 561  
with parole eligibility after serving twenty-five full years of 562  
imprisonment, life imprisonment with parole eligibility after 563  
serving thirty full years of imprisonment, or an indefinite term 564  
consisting of a minimum term of thirty years and a maximum term 565  
of life imprisonment to be imposed pursuant to division (B) (3) 566  
of section 2971.03 of the Revised Code, the court shall impose 567  
the sentence recommended by the jury upon the offender. If the 568  
sentence is an indefinite term consisting of a minimum term of 569  
thirty years and a maximum term of life imprisonment imposed as 570  
described in division (D) (2) (b) of this section or a sentence of 571  
life imprisonment without parole imposed under division (D) (2) 572  
(c) of this section, the sentence shall be served pursuant to 573  
section 2971.03 of the Revised Code. If the trial jury 574  
recommends that the sentence of death be imposed upon the 575  
offender, the court shall proceed to impose sentence pursuant to 576  
division (D) (3) of this section. 577

(3) Upon consideration of the relevant evidence raised at 578  
trial, the testimony, other evidence, statement of the offender, 579  
arguments of counsel, and, if applicable, the reports submitted 580

to the court pursuant to division (D) (1) of this section, if, 581  
after receiving pursuant to division (D) (2) of this section the 582  
trial jury's recommendation that the sentence of death be 583  
imposed, the court finds, by proof beyond a reasonable doubt, or 584  
if the panel of three judges unanimously finds, by proof beyond 585  
a reasonable doubt, that the aggravating circumstances the 586  
offender was found guilty of committing outweigh the mitigating 587  
factors, it shall impose sentence of death on the offender. 588  
Absent such a finding by the court or panel, the court or the 589  
panel shall impose one of the following sentences on the 590  
offender: 591

(a) Except as provided in division (D) (3) (b) of this 592  
section, one of the following: 593

(i) Life imprisonment without parole; 594

(ii) Subject to division (D) (3) (a) (iv) of this section, 595  
life imprisonment with parole eligibility after serving twenty- 596  
five full years of imprisonment; 597

(iii) Subject to division (D) (3) (a) (iv) of this section, 598  
life imprisonment with parole eligibility after serving thirty 599  
full years of imprisonment; 600

(iv) If the victim of the aggravated murder was less than 601  
thirteen years of age, the offender also is convicted of or 602  
pleads guilty to a sexual motivation specification that was 603  
included in the indictment, count in the indictment, or 604  
information charging the offense, and the trial court does not 605  
impose a sentence of life imprisonment without parole on the 606  
offender pursuant to division (D) (3) (a) (i) of this section, the 607  
court or panel shall sentence the offender pursuant to division 608  
(B) (3) of section 2971.03 of the Revised Code to an indefinite 609

term consisting of a minimum term of thirty years and a maximum  
term of life imprisonment.

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

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

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

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

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

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

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

pleads guilty to a sexual motivation specification that was 639  
included in the indictment, count in the indictment, or 640  
information charging the offense, and the trial court does not 641  
impose a sentence of life imprisonment without parole on the 642  
offender pursuant to division (E) ~~(2)~~ (1) (a) (i) of this section, 643  
the court or panel shall sentence the offender pursuant to 644  
division (B) (3) of section 2971.03 of the Revised Code to an 645  
indefinite term consisting of a minimum term of thirty years and 646  
a maximum term of life imprisonment. 647

~~(2)~~ (b) If the offender also is convicted of or pleads 648  
guilty to a sexual motivation specification and a sexually 649  
violent predator specification that are included in the 650  
indictment, count in the indictment, or information that charged 651  
the aggravated murder, life imprisonment without parole that 652  
shall be served pursuant to section 2971.03 of the Revised Code. 653

(2) If the offender raised the matter of the offender's 654  
serious mental illness at the time of the commission of the 655  
offense pursuant to section 2929.025 of the Revised Code, was 656  
found under that section to be ineligible for a sentence of 657  
death due to serious mental illness, and was convicted of 658  
aggravated murder and one or more specifications of an 659  
aggravating circumstance listed in division (A) of section 660  
2929.04 of the Revised Code, the court or panel of three judges 661  
shall not impose a sentence of death on the offender. Instead, 662  
the court or panel shall sentence the offender to life 663  
imprisonment without parole. 664

(F) The court or the panel of three judges, when it 665  
imposes sentence of death, shall state in a separate opinion its 666  
specific findings as to the existence of any of the mitigating 667  
factors set forth in division (B) of section 2929.04 of the 668

Revised Code, the existence of any other mitigating factors, the 669  
aggravating circumstances the offender was found guilty of 670  
committing, and the reasons why the aggravating circumstances 671  
the offender was found guilty of committing were sufficient to 672  
outweigh the mitigating factors. The court or panel, when it 673  
imposes life imprisonment or an indefinite term consisting of a 674  
minimum term of thirty years and a maximum term of life 675  
imprisonment under division (D) of this section, shall state in 676  
a separate opinion its specific findings of which of the 677  
mitigating factors set forth in division (B) of section 2929.04 678  
of the Revised Code it found to exist, what other mitigating 679  
factors it found to exist, what aggravating circumstances the 680  
offender was found guilty of committing, and why it could not 681  
find that these aggravating circumstances were sufficient to 682  
outweigh the mitigating factors. For cases in which a sentence 683  
of death is imposed for an offense committed before January 1, 684  
1995, the court or panel shall file the opinion required to be 685  
prepared by this division with the clerk of the appropriate 686  
court of appeals and with the clerk of the supreme court within 687  
fifteen days after the court or panel imposes sentence. For 688  
cases in which a sentence of death is imposed for an offense 689  
committed on or after January 1, 1995, the court or panel shall 690  
file the opinion required to be prepared by this division with 691  
the clerk of the supreme court within fifteen days after the 692  
court or panel imposes sentence. The judgment in a case in which 693  
a sentencing hearing is held pursuant to this section is not 694  
final until the opinion is filed. 695

(G) (1) Whenever the court or a panel of three judges 696  
imposes a sentence of death for an offense committed before 697  
January 1, 1995, the clerk of the court in which the judgment is 698  
rendered shall make and retain a copy of the entire record in 699



the case, and shall deliver the original of the entire record in 700  
the case to the appellate court. 701

(2) Whenever the court or a panel of three judges imposes 702  
a sentence of death for an offense committed on or after January 703  
1, 1995, the clerk of the court in which the judgment is 704  
rendered shall make and retain a copy of the entire record in 705  
the case, and shall deliver the original of the entire record in 706  
the case to the supreme court. 707

**Sec. 2929.04.** (A) Imposition of the death penalty for 708  
aggravated murder is precluded unless one or more of the 709  
following is specified in the indictment or count in the 710  
indictment pursuant to section 2941.14 of the Revised Code and 711  
proved beyond a reasonable doubt: 712

(1) The offense was the assassination of the president of 713  
the United States or a person in line of succession to the 714  
presidency, the governor or lieutenant governor of this state, 715  
the president-elect or vice president-elect of the United 716  
States, the governor-elect or lieutenant governor-elect of this 717  
state, or a candidate for any of the offices described in this 718  
division. For purposes of this division, a person is a candidate 719  
if the person has been nominated for election according to law, 720  
if the person has filed a petition or petitions according to law 721  
to have the person's name placed on the ballot in a primary or 722  
general election, or if the person campaigns as a write-in 723  
candidate in a primary or general election. 724

(2) The offense was committed for hire. 725

(3) The offense was committed for the purpose of escaping 726  
detection, apprehension, trial, or punishment for another 727  
offense committed by the offender. 728

(4) The offense was committed while the offender was under 729  
detention or while the offender was at large after having broken 730  
detention. As used in division (A) (4) of this section, 731  
"detention" has the same meaning as in section 2921.01 of the 732  
Revised Code, except that detention does not include 733  
hospitalization, institutionalization, or confinement in a 734  
mental health facility or intellectual disabilities facility 735  
unless at the time of the commission of the offense either of 736  
the following circumstances apply: 737

(a) The offender was in the facility as a result of being 738  
charged with a violation of a section of the Revised Code. 739

(b) The offender was under detention as a result of being 740  
convicted of or pleading guilty to a violation of a section of 741  
the Revised Code. 742

(5) Prior to the offense at bar, the offender was 743  
convicted of an offense an essential element of which was the 744  
purposeful killing of or attempt to kill another, or the offense 745  
at bar was part of a course of conduct involving the purposeful 746  
killing of or attempt to kill two or more persons by the 747  
offender. 748

(6) The victim of the offense was a law enforcement 749  
officer, as defined in section 2911.01 of the Revised Code, whom 750  
the offender had reasonable cause to know or knew to be a law 751  
enforcement officer as so defined, and either the victim, at the 752  
time of the commission of the offense, was engaged in the 753  
victim's duties, or it was the offender's specific purpose to 754  
kill a law enforcement officer as so defined. 755

(7) The offense was committed while the offender was 756  
committing, attempting to commit, or fleeing immediately after 757

committing or attempting to commit kidnapping, rape, aggravated 758  
arson, aggravated robbery, or aggravated burglary, and either 759  
the offender was the principal offender in the commission of the 760  
aggravated murder or, if not the principal offender, committed 761  
the aggravated murder with prior calculation and design. 762

(8) The victim of the aggravated murder was a witness to 763  
an offense who was purposely killed to prevent the victim's 764  
testimony in any criminal proceeding and the aggravated murder 765  
was not committed during the commission, attempted commission, 766  
or flight immediately after the commission or attempted 767  
commission of the offense to which the victim was a witness, or 768  
the victim of the aggravated murder was a witness to an offense 769  
and was purposely killed in retaliation for the victim's 770  
testimony in any criminal proceeding. 771

(9) The offender, in the commission of the offense, 772  
purposefully caused the death of another who was under thirteen 773  
years of age at the time of the commission of the offense, and 774  
either the offender was the principal offender in the commission 775  
of the offense or, if not the principal offender, committed the 776  
offense with prior calculation and design. 777

(10) The offense was committed while the offender was 778  
committing, attempting to commit, or fleeing immediately after 779  
committing or attempting to commit terrorism. 780

(B) If one or more of the aggravating circumstances listed 781  
in division (A) of this section is specified in the indictment 782  
or count in the indictment and proved beyond a reasonable doubt, 783  
~~and~~ if the offender did not raise the matter of age pursuant to 784  
section 2929.023 of the Revised Code or ~~if~~ the offender, after 785  
raising ~~the~~ that ~~matter of age,~~ was found at trial to have been 786  
eighteen years of age or older at the time of the commission of 787

the offense, and if the offender did not raise the matter of the 788  
offender's serious mental illness at the time of the commission 789  
of the offense pursuant to section 2929.025 of the Revised Code 790  
or the offender after raising that matter was found by the court 791  
to not be ineligible for a sentence of death, the court, trial 792  
jury, or panel of three judges shall consider, and weigh against 793  
the aggravating circumstances proved beyond a reasonable doubt, 794  
the nature and circumstances of the offense, the history, 795  
character, and background of the offender, and all of the 796  
following factors: 797

(1) Whether the victim of the offense induced or 798  
facilitated it; 799

(2) Whether it is unlikely that the offense would have 800  
been committed, but for the fact that the offender was under 801  
duress, coercion, or strong provocation; 802

(3) Whether, at the time of committing the offense, the 803  
offender, because of a mental disease or defect, lacked 804  
substantial capacity to appreciate the criminality of the 805  
offender's conduct or to conform the offender's conduct to the 806  
requirements of the law; 807

(4) The youth of the offender; 808

(5) The offender's lack of a significant history of prior 809  
criminal convictions and delinquency adjudications; 810

(6) If the offender was a participant in the offense but 811  
not the principal offender, the degree of the offender's 812  
participation in the offense and the degree of the offender's 813  
participation in the acts that led to the death of the victim; 814

(7) Any other factors that are relevant to the issue of 815  
whether the offender should be sentenced to death. 816

(C) The defendant shall be given great latitude in the 817  
presentation of evidence of the factors listed in division (B) 818  
of this section and of any other factors in mitigation of the 819  
imposition of the sentence of death. 820

The existence of any of the mitigating factors listed in 821  
division (B) of this section does not preclude the imposition of 822  
a sentence of death on the offender but shall be weighed 823  
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 824  
Revised Code by the trial court, trial jury, or the panel of 825  
three judges against the aggravating circumstances the offender 826  
was found guilty of committing. 827

**Sec. 2929.06.** (A) (1) If a sentence of death imposed upon 828  
an offender is set aside, nullified, ~~or vacated because the, or~~ 829  
voided for any of the following reasons, the trial court that 830  
sentenced the offender shall conduct a hearing to resentence the 831  
offender in accordance with division (A) (2) of this section: 832

(a) The court of appeals, in a case in which a sentence of 833  
death was imposed for an offense committed before January 1, 834  
1995, or the supreme court, in ~~eases~~ a case in which the supreme 835  
court reviews the sentence upon appeal, could not affirm the 836  
sentence of death under the standards imposed by section 2929.05 837  
of the Revised Code, ~~is set aside, nullified, or vacated for~~ 838  
~~the.~~ 839

(b) The sole reason that the statutory procedure for 840  
imposing the sentence of death that is set forth in sections 841  
2929.03 and 2929.04 of the Revised Code is unconstitutional~~r.~~ 842

(c) The sentence of death is set aside, nullified, or 843  
vacated pursuant to division (C) of section 2929.05 of the 844  
Revised Code, ~~or is set aside, nullified, or vacated because a.~~ 845

(d) A court has determined that the offender is a person 846  
with an intellectual disability under standards set forth in 847  
decisions of the supreme court of this state or the United 848  
States supreme court, ~~the trial court that sentenced the~~ 849  
~~offender shall conduct a hearing to resentence the offender.~~ 850

(e) The sentence of death is voided by a court pursuant to 851  
division (H) of section 2953.21 of the Revised Code. 852

(2) At the a resentencing hearing conducted under division 853  
(A)(1) of this section, the court shall impose upon the offender 854  
a sentence of life imprisonment or an indefinite term consisting 855  
of a minimum term of thirty years and a maximum term of life 856  
imprisonment that is determined as specified in this division. 857  
If the sentence of death was voided by a court pursuant to 858  
division (H) of section 2953.21 of the Revised Code, the 859  
offender has waived any right to be sentenced to any sentence 860  
other than life imprisonment without parole as described in 861  
division (A)(3)(b) of that section and the court shall impose a 862  
sentence of life imprisonment without parole. If the immediately 863  
preceding sentence does not apply and if division (D) of section 864  
2929.03 of the Revised Code, at the time the offender committed 865  
the aggravated murder for which the sentence of death was 866  
imposed, required the imposition when a sentence of death was 867  
not imposed of a sentence of life imprisonment without parole or 868  
a sentence of an indefinite term consisting of a minimum term of 869  
thirty years and a maximum term of life imprisonment to be 870  
imposed pursuant to division (A) or (B)(3) of section 2971.03 of 871  
the Revised Code and served pursuant to that section, the court 872  
shall impose the sentence so required. In all other cases, the 873  
sentences of life imprisonment that are available at the 874  
hearing, and from which the court shall impose sentence, shall 875  
be the same sentences of life imprisonment that were available 876

under division (D) of section 2929.03 or under section 2909.24 877  
of the Revised Code at the time the offender committed the 878  
offense for which the sentence of death was imposed. Nothing in 879  
this division regarding the resentencing of an offender shall 880  
affect the operation of section 2971.03 of the Revised Code. 881

