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Representative Maag

Cosponsors: Representatives Becker, Zeltwanger, Henne, Anielski, Blessing, Boose, Brown, Buchy, Butler, Cera, Conditt, Duffey, Ginter, Green, Grossman, Hambley, Hayes, Johnson, T., Koehler, Kunze, Manning, McClain, O'Brien, M., O'Brien, S., Retherford, Rogers, Schuring, Smith, R., Terhar, Young, Speaker Rosenberger

A BILL

To amend sections 2929.03, 2929.04, 2929.14, 1
2941.148, 2971.03, 2971.07, and 5120.61 of the 2
Revised Code to change the sentence for 3
aggravated murder. 4

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

Section 1. That sections 2929.03, 2929.04, 2929.14, 5
2941.148, 2971.03, 2971.07, and 5120.61 of the Revised Code be 6
amended to read as follows: 7

Sec. 2929.03. (A) If the indictment or count in the 8
indictment charging aggravated murder does not contain one or 9
more specifications of aggravating circumstances listed in 10
division (A) of section 2929.04 of the Revised Code, then, 11
following a verdict of guilty of the charge of aggravated 12
murder, the trial court shall impose sentence on the offender as 13
follows: 14

(1) Except as provided in division (A) (2) of this section, 15

the trial court shall impose one of the following sentences on 16
the offender: 17

(a) Life imprisonment without parole; 18

(b) Subject to division (A) (1) ~~(e)~~ (j) of this section, 19
life imprisonment with parole eligibility after serving twenty 20
years of imprisonment; 21

(c) Subject to division (A) (1) ~~(e)~~ (j) of this section, 22
life imprisonment with parole eligibility after serving twenty 23
five full years of imprisonment; 24

(d) Subject to division (A) (1) ~~(e)~~ (j) of this section, 25
life imprisonment with parole eligibility after serving thirty 26
full years of imprisonment; 27

(e) ~~If~~ Subject to division (A) (1) (j) of this section, life 28
imprisonment with parole eligibility after serving thirty-five 29
full years of imprisonment; 30

(f) Subject to division (A) (1) (j) of this section, life 31
imprisonment with parole eligibility after serving forty full 32
years of imprisonment; 33

(g) Subject to division (A) (1) (j) of this section, life 34
imprisonment with parole eligibility after serving forty-five 35
full years of imprisonment; 36

(h) Subject to division (A) (1) (j) of this section, life 37
imprisonment with parole eligibility after serving fifty full 38
years of imprisonment; 39

(i) Subject to division (A) (1) (j) of this section, life 40
imprisonment with parole eligibility after serving fifty-five 41
full years of imprisonment; 42

(j) If the victim of the aggravated murder was less than 43
thirteen years of age, the offender also is convicted of or 44
pleads guilty to a sexual motivation specification that was 45
included in the indictment, count in the indictment, or 46
information charging the offense, and the trial court does not 47
impose a sentence of life imprisonment without parole on the 48
offender pursuant to division (A)(1)(a) of this section, the 49
trial court shall sentence the offender pursuant to division (B) 50
(3) of section 2971.03 of the Revised Code to an indefinite term 51
consisting of a minimum term of thirty years and a maximum term 52
of life imprisonment that shall be served pursuant to that 53
section. 54

(2) If the offender also is convicted of or pleads guilty 55
to a sexual motivation specification and a sexually violent 56
predator specification that are included in the indictment, 57
count in the indictment, or information that charged the 58
aggravated murder, the trial court shall impose upon the 59
offender a sentence of life imprisonment without parole that 60
shall be served pursuant to section 2971.03 of the Revised Code 61
unless the offender raised the matter of age pursuant to section 62
2929.023 of the Revised Code and was found at trial not to have 63
been eighteen years of age or older at the time of the 64
commission of the offense. 65

(B) If the indictment or count in the indictment charging 66
aggravated murder contains one or more specifications of 67
aggravating circumstances listed in division (A) of section 68
2929.04 of the Revised Code, the verdict shall separately state 69
whether the accused is found guilty or not guilty of the 70
principal charge and, if guilty of the principal charge, whether 71
the offender was eighteen years of age or older at the time of 72
the commission of the offense, if the matter of age was raised 73

by the offender pursuant to section 2929.023 of the Revised 74
Code, and whether the offender is guilty or not guilty of each 75
specification. The jury shall be instructed on its duties in 76
this regard. The instruction to the jury shall include an 77
instruction that a specification shall be proved beyond a 78
reasonable doubt in order to support a guilty verdict on the 79
specification, but the instruction shall not mention the penalty 80
that may be the consequence of a guilty or not guilty verdict on 81
any charge or specification. 82

(C) (1) If the indictment or count in the indictment 83
charging aggravated murder contains one or more specifications 84
of aggravating circumstances listed in division (A) of section 85
2929.04 of the Revised Code, then, following a verdict of guilty 86
of the charge but not guilty of each of the specifications, ~~and~~ 87
~~regardless of whether the offender raised the matter of age~~ 88
~~pursuant to section 2929.023 of the Revised Code,~~ the trial 89
court shall impose sentence on the offender as follows: 90

(a) Except as provided in division (C) (1) (b) of this 91
section, the trial court shall impose one of the following 92
sentences on the offender: 93

(i) Life imprisonment without parole; 94

(ii) Subject to division (C) (1) (a) ~~(v)~~ (x) of this section, 95
life imprisonment with parole eligibility after serving twenty 96
years of imprisonment; 97

(iii) Subject to division (C) (1) (a) ~~(v)~~ (x) of this 98
section, life imprisonment with parole eligibility after serving 99
twenty-five full years of imprisonment; 100

(iv) Subject to division (C) (1) (a) ~~(v)~~ (x) of this 101
section, life imprisonment with parole eligibility after serving 102

thirty full years of imprisonment;	103
(v) If <u>Subject to division (C) (1) (a) (x) of this section,</u>	104
<u>life imprisonment with parole eligibility after serving thirty-</u>	105
<u>five full years of imprisonment;</u>	106
(vi) <u>Subject to division (C) (1) (a) (x) of this section,</u>	107
<u>life imprisonment with parole eligibility after serving forty</u>	108
<u>full years of imprisonment;</u>	109
(vii) <u>Subject to division (C) (1) (a) (x) of this section,</u>	110
<u>life imprisonment with parole eligibility after serving forty-</u>	111
<u>five full years of imprisonment;</u>	112
(viii) <u>Subject to division (C) (1) (a) (x) of this section,</u>	113
<u>life imprisonment with parole eligibility after serving fifty</u>	114
<u>full years of imprisonment;</u>	115
(ix) <u>Subject to division (C) (1) (a) (x) of this section,</u>	116
<u>life imprisonment with parole eligibility after serving fifty-</u>	117
<u>five full years of imprisonment;</u>	118
(x) <u>If</u> the victim of the aggravated murder was less than	119
thirteen years of age, the offender also is convicted of or	120
pleads guilty to a sexual motivation specification that was	121
included in the indictment, count in the indictment, or	122
information charging the offense, and the trial court does not	123
impose a sentence of life imprisonment without parole on the	124
offender pursuant to division (C) (1) (a) (i) of this section, the	125
trial court shall sentence the offender pursuant to division (B)	126
(3) of section 2971.03 of the Revised Code to an indefinite term	127
consisting of a minimum term of thirty years and a maximum term	128
of life imprisonment.	129
(b) If the offender also is convicted of or pleads guilty	130
to a sexual motivation specification and a sexually violent	131

predator specification that are included in the indictment, 132
count in the indictment, or information that charged the 133
aggravated murder, the trial court shall impose upon the 134
offender a sentence of life imprisonment without parole that 135
shall be served pursuant to section 2971.03 of the Revised Code 136
unless the offender raised the matter of age pursuant to section 137
2929.023 of the Revised Code and was found at trial not to have 138
been eighteen years of age or older at the time of the 139
commission of the offense. 140

(2) (a) If the indictment or count in the indictment 141
contains one or more specifications of aggravating circumstances 142
listed in division (A) of section 2929.04 of the Revised Code 143
and if the offender is found guilty of both the charge and one 144
or more of the specifications, the penalty to be imposed on the 145
offender shall be one of the following: 146

(i) Except as provided in division (C) (2) (a) (ii) or (iii) 147
of this section, the penalty to be imposed on the offender shall 148
be death, life imprisonment without parole, life imprisonment 149
with parole eligibility after serving twenty full years of life 150
imprisonment, life imprisonment with parole eligibility after 151
serving twenty-five full years of imprisonment, life 152
imprisonment with parole eligibility after serving thirty full 153
years of imprisonment, ~~or~~ life imprisonment with parole 154
eligibility after serving ~~thirty~~ thirty-five full years of 155
imprisonment, life imprisonment with parole eligibility after 156
serving forty full years of imprisonment, life imprisonment with 157
parole eligibility after serving forty-five full years of 158
imprisonment, life imprisonment with parole eligibility after 159
serving fifty full years of imprisonment or life imprisonment 160
with parole eligibility after serving fifty-five full years of 161
imprisonment. 162

(ii) Except as provided in division (C) (2) (a) (iii) of this 163
section, if the victim of the aggravated murder was less than 164
thirteen years of age, 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, and the trial court does not 168
impose a sentence of death or life imprisonment without parole 169
on the offender pursuant to division (C) (2) (a) (i) of this 170
section, the penalty to be imposed on the offender shall be an 171
indefinite term consisting of a minimum term of thirty years and 172
a maximum term of life imprisonment that shall be imposed 173
pursuant to division (B) (3) of section 2971.03 of the Revised 174
Code and served pursuant to that section. 175

(iii) If the offender also is convicted of or pleads 176
guilty to a sexual motivation specification and a sexually 177
violent predator specification that are included in the 178
indictment, count in the indictment, or information that charged 179
the aggravated murder, the penalty to be imposed on the offender 180
shall be death or life imprisonment without parole that shall be 181
served pursuant to section 2971.03 of the Revised Code unless 182
the offender raised the matter of age pursuant to section 183
2929.023 of the Revised Code and was found at trial not to have 184
been eighteen years of age or older at the time of the 185
commission of the offense. 186

(b) A penalty imposed pursuant to division (C) (2) (a) (i), 187
(ii), or (iii) of this section shall be determined pursuant to 188
divisions (D) and (E) of this section and shall be determined by 189
one of the following: 190

(i) By the panel of three judges that tried the offender 191
upon the offender's waiver of the right to trial by jury; 192

(ii) By the trial jury and the trial judge, if the 193
offender was tried by jury. 194

(D) (1) Death may not be imposed as a penalty for 195
aggravated murder if the offender raised the matter of age at 196
trial pursuant to section 2929.023 of the Revised Code and was 197
not found at trial to have been eighteen years of age or older 198
at the time of the commission of the offense. When death may be 199
imposed as a penalty for aggravated murder, the court shall 200
proceed under this division. When death may be imposed as a 201
penalty, the court, upon the request of the defendant, shall 202
require a pre-sentence investigation to be made and, upon the 203
request of the defendant, shall require a mental examination to 204
be made, and shall require reports of the investigation and of 205
any mental examination submitted to the court, pursuant to 206
section 2947.06 of the Revised Code. No statement made or 207
information provided by a defendant in a mental examination or 208
proceeding conducted pursuant to this division shall be 209
disclosed to any person, except as provided in this division, or 210
be used in evidence against the defendant on the issue of guilt 211
in any retrial. A pre-sentence investigation or mental 212
examination shall not be made except upon request of the 213
defendant. Copies of any reports prepared under this division 214
shall be furnished to the court, to the trial jury if the 215
offender was tried by a jury, to the prosecutor, and to the 216
offender or the offender's counsel for use under this division. 217
The court, and the trial jury if the offender was tried by a 218
jury, shall consider any report prepared pursuant to this 219
division and furnished to it and any evidence raised at trial 220
that is relevant to the aggravating circumstances the offender 221
was found guilty of committing or to any factors in mitigation 222
of the imposition of the sentence of death, shall hear testimony 223

and other evidence that is relevant to the nature and 224
circumstances of the aggravating circumstances the offender was 225
found guilty of committing, the mitigating factors set forth in 226
division (B) of section 2929.04 of the Revised Code, and any 227
other factors in mitigation of the imposition of the sentence of 228
death, and shall hear the statement, if any, of the offender, 229
and the arguments, if any, of counsel for the defense and 230
prosecution, that are relevant to the penalty that should be 231
imposed on the offender. The defendant shall be given great 232
latitude in the presentation of evidence of the mitigating 233
factors set forth in division (B) of section 2929.04 of the 234
Revised Code and of any other factors in mitigation of the 235
imposition of the sentence of death. If the offender chooses to 236
make a statement, the offender is subject to cross-examination 237
only if the offender consents to make the statement under oath 238
or affirmation. 239

