

As Reported by the House Criminal Justice Committee

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Sub. H. B. No. 44

Representatives Roemer, Miller, J.

Cosponsors: Representatives Crossman, Hoops, Miller, A., McClain, O'Brien, Plummer, Richardson, Riedel, Russo, Troy, Weinstein, Young, T., Leland, Denson, Schmidt, White

A BILL

To amend sections 2903.13 and 2929.13 of the Revised Code to increase the penalties for assault if the victim is acting as a sports official or the assault is committed in retaliation for the victim's actions as a sports official.

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

Section 1. That sections 2903.13 and 2929.13 of the Revised Code be amended to read as follows:

Sec. 2903.13. (A) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.

(B) No person shall recklessly cause serious physical harm to another or to another's unborn.

(C) (1) Whoever violates this section is guilty of assault, and the court shall sentence the offender as provided in this division and divisions (C) (1), (2), (3), (4), (5), (6), (7),

(8), (9), ~~and (10)~~, and (11) of this section. Except as 17
otherwise provided in division (C) (2), (3), (4), (5), (6), (7), 18
(8), or (9) of this section, assault is a misdemeanor of the 19
first degree. 20

(2) Except as otherwise provided in this division, if the 21
offense is committed by a caretaker against a functionally 22
impaired person under the caretaker's care, assault is a felony 23
of the fourth degree. If the offense is committed by a caretaker 24
against a functionally impaired person under the caretaker's 25
care, if the offender previously has been convicted of or 26
pleaded guilty to a violation of this section or section 2903.11 27
or 2903.16 of the Revised Code, and if in relation to the 28
previous conviction the offender was a caretaker and the victim 29
was a functionally impaired person under the offender's care, 30
assault is a felony of the third degree. 31

(3) If the offense occurs in or on the grounds of a state 32
correctional institution or an institution of the department of 33
youth services, the victim of the offense is an employee of the 34
department of rehabilitation and correction or the department of 35
youth services, and the offense is committed by a person 36
incarcerated in the state correctional institution or by a 37
person institutionalized in the department of youth services 38
institution pursuant to a commitment to the department of youth 39
services, assault is a felony of the third degree. 40

(4) If the offense is committed in any of the following 41
circumstances, assault is a felony of the fifth degree: 42

(a) The offense occurs in or on the grounds of a local 43
correctional facility, the victim of the offense is an employee 44
of the local correctional facility or a probation department or 45
is on the premises of the facility for business purposes or as a 46

visitor, and the offense is committed by a person who is under 47
custody in the facility subsequent to the person's arrest for 48
any crime or delinquent act, subsequent to the person's being 49
charged with or convicted of any crime, or subsequent to the 50
person's being alleged to be or adjudicated a delinquent child. 51

(b) The offense occurs off the grounds of a state 52
correctional institution and off the grounds of an institution 53
of the department of youth services, the victim of the offense 54
is an employee of the department of rehabilitation and 55
correction, the department of youth services, or a probation 56
department, the offense occurs during the employee's official 57
work hours and while the employee is engaged in official work 58
responsibilities, and the offense is committed by a person 59
incarcerated in a state correctional institution or 60
institutionalized in the department of youth services who 61
temporarily is outside of the institution for any purpose, by a 62
parolee, by an offender under transitional control, under a 63
community control sanction, or on an escorted visit, by a person 64
under post-release control, or by an offender under any other 65
type of supervision by a government agency. 66

(c) The offense occurs off the grounds of a local 67
correctional facility, the victim of the offense is an employee 68
of the local correctional facility or a probation department, 69
the offense occurs during the employee's official work hours and 70
while the employee is engaged in official work responsibilities, 71
and the offense is committed by a person who is under custody in 72
the facility subsequent to the person's arrest for any crime or 73
delinquent act, subsequent to the person being charged with or 74
convicted of any crime, or subsequent to the person being 75
alleged to be or adjudicated a delinquent child and who 76
temporarily is outside of the facility for any purpose or by a 77

parolee, by an offender under transitional control, under a 78
community control sanction, or on an escorted visit, by a person 79
under post-release control, or by an offender under any other 80
type of supervision by a government agency. 81

(d) The victim of the offense is a school teacher or 82
administrator or a school bus operator, and the offense occurs 83
in a school, on school premises, in a school building, on a 84
school bus, or while the victim is outside of school premises or 85
a school bus and is engaged in duties or official 86
responsibilities associated with the victim's employment or 87
position as a school teacher or administrator or a school bus 88
operator, including, but not limited to, driving, accompanying, 89
or chaperoning students at or on class or field trips, athletic 90
events, or other school extracurricular activities or functions 91
outside of school premises. 92