(B) Whenever any court of this state or any federal court 882  
sets aside, nullifies, or vacates a sentence of death imposed 883  
upon an offender because of error that occurred in the 884  
sentencing phase of the trial and if division (A) of this 885  
section does not apply, the trial court that sentenced the 886  
offender shall conduct a new hearing to resentence the offender. 887  
If the offender was tried by a jury, the trial court shall 888  
impanel a new jury for the hearing. If the offender was tried by 889  
a panel of three judges, that panel or, if necessary, a new 890  
panel of three judges shall conduct the hearing. At the hearing, 891  
the court or panel shall follow the procedure set forth in 892  
division (D) of section 2929.03 of the Revised Code in 893  
determining whether to impose upon the offender a sentence of 894  
death, a sentence of life imprisonment, or an indefinite term 895  
consisting of a minimum term of thirty years and a maximum term 896  
of life imprisonment. If, pursuant to that procedure, the court 897  
or panel determines that it will impose a sentence other than a 898  
sentence of death, the court or panel shall impose upon the 899  
offender one of the sentences of life imprisonment that could 900  
have been imposed at the time the offender committed the offense 901  
for which the sentence of death was imposed, determined as 902  
specified in this division, or an indefinite term consisting of 903  
a minimum term of thirty years and a maximum term of life 904  
imprisonment that is determined as specified in this division. 905  
If division (D) of section 2929.03 of the Revised Code, at the 906  
time the offender committed the aggravated murder for which the 907

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

(C) If a sentence of life imprisonment without parole 922  
imposed upon an offender pursuant to section 2929.021 or 2929.03 923  
of the Revised Code is set aside, nullified, or vacated for the 924  
sole reason that the statutory procedure for imposing the 925  
sentence of life imprisonment without parole that is set forth 926  
in sections 2929.03 and 2929.04 of the Revised Code is 927  
unconstitutional, the trial court that sentenced the offender 928  
shall conduct a hearing to resentence the offender to life 929  
imprisonment with parole eligibility after serving twenty-five 930  
full years of imprisonment or to life imprisonment with parole 931  
eligibility after serving thirty full years of imprisonment. 932

(D) Nothing in this section limits or restricts the rights 933  
of the state to appeal any order setting aside, nullifying, or 934  
vacating a conviction or sentence of death, when an appeal of 935  
that nature otherwise would be available. 936

(E) This section, as amended by H.B. 184 of the 125th 937



general assembly, shall apply to all offenders who have been 938  
sentenced to death for an aggravated murder that was committed 939  
on or after October 19, 1981, or for terrorism that was 940  
committed on or after May 15, 2002. This section, as amended by 941  
H.B. 184 of the 125th general assembly, shall apply equally to 942  
all such offenders sentenced to death prior to, on, or after 943  
March 23, 2005, including offenders who, on March 23, 2005, are 944  
challenging their sentence of death and offenders whose sentence 945  
of death has been set aside, nullified, or vacated by any court 946  
of this state or any federal court but who, as of March 23, 947  
2005, have not yet been resentenced. 948

**Sec. 2929.14.** (A) Except as provided in division (B)(1), 949  
(B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), 950  
(B)(10), (B)(11), (E), (G), (H), (J), or (K) of this section or 951  
in division (D)(6) of section 2919.25 of the Revised Code and 952  
except in relation to an offense for which a sentence of death 953  
or life imprisonment is to be imposed, if the court imposing a 954  
sentence upon an offender for a felony elects or is required to 955  
impose a prison term on the offender pursuant to this chapter, 956  
the court shall impose a prison term that shall be one of the 957  
following: 958

(1)(a) For a felony of the first degree committed on or 959  
after the effective date of this amendment, the prison term 960  
shall be an indefinite prison term with a stated minimum term 961  
selected by the court of three, four, five, six, seven, eight, 962  
nine, ten, or eleven years and a maximum term that is determined 963  
pursuant to section 2929.144 of the Revised Code, except that if 964  
the section that criminalizes the conduct constituting the 965  
felony specifies a different minimum term or penalty for the 966  
offense, the specific language of that section shall control in 967  
determining the minimum term or otherwise sentencing the 968

offender but the minimum term or sentence imposed under that 969  
specific language shall be considered for purposes of the 970  
Revised Code as if it had been imposed under this division. 971

(b) For a felony of the first degree committed prior to 972  
the effective date of this amendment, the prison term shall be a 973  
definite prison term of three, four, five, six, seven, eight, 974  
nine, ten, or eleven years. 975

(2) (a) For a felony of the second degree committed on or 976  
after the effective date of this amendment, the prison term 977  
shall be an indefinite prison term with a stated minimum term 978  
selected by the court of two, three, four, five, six, seven, or 979  
eight years and a maximum term that is determined pursuant to 980  
section 2929.144 of the Revised Code, except that if the section 981  
that criminalizes the conduct constituting the felony specifies 982  
a different minimum term or penalty for the offense, the 983  
specific language of that section shall control in determining 984  
the minimum term or otherwise sentencing the offender but the 985  
minimum term or sentence imposed under that specific language 986  
shall be considered for purposes of the Revised Code as if it 987  
had been imposed under this division. 988

(b) For a felony of the second degree committed prior to 989  
the effective date of this amendment, the prison term shall be a 990  
definite term of two, three, four, five, six, seven, or eight 991  
years. 992

(3) (a) For a felony of the third degree that is a 993  
violation of section 2903.06, 2903.08, 2907.03, 2907.04, 994  
2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised 995  
Code or that is a violation of section 2911.02 or 2911.12 of the 996  
Revised Code if the offender previously has been convicted of or 997  
pleaded guilty in two or more separate proceedings to two or 998

more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 999  
of the Revised Code, the prison term shall be a definite term of 1000  
twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, 1001  
forty-eight, fifty-four, or sixty months. 1002

(b) For a felony of the third degree that is not an 1003  
offense for which division (A) (3) (a) of this section applies, 1004  
the prison term shall be a definite term of nine, twelve, 1005  
eighteen, twenty-four, thirty, or thirty-six months. 1006

(4) For a felony of the fourth degree, the prison term 1007  
shall be a definite term of six, seven, eight, nine, ten, 1008  
eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, 1009  
or eighteen months. 1010

(5) For a felony of the fifth degree, the prison term 1011  
shall be a definite term of six, seven, eight, nine, ten, 1012  
eleven, or twelve months. 1013

(B) (1) (a) Except as provided in division (B) (1) (e) of this 1014  
section, if an offender who is convicted of or pleads guilty to 1015  
a felony also is convicted of or pleads guilty to a 1016  
specification of the type described in section 2941.141, 1017  
2941.144, or 2941.145 of the Revised Code, the court shall 1018  
impose on the offender one of the following prison terms: 1019

(i) A prison term of six years if the specification is of 1020  
the type described in division (A) of section 2941.144 of the 1021  
Revised Code that charges the offender with having a firearm 1022  
that is an automatic firearm or that was equipped with a firearm 1023  
muffler or suppressor on or about the offender's person or under 1024  
the offender's control while committing the offense; 1025

(ii) A prison term of three years if the specification is 1026  
of the type described in division (A) of section 2941.145 of the 1027

Revised Code that charges the offender with having a firearm on 1028  
or about the offender's person or under the offender's control 1029  
while committing the offense and displaying the firearm, 1030  
brandishing the firearm, indicating that the offender possessed 1031  
the firearm, or using it to facilitate the offense; 1032

(iii) A prison term of one year if the specification is of 1033  
the type described in division (A) of section 2941.141 of the 1034  
Revised Code that charges the offender with having a firearm on 1035  
or about the offender's person or under the offender's control 1036  
while committing the offense; 1037

(iv) A prison term of nine years if the specification is 1038  
of the type described in division (D) of section 2941.144 of the 1039  
Revised Code that charges the offender with having a firearm 1040  
that is an automatic firearm or that was equipped with a firearm 1041  
muffler or suppressor on or about the offender's person or under 1042  
the offender's control while committing the offense and 1043  
specifies that the offender previously has been convicted of or 1044  
pleaded guilty to a specification of the type described in 1045  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1046  
the Revised Code; 1047

(v) A prison term of fifty-four months if the 1048  
specification is of the type described in division (D) of 1049  
section 2941.145 of the Revised Code that charges the offender 1050  
with having a firearm on or about the offender's person or under 1051  
the offender's control while committing the offense and 1052  
displaying the firearm, brandishing the firearm, indicating that 1053  
the offender possessed the firearm, or using the firearm to 1054  
facilitate the offense and that the offender previously has been 1055  
convicted of or pleaded guilty to a specification of the type 1056  
described in section 2941.141, 2941.144, 2941.145, 2941.146, or 1057

2941.1412 of the Revised Code; 1058

(vi) A prison term of eighteen months if the specification 1059  
is of the type described in division (D) of section 2941.141 of 1060  
the Revised Code that charges the offender with having a firearm 1061  
on or about the offender's person or under the offender's 1062  
control while committing the offense and that the offender 1063  
previously has been convicted of or pleaded guilty to a 1064  
specification of the type described in section 2941.141, 1065  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code. 1066

(b) If a court imposes a prison term on an offender under 1067  
division (B)(1)(a) of this section, the prison term shall not be 1068  
reduced pursuant to section 2967.19, section 2929.20, section 1069  
2967.193, or any other provision of Chapter 2967. or Chapter 1070  
5120. of the Revised Code. Except as provided in division (B)(1) 1071  
(g) of this section, a court shall not impose more than one 1072  
prison term on an offender under division (B)(1)(a) of this 1073  
section for felonies committed as part of the same act or 1074  
transaction. 1075

(c)(i) Except as provided in division (B)(1)(e) of this 1076  
section, if an offender who is convicted of or pleads guilty to 1077  
a violation of section 2923.161 of the Revised Code or to a 1078  
felony that includes, as an essential element, purposely or 1079  
knowingly causing or attempting to cause the death of or 1080  
physical harm to another, also is convicted of or pleads guilty 1081  
to a specification of the type described in division (A) of 1082  
section 2941.146 of the Revised Code that charges the offender 1083  
with committing the offense by discharging a firearm from a 1084  
motor vehicle other than a manufactured home, the court, after 1085  
imposing a prison term on the offender for the violation of 1086  
section 2923.161 of the Revised Code or for the other felony 1087

offense under division (A), (B) (2), or (B) (3) of this section, 1088  
shall impose an additional prison term of five years upon the 1089  
offender that shall not be reduced pursuant to section 2929.20, 1090  
section 2967.19, section 2967.193, or any other provision of 1091  
Chapter 2967. or Chapter 5120. of the Revised Code. 1092

(ii) Except as provided in division (B) (1) (e) of this 1093  
section, if an offender who is convicted of or pleads guilty to 1094  
a violation of section 2923.161 of the Revised Code or to a 1095  
felony that includes, as an essential element, purposely or 1096  
knowingly causing or attempting to cause the death of or 1097  
physical harm to another, also is convicted of or pleads guilty 1098  
to a specification of the type described in division (C) of 1099  
section 2941.146 of the Revised Code that charges the offender 1100  
with committing the offense by discharging a firearm from a 1101  
motor vehicle other than a manufactured home and that the 1102  
offender previously has been convicted of or pleaded guilty to a 1103  
specification of the type described in section 2941.141, 1104  
2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, 1105  
the court, after imposing a prison term on the offender for the 1106  
violation of section 2923.161 of the Revised Code or for the 1107  
other felony offense under division (A), (B) (2), or (3) of this 1108  
section, shall impose an additional prison term of ninety months 1109  
upon the offender that shall not be reduced pursuant to section 1110  
2929.20, 2967.19, 2967.193, or any other provision of Chapter 1111  
2967. or Chapter 5120. of the Revised Code. 1112

(iii) A court shall not impose more than one additional 1113  
prison term on an offender under division (B) (1) (c) of this 1114  
section for felonies committed as part of the same act or 1115  
transaction. If a court imposes an additional prison term on an 1116  
offender under division (B) (1) (c) of this section relative to an 1117  
offense, the court also shall impose a prison term under 1118

division (B) (1) (a) of this section relative to the same offense, 1119  
provided the criteria specified in that division for imposing an 1120  
additional prison term are satisfied relative to the offender 1121  
and the offense. 1122

(d) If an offender who is convicted of or pleads guilty to 1123  
an offense of violence that is a felony also is convicted of or 1124  
pleads guilty to a specification of the type described in 1125  
section 2941.1411 of the Revised Code that charges the offender 1126  
with wearing or carrying body armor while committing the felony 1127  
offense of violence, the court shall impose on the offender an 1128  
additional prison term of two years. The prison term so imposed, 1129  
subject to divisions (C) to (I) of section 2967.19 of the 1130  
Revised Code, shall not be reduced pursuant to section 2929.20, 1131  
section 2967.19, section 2967.193, or any other provision of 1132  
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1133  
shall not impose more than one prison term on an offender under 1134  
division (B) (1) (d) of this section for felonies committed as 1135  
part of the same act or transaction. If a court imposes an 1136  
additional prison term under division (B) (1) (a) or (c) of this 1137  
section, the court is not precluded from imposing an additional 1138  
prison term under division (B) (1) (d) of this section. 1139

(e) The court shall not impose any of the prison terms 1140  
described in division (B) (1) (a) of this section or any of the 1141  
additional prison terms described in division (B) (1) (c) of this 1142  
section upon an offender for a violation of section 2923.12 or 1143  
2923.123 of the Revised Code. The court shall not impose any of 1144  
the prison terms described in division (B) (1) (a) or (b) of this 1145  
section upon an offender for a violation of section 2923.122 1146  
that involves a deadly weapon that is a firearm other than a 1147  
dangerous ordnance, section 2923.16, or section 2923.121 of the 1148  
Revised Code. The court shall not impose any of the prison terms 1149

described in division (B) (1) (a) of this section or any of the 1150  
additional prison terms described in division (B) (1) (c) of this 1151  
section upon an offender for a violation of section 2923.13 of 1152  
the Revised Code unless all of the following apply: 1153

(i) The offender previously has been convicted of 1154  
aggravated murder, murder, or any felony of the first or second 1155  
degree. 1156

(ii) Less than five years have passed since the offender 1157  
was released from prison or post-release control, whichever is 1158  
later, for the prior offense. 1159

(f) (i) If an offender is convicted of or pleads guilty to 1160  
a felony that includes, as an essential element, causing or 1161  
attempting to cause the death of or physical harm to another and 1162  
also is convicted of or pleads guilty to a specification of the 1163  
type described in division (A) of section 2941.1412 of the 1164  
Revised Code that charges the offender with committing the 1165  
offense by discharging a firearm at a peace officer as defined 1166  
in section 2935.01 of the Revised Code or a corrections officer, 1167  
as defined in section 2941.1412 of the Revised Code, the court, 1168  
after imposing a prison term on the offender for the felony 1169  
offense under division (A), (B) (2), or (B) (3) of this section, 1170  
shall impose an additional prison term of seven years upon the 1171  
offender that shall not be reduced pursuant to section 2929.20, 1172  
section 2967.19, section 2967.193, or any other provision of 1173  
Chapter 2967. or Chapter 5120. of the Revised Code. 1174

(ii) If an offender is convicted of or pleads guilty to a 1175  
felony that includes, as an essential element, causing or 1176  
attempting to cause the death of or physical harm to another and 1177  
also is convicted of or pleads guilty to a specification of the 1178  
type described in division (B) of section 2941.1412 of the 1179



Revised Code that charges the offender with committing the 1180  
offense by discharging a firearm at a peace officer, as defined 1181  
in section 2935.01 of the Revised Code, or a corrections 1182  
officer, as defined in section 2941.1412 of the Revised Code, 1183  
and that the offender previously has been convicted of or 1184  
pleaded guilty to a specification of the type described in 1185  
section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of 1186  
the Revised Code, the court, after imposing a prison term on the 1187  
offender for the felony offense under division (A), (B) (2), or 1188  
(3) of this section, shall impose an additional prison term of 1189  
one hundred twenty-six months upon the offender that shall not 1190  
be reduced pursuant to section 2929.20, 2967.19, 2967.193, or 1191  
any other provision of Chapter 2967. or 5120. of the Revised 1192  
Code. 1193