The defendant shall have the burden of going forward with 240
the evidence of any factors in mitigation of the imposition of 241
the sentence of death. The prosecution shall have the burden of 242
proving, by proof beyond a reasonable doubt, that the 243
aggravating circumstances the defendant was found guilty of 244
committing are sufficient to outweigh the factors in mitigation 245
of the imposition of the sentence of death. 246

(2) Upon consideration of the relevant evidence raised at 247
trial, the testimony, other evidence, statement of the offender, 248
arguments of counsel, and, if applicable, the reports submitted 249
pursuant to division (D)(1) of this section, the trial jury, if 250
the offender was tried by a jury, shall determine whether the 251
aggravating circumstances the offender was found guilty of 252
committing are sufficient to outweigh the mitigating factors 253
present in the case. If the trial jury unanimously finds, by 254

proof beyond a reasonable doubt, that the aggravating 255
circumstances the offender was found guilty of committing 256
outweigh the mitigating factors, the trial jury shall recommend 257
to the court that the sentence of death be imposed on the 258
offender. Absent such a finding, the jury shall recommend that 259
the offender be sentenced to one of the following: 260

(a) Except as provided in division (D) (2) (b) or (c) of 261
this section, to life imprisonment without parole, ~~or~~ life 262
imprisonment with parole eligibility ~~after serving twenty five~~ 263
~~full years of imprisonment, or life imprisonment with parole~~ 264
~~eligibility after serving thirty full years of imprisonment;~~ 265

(b) Except as provided in division (D) (2) (c) of this 266
section, if the victim of the aggravated murder was less than 267
thirteen years of age, the offender also is convicted of or 268
pleads guilty to a sexual motivation specification that was 269
included in the indictment, count in the indictment, or 270
information charging the offense, and the jury does not 271
recommend a sentence of life imprisonment without parole 272
pursuant to division (D) (2) (a) of this section, to an indefinite 273
term consisting of a minimum term of thirty years and a maximum 274
term of life imprisonment to be imposed pursuant to division (B) 275
(3) of section 2971.03 of the Revised Code and served pursuant 276
to that section. 277

(c) If the offender also is convicted of or pleads guilty 278
to a sexual motivation specification and a sexually violent 279
predator specification that are included in the indictment, 280
count in the indictment, or information that charged the 281
aggravated murder, to life imprisonment without parole. 282

If the trial jury recommends that the offender be 283
sentenced to life imprisonment without parole, ~~life imprisonment~~ 284

~~with parole eligibility after serving twenty five full years of~~ 285
~~imprisonment, life imprisonment with parole eligibility after~~ 286
~~serving thirty full years of imprisonment, or an indefinite~~ 287
term consisting of a minimum term of thirty years and a maximum 288
term of life imprisonment to be imposed pursuant to division (B) 289
(3) of section 2971.03 of the Revised Code, the court shall 290
impose the sentence recommended by the jury upon the offender. 291
If the trial jury recommends that the offender be sentenced to 292
life imprisonment with parole eligibility, upon consideration of 293
the relevant evidence raised at trial, the testimony, other 294
evidence, statement of the offender, arguments of counsel, and, 295
if applicable, the reports submitted to the court pursuant to 296
division (D)(1) of this section, the court shall impose a 297
sentence of life imprisonment with parole eligibility after 298
serving twenty full years of imprisonment, life imprisonment 299
with parole eligibility after serving twenty-five full years of 300
imprisonment, life imprisonment with parole eligibility after 301
serving thirty full years of imprisonment, life imprisonment 302
with parole eligibility after serving thirty-five full years of 303
imprisonment, life imprisonment with parole eligibility after 304
serving forty full years of imprisonment, life imprisonment with 305
parole eligibility after serving forty-five full years of 306
imprisonment, life imprisonment with parole eligibility after 307
serving fifty full years of imprisonment, or life imprisonment 308
with parole eligibility after serving fifty-five full years of 309
imprisonment. 310

If the sentence is an indefinite term consisting of a 311
minimum term of thirty years and a maximum term of life 312
imprisonment imposed as described in division (D)(2)(b) of this 313
section or a sentence of life imprisonment without parole 314
imposed under division (D)(2)(c) of this section, the sentence 315

shall be served pursuant to section 2971.03 of the Revised Code. 316
If the trial jury recommends that the sentence of death be 317
imposed upon the offender, the court shall proceed to impose 318
sentence pursuant to division (D) (3) of this section. 319

(3) Upon consideration of the relevant evidence raised at 320
trial, the testimony, other evidence, statement of the offender, 321
arguments of counsel, and, if applicable, the reports submitted 322
to the court pursuant to division (D) (1) of this section, if, 323
after receiving pursuant to division (D) (2) of this section the 324
trial jury's recommendation that the sentence of death be 325
imposed, the court finds, by proof beyond a reasonable doubt, or 326
if the panel of three judges unanimously finds, by proof beyond 327
a reasonable doubt, that the aggravating circumstances the 328
offender was found guilty of committing outweigh the mitigating 329
factors, it shall impose sentence of death on the offender. 330
Absent such a finding by the court or panel, the court or the 331
panel shall impose one of the following sentences on the 332
offender: 333

(a) Except as provided in division (D) (3) (b) of this 334
section, one of the following: 335

(i) Life imprisonment without parole; 336

(ii) Subject to division (D) (3) (a) ~~(iv)~~ (x) of this 337
section, life imprisonment with parole eligibility after serving 338
~~twenty-five~~ twenty full years of imprisonment; 339

(iii) Subject to division (D) (3) (a) ~~(iv)~~ (x) of this 340
section, life imprisonment with parole eligibility after serving 341
~~thirty~~ twenty-five full years of imprisonment; 342

(iv) ~~If~~ Subject to division (D) (3) (a) (x) of this section,
life imprisonment with parole eligibility after serving thirty 343
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<u>full years of imprisonment;</u>	345
<u>(v) Subject to division (D) (3) (a) (x) of this section, life imprisonment with parole eligibility after serving thirty-five full years of imprisonment;</u>	346 347 348
<u>(vi) Subject to division (D) (3) (a) (x) of this section, life imprisonment with parole eligibility after serving forty full years of imprisonment;</u>	349 350 351
<u>(vii) Subject to division (D) (3) (a) (x) of this section, life imprisonment with parole eligibility after serving forty-five full years of imprisonment;</u>	352 353 354
<u>(viii) Subject to division (D) (3) (a) (x) of this section, life imprisonment with parole eligibility after serving fifty full years of imprisonment;</u>	355 356 357
<u>(ix) Subject to division (D) (3) (a) (x) of this section, life imprisonment with parole eligibility after serving fifty-five full years of imprisonment;</u>	358 359 360
<u>(x) 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 included in the indictment, count in the indictment, or information charging the offense, and the trial court does not impose a sentence of life imprisonment without parole on the offender pursuant to division (D) (3) (a) (i) of this section, the court or panel shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment.</u>	361 362 363 364 365 366 367 368 369 370 371
(b) If the offender also is convicted of or pleads guilty to a sexual motivation specification and a sexually violent	372 373

predator specification that are included in the indictment, 374
count in the indictment, or information that charged the 375
aggravated murder, life imprisonment without parole that shall 376
be served pursuant to section 2971.03 of the Revised Code. 377

(E) If the offender raised the matter of age at trial 378
pursuant to section 2929.023 of the Revised Code, was convicted 379
of aggravated murder and one or more specifications of an 380
aggravating circumstance listed in division (A) of section 381
2929.04 of the Revised Code, and was not found at trial to have 382
been eighteen years of age or older at the time of the 383
commission of the offense, the court or the panel of three 384
judges shall not impose a sentence of death on the offender. 385
Instead, the court or panel shall impose one of the following 386
sentences on the offender: 387

~~(1) Except as provided in division (E) (2) of this section,~~ 388
~~one of the following:~~ 389

~~(a) (1) Life imprisonment without parole;~~ 390

~~(b) (2) Subject to division (E) (2) (d) (10) of this~~ 391
~~section, life imprisonment with parole eligibility after serving~~ 392
~~twenty-five twenty full years of imprisonment;~~ 393

~~(c) (3) Subject to division (E) (2) (d) (10) of this~~ 394
~~section, life imprisonment with parole eligibility after serving~~ 395
~~thirty twenty-five full years of imprisonment;~~ 396

~~(d) If (4) Subject to division (E) (10) of this section,~~ 397
life imprisonment with parole eligibility after serving thirty 398
full years of imprisonment; 399

(5) Subject to division (E) (10) of this section, life 400
imprisonment with parole eligibility after serving thirty-five 401
full years of imprisonment; 402

(6) Subject to division (E) (10) of this section, life imprisonment with parole eligibility after serving forty full years of imprisonment; 403
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(7) Subject to division (E) (10) of this section, life imprisonment with parole eligibility after serving forty-five full years of imprisonment; 406
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(8) Subject to division (E) (10) of this section, life imprisonment with parole eligibility after serving fifty full years of imprisonment; 409
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(9) Subject to division (E) (10) of this section, life imprisonment with parole eligibility after serving fifty-five full years of imprisonment; 412
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(10) 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 included in the indictment, count in the indictment, or information charging the offense, and the trial court does not impose a sentence of life imprisonment without parole on the offender pursuant to division (E) ~~(2) (a)~~ (1) of this section, the court or panel shall sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code to an indefinite term consisting of a minimum term of thirty years and a maximum term of life imprisonment. 415
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~~(2) 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.~~ 426
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(F) The court or the panel of three judges, when it 432
imposes sentence of death, shall state in a separate opinion its 433
specific findings as to the existence of any of the mitigating 434
factors set forth in division (B) of section 2929.04 of the 435
Revised Code, the existence of any other mitigating factors, the 436
aggravating circumstances the offender was found guilty of 437
committing, and the reasons why the aggravating circumstances 438
the offender was found guilty of committing were sufficient to 439
outweigh the mitigating factors. The court or panel, when it 440
imposes life imprisonment or an indefinite term consisting of a 441
minimum term of thirty years and a maximum term of life 442
imprisonment under division (D) of this section, shall state in 443
a separate opinion its specific findings of which of the 444
mitigating factors set forth in division (B) of section 2929.04 445
of the Revised Code it found to exist, what other mitigating 446
factors it found to exist, what aggravating circumstances the 447
offender was found guilty of committing, and why it could not 448
find that these aggravating circumstances were sufficient to 449
outweigh the mitigating factors. For cases in which a sentence 450
of death is imposed for an offense committed before January 1, 451
1995, the court or panel shall file the opinion required to be 452
prepared by this division with the clerk of the appropriate 453
court of appeals and with the clerk of the supreme court within 454
fifteen days after the court or panel imposes sentence. For 455
cases in which a sentence of death is imposed for an offense 456
committed on or after January 1, 1995, the court or panel shall 457
file the opinion required to be prepared by this division with 458
the clerk of the supreme court within fifteen days after the 459
court or panel imposes sentence. The judgment in a case in which 460
a sentencing hearing is held pursuant to this section is not 461
final until the opinion is filed. 462