(e) All of the following apply: 93

(i) The victim of the offense is a sports official and the 94
offense occurs while the victim is engaged in the victim's 95
official duties at a sports event or immediately before or after 96
the sports event. 97

(ii) The offender previously has been convicted of or 98
pleaded guilty to a violation of this section under the 99
circumstances specified in division (C)(4)(e)(i) or (C)(4)(f)(i) 100
of this section. 101

(f) All of the following apply: 102

(i) The victim of the offense is a sports official and the 103
offense is committed in retaliation for an action taken by the 104
victim while the victim was engaged in the victim's official 105
duties at a sports event. 106

(ii) The offender previously has been convicted of or 107
pleaded guilty to a violation of this section under the 108
circumstances specified in division (C) (4) (e) (i) or (C) (4) (f) (i) 109
of this section. 110

(5) If the victim of the offense is a peace officer or an 111
investigator of the bureau of criminal identification and 112
investigation, a firefighter, or a person performing emergency 113
medical service, while in the performance of their official 114
duties, assault is a felony of the fourth degree. 115

(6) If the victim of the offense is a peace officer or an 116
investigator of the bureau of criminal identification and 117
investigation and if the victim suffered serious physical harm 118
as a result of the commission of the offense, assault is a 119
felony of the fourth degree, and the court, pursuant to division 120
(F) of section 2929.13 of the Revised Code, shall impose as a 121
mandatory prison term one of the prison terms prescribed for a 122
felony of the fourth degree that is at least twelve months in 123
duration. 124

(7) If the victim of the offense is an officer or employee 125
of a public children services agency or a private child placing 126
agency and the offense relates to the officer's or employee's 127
performance or anticipated performance of official 128
responsibilities or duties, assault is either a felony of the 129
fifth degree or, if the offender previously has been convicted 130
of or pleaded guilty to an offense of violence, the victim of 131
that prior offense was an officer or employee of a public 132
children services agency or private child placing agency, and 133
that prior offense related to the officer's or employee's 134
performance or anticipated performance of official 135
responsibilities or duties, a felony of the fourth degree. 136

(8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers, or officers, assault is one of the following:

(a) Except as otherwise provided in division (C) (8) (b) of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A) (2) ~~(b)~~ (a) of section 2929.28 of the Revised Code for a misdemeanor of the first degree, in sentencing the offender under this division and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars.

(b) If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony of the fifth degree.

(9) If the victim of the offense is a judge, magistrate, prosecutor, or court official or employee whom the offender knows or has reasonable cause to know is a judge, magistrate, prosecutor, or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

(a) Except as otherwise provided in division (C) ~~(8)~~ (9) (b) of this section, assault committed in the specified

circumstances is a misdemeanor of the first degree. In 167
sentencing the offender under this division, if the court 168
decides to impose a fine, notwithstanding the fine specified in 169
division (A) (2) ~~(b)~~ (a) of section 2929.28 of the Revised Code 170
for a misdemeanor of the first degree, the court may impose upon 171
the offender a fine of not more than five thousand dollars. 172

(b) If the offender previously has been convicted of or 173
pleaded guilty to one or more assault or homicide offenses 174
committed against justice system personnel, assault committed in 175
the specified circumstances is a felony of the fifth degree. 176

(10) If an offender who is convicted of or pleads guilty 177
to assault when it is a misdemeanor also is convicted of or 178
pleads guilty to a specification as described in section 179
2941.1423 of the Revised Code that was included in the 180
indictment, count in the indictment, or information charging the 181
offense, the court shall sentence the offender to a mandatory 182
jail term as provided in division (G) of section 2929.24 of the 183
Revised Code. 184

If an offender who is convicted of or pleads guilty to 185
assault when it is a felony also is convicted of or pleads 186
guilty to a specification as described in section 2941.1423 of 187
the Revised Code that was included in the indictment, count in 188
the indictment, or information charging the offense, except as 189
otherwise provided in division (C) (6) of this section, the court 190
shall sentence the offender to a mandatory prison term as 191
provided in division (B) (8) of section 2929.14 of the Revised 192
Code. 193