(iii) If an offender is convicted of or pleads guilty to 1194  
two or more felonies that include, as an essential element, 1195  
causing or attempting to cause the death or physical harm to 1196  
another and also is convicted of or pleads guilty to a 1197  
specification of the type described under division (B) (1) (f) of 1198  
this section in connection with two or more of the felonies of 1199  
which the offender is convicted or to which the offender pleads 1200  
guilty, the sentencing court shall impose on the offender the 1201  
prison term specified under division (B) (1) (f) of this section 1202  
for each of two of the specifications of which the offender is 1203  
convicted or to which the offender pleads guilty and, in its 1204  
discretion, also may impose on the offender the prison term 1205  
specified under that division for any or all of the remaining 1206  
specifications. If a court imposes an additional prison term on 1207  
an offender under division (B) (1) (f) of this section relative to 1208  
an offense, the court shall not impose a prison term under 1209  
division (B) (1) (a) or (c) of this section relative to the same 1210

offense. 1211

(g) If an offender is convicted of or pleads guilty to two 1212  
or more felonies, if one or more of those felonies are 1213  
aggravated murder, murder, attempted aggravated murder, 1214  
attempted murder, aggravated robbery, felonious assault, or 1215  
rape, and if the offender is convicted of or pleads guilty to a 1216  
specification of the type described under division (B)(1)(a) of 1217  
this section in connection with two or more of the felonies, the 1218  
sentencing court shall impose on the offender the prison term 1219  
specified under division (B)(1)(a) of this section for each of 1220  
the two most serious specifications of which the offender is 1221  
convicted or to which the offender pleads guilty and, in its 1222  
discretion, also may impose on the offender the prison term 1223  
specified under that division for any or all of the remaining 1224  
specifications. 1225

(2)(a) If division (B)(2)(b) of this section does not 1226  
apply, the court may impose on an offender, in addition to the 1227  
longest prison term authorized or required for the offense or, 1228  
for offenses for which division (A)(1)(a) or (2)(a) of this 1229  
section applies, in addition to the longest minimum prison term 1230  
authorized or required for the offense, an additional definite 1231  
prison term of one, two, three, four, five, six, seven, eight, 1232  
nine, or ten years if all of the following criteria are met: 1233

(i) The offender is convicted of or pleads guilty to a 1234  
specification of the type described in section 2941.149 of the 1235  
Revised Code that the offender is a repeat violent offender. 1236

(ii) The offense of which the offender currently is 1237  
convicted or to which the offender currently pleads guilty is 1238  
aggravated murder and the court does not impose a sentence of 1239  
death or life imprisonment without parole, murder, terrorism and 1240

the court does not impose a sentence of life imprisonment 1241  
without parole, any felony of the first degree that is an 1242  
offense of violence and the court does not impose a sentence of 1243  
life imprisonment without parole, or any felony of the second 1244  
degree that is an offense of violence and the trier of fact 1245  
finds that the offense involved an attempt to cause or a threat 1246  
to cause serious physical harm to a person or resulted in 1247  
serious physical harm to a person. 1248

(iii) The court imposes the longest prison term for the 1249  
offense or the longest minimum prison term for the offense, 1250  
whichever is applicable, that is not life imprisonment without 1251  
parole. 1252

(iv) The court finds that the prison terms imposed 1253  
pursuant to division (B) (2) (a) (iii) of this section and, if 1254  
applicable, division (B) (1) or (3) of this section are 1255  
inadequate to punish the offender and protect the public from 1256  
future crime, because the applicable factors under section 1257  
2929.12 of the Revised Code indicating a greater likelihood of 1258  
recidivism outweigh the applicable factors under that section 1259  
indicating a lesser likelihood of recidivism. 1260

(v) The court finds that the prison terms imposed pursuant 1261  
to division (B) (2) (a) (iii) of this section and, if applicable, 1262  
division (B) (1) or (3) of this section are demeaning to the 1263  
seriousness of the offense, because one or more of the factors 1264  
under section 2929.12 of the Revised Code indicating that the 1265  
offender's conduct is more serious than conduct normally 1266  
constituting the offense are present, and they outweigh the 1267  
applicable factors under that section indicating that the 1268  
offender's conduct is less serious than conduct normally 1269  
constituting the offense. 1270

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

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

(ii) The offender within the preceding twenty years has  
been convicted of or pleaded guilty to three or more offenses  
described in division (CC) (1) of section 2929.01 of the Revised  
Code, including all offenses described in that division of which  
the offender is convicted or to which the offender pleads guilty  
in the current prosecution and all offenses described in that  
division of which the offender previously has been convicted or  
to which the offender previously pleaded guilty, whether  
prosecuted together or separately.

(iii) The offense or offenses of which the offender  
currently is convicted or to which the offender currently pleads  
guilty is aggravated murder and the court does not impose a  
sentence of death or life imprisonment without parole, murder,  
terrorism and the court does not impose a sentence of life  
imprisonment without parole, any felony of the first degree that  
is an offense of violence and the court does not impose a  
sentence of life imprisonment without parole, or any felony of  
the second degree that is an offense of violence and the trier  
of fact finds that the offense involved an attempt to cause or a

threat to cause serious physical harm to a person or resulted in 1301  
serious physical harm to a person. 1302

(c) For purposes of division (B) (2) (b) of this section, 1303  
two or more offenses committed at the same time or as part of 1304  
the same act or event shall be considered one offense, and that 1305  
one offense shall be the offense with the greatest penalty. 1306

(d) A sentence imposed under division (B) (2) (a) or (b) of 1307  
this section shall not be reduced pursuant to section 2929.20, 1308  
section 2967.19, or section 2967.193, or any other provision of 1309  
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 1310  
shall serve an additional prison term imposed under division (B) 1311  
(2) (a) or (b) of this section consecutively to and prior to the 1312  
prison term imposed for the underlying offense. 1313

(e) When imposing a sentence pursuant to division (B) (2) 1314  
(a) or (b) of this section, the court shall state its findings 1315  
explaining the imposed sentence. 1316

(3) Except when an offender commits a violation of section 1317  
2903.01 or 2907.02 of the Revised Code and the penalty imposed 1318  
for the violation is life imprisonment or commits a violation of 1319  
section 2903.02 of the Revised Code, if the offender commits a 1320  
violation of section 2925.03 or 2925.11 of the Revised Code and 1321  
that section classifies the offender as a major drug offender, 1322  
if the offender commits a violation of section 2925.05 of the 1323  
Revised Code and division (E) (1) of that section classifies the 1324  
offender as a major drug offender, if the offender commits a 1325  
felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 1326  
3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, 1327  
division (C) or (D) of section 3719.172, division (E) of section 1328  
4729.51, or division (J) of section 4729.54 of the Revised Code 1329  
that includes the sale, offer to sell, or possession of a 1330

schedule I or II controlled substance, with the exception of 1331  
marihuana, and the court imposing sentence upon the offender 1332  
finds that the offender is guilty of a specification of the type 1333  
described in division (A) of section 2941.1410 of the Revised 1334  
Code charging that the offender is a major drug offender, if the 1335  
court imposing sentence upon an offender for a felony finds that 1336  
the offender is guilty of corrupt activity with the most serious 1337  
offense in the pattern of corrupt activity being a felony of the 1338  
first degree, or if the offender is guilty of an attempted 1339  
violation of section 2907.02 of the Revised Code and, had the 1340  
offender completed the violation of section 2907.02 of the 1341  
Revised Code that was attempted, the offender would have been 1342  
subject to a sentence of life imprisonment or life imprisonment 1343  
without parole for the violation of section 2907.02 of the 1344  
Revised Code, the court shall impose upon the offender for the 1345  
felony violation a mandatory prison term determined as described 1346  
in this division that, subject to divisions (C) to (I) of 1347  
section 2967.19 of the Revised Code, cannot be reduced pursuant 1348  
to section 2929.20, section 2967.19, or any other provision of 1349  
Chapter 2967. or 5120. of the Revised Code. The mandatory prison 1350  
term shall be the maximum definite prison term prescribed in 1351  
division (A)(1)(b) of this section for a felony of the first 1352  
degree, except that for offenses for which division (A)(1)(a) of 1353  
this section applies, the mandatory prison term shall be the 1354  
longest minimum prison term prescribed in that division for the 1355  
offense. 1356

(4) If the offender is being sentenced for a third or 1357  
fourth degree felony OVI offense under division (G)(2) of 1358  
section 2929.13 of the Revised Code, the sentencing court shall 1359  
impose upon the offender a mandatory prison term in accordance 1360  
with that division. In addition to the mandatory prison term, if 1361

the offender is being sentenced for a fourth degree felony OVI 1362  
offense, the court, notwithstanding division (A) (4) of this 1363  
section, may sentence the offender to a definite prison term of 1364  
not less than six months and not more than thirty months, and if 1365  
the offender is being sentenced for a third degree felony OVI 1366  
offense, the sentencing court may sentence the offender to an 1367  
additional prison term of any duration specified in division (A) 1368  
(3) of this section. In either case, the additional prison term 1369  
imposed shall be reduced by the sixty or one hundred twenty days 1370  
imposed upon the offender as the mandatory prison term. The 1371  
total of the additional prison term imposed under division (B) 1372  
(4) of this section plus the sixty or one hundred twenty days 1373  
imposed as the mandatory prison term shall equal a definite term 1374  
in the range of six months to thirty months for a fourth degree 1375  
felony OVI offense and shall equal one of the authorized prison 1376  
terms specified in division (A) (3) of this section for a third 1377  
degree felony OVI offense. If the court imposes an additional 1378  
prison term under division (B) (4) of this section, the offender 1379  
shall serve the additional prison term after the offender has 1380  
served the mandatory prison term required for the offense. In 1381  
addition to the mandatory prison term or mandatory and 1382  
additional prison term imposed as described in division (B) (4) 1383  
of this section, the court also may sentence the offender to a 1384  
community control sanction under section 2929.16 or 2929.17 of 1385  
the Revised Code, but the offender shall serve all of the prison 1386  
terms so imposed prior to serving the community control 1387  
sanction. 1388

If the offender is being sentenced for a fourth degree 1389  
felony OVI offense under division (G) (1) of section 2929.13 of 1390  
the Revised Code and the court imposes a mandatory term of local 1391  
incarceration, the court may impose a prison term as described 1392

in division (A) (1) of that section. 1393

(5) If an offender is convicted of or pleads guilty to a 1394  
violation of division (A) (1) or (2) of section 2903.06 of the 1395  
Revised Code and also is convicted of or pleads guilty to a 1396  
specification of the type described in section 2941.1414 of the 1397  
Revised Code that charges that the victim of the offense is a 1398  
peace officer, as defined in section 2935.01 of the Revised 1399  
Code, or an investigator of the bureau of criminal 1400  
identification and investigation, as defined in section 2903.11 1401  
of the Revised Code, the court shall impose on the offender a 1402  
prison term of five years. If a court imposes a prison term on 1403  
an offender under division (B) (5) of this section, the prison 1404  
term, subject to divisions (C) to (I) of section 2967.19 of the 1405  
Revised Code, shall not be reduced pursuant to section 2929.20, 1406  
section 2967.19, section 2967.193, or any other provision of 1407  
Chapter 2967. or Chapter 5120. of the Revised Code. A court 1408  
shall not impose more than one prison term on an offender under 1409  
division (B) (5) of this section for felonies committed as part 1410  
of the same act. 1411

(6) If an offender is convicted of or pleads guilty to a 1412  
violation of division (A) (1) or (2) of section 2903.06 of the 1413  
Revised Code and also is convicted of or pleads guilty to a 1414  
specification of the type described in section 2941.1415 of the 1415  
Revised Code that charges that the offender previously has been 1416  
convicted of or pleaded guilty to three or more violations of 1417  
division (A) or (B) of section 4511.19 of the Revised Code or an 1418  
equivalent offense, as defined in section 2941.1415 of the 1419  
Revised Code, or three or more violations of any combination of 1420  
those divisions and offenses, the court shall impose on the 1421  
offender a prison term of three years. If a court imposes a 1422  
prison term on an offender under division (B) (6) of this 1423



section, the prison term, subject to divisions (C) to (I) of 1424  
section 2967.19 of the Revised Code, shall not be reduced 1425  
pursuant to section 2929.20, section 2967.19, section 2967.193, 1426  
or any other provision of Chapter 2967. or Chapter 5120. of the 1427  
Revised Code. A court shall not impose more than one prison term 1428  
on an offender under division (B) (6) of this section for 1429  
felonies committed as part of the same act. 1430

(7) (a) If an offender is convicted of or pleads guilty to 1431  
a felony violation of section 2905.01, 2905.02, 2907.21, 1432  
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323 1433  
involving a minor, or division (B) (1), (2), (3), (4), or (5) of 1434  
section 2919.22 of the Revised Code and also is convicted of or 1435  
pleads guilty to a specification of the type described in 1436  
section 2941.1422 of the Revised Code that charges that the 1437  
offender knowingly committed the offense in furtherance of human 1438  
trafficking, the court shall impose on the offender a mandatory 1439  
prison term that is one of the following: 1440

(i) If the offense is a felony of the first degree, a 1441  
definite prison term of not less than five years and not greater 1442  
than eleven years, except that if the offense is a felony of the 1443  
first degree committed on or after the effective date of this 1444  
amendment, the court shall impose as the minimum prison term a 1445  
mandatory term of not less than five years and not greater than 1446  
eleven years; 1447

(ii) If the offense is a felony of the second or third 1448  
degree, a definite prison term of not less than three years and 1449  
not greater than the maximum prison term allowed for the offense 1450  
by division (A) (2) (b) or (3) of this section, except that if the 1451  
offense is a felony of the second degree committed on or after 1452  
the effective date of this amendment, the court shall impose as 1453

the minimum prison term a mandatory term of not less than three 1454  
years and not greater than eight years; 1455

(iii) If the offense is a felony of the fourth or fifth 1456  
degree, a definite prison term that is the maximum prison term 1457  
allowed for the offense by division (A) of section 2929.14 of 1458  
the Revised Code. 1459

(b) Subject to divisions (C) to (I) of section 2967.19 of 1460  
the Revised Code, the prison term imposed under division (B) (7) 1461  
(a) of this section shall not be reduced pursuant to section 1462  
2929.20, section 2967.19, section 2967.193, or any other 1463  
provision of Chapter 2967. of the Revised Code. A court shall 1464  
not impose more than one prison term on an offender under 1465  
division (B) (7) (a) of this section for felonies committed as 1466  
part of the same act, scheme, or plan. 1467

(8) If an offender is convicted of or pleads guilty to a 1468  
felony violation of section 2903.11, 2903.12, or 2903.13 of the 1469  
Revised Code and also is convicted of or pleads guilty to a 1470  
specification of the type described in section 2941.1423 of the 1471  
Revised Code that charges that the victim of the violation was a 1472  
woman whom the offender knew was pregnant at the time of the 1473  
violation, notwithstanding the range prescribed in division (A) 1474  
of this section as the definite prison term or minimum prison 1475  
term for felonies of the same degree as the violation, the court 1476  
shall impose on the offender a mandatory prison term that is 1477  
either a definite prison term of six months or one of the prison 1478  
terms prescribed in division (A) of this section for felonies of 1479  
the same degree as the violation, except that if the violation 1480  
is a felony of the first or second degree committed on or after 1481  
the effective date of this amendment, the court shall impose as 1482  
the minimum prison term under division (A) (1) (a) or (2) (a) of 1483

this section a mandatory term that is one of the terms 1484  
prescribed in that division, whichever is applicable, for the 1485  
offense. 1486

(9) (a) If an offender is convicted of or pleads guilty to 1487  
a violation of division (A) (1) or (2) of section 2903.11 of the 1488  
Revised Code and also is convicted of or pleads guilty to a 1489  
specification of the type described in section 2941.1425 of the 1490  
Revised Code, the court shall impose on the offender a mandatory 1491  
prison term of six years if either of the following applies: 1492

(i) The violation is a violation of division (A) (1) of 1493  
section 2903.11 of the Revised Code and the specification 1494  
charges that the offender used an accelerant in committing the 1495  
violation and the serious physical harm to another or to 1496  
another's unborn caused by the violation resulted in a 1497  
permanent, serious disfigurement or permanent, substantial 1498  
incapacity; 1499