(G) (1) Whenever the court or a panel of three judges 463
imposes a sentence of death for an offense committed before 464
January 1, 1995, the clerk of the court in which the judgment is 465
rendered shall deliver the entire record in the case to the 466
appellate court. 467

(2) Whenever the court or a panel of three judges imposes 468
a sentence of death for an offense committed on or after January 469
1, 1995, the clerk of the court in which the judgment is 470
rendered shall deliver the entire record in the case to the 471
supreme court. 472

Sec. 2929.04. (A) Imposition of the death penalty for 473
aggravated murder is precluded unless one or more of the 474
following is specified in the indictment or count in the 475
indictment pursuant to section 2941.14 of the Revised Code and 476
proved beyond a reasonable doubt: 477

(1) The offense was the assassination of the president of 478
the United States or a person in line of succession to the 479
presidency, the governor or lieutenant governor of this state, 480
the president-elect or vice president-elect of the United 481
States, the governor-elect or lieutenant governor-elect of this 482
state, or a candidate for any of the offices described in this 483
division. For purposes of this division, a person is a candidate 484
if the person has been nominated for election according to law, 485
if the person has filed a petition or petitions according to law 486
to have the person's name placed on the ballot in a primary or 487
general election, or if the person campaigns as a write-in 488
candidate in a primary or general election. 489

(2) The offense was committed for hire. 490

(3) The offense was committed for the purpose of escaping 491

detection, apprehension, trial, or punishment for another 492
offense committed by the offender. 493

(4) The offense was committed while the offender was under 494
detention or while the offender was at large after having broken 495
detention. As used in division (A)(4) of this section, 496
"detention" has the same meaning as in section 2921.01 of the 497
Revised Code, except that detention does not include 498
hospitalization, institutionalization, or confinement in a 499
mental health facility or mental retardation and developmentally 500
disabled facility unless at the time of the commission of the 501
offense either of the following circumstances apply: 502

(a) The offender was in the facility as a result of being 503
charged with a violation of a section of the Revised Code. 504

(b) The offender was under detention as a result of being 505
convicted of or pleading guilty to a violation of a section of 506
the Revised Code. 507

(5) Prior to the offense at bar, the offender was 508
convicted of an offense an essential element of which was the 509
purposeful killing of or attempt to kill another, or the offense 510
at bar was part of a course of conduct involving the purposeful 511
killing of or attempt to kill two or more persons by the 512
offender. 513

(6) The victim of the offense was a law enforcement 514
officer, as defined in section 2911.01 of the Revised Code, whom 515
the offender had reasonable cause to know or knew to be a law 516
enforcement officer as so defined, and either the victim, at the 517
time of the commission of the offense, was engaged in the 518
victim's duties, or it was the offender's specific purpose to 519
kill a law enforcement officer as so defined. 520

(7) The offense was committed while the offender was 521
committing, attempting to commit, or fleeing immediately after 522
committing or attempting to commit kidnapping, rape, aggravated 523
arson, aggravated robbery, or aggravated burglary, and either 524
the offender was the principal offender in the commission of the 525
aggravated murder or, if not the principal offender, committed 526
the aggravated murder with prior calculation and design. 527

(8) The victim of the aggravated murder was a witness to 528
an offense who was purposely killed to prevent the victim's 529
testimony in any criminal proceeding and the aggravated murder 530
was not committed during the commission, attempted commission, 531
or flight immediately after the commission or attempted 532
commission of the offense to which the victim was a witness, or 533
the victim of the aggravated murder was a witness to an offense 534
and was purposely killed in retaliation for the victim's 535
testimony in any criminal proceeding. 536

(9) The offender, in the commission of the offense, 537
purposefully caused the death of another who was under thirteen 538
years of age at the time of the commission of the offense, and 539
either the offender was the principal offender in the commission 540
of the offense or, if not the principal offender, committed the 541
offense with prior calculation and design. 542

(10) The offense was committed while the offender was 543
committing, attempting to commit, or fleeing immediately after 544
committing or attempting to commit terrorism. 545

(11) The offense was a violation of division (A) of 546
section 2903.01 of the Revised Code. 547

(B) If one or more of the aggravating circumstances listed 548
in division (A) of this section is specified in the indictment 549

or count in the indictment and proved beyond a reasonable doubt, 550
and if the offender did not raise the matter of age pursuant to 551
section 2929.023 of the Revised Code or if the offender, after 552
raising the matter of age, was found at trial to have been 553
eighteen years of age or older at the time of the commission of 554
the offense, the court, trial jury, or panel of three judges 555
shall consider, and weigh against the aggravating circumstances 556
proved beyond a reasonable doubt, the nature and circumstances 557
of the offense, the history, character, and background of the 558
offender, and all of the following factors: 559

(1) Whether the victim of the offense induced or 560
facilitated it; 561

(2) Whether it is unlikely that the offense would have 562
been committed, but for the fact that the offender was under 563
duress, coercion, or strong provocation; 564

(3) Whether, at the time of committing the offense, the 565
offender, because of a mental disease or defect, lacked 566
substantial capacity to appreciate the criminality of the 567
offender's conduct or to conform the offender's conduct to the 568
requirements of the law; 569

(4) The youth of the offender; 570

(5) The offender's lack of a significant history of prior 571
criminal convictions and delinquency adjudications; 572

(6) If the offender was a participant in the offense but 573
not the principal offender, the degree of the offender's 574
participation in the offense and the degree of the offender's 575
participation in the acts that led to the death of the victim; 576

(7) Any other factors that are relevant to the issue of 577
whether the offender should be sentenced to death. 578

(C) The defendant shall be given great latitude in the 579
presentation of evidence of the factors listed in division (B) 580
of this section and of any other factors in mitigation of the 581
imposition of the sentence of death. 582

The existence of any of the mitigating factors listed in 583
division (B) of this section does not preclude the imposition of 584
a sentence of death on the offender but shall be weighed 585
pursuant to divisions (D) (2) and (3) of section 2929.03 of the 586
Revised Code by the trial court, trial jury, or the panel of 587
three judges against the aggravating circumstances the offender 588
was found guilty of committing. 589

Sec. 2929.14. (A) Except as provided in division (B) (1), 590
(B) (2), (B) (3), (B) (4), (B) (5), (B) (6), (B) (7), (B) (8), (E), 591
(G), (H), or (J) of this section or in division (D) (6) of 592
section 2919.25 of the Revised Code and except in relation to an 593
offense for which a sentence of death or life imprisonment is to 594
be imposed, if the court imposing a sentence upon an offender 595
for a felony elects or is required to impose a prison term on 596
the offender pursuant to this chapter, the court shall impose a 597
definite prison term that shall be one of the following: 598

(1) For a felony of the first degree, the prison term 599
shall be three, four, five, six, seven, eight, nine, ten, or 600
eleven years. 601

(2) For a felony of the second degree, the prison term 602
shall be two, three, four, five, six, seven, or eight years. 603

(3) (a) For a felony of the third degree that is a 604
violation of section 2903.06, 2903.08, 2907.03, 2907.04, or 605
2907.05 of the Revised Code or that is a violation of section 606
2911.02 or 2911.12 of the Revised Code if the offender 607

previously has been convicted of or pleaded guilty in two or 608
more separate proceedings to two or more violations of section 609
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the 610
prison term shall be twelve, eighteen, twenty-four, thirty, 611
thirty-six, forty-two, forty-eight, fifty-four, or sixty months. 612

(b) For a felony of the third degree that is not an 613
offense for which division (A) (3) (a) of this section applies, 614
the prison term shall be nine, twelve, eighteen, twenty-four, 615
thirty, or thirty-six months. 616

(4) For a felony of the fourth degree, the prison term 617
shall be six, seven, eight, nine, ten, eleven, twelve, thirteen, 618
fourteen, fifteen, sixteen, seventeen, or eighteen months. 619

(5) For a felony of the fifth degree, the prison term 620
shall be six, seven, eight, nine, ten, eleven, or twelve months. 621

(B) (1) (a) Except as provided in division (B) (1) (e) of this 622
section, if an offender who is convicted of or pleads guilty to 623
a felony also is convicted of or pleads guilty to a 624
specification of the type described in section 2941.141, 625
2941.144, or 2941.145 of the Revised Code, the court shall 626
impose on the offender one of the following prison terms: 627

(i) A prison term of six years if the specification is of 628
the type described in section 2941.144 of the Revised Code that 629
charges the offender with having a firearm that is an automatic 630
firearm or that was equipped with a firearm muffler or silencer 631
on or about the offender's person or under the offender's 632
control while committing the felony; 633

(ii) A prison term of three years if the specification is 634
of the type described in section 2941.145 of the Revised Code 635
that charges the offender with having a firearm on or about the 636

offender's person or under the offender's control while 637
committing the offense and displaying the firearm, brandishing 638
the firearm, indicating that the offender possessed the firearm, 639
or using it to facilitate the offense; 640

(iii) A prison term of one year if the specification is of 641
the type described in section 2941.141 of the Revised Code that 642
charges the offender with having a firearm on or about the 643
offender's person or under the offender's control while 644
committing the felony. 645

(b) If a court imposes a prison term on an offender under 646
division (B) (1) (a) of this section, the prison term shall not be 647
reduced pursuant to section 2967.19, section 2929.20, section 648
2967.193, or any other provision of Chapter 2967. or Chapter 649
5120. of the Revised Code. Except as provided in division (B) (1) 650
(g) of this section, a court shall not impose more than one 651
prison term on an offender under division (B) (1) (a) of this 652
section for felonies committed as part of the same act or 653
transaction. 654

(c) Except as provided in division (B) (1) (e) of this 655
section, if an offender who is convicted of or pleads guilty to 656
a violation of section 2923.161 of the Revised Code or to a 657
felony that includes, as an essential element, purposely or 658
knowingly causing or attempting to cause the death of or 659
physical harm to another, also is convicted of or pleads guilty 660
to a specification of the type described in section 2941.146 of 661
the Revised Code that charges the offender with committing the 662
offense by discharging a firearm from a motor vehicle other than 663
a manufactured home, the court, after imposing a prison term on 664
the offender for the violation of section 2923.161 of the 665
Revised Code or for the other felony offense under division (A), 666

(B) (2), or (B) (3) of this section, shall impose an additional 667
prison term of five years upon the offender that shall not be 668
reduced pursuant to section 2929.20, section 2967.19, section 669
2967.193, or any other provision of Chapter 2967. or Chapter 670
5120. of the Revised Code. A court shall not impose more than 671
one additional prison term on an offender under division (B) (1) 672
(c) of this section for felonies committed as part of the same 673
act or transaction. If a court imposes an additional prison term 674
on an offender under division (B) (1) (c) of this section relative 675
to an offense, the court also shall impose a prison term under 676
division (B) (1) (a) of this section relative to the same offense, 677
provided the criteria specified in that division for imposing an 678
additional prison term are satisfied relative to the offender 679
and the offense. 680

(d) If an offender who is convicted of or pleads guilty to 681
an offense of violence that is a felony also is convicted of or 682
pleads guilty to a specification of the type described in 683
section 2941.1411 of the Revised Code that charges the offender 684
with wearing or carrying body armor while committing the felony 685
offense of violence, the court shall impose on the offender a 686
prison term of two years. The prison term so imposed, subject to 687
divisions (C) to (I) of section 2967.19 of the Revised Code, 688
shall not be reduced pursuant to section 2929.20, section 689
2967.19, section 2967.193, or any other provision of Chapter 690
2967. or Chapter 5120. of the Revised Code. A court shall not 691
impose more than one prison term on an offender under division 692
(B) (1) (d) of this section for felonies committed as part of the 693
same act or transaction. If a court imposes an additional prison 694
term under division (B) (1) (a) or (c) of this section, the court 695
is not precluded from imposing an additional prison term under 696
division (B) (1) (d) of this section. 697