(11) If an offender is convicted of or pleads guilty to 194
assault when it is a misdemeanor of the first degree, in 195
addition to the sentence for that misdemeanor, the court shall 196

impose a mandatory fine of one thousand five hundred dollars, 197
notwithstanding the fine specified in division (A) (2) (a) of 198
section 2929.28 of the Revised Code for a misdemeanor of the 199
first degree, and shall impose forty hours of community service 200
if either of the following applies: 201

(a) The victim of the offense is a sports official and the 202
offense occurs while the victim is engaged in the victim's 203
official duties at a sports event or immediately before or after 204
the sports event. 205

(b) The victim of the offense is a sports official and the 206
offense is committed in retaliation for an action taken by the 207
victim while the victim was engaged in the victim's official 208
duties at a sports event. 209

(D) Nothing in division (C) (4) (e) or (f) of this section 210
shall prevent an offender from being prosecuted for a violation 211
of section 2903.11 or 2903.12 of the Revised Code if the 212
elements of the offense under either of those sections are 213
present, the victim of the offense is a sports official, and the 214
offense occurs while the victim is engaged in the victim's 215
official duties at a sports event or immediately before or after 216
the sports event. 217

(E) As used in this section: 218

(1) "Peace officer" has the same meaning as in section 219
2935.01 of the Revised Code. 220

(2) "Firefighter" has the same meaning as in section 221
3937.41 of the Revised Code. 222

(3) "Emergency medical service" has the same meaning as in 223
section 4765.01 of the Revised Code. 224

(4) "Local correctional facility" means a county, 225
multicounty, municipal, municipal-county, or multicounty- 226
municipal jail or workhouse, a minimum security jail established 227
under section 341.23 or 753.21 of the Revised Code, or another 228
county, multicounty, municipal, municipal-county, or 229
multicounty-municipal facility used for the custody of persons 230
arrested for any crime or delinquent act, persons charged with 231
or convicted of any crime, or persons alleged to be or 232
adjudicated a delinquent child. 233

(5) "Employee of a local correctional facility" means a 234
person who is an employee of the political subdivision or of one 235
or more of the affiliated political subdivisions that operates 236
the local correctional facility and who operates or assists in 237
the operation of the facility. 238

(6) "School teacher or administrator" means either of the 239
following: 240

(a) A person who is employed in the public schools of the 241
state under a contract described in section 3311.77 or 3319.08 242
of the Revised Code in a position in which the person is 243
required to have a certificate issued pursuant to sections 244
3319.22 to 3319.311 of the Revised Code. 245

(b) A person who is employed by a nonpublic school for 246
which the state board of education prescribes minimum standards 247
under section 3301.07 of the Revised Code and who is 248
certificated in accordance with section 3301.071 of the Revised 249
Code. 250

(7) "Community control sanction" has the same meaning as 251
in section 2929.01 of the Revised Code. 252

(8) "Escorted visit" means an escorted visit granted under 253

section 2967.27 of the Revised Code.	254
(9) "Post-release control" and "transitional control" have the same meanings as in section 2967.01 of the Revised Code.	255 256
(10) "Investigator of the bureau of criminal identification and investigation" has the same meaning as in section 2903.11 of the Revised Code.	257 258 259
(11) "Health care professional" and "health care worker" have the same meanings as in section 2305.234 of the Revised Code.	260 261 262
(12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, or 2903.14 of the Revised Code committed in circumstances in which all of the following apply:	263 264 265 266 267
(a) The victim of the offense was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital.	268 269 270
(b) The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital.	271 272 273 274
(c) The victim was engaged in the performance of the victim's duties.	275 276
(d) The hospital offered de-escalation or crisis intervention training for such professionals, workers, or officers.	277 278 279
(13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care	280 281

professionals of a hospital, health care workers of a hospital, 282
and security officers of a hospital to facilitate interaction 283
with patients, members of a patient's family, and visitors, 284
including those with mental impairments. 285

(14) "Assault or homicide offense committed against 286
justice system personnel" means a violation of this section or 287
of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 288
2903.11, 2903.12, or 2903.14 of the Revised Code committed in 289
circumstances in which the victim of the offense was a judge, 290
magistrate, prosecutor, or court official or employee whom the 291
offender knew or had reasonable cause to know was a judge, 292
magistrate, prosecutor, or court official or employee, and the 293
victim was engaged in the performance of the victim's duties. 294

(15) "Court official or employee" means any official or 295
employee of a court created under the constitution or statutes 296
of this state or of a United States court located in this state. 297