(ii) The violation is a violation of division (A) (2) of 1500  
section 2903.11 of the Revised Code and the specification 1501  
charges that the offender used an accelerant in committing the 1502  
violation, that the violation caused physical harm to another or 1503  
to another's unborn, and that the physical harm resulted in a 1504  
permanent, serious disfigurement or permanent, substantial 1505  
incapacity. 1506

(b) If a court imposes a prison term on an offender under 1507  
division (B) (9) (a) of this section, the prison term shall not be 1508  
reduced pursuant to section 2929.20, section 2967.19, section 1509  
2967.193, or any other provision of Chapter 2967. or Chapter 1510  
5120. of the Revised Code. A court shall not impose more than 1511  
one prison term on an offender under division (B) (9) of this 1512  
section for felonies committed as part of the same act. 1513

(c) The provisions of divisions (B) (9) and (C) (6) of this 1514  
section and of division (D) (2) of section 2903.11, division (F) 1515  
(20) of section 2929.13, and section 2941.1425 of the Revised 1516  
Code shall be known as "Judy's Law." 1517

(10) If an offender is convicted of or pleads guilty to a 1518  
violation of division (A) of section 2903.11 of the Revised Code 1519  
and also is convicted of or pleads guilty to a specification of 1520  
the type described in section 2941.1426 of the Revised Code that 1521  
charges that the victim of the offense suffered permanent 1522  
disabling harm as a result of the offense and that the victim 1523  
was under ten years of age at the time of the offense, 1524  
regardless of whether the offender knew the age of the victim, 1525  
the court shall impose upon the offender an additional definite 1526  
prison term of six years. A prison term imposed on an offender 1527  
under division (B) (10) of this section shall not be reduced 1528  
pursuant to section 2929.20, section 2967.193, or any other 1529  
provision of Chapter 2967. or Chapter 5120. of the Revised Code. 1530  
If a court imposes an additional prison term on an offender 1531  
under this division relative to a violation of division (A) of 1532  
section 2903.11 of the Revised Code, the court shall not impose 1533  
any other additional prison term on the offender relative to the 1534  
same offense. 1535

(11) If an offender is convicted of or pleads guilty to a 1536  
felony violation of section 2925.03 or 2925.05 of the Revised 1537  
Code or a felony violation of section 2925.11 of the Revised 1538  
Code for which division (C) (11) of that section applies in 1539  
determining the sentence for the violation, if the drug involved 1540  
in the violation is a fentanyl-related compound or a compound, 1541  
mixture, preparation, or substance containing a fentanyl-related 1542  
compound, and if the offender also is convicted of or pleads 1543  
guilty to a specification of the type described in division (B) 1544

of section 2941.1410 of the Revised Code that charges that the 1545  
offender is a major drug offender, in addition to any other 1546  
penalty imposed for the violation, the court shall impose on the 1547  
offender a mandatory prison term of three, four, five, six, 1548  
seven, or eight years. If a court imposes a prison term on an 1549  
offender under division (B)(11) of this section, the prison 1550  
term, subject to divisions (C) to (I) of section 2967.19 of the 1551  
Revised Code, shall not be reduced pursuant to section 2929.20, 1552  
2967.19, or 2967.193, or any other provision of Chapter 2967. or 1553  
5120. of the Revised Code. A court shall not impose more than 1554  
one prison term on an offender under division (B)(11) of this 1555  
section for felonies committed as part of the same act. 1556

(C)(1)(a) Subject to division (C)(1)(b) of this section, 1557  
if a mandatory prison term is imposed upon an offender pursuant 1558  
to division (B)(1)(a) of this section for having a firearm on or 1559  
about the offender's person or under the offender's control 1560  
while committing a felony, if a mandatory prison term is imposed 1561  
upon an offender pursuant to division (B)(1)(c) of this section 1562  
for committing a felony specified in that division by 1563  
discharging a firearm from a motor vehicle, or if both types of 1564  
mandatory prison terms are imposed, the offender shall serve any 1565  
mandatory prison term imposed under either division 1566  
consecutively to any other mandatory prison term imposed under 1567  
either division or under division (B)(1)(d) of this section, 1568  
consecutively to and prior to any prison term imposed for the 1569  
underlying felony pursuant to division (A), (B)(2), or (B)(3) of 1570  
this section or any other section of the Revised Code, and 1571  
consecutively to any other prison term or mandatory prison term 1572  
previously or subsequently imposed upon the offender. 1573

(b) If a mandatory prison term is imposed upon an offender 1574  
pursuant to division (B)(1)(d) of this section for wearing or 1575

carrying body armor while committing an offense of violence that 1576  
is a felony, the offender shall serve the mandatory term so 1577  
imposed consecutively to any other mandatory prison term imposed 1578  
under that division or under division (B)(1)(a) or (c) of this 1579  
section, consecutively to and prior to any prison term imposed 1580  
for the underlying felony under division (A), (B)(2), or (B)(3) 1581  
of this section or any other section of the Revised Code, and 1582  
consecutively to any other prison term or mandatory prison term 1583  
previously or subsequently imposed upon the offender. 1584

(c) If a mandatory prison term is imposed upon an offender 1585  
pursuant to division (B)(1)(f) of this section, the offender 1586  
shall serve the mandatory prison term so imposed consecutively 1587  
to and prior to any prison term imposed for the underlying 1588  
felony under division (A), (B)(2), or (B)(3) of this section or 1589  
any other section of the Revised Code, and consecutively to any 1590  
other prison term or mandatory prison term previously or 1591  
subsequently imposed upon the offender. 1592

(d) If a mandatory prison term is imposed upon an offender 1593  
pursuant to division (B)(7) or (8) of this section, the offender 1594  
shall serve the mandatory prison term so imposed consecutively 1595  
to any other mandatory prison term imposed under that division 1596  
or under any other provision of law and consecutively to any 1597  
other prison term or mandatory prison term previously or 1598  
subsequently imposed upon the offender. 1599

(e) If a mandatory prison term is imposed upon an offender 1600  
pursuant to division (B)(11) of this section, the offender shall 1601  
serve the mandatory prison term consecutively to any other 1602  
mandatory prison term imposed under that division, consecutively 1603  
to and prior to any prison term imposed for the underlying 1604  
felony, and consecutively to any other prison term or mandatory 1605

prison term previously or subsequently imposed upon the 1606  
offender. 1607

(2) If an offender who is an inmate in a jail, prison, or 1608  
other residential detention facility violates section 2917.02, 1609  
2917.03, or 2921.35 of the Revised Code or division (A)(1) or 1610  
(2) of section 2921.34 of the Revised Code, if an offender who 1611  
is under detention at a detention facility commits a felony 1612  
violation of section 2923.131 of the Revised Code, or if an 1613  
offender who is an inmate in a jail, prison, or other 1614  
residential detention facility or is under detention at a 1615  
detention facility commits another felony while the offender is 1616  
an escapee in violation of division (A)(1) or (2) of section 1617  
2921.34 of the Revised Code, any prison term imposed upon the 1618  
offender for one of those violations shall be served by the 1619  
offender consecutively to the prison term or term of 1620  
imprisonment the offender was serving when the offender 1621  
committed that offense and to any other prison term previously 1622  
or subsequently imposed upon the offender. 1623

(3) If a prison term is imposed for a violation of 1624  
division (B) of section 2911.01 of the Revised Code, a violation 1625  
of division (A) of section 2913.02 of the Revised Code in which 1626  
the stolen property is a firearm or dangerous ordnance, or a 1627  
felony violation of division (B) of section 2921.331 of the 1628  
Revised Code, the offender shall serve that prison term 1629  
consecutively to any other prison term or mandatory prison term 1630  
previously or subsequently imposed upon the offender. 1631

(4) If multiple prison terms are imposed on an offender 1632  
for convictions of multiple offenses, the court may require the 1633  
offender to serve the prison terms consecutively if the court 1634  
finds that the consecutive service is necessary to protect the 1635

public from future crime or to punish the offender and that 1636  
consecutive sentences are not disproportionate to the 1637  
seriousness of the offender's conduct and to the danger the 1638  
offender poses to the public, and if the court also finds any of 1639  
the following: 1640

(a) The offender committed one or more of the multiple 1641  
offenses while the offender was awaiting trial or sentencing, 1642  
was under a sanction imposed pursuant to section 2929.16, 1643  
2929.17, or 2929.18 of the Revised Code, or was under post- 1644  
release control for a prior offense. 1645

(b) At least two of the multiple offenses were committed 1646  
as part of one or more courses of conduct, and the harm caused 1647  
by two or more of the multiple offenses so committed was so 1648  
great or unusual that no single prison term for any of the 1649  
offenses committed as part of any of the courses of conduct 1650  
adequately reflects the seriousness of the offender's conduct. 1651

(c) The offender's history of criminal conduct 1652  
demonstrates that consecutive sentences are necessary to protect 1653  
the public from future crime by the offender. 1654

(5) If a mandatory prison term is imposed upon an offender 1655  
pursuant to division (B) (5) or (6) of this section, the offender 1656  
shall serve the mandatory prison term consecutively to and prior 1657  
to any prison term imposed for the underlying violation of 1658  
division (A) (1) or (2) of section 2903.06 of the Revised Code 1659  
pursuant to division (A) of this section or section 2929.142 of 1660  
the Revised Code. If a mandatory prison term is imposed upon an 1661  
offender pursuant to division (B) (5) of this section, and if a 1662  
mandatory prison term also is imposed upon the offender pursuant 1663  
to division (B) (6) of this section in relation to the same 1664  
violation, the offender shall serve the mandatory prison term 1665



imposed pursuant to division (B) (5) of this section 1666  
consecutively to and prior to the mandatory prison term imposed 1667  
pursuant to division (B) (6) of this section and consecutively to 1668  
and prior to any prison term imposed for the underlying 1669  
violation of division (A) (1) or (2) of section 2903.06 of the 1670  
Revised Code pursuant to division (A) of this section or section 1671  
2929.142 of the Revised Code. 1672

(6) If a mandatory prison term is imposed on an offender 1673  
pursuant to division (B) (9) of this section, the offender shall 1674  
serve the mandatory prison term consecutively to and prior to 1675  
any prison term imposed for the underlying violation of division 1676  
(A) (1) or (2) of section 2903.11 of the Revised Code and 1677  
consecutively to and prior to any other prison term or mandatory 1678  
prison term previously or subsequently imposed on the offender. 1679

(7) If a mandatory prison term is imposed on an offender 1680  
pursuant to division (B) (10) of this section, the offender shall 1681  
serve that mandatory prison term consecutively to and prior to 1682  
any prison term imposed for the underlying felonious assault. 1683  
Except as otherwise provided in division (C) of this section, 1684  
any other prison term or mandatory prison term previously or 1685  
subsequently imposed upon the offender may be served 1686  
concurrently with, or consecutively to, the prison term imposed 1687  
pursuant to division (B) (10) of this section. 1688

(8) Any prison term imposed for a violation of section 1689  
2903.04 of the Revised Code that is based on a violation of 1690  
section 2925.03 or 2925.11 of the Revised Code or on a violation 1691  
of section 2925.05 of the Revised Code that is not funding of 1692  
marihuana trafficking shall run consecutively to any prison term 1693  
imposed for the violation of section 2925.03 or 2925.11 of the 1694  
Revised Code or for the violation of section 2925.05 of the 1695

Revised Code that is not funding of marihuana trafficking. 1696

(9) When consecutive prison terms are imposed pursuant to 1697  
division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or 1698  
division (H)(1) or (2) of this section, subject to division (C) 1699  
(10) of this section, the term to be served is the aggregate of 1700  
all of the terms so imposed. 1701

(10) When a court sentences an offender to a non-life 1702  
felony indefinite prison term, any definite prison term or 1703  
mandatory definite prison term previously or subsequently 1704  
imposed on the offender in addition to that indefinite sentence 1705  
that is required to be served consecutively to that indefinite 1706  
sentence shall be served prior to the indefinite sentence. 1707

(11) If a court is sentencing an offender for a felony of 1708  
the first or second degree, if division (A)(1)(a) or (2)(a) of 1709  
this section applies with respect to the sentencing for the 1710  
offense, and if the court is required under the Revised Code 1711  
section that sets forth the offense or any other Revised Code 1712  
provision to impose a mandatory prison term for the offense, the 1713  
court shall impose the required mandatory prison term as the 1714  
minimum term imposed under division (A)(1)(a) or (2)(a) of this 1715  
section, whichever is applicable. 1716

(D)(1) If a court imposes a prison term, other than a term 1717  
of life imprisonment, for a felony of the first degree, for a 1718  
felony of the second degree, for a felony sex offense, or for a 1719  
felony of the third degree that is an offense of violence and 1720  
that is not a felony sex offense, it shall include in the 1721  
sentence a requirement that the offender be subject to a period 1722  
of post-release control after the offender's release from 1723  
imprisonment, in accordance with section 2967.28 of the Revised 1724  
Code. If a court imposes a sentence including a prison term of a 1725

type described in this division on or after July 11, 2006, the 1726  
failure of a court to include a post-release control requirement 1727  
in the sentence pursuant to this division does not negate, 1728  
limit, or otherwise affect the mandatory period of post-release 1729  
control that is required for the offender under division (B) of 1730  
section 2967.28 of the Revised Code. Section 2929.191 of the 1731  
Revised Code applies if, prior to July 11, 2006, a court imposed 1732  
a sentence including a prison term of a type described in this 1733  
division and failed to include in the sentence pursuant to this 1734  
division a statement regarding post-release control. 1735

(2) If a court imposes a prison term for a felony of the 1736  
third, fourth, or fifth degree that is not subject to division 1737  
(D) (1) of this section, it shall include in the sentence a 1738  
requirement that the offender be subject to a period of post- 1739  
release control after the offender's release from imprisonment, 1740  
in accordance with that division, if the parole board determines 1741  
that a period of post-release control is necessary. Section 1742  
2929.191 of the Revised Code applies if, prior to July 11, 2006, 1743  
a court imposed a sentence including a prison term of a type 1744  
described in this division and failed to include in the sentence 1745  
pursuant to this division a statement regarding post-release 1746  
control. 1747

(E) The court shall impose sentence upon the offender in 1748  
accordance with section 2971.03 of the Revised Code, and Chapter 1749  
2971. of the Revised Code applies regarding the prison term or 1750  
term of life imprisonment without parole imposed upon the 1751  
offender and the service of that term of imprisonment if any of 1752  
the following apply: 1753

(1) A person is convicted of or pleads guilty to a violent 1754  
sex offense or a designated homicide, assault, or kidnapping 1755

offense, and, in relation to that offense, the offender is 1756  
adjudicated a sexually violent predator. 1757

(2) A person is convicted of or pleads guilty to a 1758  
violation of division (A) (1) (b) of section 2907.02 of the 1759  
Revised Code committed on or after January 2, 2007, and either 1760  
the court does not impose a sentence of life without parole when 1761  
authorized pursuant to division (B) of section 2907.02 of the 1762  
Revised Code, or division (B) of section 2907.02 of the Revised 1763  
Code provides that the court shall not sentence the offender 1764  
pursuant to section 2971.03 of the Revised Code. 1765

(3) A person is convicted of or pleads guilty to attempted 1766  
rape committed on or after January 2, 2007, and a specification 1767  
of the type described in section 2941.1418, 2941.1419, or 1768  
2941.1420 of the Revised Code. 1769

(4) A person is convicted of or pleads guilty to a 1770  
violation of section 2905.01 of the Revised Code committed on or 1771  
after January 1, 2008, and that section requires the court to 1772  
sentence the offender pursuant to section 2971.03 of the Revised 1773  
Code. 1774

(5) A person is convicted of or pleads guilty to 1775  
aggravated murder committed on or after January 1, 2008, and 1776  
division (A) (2) (b) (ii) of section 2929.022, division (A) (1) (e), 1777  
(C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1)~~ 1778  
~~(d) (E) (1) (a) (iv)~~ of section 2929.03, or division (A) or (B) of 1779  
section 2929.06 of the Revised Code requires the court to 1780  
sentence the offender pursuant to division (B) (3) of section 1781  
2971.03 of the Revised Code. 1782