(e) The court shall not impose any of the prison terms 698
described in division (B) (1) (a) of this section or any of the 699
additional prison terms described in division (B) (1) (c) of this 700
section upon an offender for a violation of section 2923.12 or 701
2923.123 of the Revised Code. The court shall not impose any of 702
the prison terms described in division (B) (1) (a) or (b) of this 703
section upon an offender for a violation of section 2923.122 704
that involves a deadly weapon that is a firearm other than a 705
dangerous ordnance, section 2923.16, or section 2923.121 of the 706
Revised Code. The court shall not impose any of the prison terms 707
described in division (B) (1) (a) of this section or any of the 708
additional prison terms described in division (B) (1) (c) of this 709
section upon an offender for a violation of section 2923.13 of 710
the Revised Code unless all of the following apply: 711

(i) The offender previously has been convicted of 712
aggravated murder, murder, or any felony of the first or second 713
degree. 714

(ii) Less than five years have passed since the offender 715
was released from prison or post-release control, whichever is 716
later, for the prior offense. 717

(f) If an offender is convicted of or pleads guilty to a 718
felony that includes, as an essential element, causing or 719
attempting to cause the death of or physical harm to another and 720
also is convicted of or pleads guilty to a specification of the 721
type described in section 2941.1412 of the Revised Code that 722
charges the offender with committing the offense by discharging 723
a firearm at a peace officer as defined in section 2935.01 of 724
the Revised Code or a corrections officer, as defined in section 725
2941.1412 of the Revised Code, the court, after imposing a 726
prison term on the offender for the felony offense under 727

division (A), (B) (2), or (B) (3) of this section, shall impose an 728
additional prison term of seven years upon the offender that 729
shall not be reduced pursuant to section 2929.20, section 730
2967.19, section 2967.193, or any other provision of Chapter 731
2967. or Chapter 5120. of the Revised Code. If an offender is 732
convicted of or pleads guilty to two or more felonies that 733
include, as an essential element, causing or attempting to cause 734
the death or physical harm to another and also is convicted of 735
or pleads guilty to a specification of the type described under 736
division (B) (1) (f) of this section in connection with two or 737
more of the felonies of which the offender is convicted or to 738
which the offender pleads guilty, the sentencing court shall 739
impose on the offender the prison term specified under division 740
(B) (1) (f) of this section for each of two of the specifications 741
of which the offender is convicted or to which the offender 742
pleads guilty and, in its discretion, also may impose on the 743
offender the prison term specified under that division for any 744
or all of the remaining specifications. If a court imposes an 745
additional prison term on an offender under division (B) (1) (f) 746
of this section relative to an offense, the court shall not 747
impose a prison term under division (B) (1) (a) or (c) of this 748
section relative to the same offense. 749

(g) If an offender is convicted of or pleads guilty to two 750
or more felonies, if one or more of those felonies are 751
aggravated murder, murder, attempted aggravated murder, 752
attempted murder, aggravated robbery, felonious assault, or 753
rape, and if the offender is convicted of or pleads guilty to a 754
specification of the type described under division (B) (1) (a) of 755
this section in connection with two or more of the felonies, the 756
sentencing court shall impose on the offender the prison term 757
specified under division (B) (1) (a) of this section for each of 758

the two most serious specifications of which the offender is 759
convicted or to which the offender pleads guilty and, in its 760
discretion, also may impose on the offender the prison term 761
specified under that division for any or all of the remaining 762
specifications. 763

(2) (a) If division (B) (2) (b) of this section does not 764
apply, the court may impose on an offender, in addition to the 765
longest prison term authorized or required for the offense, an 766
additional definite prison term of one, two, three, four, five, 767
six, seven, eight, nine, or ten years if all of the following 768
criteria are met: 769

(i) The offender is convicted of or pleads guilty to a 770
specification of the type described in section 2941.149 of the 771
Revised Code that the offender is a repeat violent offender. 772

(ii) The offense of which the offender currently is 773
convicted or to which the offender currently pleads guilty is 774
aggravated murder and the court does not impose a sentence of 775
death or life imprisonment without parole, murder, terrorism and 776
the court does not impose a sentence of life imprisonment 777
without parole, any felony of the first degree that is an 778
offense of violence and the court does not impose a sentence of 779
life imprisonment without parole, or any felony of the second 780
degree that is an offense of violence and the trier of fact 781
finds that the offense involved an attempt to cause or a threat 782
to cause serious physical harm to a person or resulted in 783
serious physical harm to a person. 784

(iii) The court imposes the longest prison term for the 785
offense that is not life imprisonment without parole. 786

(iv) The court finds that the prison terms imposed 787

pursuant to division (B) (2) (a) (iii) of this section and, if 788
applicable, division (B) (1) or (3) of this section are 789
inadequate to punish the offender and protect the public from 790
future crime, because the applicable factors under section 791
2929.12 of the Revised Code indicating a greater likelihood of 792
recidivism outweigh the applicable factors under that section 793
indicating a lesser likelihood of recidivism. 794

(v) The court finds that the prison terms imposed pursuant 795
to division (B) (2) (a) (iii) of this section and, if applicable, 796
division (B) (1) or (3) of this section are demeaning to the 797
seriousness of the offense, because one or more of the factors 798
under section 2929.12 of the Revised Code indicating that the 799
offender's conduct is more serious than conduct normally 800
constituting the offense are present, and they outweigh the 801
applicable factors under that section indicating that the 802
offender's conduct is less serious than conduct normally 803
constituting the offense. 804

(b) The court shall impose on an offender the longest 805
prison term authorized or required for the offense and shall 806
impose on the offender an additional definite prison term of 807
one, two, three, four, five, six, seven, eight, nine, or ten 808
years if all of the following criteria are met: 809

(i) The offender is convicted of or pleads guilty to a 810
specification of the type described in section 2941.149 of the 811
Revised Code that the offender is a repeat violent offender. 812

(ii) The offender within the preceding twenty years has 813
been convicted of or pleaded guilty to three or more offenses 814
described in division (CC) (1) of section 2929.01 of the Revised 815
Code, including all offenses described in that division of which 816
the offender is convicted or to which the offender pleads guilty 817

in the current prosecution and all offenses described in that 818
division of which the offender previously has been convicted or 819
to which the offender previously pleaded guilty, whether 820
prosecuted together or separately. 821

(iii) The offense or offenses of which the offender 822
currently is convicted or to which the offender currently pleads 823
guilty is aggravated murder and the court does not impose a 824
sentence of death or life imprisonment without parole, murder, 825
terrorism and the court does not impose a sentence of life 826
imprisonment without parole, any felony of the first degree that 827
is an offense of violence and the court does not impose a 828
sentence of life imprisonment without parole, or any felony of 829
the second degree that is an offense of violence and the trier 830
of fact finds that the offense involved an attempt to cause or a 831
threat to cause serious physical harm to a person or resulted in 832
serious physical harm to a person. 833

(c) For purposes of division (B) (2) (b) of this section, 834
two or more offenses committed at the same time or as part of 835
the same act or event shall be considered one offense, and that 836
one offense shall be the offense with the greatest penalty. 837

(d) A sentence imposed under division (B) (2) (a) or (b) of 838
this section shall not be reduced pursuant to section 2929.20, 839
section 2967.19, or section 2967.193, or any other provision of 840
Chapter 2967. or Chapter 5120. of the Revised Code. The offender 841
shall serve an additional prison term imposed under this section 842
consecutively to and prior to the prison term imposed for the 843
underlying offense. 844

(e) When imposing a sentence pursuant to division (B) (2) 845
(a) or (b) of this section, the court shall state its findings 846
explaining the imposed sentence. 847

(3) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (C) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a mandatory prison term of the maximum prison term prescribed for a felony of the first degree that, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, cannot be reduced pursuant to section 2929.20, section 2967.19, or any other provision of Chapter 2967. or 5120. of the Revised Code.

(4) If the offender is being sentenced for a third or 880
fourth degree felony OVI offense under division (G) (2) of 881
section 2929.13 of the Revised Code, the sentencing court shall 882
impose upon the offender a mandatory prison term in accordance 883
with that division. In addition to the mandatory prison term, if 884
the offender is being sentenced for a fourth degree felony OVI 885
offense, the court, notwithstanding division (A) (4) of this 886
section, may sentence the offender to a definite prison term of 887
not less than six months and not more than thirty months, and if 888
the offender is being sentenced for a third degree felony OVI 889
offense, the sentencing court may sentence the offender to an 890
additional prison term of any duration specified in division (A) 891
(3) of this section. In either case, the additional prison term 892
imposed shall be reduced by the sixty or one hundred twenty days 893
imposed upon the offender as the mandatory prison term. The 894
total of the additional prison term imposed under division (B) 895
(4) of this section plus the sixty or one hundred twenty days 896
imposed as the mandatory prison term shall equal a definite term 897
in the range of six months to thirty months for a fourth degree 898
felony OVI offense and shall equal one of the authorized prison 899
terms specified in division (A) (3) of this section for a third 900
degree felony OVI offense. If the court imposes an additional 901
prison term under division (B) (4) of this section, the offender 902
shall serve the additional prison term after the offender has 903
served the mandatory prison term required for the offense. In 904
addition to the mandatory prison term or mandatory and 905
additional prison term imposed as described in division (B) (4) 906
of this section, the court also may sentence the offender to a 907
community control sanction under section 2929.16 or 2929.17 of 908
the Revised Code, but the offender shall serve all of the prison 909
terms so imposed prior to serving the community control 910
sanction. 911

If the offender is being sentenced for a fourth degree 912
felony OVI offense under division (G) (1) of section 2929.13 of 913
the Revised Code and the court imposes a mandatory term of local 914
incarceration, the court may impose a prison term as described 915
in division (A) (1) of that section. 916

(5) If an offender is convicted of or pleads guilty to a 917
violation of division (A) (1) or (2) of section 2903.06 of the 918
Revised Code and also is convicted of or pleads guilty to a 919
specification of the type described in section 2941.1414 of the 920
Revised Code that charges that the victim of the offense is a 921
peace officer, as defined in section 2935.01 of the Revised 922
Code, or an investigator of the bureau of criminal 923
identification and investigation, as defined in section 2903.11 924
of the Revised Code, the court shall impose on the offender a 925
prison term of five years. If a court imposes a prison term on 926
an offender under division (B) (5) of this section, the prison 927
term, subject to divisions (C) to (I) of section 2967.19 of the 928
Revised Code, shall not be reduced pursuant to section 2929.20, 929
section 2967.19, section 2967.193, or any other provision of 930
Chapter 2967. or Chapter 5120. of the Revised Code. A court 931
shall not impose more than one prison term on an offender under 932
division (B) (5) of this section for felonies committed as part 933
of the same act. 934

(6) If an offender is convicted of or pleads guilty to a 935
violation of division (A) (1) or (2) of section 2903.06 of the 936
Revised Code and also is convicted of or pleads guilty to a 937
specification of the type described in section 2941.1415 of the 938
Revised Code that charges that the offender previously has been 939
convicted of or pleaded guilty to three or more violations of 940
division (A) or (B) of section 4511.19 of the Revised Code or an 941
equivalent offense, as defined in section 2941.1415 of the 942

Revised Code, or three or more violations of any combination of 943
those divisions and offenses, the court shall impose on the 944
offender a prison term of three years. If a court imposes a 945
prison term on an offender under division (B) (6) of this 946
section, the prison term, subject to divisions (C) to (I) of 947
section 2967.19 of the Revised Code, shall not be reduced 948
pursuant to section 2929.20, section 2967.19, section 2967.193, 949
or any other provision of Chapter 2967. or Chapter 5120. of the 950
Revised Code. A court shall not impose more than one prison term 951
on an offender under division (B) (6) of this section for 952
felonies committed as part of the same act. 953