(16) "Judge" means a judge of a court created under the 298
constitution or statutes of this state or of a United States 299
court located in this state. 300

(17) "Magistrate" means an individual who is appointed by 301
a court of record of this state and who has the powers and may 302
perform the functions specified in Civil Rule 53, Criminal Rule 303
19, or Juvenile Rule 40, or an individual who is appointed by a 304
United States court located in this state who has similar powers 305
and functions. 306

(18) "Prosecutor" has the same meaning as in section 307
2935.01 of the Revised Code. 308

(19) (a) "Hospital" means, subject to division (D) (19) (b) 309
of this section, an institution classified as a hospital under 310

section 3701.01 of the Revised Code in which are provided to 311
patients diagnostic, medical, surgical, obstetrical, 312
psychiatric, or rehabilitation care or a hospital operated by a 313
health maintenance organization. 314

(b) "Hospital" does not include any of the following: 315

(i) A facility licensed under Chapter 3721. of the Revised 316
Code, a health care facility operated by the department of 317
mental health or the department of developmental disabilities, a 318
health maintenance organization that does not operate a 319
hospital, or the office of any private, licensed health care 320
professional, whether organized for individual or group 321
practice; 322

(ii) An institution for the sick that is operated 323
exclusively for patients who use spiritual means for healing and 324
for whom the acceptance of medical care is inconsistent with 325
their religious beliefs, accredited by a national accrediting 326
organization, exempt from federal income taxation under section 327
501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 328
U.S.C. 1, as amended, and providing twenty-four-hour nursing 329
care pursuant to the exemption in division (E) of section 330
4723.32 of the Revised Code from the licensing requirements of 331
Chapter 4723. of the Revised Code. 332

(20) "Health maintenance organization" has the same 333
meaning as in section 3727.01 of the Revised Code. 334

(21) "Sports official" means any person who is paid or 335
volunteers to enforce the rules of a sports event as a referee, 336
umpire, linesperson, timer, scorekeeper, or in a similar 337
capacity. 338

(22) "Sports event" includes all of the following: 339

(a) Any interscholastic or intramural athletic event or athletic activity at an elementary or secondary school, college, or university or in which an elementary or secondary school, college, or university participates; 340
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(b) Any organized athletic activity, including an organized athletic activity that is sponsored by a community, business, or nonprofit organization; 344
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(c) Any athletic activity that is a professional or semiprofessional event. 347
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Sec. 2929.13. (A) Except as provided in division (E), (F), 349
or (G) of this section and unless a specific sanction is 350
required to be imposed or is precluded from being imposed 351
pursuant to law, a court that imposes a sentence upon an 352
offender for a felony may impose any sanction or combination of 353
sanctions on the offender that are provided in sections 2929.14 354
to 2929.18 of the Revised Code. 355

If the offender is eligible to be sentenced to community 356
control sanctions, the court shall consider the appropriateness 357
of imposing a financial sanction pursuant to section 2929.18 of 358
the Revised Code or a sanction of community service pursuant to 359
section 2929.17 of the Revised Code as the sole sanction for the 360
offense. Except as otherwise provided in this division, if the 361
court is required to impose a mandatory prison term for the 362
offense for which sentence is being imposed, the court also 363
shall impose any financial sanction pursuant to section 2929.18 364
of the Revised Code that is required for the offense and may 365
impose any other financial sanction pursuant to that section but 366
may not impose any additional sanction or combination of 367
sanctions under section 2929.16 or 2929.17 of the Revised Code. 368

If the offender is being sentenced for a fourth degree 369
felony OVI offense or for a third degree felony OVI offense, in 370
addition to the mandatory term of local incarceration or the 371
mandatory prison term required for the offense by division (G) 372
(1) or (2) of this section, the court shall impose upon the 373
offender a mandatory fine in accordance with division (B)(3) of 374
section 2929.18 of the Revised Code and may impose whichever of 375
the following is applicable: 376

(1) For a fourth degree felony OVI offense for which 377
sentence is imposed under division (G)(1) of this section, an 378
additional community control sanction or combination of 379
community control sanctions under section 2929.16 or 2929.17 of 380
the Revised Code. If the court imposes upon the offender a 381
community control sanction and the offender violates any 382
condition of the community control sanction, the court may take 383
any action prescribed in division (B) of section 2929.15 of the 384
Revised Code relative to the offender, including imposing a 385
prison term on the offender pursuant to that division. 386