(6) A person is convicted of or pleads guilty to murder 1783  
committed on or after January 1, 2008, and division (B) (2) of 1784

section 2929.02 of the Revised Code requires the court to 1785  
sentence the offender pursuant to section 2971.03 of the Revised 1786  
Code. 1787

(F) If a person who has been convicted of or pleaded 1788  
guilty to a felony is sentenced to a prison term or term of 1789  
imprisonment under this section, sections 2929.02 to 2929.06 of 1790  
the Revised Code, section 2929.142 of the Revised Code, section 1791  
2971.03 of the Revised Code, or any other provision of law, 1792  
section 5120.163 of the Revised Code applies regarding the 1793  
person while the person is confined in a state correctional 1794  
institution. 1795

(G) If an offender who is convicted of or pleads guilty to 1796  
a felony that is an offense of violence also is convicted of or 1797  
pleads guilty to a specification of the type described in 1798  
section 2941.142 of the Revised Code that charges the offender 1799  
with having committed the felony while participating in a 1800  
criminal gang, the court shall impose upon the offender an 1801  
additional prison term of one, two, or three years. 1802

(H) (1) If an offender who is convicted of or pleads guilty 1803  
to aggravated murder, murder, or a felony of the first, second, 1804  
or third degree that is an offense of violence also is convicted 1805  
of or pleads guilty to a specification of the type described in 1806  
section 2941.143 of the Revised Code that charges the offender 1807  
with having committed the offense in a school safety zone or 1808  
towards a person in a school safety zone, the court shall impose 1809  
upon the offender an additional prison term of two years. The 1810  
offender shall serve the additional two years consecutively to 1811  
and prior to the prison term imposed for the underlying offense. 1812

(2) (a) If an offender is convicted of or pleads guilty to 1813  
a felony violation of section 2907.22, 2907.24, 2907.241, or 1814

2907.25 of the Revised Code and to a specification of the type 1815  
described in section 2941.1421 of the Revised Code and if the 1816  
court imposes a prison term on the offender for the felony 1817  
violation, the court may impose upon the offender an additional 1818  
prison term as follows: 1819

(i) Subject to division (H) (2) (a) (ii) of this section, an 1820  
additional prison term of one, two, three, four, five, or six 1821  
months; 1822

(ii) If the offender previously has been convicted of or 1823  
pleaded guilty to one or more felony or misdemeanor violations 1824  
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 1825  
the Revised Code and also was convicted of or pleaded guilty to 1826  
a specification of the type described in section 2941.1421 of 1827  
the Revised Code regarding one or more of those violations, an 1828  
additional prison term of one, two, three, four, five, six, 1829  
seven, eight, nine, ten, eleven, or twelve months. 1830

(b) In lieu of imposing an additional prison term under 1831  
division (H) (2) (a) of this section, the court may directly 1832  
impose on the offender a sanction that requires the offender to 1833  
wear a real-time processing, continual tracking electronic 1834  
monitoring device during the period of time specified by the 1835  
court. The period of time specified by the court shall equal the 1836  
duration of an additional prison term that the court could have 1837  
imposed upon the offender under division (H) (2) (a) of this 1838  
section. A sanction imposed under this division shall commence 1839  
on the date specified by the court, provided that the sanction 1840  
shall not commence until after the offender has served the 1841  
prison term imposed for the felony violation of section 2907.22, 1842  
2907.24, 2907.241, or 2907.25 of the Revised Code and any 1843  
residential sanction imposed for the violation under section 1844

2929.16 of the Revised Code. A sanction imposed under this 1845  
division shall be considered to be a community control sanction 1846  
for purposes of section 2929.15 of the Revised Code, and all 1847  
provisions of the Revised Code that pertain to community control 1848  
sanctions shall apply to a sanction imposed under this division, 1849  
except to the extent that they would by their nature be clearly 1850  
inapplicable. The offender shall pay all costs associated with a 1851  
sanction imposed under this division, including the cost of the 1852  
use of the monitoring device. 1853

(I) At the time of sentencing, the court may recommend the 1854  
offender for placement in a program of shock incarceration under 1855  
section 5120.031 of the Revised Code or for placement in an 1856  
intensive program prison under section 5120.032 of the Revised 1857  
Code, disapprove placement of the offender in a program of shock 1858  
incarceration or an intensive program prison of that nature, or 1859  
make no recommendation on placement of the offender. In no case 1860  
shall the department of rehabilitation and correction place the 1861  
offender in a program or prison of that nature unless the 1862  
department determines as specified in section 5120.031 or 1863  
5120.032 of the Revised Code, whichever is applicable, that the 1864  
offender is eligible for the placement. 1865

If the court disapproves placement of the offender in a 1866  
program or prison of that nature, the department of 1867  
rehabilitation and correction shall not place the offender in 1868  
any program of shock incarceration or intensive program prison. 1869

If the court recommends placement of the offender in a 1870  
program of shock incarceration or in an intensive program 1871  
prison, and if the offender is subsequently placed in the 1872  
recommended program or prison, the department shall notify the 1873  
court of the placement and shall include with the notice a brief 1874

description of the placement. 1875

If the court recommends placement of the offender in a 1876  
program of shock incarceration or in an intensive program prison 1877  
and the department does not subsequently place the offender in 1878  
the recommended program or prison, the department shall send a 1879  
notice to the court indicating why the offender was not placed 1880  
in the recommended program or prison. 1881

If the court does not make a recommendation under this 1882  
division with respect to an offender and if the department 1883  
determines as specified in section 5120.031 or 5120.032 of the 1884  
Revised Code, whichever is applicable, that the offender is 1885  
eligible for placement in a program or prison of that nature, 1886  
the department shall screen the offender and determine if there 1887  
is an available program of shock incarceration or an intensive 1888  
program prison for which the offender is suited. If there is an 1889  
available program of shock incarceration or an intensive program 1890  
prison for which the offender is suited, the department shall 1891  
notify the court of the proposed placement of the offender as 1892  
specified in section 5120.031 or 5120.032 of the Revised Code 1893  
and shall include with the notice a brief description of the 1894  
placement. The court shall have ten days from receipt of the 1895  
notice to disapprove the placement. 1896

(J) If a person is convicted of or pleads guilty to 1897  
aggravated vehicular homicide in violation of division (A) (1) of 1898  
section 2903.06 of the Revised Code and division (B) (2) (c) of 1899  
that section applies, the person shall be sentenced pursuant to 1900  
section 2929.142 of the Revised Code. 1901

(K) (1) The court shall impose an additional mandatory 1902  
prison term of two, three, four, five, six, seven, eight, nine, 1903  
ten, or eleven years on an offender who is convicted of or 1904



pleads guilty to a violent felony offense if the offender also 1905  
is convicted of or pleads guilty to a specification of the type 1906  
described in section 2941.1424 of the Revised Code that charges 1907  
that the offender is a violent career criminal and had a firearm 1908  
on or about the offender's person or under the offender's 1909  
control while committing the presently charged violent felony 1910  
offense and displayed or brandished the firearm, indicated that 1911  
the offender possessed a firearm, or used the firearm to 1912  
facilitate the offense. The offender shall serve the prison term 1913  
imposed under this division consecutively to and prior to the 1914  
prison term imposed for the underlying offense. The prison term 1915  
shall not be reduced pursuant to section 2929.20 or 2967.19 or 1916  
any other provision of Chapter 2967. or 5120. of the Revised 1917  
Code. A court may not impose more than one sentence under 1918  
division (B)(2)(a) of this section and this division for acts 1919  
committed as part of the same act or transaction. 1920

(2) As used in division (K)(1) of this section, "violent 1921  
career criminal" and "violent felony offense" have the same 1922  
meanings as in section 2923.132 of the Revised Code. 1923

**Sec. 2941.148.** (A)(1) The application of Chapter 2971. of 1924  
the Revised Code to an offender is precluded unless one of the 1925  
following applies: 1926

(a) The offender is charged with a violent sex offense, 1927  
and the indictment, count in the indictment, or information 1928  
charging the violent sex offense also includes a specification 1929  
that the offender is a sexually violent predator, or the 1930  
offender is charged with a designated homicide, assault, or 1931  
kidnapping offense, and the indictment, count in the indictment, 1932  
or information charging the designated homicide, assault, or 1933  
kidnapping offense also includes both a specification of the 1934

type described in section 2941.147 of the Revised Code and a 1935  
specification that the offender is a sexually violent predator. 1936

(b) The offender is convicted of or pleads guilty to a 1937  
violation of division (A) (1) (b) of section 2907.02 of the 1938  
Revised Code committed on or after January 2, 2007, and division 1939  
(B) of section 2907.02 of the Revised Code does not prohibit the 1940  
court from sentencing the offender pursuant to section 2971.03 1941  
of the Revised Code. 1942

(c) The offender is convicted of or pleads guilty to 1943  
attempted rape committed on or after January 2, 2007, and to a 1944  
specification of the type described in section 2941.1418, 1945  
2941.1419, or 2941.1420 of the Revised Code. 1946

(d) The offender is convicted of or pleads guilty to a 1947  
violation of section 2905.01 of the Revised Code and to a 1948  
specification of the type described in section 2941.147 of the 1949  
Revised Code, and section 2905.01 of the Revised Code requires a 1950  
court to sentence the offender pursuant to section 2971.03 of 1951  
the Revised Code. 1952

(e) The offender is convicted of or pleads guilty to 1953  
aggravated murder and to a specification of the type described 1954  
in section 2941.147 of the Revised Code, and division (A) (2) (b) 1955  
(ii) of section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) 1956  
(2) (a) (ii), (D) (2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of 1957  
section 2929.03, or division (A) or (B) of section 2929.06 of 1958  
the Revised Code requires a court to sentence the offender 1959  
pursuant to division (B) (3) of section 2971.03 of the Revised 1960  
Code. 1961

(f) The offender is convicted of or pleads guilty to 1962  
murder and to a specification of the type described in section 1963

2941.147 of the Revised Code, and division (B)(2) of section 1964  
2929.02 of the Revised Code requires a court to sentence the 1965  
offender pursuant to section 2971.03 of the Revised Code. 1966

(2) A specification required under division (A)(1)(a) of 1967  
this section that an offender is a sexually violent predator 1968  
shall be stated at the end of the body of the indictment, count, 1969  
or information and shall be stated in substantially the 1970  
following form: 1971

"Specification (or, specification to the first count). The 1972  
grand jury (or insert the person's or prosecuting attorney's 1973  
name when appropriate) further find and specify that the 1974  
offender is a sexually violent predator." 1975

(B) In determining for purposes of this section whether a 1976  
person is a sexually violent predator, all of the factors set 1977  
forth in divisions (H)(1) to (6) of section 2971.01 of the 1978  
Revised Code that apply regarding the person may be considered 1979  
as evidence tending to indicate that it is likely that the 1980  
person will engage in the future in one or more sexually violent 1981  
offenses. 1982

(C) As used in this section, "designated homicide, 1983  
assault, or kidnapping offense," "violent sex offense," and 1984  
"sexually violent predator" have the same meanings as in section 1985  
2971.01 of the Revised Code. 1986

**Sec. 2953.21.** (A)(1)(a) A person in any of the following 1987  
categories may file a petition in the court that imposed 1988  
sentence, stating the grounds for relief relied upon, and asking 1989  
the court to vacate or set aside the judgment or sentence or to 1990  
grant other appropriate relief: 1991

(i) Any person who has been convicted of a criminal 1992

offense or adjudicated a delinquent child and who claims that 1993  
there was such a denial or infringement of the person's rights 1994  
as to render the judgment void or voidable under the Ohio 1995  
Constitution or the Constitution of the United States, ~~any;~~ 1996

(ii) Any person who has been convicted of a criminal 1997  
offense and sentenced to death and who claims that there was a 1998  
denial or infringement of the person's rights under either of 1999  
those Constitutions that creates a reasonable probability of an 2000  
altered verdict, ~~and any;~~ 2001

(iii) Any person who has been convicted of a criminal 2002  
offense that is a felony and who is an offender for whom DNA 2003  
testing that was performed under sections 2953.71 to 2953.81 of 2004  
the Revised Code or under former section 2953.82 of the Revised 2005  
Code and analyzed in the context of and upon consideration of 2006  
all available admissible evidence related to the person's case 2007  
as described in division (D) of section 2953.74 of the Revised 2008  
Code provided results that establish, by clear and convincing 2009  
evidence, actual innocence of that felony offense or, if the 2010  
person was sentenced to death, establish, by clear and 2011  
convincing evidence, actual innocence of the aggravating 2012  
circumstance or circumstances the person was found guilty of 2013  
committing and that is or are the basis of that sentence of 2014  
death, ~~may file a petition in the court that imposed sentence,~~ 2015  
~~stating the grounds for relief relied upon, and asking the court~~ 2016  
~~to vacate or set aside the judgment or sentence or to grant~~ 2017  
~~other appropriate relief;~~ 2018

(iv) Any person who has been convicted of aggravated 2019  
murder and sentenced to death for the offense and who claims 2020  
that the person had a serious mental illness at the time of the 2021  
commission of the offense and that as a result the court should 2022

render void the sentence of death, with the filing of the 2023  
petition constituting the waiver described in division (A) (3) (b) 2024  
of this section. 2025

~~The~~ (b) A petitioner under division (A) (1) (a) of this 2026  
section may file a supporting affidavit and other documentary 2027  
evidence in support of the claim for relief. 2028

~~(b)~~ (c) As used in division (A) (1) (a) of this section, ~~—~~ 2029  
"actual"; 2030

(i) "Actual innocence" means that, had the results of the 2031  
DNA testing conducted under sections 2953.71 to 2953.81 of the 2032  
Revised Code or under former section 2953.82 of the Revised Code 2033  
been presented at trial, and had those results been analyzed in 2034  
the context of and upon consideration of all available 2035  
admissible evidence related to the person's case as described in 2036  
division (D) of section 2953.74 of the Revised Code, no 2037  
reasonable factfinder would have found the petitioner guilty of 2038  
the offense of which the petitioner was convicted, or, if the 2039  
person was sentenced to death, no reasonable factfinder would 2040  
have found the petitioner guilty of the aggravating circumstance 2041  
or circumstances the petitioner was found guilty of committing 2042  
and that is or are the basis of that sentence of death. 2043

(ii) "Serious mental illness" has the same meaning as in 2044  
section 2929.025 of the Revised Code. 2045

~~(c)~~ (d) As used in divisions (A) (1) (a) and ~~(b)~~ (c) of this 2046  
section, "former section 2953.82 of the Revised Code" means 2047  
section 2953.82 of the Revised Code as it existed prior to July 2048  
6, 2010. 2049

~~(d)~~ (e) At any time in conjunction with the filing of a 2050  
petition for postconviction relief under division (A) of this 2051

section by a person who has been sentenced to death, or with the 2052  
litigation of a petition so filed, the court, for good cause 2053  
shown, may authorize the petitioner in seeking the 2054  
postconviction relief and the prosecuting attorney of the county 2055  
served by the court in defending the proceeding, to take 2056  
depositions and to issue subpoenas and subpoenas duces tecum in 2057  
accordance with divisions (A) (1) ~~(d)~~ (e), (A) (1) ~~(e)~~ (f), and (C) of 2058  
this section, and to any other form of discovery as in a civil 2059  
action that the court in its discretion permits. The court may 2060  
limit the extent of discovery under this division. In addition 2061  
to discovery that is relevant to the claim and was available 2062  
under Criminal Rule 16 through conclusion of the original 2063  
criminal trial, the court, for good cause shown, may authorize 2064  
the petitioner or prosecuting attorney to take depositions and 2065  
issue subpoenas and subpoenas duces tecum in either of the 2066  
following circumstances: 2067