(7) (a) If an offender is convicted of or pleads guilty to 954
a felony violation of section 2905.01, 2905.02, 2907.21, 955
2907.22, or 2923.32, division (A) (1) or (2) of section 2907.323, 956
or division (B) (1), (2), (3), (4), or (5) of section 2919.22 of 957
the Revised Code and also is convicted of or pleads guilty to a 958
specification of the type described in section 2941.1422 of the 959
Revised Code that charges that the offender knowingly committed 960
the offense in furtherance of human trafficking, the court shall 961
impose on the offender a mandatory prison term that is one of 962
the following: 963

(i) If the offense is a felony of the first degree, a 964
definite prison term of not less than five years and not greater 965
than ten years; 966

(ii) If the offense is a felony of the second or third 967
degree, a definite prison term of not less than three years and 968
not greater than the maximum prison term allowed for the offense 969
by division (A) of section 2929.14 of the Revised Code; 970

(iii) If the offense is a felony of the fourth or fifth 971
degree, a definite prison term that is the maximum prison term 972

allowed for the offense by division (A) of section 2929.14 of 973
the Revised Code. 974

(b) Subject to divisions (C) to (I) of section 2967.19 of 975
the Revised Code, the prison term imposed under division (B) (7) 976
(a) of this section shall not be reduced pursuant to section 977
2929.20, section 2967.19, section 2967.193, or any other 978
provision of Chapter 2967. of the Revised Code. A court shall 979
not impose more than one prison term on an offender under 980
division (B) (7) (a) of this section for felonies committed as 981
part of the same act, scheme, or plan. 982

(8) If an offender is convicted of or pleads guilty to a 983
felony violation of section 2903.11, 2903.12, or 2903.13 of the 984
Revised Code and also is convicted of or pleads guilty to a 985
specification of the type described in section 2941.1423 of the 986
Revised Code that charges that the victim of the violation was a 987
woman whom the offender knew was pregnant at the time of the 988
violation, notwithstanding the range of prison terms prescribed 989
in division (A) of this section for felonies of the same degree 990
as the violation, the court shall impose on the offender a 991
mandatory prison term that is either a definite prison term of 992
six months or one of the prison terms prescribed in section 993
2929.14 of the Revised Code for felonies of the same degree as 994
the violation. 995

(C) (1) (a) Subject to division (C) (1) (b) of this section, 996
if a mandatory prison term is imposed upon an offender pursuant 997
to division (B) (1) (a) of this section for having a firearm on or 998
about the offender's person or under the offender's control 999
while committing a felony, if a mandatory prison term is imposed 1000
upon an offender pursuant to division (B) (1) (c) of this section 1001
for committing a felony specified in that division by 1002

discharging a firearm from a motor vehicle, or if both types of 1003
mandatory prison terms are imposed, the offender shall serve any 1004
mandatory prison term imposed under either division 1005
consecutively to any other mandatory prison term imposed under 1006
either division or under division (B) (1) (d) of this section, 1007
consecutively to and prior to any prison term imposed for the 1008
underlying felony pursuant to division (A), (B) (2), or (B) (3) of 1009
this section or any other section of the Revised Code, and 1010
consecutively to any other prison term or mandatory prison term 1011
previously or subsequently imposed upon the offender. 1012

(b) If a mandatory prison term is imposed upon an offender 1013
pursuant to division (B) (1) (d) of this section for wearing or 1014
carrying body armor while committing an offense of violence that 1015
is a felony, the offender shall serve the mandatory term so 1016
imposed consecutively to any other mandatory prison term imposed 1017
under that division or under division (B) (1) (a) or (c) of this 1018
section, consecutively to and prior to any prison term imposed 1019
for the underlying felony under division (A), (B) (2), or (B) (3) 1020
of this section or any other section of the Revised Code, and 1021
consecutively to any other prison term or mandatory prison term 1022
previously or subsequently imposed upon the offender. 1023

(c) If a mandatory prison term is imposed upon an offender 1024
pursuant to division (B) (1) (f) of this section, the offender 1025
shall serve the mandatory prison term so imposed consecutively 1026
to and prior to any prison term imposed for the underlying 1027
felony under division (A), (B) (2), or (B) (3) of this section or 1028
any other section of the Revised Code, and consecutively to any 1029
other prison term or mandatory prison term previously or 1030
subsequently imposed upon the offender. 1031

(d) If a mandatory prison term is imposed upon an offender 1032

pursuant to division (B) (7) or (8) of this section, the offender 1033
shall serve the mandatory prison term so imposed consecutively 1034
to any other mandatory prison term imposed under that division 1035
or under any other provision of law and consecutively to any 1036
other prison term or mandatory prison term previously or 1037
subsequently imposed upon the offender. 1038

(2) If an offender who is an inmate in a jail, prison, or 1039
other residential detention facility violates section 2917.02, 1040
2917.03, or 2921.35 of the Revised Code or division (A) (1) or 1041
(2) of section 2921.34 of the Revised Code, if an offender who 1042
is under detention at a detention facility commits a felony 1043
violation of section 2923.131 of the Revised Code, or if an 1044
offender who is an inmate in a jail, prison, or other 1045
residential detention facility or is under detention at a 1046
detention facility commits another felony while the offender is 1047
an escapee in violation of division (A) (1) or (2) of section 1048
2921.34 of the Revised Code, any prison term imposed upon the 1049
offender for one of those violations shall be served by the 1050
offender consecutively to the prison term or term of 1051
imprisonment the offender was serving when the offender 1052
committed that offense and to any other prison term previously 1053
or subsequently imposed upon the offender. 1054

(3) If a prison term is imposed for a violation of 1055
division (B) of section 2911.01 of the Revised Code, a violation 1056
of division (A) of section 2913.02 of the Revised Code in which 1057
the stolen property is a firearm or dangerous ordnance, or a 1058
felony violation of division (B) of section 2921.331 of the 1059
Revised Code, the offender shall serve that prison term 1060
consecutively to any other prison term or mandatory prison term 1061
previously or subsequently imposed upon the offender. 1062

(4) If multiple prison terms are imposed on an offender 1063
for convictions of multiple offenses, the court may require the 1064
offender to serve the prison terms consecutively if the court 1065
finds that the consecutive service is necessary to protect the 1066
public from future crime or to punish the offender and that 1067
consecutive sentences are not disproportionate to the 1068
seriousness of the offender's conduct and to the danger the 1069
offender poses to the public, and if the court also finds any of 1070
the following: 1071

(a) The offender committed one or more of the multiple 1072
offenses while the offender was awaiting trial or sentencing, 1073
was under a sanction imposed pursuant to section 2929.16, 1074
2929.17, or 2929.18 of the Revised Code, or was under post- 1075
release control for a prior offense. 1076

(b) At least two of the multiple offenses were committed 1077
as part of one or more courses of conduct, and the harm caused 1078
by two or more of the multiple offenses so committed was so 1079
great or unusual that no single prison term for any of the 1080
offenses committed as part of any of the courses of conduct 1081
adequately reflects the seriousness of the offender's conduct. 1082

(c) The offender's history of criminal conduct 1083
demonstrates that consecutive sentences are necessary to protect 1084
the public from future crime by the offender. 1085

(5) If a mandatory prison term is imposed upon an offender 1086
pursuant to division (B) (5) or (6) of this section, the offender 1087
shall serve the mandatory prison term consecutively to and prior 1088
to any prison term imposed for the underlying violation of 1089
division (A) (1) or (2) of section 2903.06 of the Revised Code 1090
pursuant to division (A) of this section or section 2929.142 of 1091
the Revised Code. If a mandatory prison term is imposed upon an 1092

offender pursuant to division (B) (5) of this section, and if a 1093
mandatory prison term also is imposed upon the offender pursuant 1094
to division (B) (6) of this section in relation to the same 1095
violation, the offender shall serve the mandatory prison term 1096
imposed pursuant to division (B) (5) of this section 1097
consecutively to and prior to the mandatory prison term imposed 1098
pursuant to division (B) (6) of this section and consecutively to 1099
and prior to any prison term imposed for the underlying 1100
violation of division (A) (1) or (2) of section 2903.06 of the 1101
Revised Code pursuant to division (A) of this section or section 1102
2929.142 of the Revised Code. 1103

(6) When consecutive prison terms are imposed pursuant to 1104
division (C) (1), (2), (3), (4), or (5) or division (H) (1) or (2) 1105
of this section, the term to be served is the aggregate of all 1106
of the terms so imposed. 1107

(D) (1) If a court imposes a prison term for a felony of 1108
the first degree, for a felony of the second degree, for a 1109
felony sex offense, or for a felony of the third degree that is 1110
not a felony sex offense and in the commission of which the 1111
offender caused or threatened to cause physical harm to a 1112
person, it shall include in the sentence a requirement that the 1113
offender be subject to a period of post-release control after 1114
the offender's release from imprisonment, in accordance with 1115
that division. If a court imposes a sentence including a prison 1116
term of a type described in this division on or after July 11, 1117
2006, the failure of a court to include a post-release control 1118
requirement in the sentence pursuant to this division does not 1119
negate, limit, or otherwise affect the mandatory period of post- 1120
release control that is required for the offender under division 1121
(B) of section 2967.28 of the Revised Code. Section 2929.191 of 1122
the Revised Code applies if, prior to July 11, 2006, a court 1123

imposed a sentence including a prison term of a type described 1124
in this division and failed to include in the sentence pursuant 1125
to this division a statement regarding post-release control. 1126

(2) If a court imposes a prison term for a felony of the 1127
third, fourth, or fifth degree that is not subject to division 1128
(D) (1) of this section, it shall include in the sentence a 1129
requirement that the offender be subject to a period of post- 1130
release control after the offender's release from imprisonment, 1131
in accordance with that division, if the parole board determines 1132
that a period of post-release control is necessary. Section 1133
2929.191 of the Revised Code applies if, prior to July 11, 2006, 1134
a court imposed a sentence including a prison term of a type 1135
described in this division and failed to include in the sentence 1136
pursuant to this division a statement regarding post-release 1137
control. 1138

(E) The court shall impose sentence upon the offender in 1139
accordance with section 2971.03 of the Revised Code, and Chapter 1140
2971. of the Revised Code applies regarding the prison term or 1141
term of life imprisonment without parole imposed upon the 1142
offender and the service of that term of imprisonment if any of 1143
the following apply: 1144

(1) A person is convicted of or pleads guilty to a violent 1145
sex offense or a designated homicide, assault, or kidnapping 1146
offense, and, in relation to that offense, the offender is 1147
adjudicated a sexually violent predator. 1148

(2) A person is convicted of or pleads guilty to a 1149
violation of division (A) (1) (b) of section 2907.02 of the 1150
Revised Code committed on or after January 2, 2007, and either 1151
the court does not impose a sentence of life without parole when 1152
authorized pursuant to division (B) of section 2907.02 of the 1153

Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

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

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

(5) A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A) (2) (b) (ii) of section 2929.022, division (A) (1) ~~(e)~~ (j), (C) (1) (a) ~~(v)~~ (x), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) ~~(iv)~~ (x), or (E) ~~(1)~~ ~~(d)~~ (10) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B) (3) of section 2971.03 of the Revised Code.