(2) For a third or fourth degree felony OVI offense for 387
which sentence is imposed under division (G)(2) of this section, 388
an additional prison term as described in division (B)(4) of 389
section 2929.14 of the Revised Code or a community control 390
sanction as described in division (G)(2) of this section. 391

(B)(1)(a) Except as provided in division (B)(1)(b) of this 392
section, if an offender is convicted of or pleads guilty to a 393
felony of the fourth or fifth degree that is not an offense of 394
violence or that is a qualifying assault offense, the court 395
shall sentence the offender to a community control sanction or 396
combination of community control sanctions if all of the 397
following apply: 398

(i) The offender previously has not been convicted of or pleaded guilty to a felony offense.	399 400
(ii) The most serious charge against the offender at the time of sentencing is a felony of the fourth or fifth degree.	401 402
(iii) The offender previously has not been convicted of or pleaded guilty to a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed.	403 404 405 406
(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:	407 408 409 410 411
(i) The offender committed the offense while having a firearm on or about the offender's person or under the offender's control.	412 413 414
(ii) If the offense is a qualifying assault offense, the offender caused serious physical harm to another person while committing the offense, and, if the offense is not a qualifying assault offense, the offender caused physical harm to another person while committing the offense.	415 416 417 418 419
(iii) The offender violated a term of the conditions of bond as set by the court.	420 421
(iv) The offense is a sex offense that is a fourth or fifth degree felony violation of any provision of Chapter 2907. of the Revised Code.	422 423 424
(v) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with	425 426

a deadly weapon. 427

(vi) In committing the offense, the offender attempted to 428
cause or made an actual threat of physical harm to a person, and 429
the offender previously was convicted of an offense that caused 430
physical harm to a person. 431

(vii) The offender held a public office or position of 432
trust, and the offense related to that office or position; the 433
offender's position obliged the offender to prevent the offense 434
or to bring those committing it to justice; or the offender's 435
professional reputation or position facilitated the offense or 436
was likely to influence the future conduct of others. 437

(viii) The offender committed the offense for hire or as 438
part of an organized criminal activity. 439

(ix) The offender at the time of the offense was serving, 440
or the offender previously had served, a prison term. 441

(x) The offender committed the offense while under a 442
community control sanction, while on probation, or while 443
released from custody on a bond or personal recognizance. 444

(c) A sentencing court may impose an additional penalty 445
under division (B) of section 2929.15 of the Revised Code upon 446
an offender sentenced to a community control sanction under 447
division (B)(1)(a) of this section if the offender violates the 448
conditions of the community control sanction, violates a law, or 449
leaves the state without the permission of the court or the 450
offender's probation officer. 451

(2) If division (B)(1) of this section does not apply, 452
except as provided in division (E), (F), or (G) of this section, 453
in determining whether to impose a prison term as a sanction for 454
a felony of the fourth or fifth degree, the sentencing court 455

shall comply with the purposes and principles of sentencing 456
under section 2929.11 of the Revised Code and with section 457
2929.12 of the Revised Code. 458

(C) Except as provided in division (D), (E), (F), or (G) 459
of this section, in determining whether to impose a prison term 460
as a sanction for a felony of the third degree or a felony drug 461
offense that is a violation of a provision of Chapter 2925. of 462
the Revised Code and that is specified as being subject to this 463
division for purposes of sentencing, the sentencing court shall 464
comply with the purposes and principles of sentencing under 465
section 2929.11 of the Revised Code and with section 2929.12 of 466
the Revised Code. 467

(D) (1) Except as provided in division (E) or (F) of this 468
section, for a felony of the first or second degree, for a 469
felony drug offense that is a violation of any provision of 470
Chapter 2925., 3719., or 4729. of the Revised Code for which a 471
presumption in favor of a prison term is specified as being 472
applicable, and for a violation of division (A) (4) or (B) of 473
section 2907.05 of the Revised Code for which a presumption in 474
favor of a prison term is specified as being applicable, it is 475
presumed that a prison term is necessary in order to comply with 476
the purposes and principles of sentencing under section 2929.11 477
of the Revised Code. Division (D) (2) of this section does not 478
apply to a presumption established under this division for a 479
violation of division (A) (4) of section 2907.05 of the Revised 480
Code. 481