(i) For any witness who testified at trial or who was 2068  
disclosed by the state prior to trial, except as otherwise 2069  
provided in this division, the petitioner or prosecuting 2070  
attorney shows clear and convincing evidence that the witness is 2071  
material and that a deposition of the witness or the issuing of 2072  
a subpoena or subpoena duces tecum is of assistance in order to 2073  
substantiate or refute the petitioner's claim that there is a 2074  
reasonable probability of an altered verdict. This division does 2075  
not apply if the witness was unavailable for trial or would not 2076  
voluntarily be interviewed by the defendant or prosecuting 2077  
attorney. 2078

(ii) For any witness with respect to whom division (A) (1) 2079  
~~(d)~~ (e) (i) of this section does not apply, the petitioner or 2080  
prosecuting attorney shows good cause that the witness is 2081  
material and that a deposition of the witness or the issuing of 2082

a subpoena or subpoena duces tecum is of assistance in order to 2083  
substantiate or refute the petitioner's claim that there is a 2084  
reasonable probability of an altered verdict. 2085

~~(e)~~(f) If a person who has been sentenced to death and who 2086  
files a petition for postconviction relief under division (A) of 2087  
this section requests postconviction discovery as described in 2088  
division (A) (1) ~~(d)~~(e) of this section or if the prosecuting 2089  
attorney of the county served by the court requests 2090  
postconviction discovery as described in that division, within 2091  
ten days after the docketing of the request, or within any other 2092  
time that the court sets for good cause shown, the prosecuting 2093  
attorney shall respond by answer or motion to the petitioner's 2094  
request or the petitioner shall respond by answer or motion to 2095  
the prosecuting attorney's request, whichever is applicable. 2096

~~(f)~~(g) If a person who has been sentenced to death and who 2097  
files a petition for postconviction relief under division (A) of 2098  
this section requests postconviction discovery as described in 2099  
division (A) (1) ~~(d)~~(e) of this section or if the prosecuting 2100  
attorney of the county served by the court requests 2101  
postconviction discovery as described in that division, upon 2102  
motion by the petitioner, the prosecuting attorney, or the 2103  
person from whom discovery is sought, and for good cause shown, 2104  
the court in which the action is pending may make any order that 2105  
justice requires to protect a party or person from oppression or 2106  
undue burden or expense, including but not limited to the orders 2107  
described in divisions (A) (1) ~~(g)~~(h) (i) to (viii) of this 2108  
section. The court also may make any such order if, in its 2109  
discretion, it determines that the discovery sought would be 2110  
irrelevant to the claims made in the petition; and if the court 2111  
makes any such order on that basis, it shall explain in the 2112  
order the reasons why the discovery would be irrelevant. 2113

~~(g)~~(h) If a petitioner, prosecuting attorney, or person 2114  
from whom discovery is sought makes a motion for an order under 2115  
division (A) (1) ~~(f)~~(g) of this section and the order is denied in 2116  
whole or in part, the court, on terms and conditions as are 2117  
just, may order that any party or person provide or permit 2118  
discovery as described in division (A) (1) ~~(d)~~(e) of this section. 2119  
The provisions of Civil Rule 37(A) (4) apply to the award of 2120  
expenses incurred in relation to the motion, except that in no 2121  
case shall a court require a petitioner who is indigent to pay 2122  
expenses under those provisions. 2123

Before any person moves for an order under division (A) (1) 2124  
~~(f)~~(g) of this section, that person shall make a reasonable 2125  
effort to resolve the matter through discussion with the 2126  
petitioner or prosecuting attorney seeking discovery. A motion 2127  
for an order under division (A) (1) ~~(f)~~(g) of this section shall 2128  
be accompanied by a statement reciting the effort made to 2129  
resolve the matter in accordance with this paragraph. 2130

The orders that may be made under division (A) (1) ~~(f)~~(g) of 2131  
this section include, but are not limited to, any of the 2132  
following: 2133

(i) That the discovery not be had; 2134

(ii) That the discovery may be had only on specified terms 2135  
and conditions, including a designation of the time or place; 2136

(iii) That the discovery may be had only by a method of 2137  
discovery other than that selected by the party seeking 2138  
discovery; 2139

(iv) That certain matters not be inquired into or that the 2140  
scope of the discovery be limited to certain matters; 2141

(v) That discovery be conducted with no one present except 2142



persons designated by the court; 2143

(vi) That a deposition after being sealed be opened only 2144  
by order of the court; 2145

(vii) That a trade secret or other confidential research, 2146  
development, or commercial information not be disclosed or be 2147  
disclosed only in a designated way; 2148

(viii) That the parties simultaneously file specified 2149  
documents or information enclosed in sealed envelopes to be 2150  
opened as directed by the court. 2151

~~(h)~~ (i) Any postconviction discovery authorized under 2152  
division (A) (1) ~~(d)~~ (e) of this section shall be completed not 2153  
later than eighteen months after the start of the discovery 2154  
proceedings unless, for good cause shown, the court extends that 2155  
period for completing the discovery. 2156

~~(i)~~ (j) Nothing in division (A) (1) ~~(d)~~ (e) of this section 2157  
authorizes, or shall be construed as authorizing, the 2158  
relitigation, or discovery in support of relitigation, of any 2159  
matter barred by the doctrine of res judicata. 2160

~~(j)~~ (k) Division (A) (1) of this section does not apply to 2161  
any person who has been convicted of a criminal offense and 2162  
sentenced to death and who has unsuccessfully raised the same 2163  
claims in a petition for postconviction relief. 2164

(2) (a) Except as otherwise provided in section 2953.23 of 2165  
the Revised Code, a petition under division (A) (1) (a) (i), (ii), 2166  
or (iii) of this section shall be filed no later than three 2167  
hundred sixty-five days after the date on which the trial 2168  
transcript is filed in the court of appeals in the direct appeal 2169  
of the judgment of conviction or adjudication or, if the direct 2170  
appeal involves a sentence of death, the date on which the trial 2171

transcript is filed in the supreme court. If no appeal is taken, 2172  
except as otherwise provided in section 2953.23 of the Revised 2173  
Code, the petition shall be filed no later than three hundred 2174  
sixty-five days after the expiration of the time for filing the 2175  
appeal. 2176

(b) Except as otherwise provided in section 2953.23 of the 2177  
Revised Code, a petition under division (A) (1) (a) (iv) of this 2178  
section shall be filed not later than three hundred sixty-five 2179  
days after the effective date of this amendment. 2180

(3) (a) In a petition filed under division (A) (1) (a) (i), 2181  
(ii), or (iii) of this section, a person who has been sentenced 2182  
to death may ask the court to render void or voidable the 2183  
judgment with respect to the conviction of aggravated murder or 2184  
the specification of an aggravating circumstance or the sentence 2185  
of death. 2186

(b) A person sentenced to death who files a petition under 2187  
division (A) (1) (a) (iv) of this section may ask the court to 2188  
render void the sentence of death and to order the resentencing 2189  
of the person under division (A) of section 2929.06 of the 2190  
Revised Code. If a person sentenced to death files such a 2191  
petition and asks the court to render void the sentence of death 2192  
and to order the resentencing of the person under division (A) 2193  
of section 2929.06 of the Revised Code, the act of filing the 2194  
petition constitutes a waiver of any right to be sentenced under 2195  
the law that existed at the time the offense was committed and 2196  
constitutes consent to be sentenced to life imprisonment without 2197  
parole under division (A) of section 2929.06 of the Revised 2198  
Code. 2199

(4) A petitioner shall state in the original or amended 2200  
petition filed under division (A) of this section all grounds 2201

for relief claimed by the petitioner. Except as provided in 2202  
section 2953.23 of the Revised Code, any ground for relief that 2203  
is not so stated in the petition is waived. 2204

(5) If the petitioner in a petition filed under division 2205  
(A) (1)(a)(i), (ii), or (iii) of this section was convicted of or 2206  
pleaded guilty to a felony, the petition may include a claim 2207  
that the petitioner was denied the equal protection of the laws 2208  
in violation of the Ohio Constitution or the United States 2209  
Constitution because the sentence imposed upon the petitioner 2210  
for the felony was part of a consistent pattern of disparity in 2211  
sentencing by the judge who imposed the sentence, with regard to 2212  
the petitioner's race, gender, ethnic background, or religion. 2213  
If the supreme court adopts a rule requiring a court of common 2214  
pleas to maintain information with regard to an offender's race, 2215  
gender, ethnic background, or religion, the supporting evidence 2216  
for the petition shall include, but shall not be limited to, a 2217  
copy of that type of information relative to the petitioner's 2218  
sentence and copies of that type of information relative to 2219  
sentences that the same judge imposed upon other persons. 2220

(6) Notwithstanding any law or court rule to the contrary, 2221  
there is no limit on the number of pages in, or on the length 2222  
of, a petition filed under division (A) (1)(a)(i), (ii), (iii), 2223  
or (iv) of this section by a person who has been sentenced to 2224  
death. If any court rule specifies a limit on the number of 2225  
pages in, or on the length of, a petition filed under division 2226  
(A) (1)(a)(i), (ii), (iii), or (iv) of this section or on a 2227  
prosecuting attorney's response to such a petition by answer or 2228  
motion and a person who has been sentenced to death files a 2229  
petition that exceeds the limit specified for the petition, the 2230  
prosecuting attorney may respond by an answer or motion that 2231  
exceeds the limit specified for the response. 2232

(B) The clerk of the court in which the petition for 2233  
postconviction relief and, if applicable, a request for 2234  
postconviction discovery described in division (A) (1) ~~(d)~~ (e) of 2235  
this section is filed shall docket the petition and the request 2236  
and bring them promptly to the attention of the court. The clerk 2237  
of the court in which the petition for postconviction relief 2238  
and, if applicable, a request for postconviction discovery 2239  
described in division (A) (1) ~~(d)~~ (e) of this section is filed 2240  
immediately shall forward a copy of the petition and a copy of 2241  
the request if filed by the petitioner to the prosecuting 2242  
attorney of the county served by the court. If the request for 2243  
postconviction discovery is filed by the prosecuting attorney, 2244  
the clerk of the court immediately shall forward a copy of the 2245  
request to the petitioner or the petitioner's counsel. 2246

(C) If a person who has been sentenced to death and who 2247  
files a petition for postconviction relief under division (A) (1) 2248  
(a) (i), (ii), (iii), or (iv) of this section requests a 2249  
deposition or the prosecuting attorney in the case requests a 2250  
deposition, and if the court grants the request under division 2251  
(A) (1) ~~(d)~~ (e) of this section, the court shall notify the 2252  
petitioner or the petitioner's counsel and the prosecuting 2253  
attorney. The deposition shall be conducted pursuant to 2254  
divisions (B), (D), and (E) of Criminal Rule 15. Notwithstanding 2255  
division (C) of Criminal Rule 15, the petitioner is not entitled 2256  
to attend the deposition. The prosecuting attorney shall be 2257  
permitted to attend and participate in any deposition. 2258

(D) The court shall consider a petition that is timely 2259  
filed ~~under~~ within the period specified in division (A) (2) of 2260  
this section even if a direct appeal of the judgment is pending. 2261  
Before granting a hearing on a petition filed under division (A) 2262  
(1) (a) (i), (ii), (iii), or (iv) of this section, the court shall 2263

determine whether there are substantive grounds for relief. In 2264  
making such a determination, the court shall consider, in 2265  
addition to the petition, the supporting affidavits, and the 2266  
documentary evidence, all the files and records pertaining to 2267  
the proceedings against the petitioner, including, but not 2268  
limited to, the indictment, the court's journal entries, the 2269  
journalized records of the clerk of the court, and the court 2270  
reporter's transcript. The court reporter's transcript, if 2271  
ordered and certified by the court, shall be taxed as court 2272  
costs. If the court dismisses the petition, it shall make and 2273  
file findings of fact and conclusions of law with respect to 2274  
such dismissal. If the petition was filed by a person who has 2275  
been sentenced to death, the findings of fact and conclusions of 2276  
law shall state specifically the reasons for the dismissal of 2277  
the petition and of each claim it contains. 2278

(E) Within ten days after the docketing of the petition, 2279  
or within any further time that the court may fix for good cause 2280  
shown, the prosecuting attorney shall respond by answer or 2281  
motion. Division (A) (6) of this section applies with respect to 2282  
the prosecuting attorney's response. Within twenty days from the 2283  
date the issues are raised, either party may move for summary 2284  
judgment. The right to summary judgment shall appear on the face 2285  
of the record. 2286

(F) Unless the petition and the files and records of the 2287  
case show the petitioner is not entitled to relief, the court 2288  
shall proceed to a prompt hearing on the issues even if a direct 2289  
appeal of the case is pending. If the court notifies the parties 2290  
that it has found grounds for granting relief, either party may 2291  
request an appellate court in which a direct appeal of the 2292  
judgment is pending to remand the pending case to the court. 2293

With respect to a petition filed under division (A) (1) (a) 2294  
(iv) of this section, the procedures and rules regarding 2295  
introduction of evidence and burden of proof at the pretrial 2296  
hearing that are set forth in divisions (C), (D), and (F) of 2297  
section 2929.025 of the Revised Code apply in considering the 2298  
petition. With respect to such a petition, the grounds for 2299  
granting relief are that the person has been diagnosed with one 2300  
or more of the conditions set forth in division (A) (1) (a) of 2301  
section 2929.025 of the Revised Code and that, at the time of 2302  
the aggravated murder that was the basis of the sentence of 2303  
death, the condition or conditions significantly impaired the 2304  
person's capacity in a manner described in division (A) (1) (b) of 2305  
that section. 2306

(G) A petitioner who files a petition under division (A) 2307  
(1) (a) (i), (ii), (iii), or (iv) of this section may amend the 2308  
petition as follows: 2309

(1) If the petition was filed by a person who has been 2310  
sentenced to death, at any time that is not later than one 2311  
hundred eighty days after the petition is filed, the petitioner 2312  
may amend the petition with or without leave or prejudice to the 2313  
proceedings. 2314

(2) If division (G) (1) of this section does not apply, at 2315  
any time before the answer or motion is filed, the petitioner 2316  
may amend the petition with or without leave or prejudice to the 2317  
proceedings. 2318

(3) The petitioner may amend the petition with leave of 2319  
court at any time after the expiration of the applicable period 2320  
specified in division (G) (1) or (2) of this section. 2321

(H) If the court does not find grounds for granting 2322

relief, it shall make and file findings of fact and conclusions 2323  
of law and shall enter judgment denying relief on the petition. 2324  
If the petition was filed by a person who has been sentenced to 2325  
death, the findings of fact and conclusions of law shall state 2326  
specifically the reasons for the denial of relief on the 2327  
petition and of each claim it contains. If no direct appeal of 2328  
the case is pending and the court finds grounds for relief or if 2329  
a pending direct appeal of the case has been remanded to the 2330  
court pursuant to a request made pursuant to division (F) of 2331  
this section and the court finds grounds for granting relief, it 2332  
shall make and file findings of fact and conclusions of law and 2333  
shall enter a judgment that vacates and sets aside the judgment 2334  
in question, and, in the case of a petitioner who is a prisoner 2335  
in custody, except as otherwise described in this division, 2336  
shall discharge or resentence the petitioner or grant a new 2337  
trial as the court determines appropriate. If the court finds 2338  
grounds for relief in the case of a petitioner who filed a 2339  
petition under division (A) (1) (a) (iv) of this section, the court 2340  
shall render void the sentence of death and order the 2341  
resentencing of the offender under division (A) of section 2342  
2929.06 of the Revised Code. If the petitioner has been 2343  
sentenced to death, the findings of fact and conclusions of law 2344  
shall state specifically the reasons for the finding of grounds 2345  
for granting the relief, with respect to each claim contained in 2346  
the petition. The court also may make supplementary orders to 2347  
the relief granted, concerning such matters as rearraignment, 2348  
retrial, custody, and bail. If the trial court's order granting 2349  
the petition is reversed on appeal and if the direct appeal of 2350  
the case has been remanded from an appellate court pursuant to a 2351  
request under division (F) of this section, the appellate court 2352  
reversing the order granting the petition shall notify the 2353  
appellate court in which the direct appeal of the case was 2354

pending at the time of the remand of the reversal and remand of 2355  
the trial court's order. Upon the reversal and remand of the 2356  
trial court's order granting the petition, regardless of whether 2357  
notice is sent or received, the direct appeal of the case that 2358  
was remanded is reinstated. 2359