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

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section

2971.03 of the Revised Code, or any other provision of law, 1183
section 5120.163 of the Revised Code applies regarding the 1184
person while the person is confined in a state correctional 1185
institution. 1186

(G) If an offender who is convicted of or pleads guilty to 1187
a felony that is an offense of violence also is convicted of or 1188
pleads guilty to a specification of the type described in 1189
section 2941.142 of the Revised Code that charges the offender 1190
with having committed the felony while participating in a 1191
criminal gang, the court shall impose upon the offender an 1192
additional prison term of one, two, or three years. 1193

(H) (1) If an offender who is convicted of or pleads guilty 1194
to aggravated murder, murder, or a felony of the first, second, 1195
or third degree that is an offense of violence also is convicted 1196
of or pleads guilty to a specification of the type described in 1197
section 2941.143 of the Revised Code that charges the offender 1198
with having committed the offense in a school safety zone or 1199
towards a person in a school safety zone, the court shall impose 1200
upon the offender an additional prison term of two years. The 1201
offender shall serve the additional two years consecutively to 1202
and prior to the prison term imposed for the underlying offense. 1203

(2) (a) If an offender is convicted of or pleads guilty to 1204
a felony violation of section 2907.22, 2907.24, 2907.241, or 1205
2907.25 of the Revised Code and to a specification of the type 1206
described in section 2941.1421 of the Revised Code and if the 1207
court imposes a prison term on the offender for the felony 1208
violation, the court may impose upon the offender an additional 1209
prison term as follows: 1210

(i) Subject to division (H) (2) (a) (ii) of this section, an 1211
additional prison term of one, two, three, four, five, or six 1212

months; 1213

(ii) If the offender previously has been convicted of or 1214
pleaded guilty to one or more felony or misdemeanor violations 1215
of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of 1216
the Revised Code and also was convicted of or pleaded guilty to 1217
a specification of the type described in section 2941.1421 of 1218
the Revised Code regarding one or more of those violations, an 1219
additional prison term of one, two, three, four, five, six, 1220
seven, eight, nine, ten, eleven, or twelve months. 1221

(b) In lieu of imposing an additional prison term under 1222
division (H)(2)(a) of this section, the court may directly 1223
impose on the offender a sanction that requires the offender to 1224
wear a real-time processing, continual tracking electronic 1225
monitoring device during the period of time specified by the 1226
court. The period of time specified by the court shall equal the 1227
duration of an additional prison term that the court could have 1228
imposed upon the offender under division (H)(2)(a) of this 1229
section. A sanction imposed under this division shall commence 1230
on the date specified by the court, provided that the sanction 1231
shall not commence until after the offender has served the 1232
prison term imposed for the felony violation of section 2907.22, 1233
2907.24, 2907.241, or 2907.25 of the Revised Code and any 1234
residential sanction imposed for the violation under section 1235
2929.16 of the Revised Code. A sanction imposed under this 1236
division shall be considered to be a community control sanction 1237
for purposes of section 2929.15 of the Revised Code, and all 1238
provisions of the Revised Code that pertain to community control 1239
sanctions shall apply to a sanction imposed under this division, 1240
except to the extent that they would by their nature be clearly 1241
inapplicable. The offender shall pay all costs associated with a 1242
sanction imposed under this division, including the cost of the 1243

use of the monitoring device. 1244

(I) At the time of sentencing, the court may recommend the 1245
offender for placement in a program of shock incarceration under 1246
section 5120.031 of the Revised Code or for placement in an 1247
intensive program prison under section 5120.032 of the Revised 1248
Code, disapprove placement of the offender in a program of shock 1249
incarceration or an intensive program prison of that nature, or 1250
make no recommendation on placement of the offender. In no case 1251
shall the department of rehabilitation and correction place the 1252
offender in a program or prison of that nature unless the 1253
department determines as specified in section 5120.031 or 1254
5120.032 of the Revised Code, whichever is applicable, that the 1255
offender is eligible for the placement. 1256

If the court disapproves placement of the offender in a 1257
program or prison of that nature, the department of 1258
rehabilitation and correction shall not place the offender in 1259
any program of shock incarceration or intensive program prison. 1260

If the court recommends placement of the offender in a 1261
program of shock incarceration or in an intensive program 1262
prison, and if the offender is subsequently placed in the 1263
recommended program or prison, the department shall notify the 1264
court of the placement and shall include with the notice a brief 1265
description of the placement. 1266

If the court recommends placement of the offender in a 1267
program of shock incarceration or in an intensive program prison 1268
and the department does not subsequently place the offender in 1269
the recommended program or prison, the department shall send a 1270
notice to the court indicating why the offender was not placed 1271
in the recommended program or prison. 1272

If the court does not make a recommendation under this 1273
division with respect to an offender and if the department 1274
determines as specified in section 5120.031 or 5120.032 of the 1275
Revised Code, whichever is applicable, that the offender is 1276
eligible for placement in a program or prison of that nature, 1277
the department shall screen the offender and determine if there 1278
is an available program of shock incarceration or an intensive 1279
program prison for which the offender is suited. If there is an 1280
available program of shock incarceration or an intensive program 1281
prison for which the offender is suited, the department shall 1282
notify the court of the proposed placement of the offender as 1283
specified in section 5120.031 or 5120.032 of the Revised Code 1284
and shall include with the notice a brief description of the 1285
placement. The court shall have ten days from receipt of the 1286
notice to disapprove the placement. 1287

(J) If a person is convicted of or pleads guilty to 1288
aggravated vehicular homicide in violation of division (A) (1) of 1289
section 2903.06 of the Revised Code and division (B) (2) (c) of 1290
that section applies, the person shall be sentenced pursuant to 1291
section 2929.142 of the Revised Code. 1292

Sec. 2941.148. (A) (1) The application of Chapter 2971. of 1293
the Revised Code to an offender is precluded unless one of the 1294
following applies: 1295

(a) The offender is charged with a violent sex offense, 1296
and the indictment, count in the indictment, or information 1297
charging the violent sex offense also includes a specification 1298
that the offender is a sexually violent predator, or the 1299
offender is charged with a designated homicide, assault, or 1300
kidnapping offense, and the indictment, count in the indictment, 1301
or information charging the designated homicide, assault, or 1302

kidnapping offense also includes both a specification of the 1303
type described in section 2941.147 of the Revised Code and a 1304
specification that the offender is a sexually violent predator. 1305

(b) The offender is convicted of or pleads guilty to a 1306
violation of division (A) (1) (b) of section 2907.02 of the 1307
Revised Code committed on or after January 2, 2007, and division 1308
(B) of section 2907.02 of the Revised Code does not prohibit the 1309
court from sentencing the offender pursuant to section 2971.03 1310
of the Revised Code. 1311

(c) The offender is convicted of or pleads guilty to 1312
attempted rape committed on or after January 2, 2007, and to a 1313
specification of the type described in section 2941.1418, 1314
2941.1419, or 2941.1420 of the Revised Code. 1315

(d) The offender is convicted of or pleads guilty to a 1316
violation of section 2905.01 of the Revised Code and to a 1317
specification of the type described in section 2941.147 of the 1318
Revised Code, and section 2905.01 of the Revised Code requires a 1319
court to sentence the offender pursuant to section 2971.03 of 1320
the Revised Code. 1321

(e) The offender is convicted of or pleads guilty to 1322
aggravated murder and to a specification of the type described 1323
in section 2941.147 of the Revised Code, and division (A) (2) (b) 1324
(ii) of section 2929.022, division (A) (1) ~~(e)~~ (j), (C) (1) (a) ~~(v)~~ 1325
(x), (C) (2) (a) (ii), (D) (2) (b), (D) (3) (a) ~~(iv)~~ (x), or (E) ~~(1)~~ (d) 1326
(10) of section 2929.03, or division (A) or (B) of section 1327
2929.06 of the Revised Code requires a court to sentence the 1328
offender pursuant to division (B) (3) of section 2971.03 of the 1329
Revised Code. 1330

(f) The offender is convicted of or pleads guilty to 1331

murder and to a specification of the type described in section 1332
2941.147 of the Revised Code, and division (B)(2) of section 1333
2929.02 of the Revised Code requires a court to sentence the 1334
offender pursuant to section 2971.03 of the Revised Code. 1335

(2) A specification required under division (A)(1)(a) of 1336
this section that an offender is a sexually violent predator 1337
shall be stated at the end of the body of the indictment, count, 1338
or information and shall be stated in substantially the 1339
following form: 1340

"Specification (or, specification to the first count). The 1341
grand jury (or insert the person's or prosecuting attorney's 1342
name when appropriate) further find and specify that the 1343
offender is a sexually violent predator." 1344

(B) In determining for purposes of this section whether a 1345
person is a sexually violent predator, all of the factors set 1346
forth in divisions (H)(1) to (6) of section 2971.01 of the 1347
Revised Code that apply regarding the person may be considered 1348
as evidence tending to indicate that it is likely that the 1349
person will engage in the future in one or more sexually violent 1350
offenses. 1351

(C) As used in this section, "designated homicide, 1352
assault, or kidnapping offense," "violent sex offense," and 1353
"sexually violent predator" have the same meanings as in section 1354
2971.01 of the Revised Code. 1355

Sec. 2971.03. (A) Notwithstanding divisions (A) and (D) of 1356
section 2929.14, section 2929.02, 2929.03, 2929.06, 2929.13, or 1357
another section of the Revised Code, other than divisions (B) 1358
and (C) of section 2929.14 of the Revised Code, that authorizes 1359
or requires a specified prison term or a mandatory prison term 1360

for a person who is convicted of or pleads guilty to a felony or 1361
that specifies the manner and place of service of a prison term 1362
or term of imprisonment, the court shall impose a sentence upon 1363
a person who is convicted of or pleads guilty to a violent sex 1364
offense and who also is convicted of or pleads guilty to a 1365
sexually violent predator specification that was included in the 1366
indictment, count in the indictment, or information charging 1367
that offense, and upon a person who is convicted of or pleads 1368
guilty to a designated homicide, assault, or kidnapping offense 1369
and also is convicted of or pleads guilty to both a sexual 1370
motivation specification and a sexually violent predator 1371
specification that were included in the indictment, count in the 1372
indictment, or information charging that offense, as follows: 1373

(1) If the offense for which the sentence is being imposed 1374
is aggravated murder and if the court does not impose upon the 1375
offender a sentence of death, it shall impose upon the offender 1376
a term of life imprisonment without parole. If the court 1377
sentences the offender to death and the sentence of death is 1378
vacated, overturned, or otherwise set aside, the court shall 1379
impose upon the offender a term of life imprisonment without 1380
parole. 1381

(2) If the offense for which the sentence is being imposed 1382
is murder; or if the offense is rape committed in violation of 1383
division (A) (1) (b) of section 2907.02 of the Revised Code when 1384
the offender purposely compelled the victim to submit by force 1385
or threat of force, when the victim was less than ten years of 1386
age, when the offender previously has been convicted of or 1387
pleaded guilty to either rape committed in violation of that 1388
division or a violation of an existing or former law of this 1389
state, another state, or the United States that is substantially 1390
similar to division (A) (1) (b) of section 2907.02 of the Revised 1391

Code, or when the offender during or immediately after the 1392
commission of the rape caused serious physical harm to the 1393
victim; or if the offense is an offense other than aggravated 1394
murder or murder for which a term of life imprisonment may be 1395
imposed, it shall impose upon the offender a term of life 1396
imprisonment without parole. 1397

(3) (a) Except as otherwise provided in division (A) (3) (b), 1398
(c), (d), or (e) or (A) (4) of this section, if the offense for 1399
which the sentence is being imposed is an offense other than 1400
aggravated murder, murder, or rape and other than an offense for 1401
which a term of life imprisonment may be imposed, it shall 1402
impose an indefinite prison term consisting of a minimum term 1403
fixed by the court from among the range of terms available as a 1404
definite term for the offense, but not less than two years, and 1405
a maximum term of life imprisonment. 1406

(b) Except as otherwise provided in division (A) (4) of 1407
this section, if the offense for which the sentence is being 1408
imposed is kidnapping that is a felony of the first degree, it 1409
shall impose an indefinite prison term as follows: 1410

(i) If the kidnapping is committed on or after January 1, 1411
2008, and the victim of the offense is less than thirteen years 1412
of age, except as otherwise provided in this division, it shall 1413
impose an indefinite prison term consisting of a minimum term of 1414
fifteen years and a maximum term of life imprisonment. If the 1415
kidnapping is committed on or after January 1, 2008, the victim 1416
of the offense is less than thirteen years of age, and the 1417
offender released the victim in a safe place unharmed, it shall 1418
impose an indefinite prison term consisting of a minimum term of 1419
ten years and a maximum term of life imprisonment. 1420