(I) Upon the filing of a petition pursuant to division (A) 2360  
(1)(a)(i), (ii), (iii), or (iv) of this section by a person 2361  
sentenced to death, only the supreme court may stay execution of 2362  
the sentence of death. 2363

(J) (1) If a person sentenced to death intends to file a 2364  
petition under this section, the court shall appoint counsel to 2365  
represent the person upon a finding that the person is indigent 2366  
and that the person either accepts the appointment of counsel or 2367  
is unable to make a competent decision whether to accept or 2368  
reject the appointment of counsel. The court may decline to 2369  
appoint counsel for the person only upon a finding, after a 2370  
hearing if necessary, that the person rejects the appointment of 2371  
counsel and understands the legal consequences of that decision 2372  
or upon a finding that the person is not indigent. 2373

(2) The court shall not appoint as counsel under division 2374  
(J) (1) of this section an attorney who represented the 2375  
petitioner at trial in the case to which the petition relates 2376  
unless the person and the attorney expressly request the 2377  
appointment. The court shall appoint as counsel under division 2378  
(J) (1) of this section only an attorney who is certified under 2379  
Rule 20 of the Rules of Superintendence for the Courts of Ohio 2380  
to represent indigent defendants charged with or convicted of an 2381  
offense for which the death penalty can be or has been imposed. 2382  
The ineffectiveness or incompetence of counsel during 2383  
proceedings under this section does not constitute grounds for 2384



relief in a proceeding under this section, in an appeal of any 2385  
action under this section, or in an application to reopen a 2386  
direct appeal. 2387

(3) Division (J) of this section does not preclude 2388  
attorneys who represent the state of Ohio from invoking the 2389  
provisions of 28 U.S.C. 154 with respect to capital cases that 2390  
were pending in federal habeas corpus proceedings prior to July 2391  
1, 1996, insofar as the petitioners in those cases were 2392  
represented in proceedings under this section by one or more 2393  
counsel appointed by the court under this section or section 2394  
120.06, 120.16, 120.26, or 120.33 of the Revised Code and those 2395  
appointed counsel meet the requirements of division (J) (2) of 2396  
this section. 2397

(K) Subject to the appeal of a sentence for a felony that 2398  
is authorized by section 2953.08 of the Revised Code, the remedy 2399  
set forth in this section is the exclusive remedy by which a 2400  
person may bring a collateral challenge to the validity of a 2401  
conviction or sentence in a criminal case or to the validity of 2402  
an adjudication of a child as a delinquent child for the 2403  
commission of an act that would be a criminal offense if 2404  
committed by an adult or the validity of a related order of 2405  
disposition. 2406

**Sec. 2953.23.** (A) Whether a hearing is or is not held on a 2407  
petition filed pursuant to section 2953.21 of the Revised Code, 2408  
a court may not entertain a petition filed after the expiration 2409  
of the period prescribed in division (A) of that section or a 2410  
second petition or successive petitions for similar relief on 2411  
behalf of a petitioner unless division (A) (1) or (2) of this 2412  
section applies: 2413

(1) Both of the following apply: 2414

(a) Either the petitioner shows that the petitioner was 2415  
unavoidably prevented from discovery of the facts upon which the 2416  
petitioner must rely to present the claim for relief, or, 2417  
subsequent to the period prescribed in division (A) (2) of 2418  
section 2953.21 of the Revised Code or to the filing of an 2419  
earlier petition, the United States Supreme Court recognized a 2420  
new federal or state right that applies retroactively to persons 2421  
in the petitioner's situation, and the petition asserts a claim 2422  
based on that right. 2423

(b) The petitioner shows by clear and convincing evidence 2424  
that, but for constitutional error at trial, no reasonable 2425  
factfinder would have found the petitioner guilty of the offense 2426  
of which the petitioner was convicted or, if the claim 2427  
challenges a sentence of death that, but for constitutional 2428  
error at the sentencing hearing, no reasonable factfinder would 2429  
have found the petitioner eligible for the death sentence. 2430

(2) The petitioner was convicted of a felony, the 2431  
petitioner is an offender for whom DNA testing was performed 2432  
under sections 2953.71 to 2953.81 of the Revised Code or under 2433  
former section 2953.82 of the Revised Code and analyzed in the 2434  
context of and upon consideration of all available admissible 2435  
evidence related to the inmate's case as described in division 2436  
(D) of section 2953.74 of the Revised Code, and the results of 2437  
the DNA testing establish, by clear and convincing evidence, 2438  
actual innocence of that felony offense or, if the person was 2439  
sentenced to death, establish, by clear and convincing evidence, 2440  
actual innocence of the aggravating circumstance or 2441  
circumstances the person was found guilty of committing and that 2442  
is or are the basis of that sentence of death. 2443

As used in this division, "actual innocence" has the same 2444

meaning as in division (A) (1) ~~(b)~~ (c) of section 2953.21 of the 2445  
Revised Code, and "former section 2953.82 of the Revised Code" 2446  
has the same meaning as in division (A) (1) ~~(e)~~ (d) of section 2447  
2953.21 of the Revised Code. 2448

(B) An order awarding or denying relief sought in a 2449  
petition filed pursuant to section 2953.21 of the Revised Code 2450  
is a final judgment and may be appealed pursuant to Chapter 2451  
2953. of the Revised Code. 2452

If a petition filed pursuant to section 2953.21 of the 2453  
Revised Code by a person who has been sentenced to death is 2454  
denied and the person appeals the judgment, notwithstanding any 2455  
law or court rule to the contrary, there is no limit on the 2456  
number of pages in, or on the length of, a notice of appeal or 2457  
briefs related to an appeal filed by the person. If any court 2458  
rule specifies a limit on the number of pages in, or on the 2459  
length of, a notice of appeal or briefs described in this 2460  
division or on a prosecuting attorney's response or briefs with 2461  
respect to such an appeal and a person who has been sentenced to 2462  
death files a notice of appeal or briefs that exceed the limit 2463  
specified for the petition, the prosecuting attorney may file a 2464  
response or briefs that exceed the limit specified for the 2465  
answer or briefs. 2466

**Sec. 2971.03.** (A) Notwithstanding divisions (A) and (D) of 2467  
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 2468  
another section of the Revised Code, other than divisions (B) 2469  
and (C) of section 2929.14 of the Revised Code, that authorizes 2470  
or requires a specified prison term or a mandatory prison term 2471  
for a person who is convicted of or pleads guilty to a felony or 2472  
that specifies the manner and place of service of a prison term 2473  
or term of imprisonment, the court shall impose a sentence upon 2474

a person who is convicted of or pleads guilty to a violent sex 2475  
offense and who also is convicted of or pleads guilty to a 2476  
sexually violent predator specification that was included in the 2477  
indictment, count in the indictment, or information charging 2478  
that offense, and upon a person who is convicted of or pleads 2479  
guilty to a designated homicide, assault, or kidnapping offense 2480  
and also is convicted of or pleads guilty to both a sexual 2481  
motivation specification and a sexually violent predator 2482  
specification that were included in the indictment, count in the 2483  
indictment, or information charging that offense, as follows: 2484

(1) If the offense for which the sentence is being imposed 2485  
is aggravated murder and if the court does not impose upon the 2486  
offender a sentence of death, it shall impose upon the offender 2487  
a term of life imprisonment without parole. If the court 2488  
sentences the offender to death and the sentence of death is 2489  
vacated, overturned, or otherwise set aside, the court shall 2490  
impose upon the offender a term of life imprisonment without 2491  
parole. 2492

(2) If the offense for which the sentence is being imposed 2493  
is murder; or if the offense is rape committed in violation of 2494  
division (A) (1) (b) of section 2907.02 of the Revised Code when 2495  
the offender purposely compelled the victim to submit by force 2496  
or threat of force, when the victim was less than ten years of 2497  
age, when the offender previously has been convicted of or 2498  
pleaded guilty to either rape committed in violation of that 2499  
division or a violation of an existing or former law of this 2500  
state, another state, or the United States that is substantially 2501  
similar to division (A) (1) (b) of section 2907.02 of the Revised 2502  
Code, or when the offender during or immediately after the 2503  
commission of the rape caused serious physical harm to the 2504  
victim; or if the offense is an offense other than aggravated 2505

murder or murder for which a term of life imprisonment may be 2506  
imposed, it shall impose upon the offender a term of life 2507  
imprisonment without parole. 2508

(3) (a) Except as otherwise provided in division (A) (3) (b), 2509  
(c), (d), or (e) or (A) (4) of this section, if the offense for 2510  
which the sentence is being imposed is an offense other than 2511  
aggravated murder, murder, or rape and other than an offense for 2512  
which a term of life imprisonment may be imposed, it shall 2513  
impose an indefinite prison term consisting of a minimum term 2514  
fixed by the court as described in this division, but not less 2515  
than two years, and a maximum term of life imprisonment. Except 2516  
as otherwise specified in this division, the minimum term shall 2517  
be fixed by the court from among the range of terms available as 2518  
a definite term for the offense. If the offense is a felony of 2519  
the first or second degree committed on or after ~~the effective~~ 2520  
~~date of this amendment~~ March 22, 2019, the minimum term shall be 2521  
fixed by the court from among the range of terms available as a 2522  
minimum term for the offense under division (A) (1) (a) or (2) (a) 2523  
of that section. 2524

(b) Except as otherwise provided in division (A) (4) of 2525  
this section, if the offense for which the sentence is being 2526  
imposed is kidnapping that is a felony of the first degree, it 2527  
shall impose an indefinite prison term as follows: 2528

(i) If the kidnapping is committed on or after January 1, 2529  
2008, and the victim of the offense is less than thirteen years 2530  
of age, except as otherwise provided in this division, it shall 2531  
impose an indefinite prison term consisting of a minimum term of 2532  
fifteen years and a maximum term of life imprisonment. If the 2533  
kidnapping is committed on or after January 1, 2008, the victim 2534  
of the offense is less than thirteen years of age, and the 2535

offender released the victim in a safe place unharmed, it shall 2536  
impose an indefinite prison term consisting of a minimum term of 2537  
ten years and a maximum term of life imprisonment. 2538

(ii) If the kidnapping is committed prior to January 1, 2539  
2008, or division (A) (3) (b) (i) of this section does not apply, 2540  
it shall impose an indefinite term consisting of a minimum term 2541  
fixed by the court that is not less than ten years and a maximum 2542  
term of life imprisonment. 2543

(c) Except as otherwise provided in division (A) (4) of 2544  
this section, if the offense for which the sentence is being 2545  
imposed is kidnapping that is a felony of the second degree, it 2546  
shall impose an indefinite prison term consisting of a minimum 2547  
term fixed by the court that is not less than eight years, and a 2548  
maximum term of life imprisonment. 2549

(d) Except as otherwise provided in division (A) (4) of 2550  
this section, if the offense for which the sentence is being 2551  
imposed is rape for which a term of life imprisonment is not 2552  
imposed under division (A) (2) of this section or division (B) of 2553  
section 2907.02 of the Revised Code, it shall impose an 2554  
indefinite prison term as follows: 2555

(i) If the rape is committed on or after January 2, 2007, 2556  
in violation of division (A) (1) (b) of section 2907.02 of the 2557  
Revised Code, it shall impose an indefinite prison term 2558  
consisting of a minimum term of twenty-five years and a maximum 2559  
term of life imprisonment. 2560

(ii) If the rape is committed prior to January 2, 2007, or 2561  
the rape is committed on or after January 2, 2007, other than in 2562  
violation of division (A) (1) (b) of section 2907.02 of the 2563  
Revised Code, it shall impose an indefinite prison term 2564

consisting of a minimum term fixed by the court that is not less 2565  
than ten years, and a maximum term of life imprisonment. 2566

(e) Except as otherwise provided in division (A) (4) of 2567  
this section, if the offense for which sentence is being imposed 2568  
is attempted rape, it shall impose an indefinite prison term as 2569  
follows: 2570

(i) Except as otherwise provided in division (A) (3) (e) 2571  
(ii), (iii), or (iv) of this section, it shall impose an 2572  
indefinite prison term pursuant to division (A) (3) (a) of this 2573  
section. 2574

(ii) If the attempted rape for which sentence is being 2575  
imposed was committed on or after January 2, 2007, and if the 2576  
offender also is convicted of or pleads guilty to a 2577  
specification of the type described in section 2941.1418 of the 2578  
Revised Code, it shall impose an indefinite prison term 2579  
consisting of a minimum term of five years and a maximum term of 2580  
twenty-five years. 2581

(iii) If the attempted rape for which sentence is being 2582  
imposed was committed on or after January 2, 2007, and if the 2583  
offender also is convicted of or pleads guilty to a 2584  
specification of the type described in section 2941.1419 of the 2585  
Revised Code, it shall impose an indefinite prison term 2586  
consisting of a minimum term of ten years and a maximum of life 2587  
imprisonment. 2588

(iv) If the attempted rape for which sentence is being 2589  
imposed was committed on or after January 2, 2007, and if the 2590  
offender also is convicted of or pleads guilty to a 2591  
specification of the type described in section 2941.1420 of the 2592  
Revised Code, it shall impose an indefinite prison term 2593

consisting of a minimum term of fifteen years and a maximum of 2594  
life imprisonment. 2595

(4) For any offense for which the sentence is being 2596  
imposed, if the offender previously has been convicted of or 2597  
pleaded guilty to a violent sex offense and also to a sexually 2598  
violent predator specification that was included in the 2599  
indictment, count in the indictment, or information charging 2600  
that offense, or previously has been convicted of or pleaded 2601  
guilty to a designated homicide, assault, or kidnapping offense 2602  
and also to both a sexual motivation specification and a 2603  
sexually violent predator specification that were included in 2604  
the indictment, count in the indictment, or information charging 2605  
that offense, it shall impose upon the offender a term of life 2606  
imprisonment without parole. 2607

(B) (1) Notwithstanding section 2929.13, division (A) or 2608  
(D) of section 2929.14, or another section of the Revised Code 2609  
other than division (B) of section 2907.02 or divisions (B) and 2610  
(C) of section 2929.14 of the Revised Code that authorizes or 2611  
requires a specified prison term or a mandatory prison term for 2612  
a person who is convicted of or pleads guilty to a felony or 2613  
that specifies the manner and place of service of a prison term 2614  
or term of imprisonment, if a person is convicted of or pleads 2615  
guilty to a violation of division (A) (1) (b) of section 2907.02 2616  
of the Revised Code committed on or after January 2, 2007, if 2617  
division (A) of this section does not apply regarding the 2618  
person, and if the court does not impose a sentence of life 2619  
without parole when authorized pursuant to division (B) of 2620  
section 2907.02 of the Revised Code, the court shall impose upon 2621  
the person an indefinite prison term consisting of one of the 2622  
following: 2623



(a) Except as otherwise required in division (B) (1) (b) or 2624  
(c) of this section, a minimum term of ten years and a maximum 2625  
term of life imprisonment. 2626

(b) If the victim was less than ten years of age, a 2627  
minimum term of fifteen years and a maximum of life 2628  
imprisonment. 2629

(c) If the offender purposely compels the victim to submit 2630  
by force or threat of force, or if the offender previously has 2631  
been convicted of or pleaded guilty to violating division (A) (1) 2632  
(b) of section 2907.02 of the Revised Code or to violating an 2633  
existing or former law of this state, another state, or the 2634  
United States that is substantially similar to division (A) (1) 2635  
(b) of that section, or if the offender during or immediately 2636  
after the commission of the offense caused serious physical harm 2637  
to the victim, a minimum term of twenty-five years and a maximum 2638  
of life imprisonment. 2639