(ii) If the kidnapping is committed prior to January 1, 1421

2008, or division (A) (3) (b) (i) of this section does not apply, 1422
it shall impose an indefinite term consisting of a minimum term 1423
fixed by the court that is not less than ten years and a maximum 1424
term of life imprisonment. 1425

(c) Except as otherwise provided in division (A) (4) of 1426
this section, if the offense for which the sentence is being 1427
imposed is kidnapping that is a felony of the second degree, it 1428
shall impose an indefinite prison term consisting of a minimum 1429
term fixed by the court that is not less than eight years, and a 1430
maximum term of life imprisonment. 1431

(d) Except as otherwise provided in division (A) (4) of 1432
this section, if the offense for which the sentence is being 1433
imposed is rape for which a term of life imprisonment is not 1434
imposed under division (A) (2) of this section or division (B) of 1435
section 2907.02 of the Revised Code, it shall impose an 1436
indefinite prison term as follows: 1437

(i) If the rape is committed on or after January 2, 2007, 1438
in violation of division (A) (1) (b) of section 2907.02 of the 1439
Revised Code, it shall impose an indefinite prison term 1440
consisting of a minimum term of twenty-five years and a maximum 1441
term of life imprisonment. 1442

(ii) If the rape is committed prior to January 2, 2007, or 1443
the rape is committed on or after January 2, 2007, other than in 1444
violation of division (A) (1) (b) of section 2907.02 of the 1445
Revised Code, it shall impose an indefinite prison term 1446
consisting of a minimum term fixed by the court that is not less 1447
than ten years, and a maximum term of life imprisonment. 1448

(e) Except as otherwise provided in division (A) (4) of 1449
this section, if the offense for which sentence is being imposed 1450

is attempted rape, it shall impose an indefinite prison term as 1451
follows: 1452

(i) Except as otherwise provided in division (A) (3) (e) 1453
(ii), (iii), or (iv) of this section, it shall impose an 1454
indefinite prison term pursuant to division (A) (3) (a) of this 1455
section. 1456

(ii) If the attempted rape for which sentence is being 1457
imposed was committed on or after January 2, 2007, and if the 1458
offender also is convicted of or pleads guilty to a 1459
specification of the type described in section 2941.1418 of the 1460
Revised Code, it shall impose an indefinite prison term 1461
consisting of a minimum term of five years and a maximum term of 1462
twenty-five years. 1463

(iii) If the attempted rape for which sentence is being 1464
imposed was committed on or after January 2, 2007, and if the 1465
offender also is convicted of or pleads guilty to a 1466
specification of the type described in section 2941.1419 of the 1467
Revised Code, it shall impose an indefinite prison term 1468
consisting of a minimum term of ten years and a maximum of life 1469
imprisonment. 1470

(iv) If the attempted rape for which sentence is being 1471
imposed was committed on or after January 2, 2007, and if the 1472
offender also is convicted of or pleads guilty to a 1473
specification of the type described in section 2941.1420 of the 1474
Revised Code, it shall impose an indefinite prison term 1475
consisting of a minimum term of fifteen years and a maximum of 1476
life imprisonment. 1477

(4) For any offense for which the sentence is being 1478
imposed, if the offender previously has been convicted of or 1479

pleaded guilty to a violent sex offense and also to a sexually 1480
violent predator specification that was included in the 1481
indictment, count in the indictment, or information charging 1482
that offense, or previously has been convicted of or pleaded 1483
guilty to a designated homicide, assault, or kidnapping offense 1484
and also to both a sexual motivation specification and a 1485
sexually violent predator specification that were included in 1486
the indictment, count in the indictment, or information charging 1487
that offense, it shall impose upon the offender a term of life 1488
imprisonment without parole. 1489

(B) (1) Notwithstanding section 2929.13, division (A) or 1490
(D) of section 2929.14, or another section of the Revised Code 1491
other than division (B) of section 2907.02 or divisions (B) and 1492
(C) of section 2929.14 of the Revised Code that authorizes or 1493
requires a specified prison term or a mandatory prison term for 1494
a person who is convicted of or pleads guilty to a felony or 1495
that specifies the manner and place of service of a prison term 1496
or term of imprisonment, if a person is convicted of or pleads 1497
guilty to a violation of division (A) (1) (b) of section 2907.02 1498
of the Revised Code committed on or after January 2, 2007, if 1499
division (A) of this section does not apply regarding the 1500
person, and if the court does not impose a sentence of life 1501
without parole when authorized pursuant to division (B) of 1502
section 2907.02 of the Revised Code, the court shall impose upon 1503
the person an indefinite prison term consisting of one of the 1504
following: 1505

(a) Except as otherwise required in division (B) (1) (b) or 1506
(c) of this section, a minimum term of ten years and a maximum 1507
term of life imprisonment. 1508

(b) If the victim was less than ten years of age, a 1509

minimum term of fifteen years and a maximum of life 1510
imprisonment. 1511

(c) If the offender purposely compels the victim to submit 1512
by force or threat of force, or if the offender previously has 1513
been convicted of or pleaded guilty to violating division (A) (1) 1514
(b) of section 2907.02 of the Revised Code or to violating an 1515
existing or former law of this state, another state, or the 1516
United States that is substantially similar to division (A) (1) 1517
(b) of that section, or if the offender during or immediately 1518
after the commission of the offense caused serious physical harm 1519
to the victim, a minimum term of twenty-five years and a maximum 1520
of life imprisonment. 1521

(2) Notwithstanding section 2929.13, division (A) or (D) 1522
of section 2929.14, or another section of the Revised Code other 1523
than divisions (B) and (C) of section 2929.14 of the Revised 1524
Code that authorizes or requires a specified prison term or a 1525
mandatory prison term for a person who is convicted of or pleads 1526
guilty to a felony or that specifies the manner and place of 1527
service of a prison term or term of imprisonment and except as 1528
otherwise provided in division (B) of section 2907.02 of the 1529
Revised Code, if a person is convicted of or pleads guilty to 1530
attempted rape committed on or after January 2, 2007, and if 1531
division (A) of this section does not apply regarding the 1532
person, the court shall impose upon the person an indefinite 1533
prison term consisting of one of the following: 1534

(a) If the person also is convicted of or pleads guilty to 1535
a specification of the type described in section 2941.1418 of 1536
the Revised Code, the court shall impose upon the person an 1537
indefinite prison term consisting of a minimum term of five 1538
years and a maximum term of twenty-five years. 1539

(b) If the person also is convicted of or pleads guilty to 1540
a specification of the type described in section 2941.1419 of 1541
the Revised Code, the court shall impose upon the person an 1542
indefinite prison term consisting of a minimum term of ten years 1543
and a maximum term of life imprisonment. 1544

(c) If the person also is convicted of or pleads guilty to 1545
a specification of the type described in section 2941.1420 of 1546
the Revised Code, the court shall impose upon the person an 1547
indefinite prison term consisting of a minimum term of fifteen 1548
years and a maximum term of life imprisonment. 1549

(3) Notwithstanding section 2929.13, division (A) or (D) 1550
of section 2929.14, or another section of the Revised Code other 1551
than divisions (B) and (C) of section 2929.14 of the Revised 1552
Code that authorizes or requires a specified prison term or a 1553
mandatory prison term for a person who is convicted of or pleads 1554
guilty to a felony or that specifies the manner and place of 1555
service of a prison term or term of imprisonment, if a person is 1556
convicted of or pleads guilty to an offense described in 1557
division (B) (3) (a), (b), (c), or (d) of this section committed 1558
on or after January 1, 2008, if the person also is convicted of 1559
or pleads guilty to a sexual motivation specification that was 1560
included in the indictment, count in the indictment, or 1561
information charging that offense, and if division (A) of this 1562
section does not apply regarding the person, the court shall 1563
impose upon the person an indefinite prison term consisting of 1564
one of the following: 1565

(a) An indefinite prison term consisting of a minimum of 1566
ten years and a maximum term of life imprisonment if the offense 1567
for which the sentence is being imposed is kidnapping, the 1568
victim of the offense is less than thirteen years of age, and 1569

the offender released the victim in a safe place unharmed; 1570

(b) An indefinite prison term consisting of a minimum of 1571
fifteen years and a maximum term of life imprisonment if the 1572
offense for which the sentence is being imposed is kidnapping 1573
when the victim of the offense is less than thirteen years of 1574
age and division (B) (3) (a) of this section does not apply; 1575

(c) An indefinite term consisting of a minimum of thirty 1576
years and a maximum term of life imprisonment if the offense for 1577
which the sentence is being imposed is aggravated murder, when 1578
the victim of the offense is less than thirteen years of age, a 1579
sentence of death or life imprisonment without parole is not 1580
imposed for the offense, and division (A) (2) (b) (ii) of section 1581
2929.022, division (A) (1) ~~(e)~~ (j), (C) (1) (a) ~~(v)~~ (x), (C) (2) (a) (ii), 1582
(D) (2) (b), (D) (3) (a) ~~(iv)~~ (x), or (E) ~~(1) (d)~~ (10) of section 1583
2929.03, or division (A) or (B) of section 2929.06 of the 1584
Revised Code requires that the sentence for the offense be 1585
imposed pursuant to this division; 1586

(d) An indefinite prison term consisting of a minimum of 1587
thirty years and a maximum term of life imprisonment if the 1588
offense for which the sentence is being imposed is murder when 1589
the victim of the offense is less than thirteen years of age. 1590

(C) (1) If the offender is sentenced to a prison term 1591
pursuant to division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), 1592
(b), or (c), or (B) (3) (a), (b), (c), or (d) of this section, the 1593
parole board shall have control over the offender's service of 1594
the term during the entire term unless the parole board 1595
terminates its control in accordance with section 2971.04 of the 1596
Revised Code. 1597

(2) Except as provided in division (C) (3) of this section, 1598

an offender sentenced to a prison term or term of life 1599
imprisonment without parole pursuant to division (A) of this 1600
section shall serve the entire prison term or term of life 1601
imprisonment in a state correctional institution. The offender 1602
is not eligible for judicial release under section 2929.20 of 1603
the Revised Code. 1604

(3) For a prison term imposed pursuant to division (A) (3), 1605
(B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), 1606
(b), (c), or (d) of this section, the court, in accordance with 1607
section 2971.05 of the Revised Code, may terminate the prison 1608
term or modify the requirement that the offender serve the 1609
entire term in a state correctional institution if all of the 1610
following apply: 1611

(a) The offender has served at least the minimum term 1612
imposed as part of that prison term. 1613

(b) The parole board, pursuant to section 2971.04 of the 1614
Revised Code, has terminated its control over the offender's 1615
service of that prison term. 1616

(c) The court has held a hearing and found, by clear and 1617
convincing evidence, one of the following: 1618

(i) In the case of termination of the prison term, that 1619
the offender is unlikely to commit a sexually violent offense in 1620
the future; 1621

(ii) In the case of modification of the requirement, that 1622
the offender does not represent a substantial risk of physical 1623
harm to others. 1624

(4) An offender who has been sentenced to a term of life 1625
imprisonment without parole pursuant to division (A) (1), (2), or 1626
(4) of this section shall not be released from the term of life 1627

imprisonment or be permitted to serve a portion of it in a place 1628
other than a state correctional institution. 1629

(D) If a court sentences an offender to a prison term or 1630
term of life imprisonment without parole pursuant to division 1631
(A) of this section and the court also imposes on the offender 1632
one or more additional prison terms pursuant to division (B) of 1633
section 2929.14 of the Revised Code, all of the additional 1634
prison terms shall be served consecutively with, and prior to, 1635
the prison term or term of life imprisonment without parole 1636
imposed upon the offender pursuant to division (A) of this 1637
section. 1638

(E) If the offender is convicted of or pleads guilty to 1639
two or more offenses for which a prison term or term of life 1640
imprisonment without parole is required to be imposed pursuant 1641
to division (A) of this section, divisions (A) to (D) of this 1642
section shall be applied for each offense. All minimum terms 1643
imposed upon the offender pursuant to division (A) (3) or (B) of 1644
this section for those offenses shall be aggregated and served 1645
consecutively, as if they were a single minimum term imposed 1646
under that division. 1647