(2) Notwithstanding section 2929.13, division (A) or (D) 2640  
of section 2929.14, or another section of the Revised Code other 2641  
than divisions (B) and (C) of section 2929.14 of the Revised 2642  
Code that authorizes or requires a specified prison term or a 2643  
mandatory prison term for a person who is convicted of or pleads 2644  
guilty to a felony or that specifies the manner and place of 2645  
service of a prison term or term of imprisonment and except as 2646  
otherwise provided in division (B) of section 2907.02 of the 2647  
Revised Code, if a person is convicted of or pleads guilty to 2648  
attempted rape committed on or after January 2, 2007, and if 2649  
division (A) of this section does not apply regarding the 2650  
person, the court shall impose upon the person an indefinite 2651  
prison term consisting of one of the following: 2652

(a) If the person also is convicted of or pleads guilty to 2653

a specification of the type described in section 2941.1418 of 2654  
the Revised Code, the court shall impose upon the person an 2655  
indefinite prison term consisting of a minimum term of five 2656  
years and a maximum term of twenty-five years. 2657

(b) If the person also is convicted of or pleads guilty to 2658  
a specification of the type described in section 2941.1419 of 2659  
the Revised Code, the court shall impose upon the person an 2660  
indefinite prison term consisting of a minimum term of ten years 2661  
and a maximum term of life imprisonment. 2662

(c) If the person also is convicted of or pleads guilty to 2663  
a specification of the type described in section 2941.1420 of 2664  
the Revised Code, the court shall impose upon the person an 2665  
indefinite prison term consisting of a minimum term of fifteen 2666  
years and a maximum term of life imprisonment. 2667

(3) Notwithstanding section 2929.13, division (A) or (D) 2668  
of section 2929.14, or another section of the Revised Code other 2669  
than divisions (B) and (C) of section 2929.14 of the Revised 2670  
Code that authorizes or requires a specified prison term or a 2671  
mandatory prison term for a person who is convicted of or pleads 2672  
guilty to a felony or that specifies the manner and place of 2673  
service of a prison term or term of imprisonment, if a person is 2674  
convicted of or pleads guilty to an offense described in 2675  
division (B) (3) (a), (b), (c), or (d) of this section committed 2676  
on or after January 1, 2008, if the person also is convicted of 2677  
or pleads guilty to a sexual motivation specification that was 2678  
included in the indictment, count in the indictment, or 2679  
information charging that offense, and if division (A) of this 2680  
section does not apply regarding the person, the court shall 2681  
impose upon the person an indefinite prison term consisting of 2682  
one of the following: 2683

(a) An indefinite prison term consisting of a minimum of 2684  
ten years and a maximum term of life imprisonment if the offense 2685  
for which the sentence is being imposed is kidnapping, the 2686  
victim of the offense is less than thirteen years of age, and 2687  
the offender released the victim in a safe place unharmed; 2688

(b) An indefinite prison term consisting of a minimum of 2689  
fifteen years and a maximum term of life imprisonment if the 2690  
offense for which the sentence is being imposed is kidnapping 2691  
when the victim of the offense is less than thirteen years of 2692  
age and division (B) (3) (a) of this section does not apply; 2693

(c) An indefinite term consisting of a minimum of thirty 2694  
years and a maximum term of life imprisonment if the offense for 2695  
which the sentence is being imposed is aggravated murder, when 2696  
the victim of the offense is less than thirteen years of age, a 2697  
sentence of death or life imprisonment without parole is not 2698  
imposed for the offense, and division (A) (2) (b) (ii) of section 2699  
2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) 2700  
(2) (b), (D) (3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, 2701  
or division (A) or (B) of section 2929.06 of the Revised Code 2702  
requires that the sentence for the offense be imposed pursuant 2703  
to this division; 2704

(d) An indefinite prison term consisting of a minimum of 2705  
thirty years and a maximum term of life imprisonment if the 2706  
offense for which the sentence is being imposed is murder when 2707  
the victim of the offense is less than thirteen years of age. 2708

(C) (1) If the offender is sentenced to a prison term 2709  
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 2710  
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 2711  
parole board shall have control over the offender's service of 2712  
the term during the entire term unless the parole board 2713

terminates its control in accordance with section 2971.04 of the Revised Code.

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

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

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

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

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

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

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

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

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

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

(F) (1) If an offender is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that offense, or is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation

specification and a sexually violent predator specification that 2773  
were included in the indictment, count in the indictment, or 2774  
information charging that offense, the conviction of or plea of 2775  
guilty to the offense and the sexually violent predator 2776  
specification automatically classifies the offender as a tier 2777  
III sex offender/child-victim offender for purposes of Chapter 2778  
2950. of the Revised Code. 2779

(2) If an offender is convicted of or pleads guilty to 2780  
committing on or after January 2, 2007, a violation of division 2781  
(A) (1) (b) of section 2907.02 of the Revised Code and either the 2782  
offender is sentenced under section 2971.03 of the Revised Code 2783  
or a sentence of life without parole is imposed under division 2784  
(B) of section 2907.02 of the Revised Code, the conviction of or 2785  
plea of guilty to the offense automatically classifies the 2786  
offender as a tier III sex offender/child-victim offender for 2787  
purposes of Chapter 2950. of the Revised Code. 2788

(3) If a person is convicted of or pleads guilty to 2789  
committing on or after January 2, 2007, attempted rape and also 2790  
is convicted of or pleads guilty to a specification of the type 2791  
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2792  
Revised Code, the conviction of or plea of guilty to the offense 2793  
and the specification automatically classify the offender as a 2794  
tier III sex offender/child-victim offender for purposes of 2795  
Chapter 2950. of the Revised Code. 2796

(4) If a person is convicted of or pleads guilty to one of 2797  
the offenses described in division (B) (3) (a), (b), (c), or (d) 2798  
of this section and a sexual motivation specification related to 2799  
the offense and the victim of the offense is less than thirteen 2800  
years of age, the conviction of or plea of guilty to the offense 2801  
automatically classifies the offender as a tier III sex 2802

offender/child-victim offender for purposes of Chapter 2950. of 2803  
the Revised Code. 2804

**Sec. 2971.07.** (A) This chapter does not apply to any 2805  
offender unless the offender is one of the following: 2806

(1) The offender is convicted of or pleads guilty to a 2807  
violent sex offense and also is convicted of or pleads guilty to 2808  
a sexually violent predator specification that was included in 2809  
the indictment, count in the indictment, or information charging 2810  
that offense. 2811

(2) The offender is convicted of or pleads guilty to a 2812  
designated homicide, assault, or kidnapping offense and also is 2813  
convicted of or pleads guilty to both a sexual motivation 2814  
specification and a sexually violent predator specification that 2815  
were included in the indictment, count in the indictment, or 2816  
information charging that offense. 2817

(3) The offender is convicted of or pleads guilty to a 2818  
violation of division (A) (1) (b) of section 2907.02 of the 2819  
Revised Code committed on or after January 2, 2007, and the 2820  
court does not sentence the offender to a term of life without 2821  
parole pursuant to division (B) of section 2907.02 of the 2822  
Revised Code or division (B) of that section prohibits the court 2823  
from sentencing the offender pursuant to section 2971.03 of the 2824  
Revised Code. 2825

(4) The offender is convicted of or pleads guilty to 2826  
attempted rape committed on or after January 2, 2007, and also 2827  
is convicted of or pleads guilty to a specification of the type 2828  
described in section 2941.1418, 2941.1419, or 2941.1420 of the 2829  
Revised Code. 2830

(5) The offender is convicted of or pleads guilty to a 2831

violation of section 2905.01 of the Revised Code and also is 2832  
convicted of or pleads guilty to a sexual motivation 2833  
specification that was included in the indictment, count in the 2834  
indictment, or information charging that offense, and that 2835  
section requires a court to sentence the offender pursuant to 2836  
section 2971.03 of the Revised Code. 2837

(6) The offender is convicted of or pleads guilty to 2838  
aggravated murder and also is convicted of or pleads guilty to a 2839  
sexual motivation specification that was included in the 2840  
indictment, count in the indictment, or information charging 2841  
that offense, and division (A) (2) (b) (ii) of section 2929.022, 2842  
division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) (ii), (D) (2) (b), (D) 2843  
(3) (a) (iv), or (E) (1) ~~(d)~~ (a) (iv) of section 2929.03, or division 2844  
(A) or (B) of section 2929.06 of the Revised Code requires a 2845  
court to sentence the offender pursuant to division (B) (3) of 2846  
section 2971.03 of the Revised Code. 2847

(7) The offender is convicted of or pleads guilty to 2848  
murder and also is convicted of or pleads guilty to a sexual 2849  
motivation specification that was included in the indictment, 2850  
count in the indictment, or information charging that offense, 2851  
and division (B) (2) of section 2929.02 of the Revised Code 2852  
requires a court to sentence the offender pursuant to section 2853  
2971.03 of the Revised Code. 2854

(B) This chapter does not limit or affect a court in 2855  
imposing upon an offender described in divisions (A) (1) to (9) 2856  
of this section any financial sanction under section 2929.18 or 2857  
any other section of the Revised Code, or, except as 2858  
specifically provided in this chapter, any other sanction that 2859  
is authorized or required for the offense or violation by any 2860  
other provision of law. 2861



(C) If an offender is sentenced to a prison term under 2862  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2863  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2864  
Code and if, pursuant to section 2971.05 of the Revised Code, 2865  
the court modifies the requirement that the offender serve the 2866  
entire prison term in a state correctional institution or places 2867  
the offender on conditional release that involves the placement 2868  
of the offender under the supervision of the adult parole 2869  
authority, authorized field officers of the authority who are 2870  
engaged within the scope of their supervisory duties or 2871  
responsibilities may search, with or without a warrant, the 2872  
person of the offender, the place of residence of the offender, 2873  
and a motor vehicle, another item of tangible or intangible 2874  
personal property, or any other real property in which the 2875  
offender has the express or implied permission of a person with 2876  
a right, title, or interest to use, occupy, or possess if the 2877  
field officer has reasonable grounds to believe that the 2878  
offender is not abiding by the law or otherwise is not complying 2879  
with the terms and conditions of the offender's modification or 2880  
release. The authority shall provide each offender with a 2881  
written notice that informs the offender that authorized field 2882  
officers of the authority who are engaged within the scope of 2883  
their supervisory duties or responsibilities may conduct those 2884  
types of searches during the period of the modification or 2885  
release if they have reasonable grounds to believe that the 2886  
offender is not abiding by the law or otherwise is not complying 2887  
with the terms and conditions of the offender's modification or 2888  
release. 2889

**Sec. 5120.61.** (A) (1) Not later than ninety days after 2890  
January 1, 1997, the department of rehabilitation and correction 2891  
shall adopt standards that it will use under this section to 2892

assess the following criminal offenders and may periodically 2893  
revise the standards: 2894

(a) A criminal offender who is convicted of or pleads 2895  
guilty to a violent sex offense or designated homicide, assault, 2896  
or kidnapping offense and is adjudicated a sexually violent 2897  
predator in relation to that offense; 2898

(b) A criminal offender who is convicted of or pleads 2899  
guilty to a violation of division (A) (1) (b) of section 2907.02 2900  
of the Revised Code committed on or after January 2, 2007, and 2901  
either who is sentenced under section 2971.03 of the Revised 2902  
Code or upon whom a sentence of life without parole is imposed 2903  
under division (B) of section 2907.02 of the Revised Code; 2904

(c) A criminal offender who is convicted of or pleads 2905  
guilty to attempted rape committed on or after January 2, 2007, 2906  
and a specification of the type described in section 2941.1418, 2907  
2941.1419, or 2941.1420 of the Revised Code; 2908

(d) A criminal offender who is convicted of or pleads 2909  
guilty to a violation of section 2905.01 of the Revised Code and 2910  
also is convicted of or pleads guilty to a sexual motivation 2911  
specification that was included in the indictment, count in the 2912  
indictment, or information charging that offense, and who is 2913  
sentenced pursuant to section 2971.03 of the Revised Code; 2914

(e) A criminal offender who is convicted of or pleads 2915  
guilty to aggravated murder and also is convicted of or pleads 2916  
guilty to a sexual motivation specification that was included in 2917  
the indictment, count in the indictment, or information charging 2918  
that offense, and who pursuant to division (A) (2) (b) (ii) of 2919  
section 2929.022, division (A) (1) (e), (C) (1) (a) (v), (C) (2) (a) 2920  
(ii), (D) (2) (b), (D) (3) (a) (iv), or ~~(E) (1) (d)~~ (E) (1) (a) (iv) of 2921

section 2929.03, or division (A) or (B) of section 2929.06 of 2922  
the Revised Code is sentenced pursuant to division (B) (3) of 2923  
section 2971.03 of the Revised Code; 2924

(f) A criminal offender who is convicted of or pleads 2925  
guilty to murder and also is convicted of or pleads guilty to a 2926  
sexual motivation specification that was included in the 2927  
indictment, count in the indictment, or information charging 2928  
that offense, and who pursuant to division (B) (2) of section 2929  
2929.02 of the Revised Code is sentenced pursuant to section 2930  
2971.03 of the Revised Code. 2931

(2) When the department is requested by the parole board 2932  
or the court to provide a risk assessment report of the offender 2933  
under section 2971.04 or 2971.05 of the Revised Code, it shall 2934  
assess the offender and complete the assessment as soon as 2935  
possible after the offender has commenced serving the prison 2936  
term or term of life imprisonment without parole imposed under 2937  
division (A), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or 2938  
(B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2939  
Code. Thereafter, the department shall update a risk assessment 2940  
report pertaining to an offender as follows: 2941

(a) Periodically, in the discretion of the department, 2942  
provided that each report shall be updated no later than two 2943  
years after its initial preparation or most recent update; 2944

(b) Upon the request of the parole board for use in 2945  
determining pursuant to section 2971.04 of the Revised Code 2946  
whether it should terminate its control over an offender's 2947  
service of a prison term imposed upon the offender under 2948  
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 2949  
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 2950  
Code; 2951

(c) Upon the request of the court. 2952

(3) After the department of rehabilitation and correction 2953  
assesses an offender pursuant to division (A) (2) of this 2954  
section, it shall prepare a report that contains its risk 2955  
assessment for the offender or, if a risk assessment report 2956  
previously has been prepared, it shall update the risk 2957  
assessment report. 2958

(4) The department of rehabilitation and correction shall 2959  
provide each risk assessment report that it prepares or updates 2960  
pursuant to this section regarding an offender to all of the 2961  
following: 2962

(a) The parole board for its use in determining pursuant 2963  
to section 2971.04 of the Revised Code whether it should 2964  
terminate its control over an offender's service of a prison 2965  
term imposed upon the offender under division (A) (3), (B) (1) (a), 2966  
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 2967  
(d) of section 2971.03 of the Revised Code, if the parole board 2968  
has not terminated its control over the offender; 2969

(b) The court for use in determining, pursuant to section 2970  
2971.05 of the Revised Code, whether to modify the requirement 2971  
that the offender serve the entire prison term imposed upon the 2972  
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 2973  
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 2974  
2971.03 of the Revised Code in a state correctional institution, 2975  
whether to revise any modification previously made, or whether 2976  
to terminate the prison term; 2977

(c) The prosecuting attorney who prosecuted the case, or 2978  
the successor in office to that prosecuting attorney; 2979

(d) The offender. 2980

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

(C) As used in this section:

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

(2) "Designated homicide, assault, or kidnapping offense"  
and "violent sex offense" have the same meanings as in section  
2971.01 of the Revised Code.

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

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

**Section 4.** Section 2929.14 of the Revised Code is  
presented in this act as a composite of the section as amended

by H.B. 63, S.B. 1, S.B. 20, and S.B. 201, all of the 132nd 3010  
General Assembly. The General Assembly, applying the principle 3011  
stated in division (B) of section 1.52 of the Revised Code that 3012  
amendments are to be harmonized if reasonably capable of 3013  
simultaneous operation, finds that the composite is the 3014  
resulting version of the section in effect prior to the 3015  
effective date of the section as presented in this act. 3016