(F) (1) If an offender is convicted of or pleads guilty to 1648
a violent sex offense and also is convicted of or pleads guilty 1649
to a sexually violent predator specification that was included 1650
in the indictment, count in the indictment, or information 1651
charging that offense, or is convicted of or pleads guilty to a 1652
designated homicide, assault, or kidnapping offense and also is 1653
convicted of or pleads guilty to both a sexual motivation 1654
specification and a sexually violent predator specification that 1655
were included in the indictment, count in the indictment, or 1656
information charging that offense, the conviction of or plea of 1657

guilty to the offense and the sexually violent predator 1658
specification automatically classifies the offender as a tier 1659
III sex offender/child-victim offender for purposes of Chapter 1660
2950. of the Revised Code. 1661

(2) If an offender is convicted of or pleads guilty to 1662
committing on or after January 2, 2007, a violation of division 1663
(A) (1) (b) of section 2907.02 of the Revised Code and either the 1664
offender is sentenced under section 2971.03 of the Revised Code 1665
or a sentence of life without parole is imposed under division 1666
(B) of section 2907.02 of the Revised Code, the conviction of or 1667
plea of guilty to the offense automatically classifies the 1668
offender as a tier III sex offender/child-victim offender for 1669
purposes of Chapter 2950. of the Revised Code. 1670

(3) If a person is convicted of or pleads guilty to 1671
committing on or after January 2, 2007, attempted rape and also 1672
is convicted of or pleads guilty to a specification of the type 1673
described in section 2941.1418, 2941.1419, or 2941.1420 of the 1674
Revised Code, the conviction of or plea of guilty to the offense 1675
and the specification automatically classify the offender as a 1676
tier III sex offender/child-victim offender for purposes of 1677
Chapter 2950. of the Revised Code. 1678

(4) If a person is convicted of or pleads guilty to one of 1679
the offenses described in division (B) (3) (a), (b), (c), or (d) 1680
of this section and a sexual motivation specification related to 1681
the offense and the victim of the offense is less than thirteen 1682
years of age, the conviction of or plea of guilty to the offense 1683
automatically classifies the offender as a tier III sex 1684
offender/child-victim offender for purposes of Chapter 2950. of 1685
the Revised Code. 1686

Sec. 2971.07. (A) This chapter does not apply to any 1687

offender unless the offender is one of the following: 1688

(1) The offender is convicted of or pleads guilty to a 1689
violent sex offense and also is convicted of or pleads guilty to 1690
a sexually violent predator specification that was included in 1691
the indictment, count in the indictment, or information charging 1692
that offense. 1693

(2) The offender is convicted of or pleads guilty to a 1694
designated homicide, assault, or kidnapping offense and also is 1695
convicted of or pleads guilty to both a sexual motivation 1696
specification and a sexually violent predator specification that 1697
were included in the indictment, count in the indictment, or 1698
information charging that offense. 1699

(3) The offender is convicted of or pleads guilty to a 1700
violation of division (A) (1) (b) of section 2907.02 of the 1701
Revised Code committed on or after January 2, 2007, and the 1702
court does not sentence the offender to a term of life without 1703
parole pursuant to division (B) of section 2907.02 of the 1704
Revised Code or division (B) of that section prohibits the court 1705
from sentencing the offender pursuant to section 2971.03 of the 1706
Revised Code. 1707

(4) The offender is convicted of or pleads guilty to 1708
attempted rape committed on or after January 2, 2007, and also 1709
is convicted of or pleads guilty to a specification of the type 1710
described in section 2941.1418, 2941.1419, or 2941.1420 of the 1711
Revised Code. 1712

(5) The offender is convicted of or pleads guilty to a 1713
violation of section 2905.01 of the Revised Code and also is 1714
convicted of or pleads guilty to a sexual motivation 1715
specification that was included in the indictment, count in the 1716

indictment, or information charging that offense, and that 1717
section requires a court to sentence the offender pursuant to 1718
section 2971.03 of the Revised Code. 1719

(6) The offender is convicted of or pleads guilty to 1720
aggravated murder and also is convicted of or pleads guilty to a 1721
sexual motivation specification that was included in the 1722
indictment, count in the indictment, or information charging 1723
that offense, and division (A) (2) (b) (ii) of section 2929.022, 1724
division (A) (1) ~~(e)~~ (j), (C) (1) (a) ~~(v)~~ (x), (C) (2) (a) (ii), (D) (2) 1725
(b), (D) (3) (a) ~~(iv)~~ (x), or (E) ~~(1) (d)~~ (10) of section 2929.03, or 1726
division (A) or (B) of section 2929.06 of the Revised Code 1727
requires a court to sentence the offender pursuant to division 1728
(B) (3) of section 2971.03 of the Revised Code. 1729

(7) The offender is convicted of or pleads guilty to 1730
murder and also is convicted of or pleads guilty to a sexual 1731
motivation specification that was included in the indictment, 1732
count in the indictment, or information charging that offense, 1733
and division (B) (2) of section 2929.02 of the Revised Code 1734
requires a court to sentence the offender pursuant to section 1735
2971.03 of the Revised Code. 1736

(B) This chapter does not limit or affect a court in 1737
imposing upon an offender described in divisions (A) (1) to (9) 1738
of this section any financial sanction under section 2929.18 or 1739
any other section of the Revised Code, or, except as 1740
specifically provided in this chapter, any other sanction that 1741
is authorized or required for the offense or violation by any 1742
other provision of law. 1743

(C) If an offender is sentenced to a prison term under 1744
division (A) (3), (B) (1) (a), (b), or (c), (B) (2) (a), (b), or (c), 1745
or (B) (3) (a), (b), (c), or (d) of section 2971.03 of the Revised 1746

Code and if, pursuant to section 2971.05 of the Revised Code, 1747
the court modifies the requirement that the offender serve the 1748
entire prison term in a state correctional institution or places 1749
the offender on conditional release that involves the placement 1750
of the offender under the supervision of the adult parole 1751
authority, authorized field officers of the authority who are 1752
engaged within the scope of their supervisory duties or 1753
responsibilities may search, with or without a warrant, the 1754
person of the offender, the place of residence of the offender, 1755
and a motor vehicle, another item of tangible or intangible 1756
personal property, or any other real property in which the 1757
offender has the express or implied permission of a person with 1758
a right, title, or interest to use, occupy, or possess if the 1759
field officer has reasonable grounds to believe that the 1760
offender is not abiding by the law or otherwise is not complying 1761
with the terms and conditions of the offender's modification or 1762
release. The authority shall provide each offender with a 1763
written notice that informs the offender that authorized field 1764
officers of the authority who are engaged within the scope of 1765
their supervisory duties or responsibilities may conduct those 1766
types of searches during the period of the modification or 1767
release if they have reasonable grounds to believe that the 1768
offender is not abiding by the law or otherwise is not complying 1769
with the terms and conditions of the offender's modification or 1770
release. 1771

Sec. 5120.61. (A) (1) Not later than ninety days after 1772
January 1, 1997, the department of rehabilitation and correction 1773
shall adopt standards that it will use under this section to 1774
assess the following criminal offenders and may periodically 1775
revise the standards: 1776

(a) A criminal offender who is convicted of or pleads 1777

guilty to a violent sex offense or designated homicide, assault, 1778
or kidnapping offense and is adjudicated a sexually violent 1779
predator in relation to that offense; 1780

(b) A criminal offender who is convicted of or pleads 1781
guilty to a violation of division (A) (1) (b) of section 2907.02 1782
of the Revised Code committed on or after January 2, 2007, and 1783
either who is sentenced under section 2971.03 of the Revised 1784
Code or upon whom a sentence of life without parole is imposed 1785
under division (B) of section 2907.02 of the Revised Code; 1786

(c) A criminal offender who is convicted of or pleads 1787
guilty to attempted rape committed on or after January 2, 2007, 1788
and a specification of the type described in section 2941.1418, 1789
2941.1419, or 2941.1420 of the Revised Code; 1790

(d) A criminal offender who is convicted of or pleads 1791
guilty to a violation of section 2905.01 of the Revised Code and 1792
also is convicted of or pleads guilty to a sexual motivation 1793
specification that was included in the indictment, count in the 1794
indictment, or information charging that offense, and who is 1795
sentenced pursuant to section 2971.03 of the Revised Code; 1796

(e) A criminal offender who is convicted of or pleads 1797
guilty to aggravated murder and also is convicted of or pleads 1798
guilty to a sexual motivation specification that was included in 1799
the indictment, count in the indictment, or information charging 1800
that offense, and who pursuant to division (A) (2) (b) (ii) of 1801
section 2929.022, division (A) (1) ~~(e)~~ (j), (C) (1) (a) ~~(v)~~ (x), (C) (2) 1802
(a) (ii), (D) (2) (b), (D) (3) (a) ~~(iv)~~ (x), or (E) ~~(1)~~ (d) ~~(10)~~ of 1803
section 2929.03, or division (A) or (B) of section 2929.06 of 1804
the Revised Code is sentenced pursuant to division (B) (3) of 1805
section 2971.03 of the Revised Code; 1806

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

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

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

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

(c) Upon the request of the court.

(3) After the department of rehabilitation and correction

assesses an offender pursuant to division (A) (2) of this 1836
section, it shall prepare a report that contains its risk 1837
assessment for the offender or, if a risk assessment report 1838
previously has been prepared, it shall update the risk 1839
assessment report. 1840

(4) The department of rehabilitation and correction shall 1841
provide each risk assessment report that it prepares or updates 1842
pursuant to this section regarding an offender to all of the 1843
following: 1844

(a) The parole board for its use in determining pursuant 1845
to section 2971.04 of the Revised Code whether it should 1846
terminate its control over an offender's service of a prison 1847
term imposed upon the offender under division (A) (3), (B) (1) (a), 1848
(b), or (c), (B) (2) (a), (b), or (c), or (B) (3) (a), (b), (c), or 1849
(d) of section 2971.03 of the Revised Code, if the parole board 1850
has not terminated its control over the offender; 1851

(b) The court for use in determining, pursuant to section 1852
2971.05 of the Revised Code, whether to modify the requirement 1853
that the offender serve the entire prison term imposed upon the 1854
offender under division (A) (3), (B) (1) (a), (b), or (c), (B) (2) 1855
(a), (b), or (c), or (B) (3) (a), (b), (c), or (d) of section 1856
2971.03 of the Revised Code in a state correctional institution, 1857
whether to revise any modification previously made, or whether 1858
to terminate the prison term; 1859

(c) The prosecuting attorney who prosecuted the case, or 1860
the successor in office to that prosecuting attorney; 1861

(d) The offender. 1862

(B) When the department of rehabilitation and correction 1863
provides a risk assessment report regarding an offender to the 1864

parole board or court pursuant to division (A) (4) (a) or (b) of 1865
this section, the department, prior to the parole board's or 1866
court's hearing, also shall provide to the offender or to the 1867
offender's attorney of record a copy of the report and a copy of 1868
any other relevant documents the department possesses regarding 1869
the offender that the department does not consider to be 1870
confidential. 1871

(C) As used in this section: 1872

(1) "Adjudicated a sexually violent predator" has the same 1873
meaning as in section 2929.01 of the Revised Code, and a person 1874
is "adjudicated a sexually violent predator" in the same manner 1875
and the same circumstances as are described in that section. 1876

(2) "Designated homicide, assault, or kidnapping offense" 1877
and "violent sex offense" have the same meanings as in section 1878
2971.01 of the Revised Code. 1879

Section 2. That existing sections 2929.03, 2929.04, 1880
2929.14, 2941.148, 2971.03, 2971.07, and 5120.61 of the Revised 1881
Code are hereby repealed. 1882

Section 3. This act shall be known as "Justin's Law." 1883