(2) Notwithstanding the presumption established under 482
division (D) (1) of this section for the offenses listed in that 483
division other than a violation of division (A) (4) or (B) of 484
section 2907.05 of the Revised Code, the sentencing court may 485

impose a community control sanction or a combination of 486
community control sanctions instead of a prison term on an 487
offender for a felony of the first or second degree or for a 488
felony drug offense that is a violation of any provision of 489
Chapter 2925., 3719., or 4729. of the Revised Code for which a 490
presumption in favor of a prison term is specified as being 491
applicable if it makes both of the following findings: 492

(a) A community control sanction or a combination of 493
community control sanctions would adequately punish the offender 494
and protect the public from future crime, because the applicable 495
factors under section 2929.12 of the Revised Code indicating a 496
lesser likelihood of recidivism outweigh the applicable factors 497
under that section indicating a greater likelihood of 498
recidivism. 499

(b) A community control sanction or a combination of 500
community control sanctions would not demean the seriousness of 501
the offense, because one or more factors under section 2929.12 502
of the Revised Code that indicate that the offender's conduct 503
was less serious than conduct normally constituting the offense 504
are applicable, and they outweigh the applicable factors under 505
that section that indicate that the offender's conduct was more 506
serious than conduct normally constituting the offense. 507

(E) (1) Except as provided in division (F) of this section, 508
for any drug offense that is a violation of any provision of 509
Chapter 2925. of the Revised Code and that is a felony of the 510
third, fourth, or fifth degree, the applicability of a 511
presumption under division (D) of this section in favor of a 512
prison term or of division (B) or (C) of this section in 513
determining whether to impose a prison term for the offense 514
shall be determined as specified in section 2925.02, 2925.03, 515

2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 516
2925.36, or 2925.37 of the Revised Code, whichever is applicable 517
regarding the violation. 518

(2) If an offender who was convicted of or pleaded guilty 519
to a felony violates the conditions of a community control 520
sanction imposed for the offense solely by reason of producing 521
positive results on a drug test or by acting pursuant to 522
division (B) (2) (b) of section 2925.11 of the Revised Code with 523
respect to a minor drug possession offense, the court, as 524
punishment for the violation of the sanction, shall not order 525
that the offender be imprisoned unless the court determines on 526
the record either of the following: 527

(a) The offender had been ordered as a sanction for the 528
felony to participate in a drug treatment program, in a drug 529
education program, or in narcotics anonymous or a similar 530
program, and the offender continued to use illegal drugs after a 531
reasonable period of participation in the program. 532

(b) The imprisonment of the offender for the violation is 533
consistent with the purposes and principles of sentencing set 534
forth in section 2929.11 of the Revised Code. 535

(3) A court that sentences an offender for a drug abuse 536
offense that is a felony of the third, fourth, or fifth degree 537
may require that the offender be assessed by a properly 538
credentialed professional within a specified period of time. The 539
court shall require the professional to file a written 540
assessment of the offender with the court. If the offender is 541
eligible for a community control sanction and after considering 542
the written assessment, the court may impose a community control 543
sanction that includes addiction services and recovery supports 544
included in a community-based continuum of care established 545

under section 340.032 of the Revised Code. If the court imposes 546
addiction services and recovery supports as a community control 547
sanction, the court shall direct the level and type of addiction 548
services and recovery supports after considering the assessment 549
and recommendation of community addiction services providers. 550

(F) Notwithstanding divisions (A) to (E) of this section, 551
the court shall impose a prison term or terms under sections 552
2929.02 to 2929.06, section 2929.14, section 2929.142, or 553
section 2971.03 of the Revised Code and except as specifically 554
provided in section 2929.20, divisions (C) to (I) of section 555
2967.19, or section 2967.191 of the Revised Code or when parole 556
is authorized for the offense under section 2967.13 of the 557
Revised Code shall not reduce the term or terms pursuant to 558
section 2929.20, section 2967.19, section 2967.193, or any other 559
provision of Chapter 2967. or Chapter 5120. of the Revised Code 560
for any of the following offenses: 561

(1) Aggravated murder when death is not imposed or murder; 562

(2) Any rape, regardless of whether force was involved and 563
regardless of the age of the victim, or an attempt to commit 564
rape if, had the offender completed the rape that was attempted, 565
the offender would have been guilty of a violation of division 566
(A) (1) (b) of section 2907.02 of the Revised Code and would be 567
sentenced under section 2971.03 of the Revised Code; 568

(3) Gross sexual imposition or sexual battery, if the 569
victim is less than thirteen years of age and if any of the 570
following applies: 571

(a) Regarding gross sexual imposition, the offender 572
previously was convicted of or pleaded guilty to rape, the 573
former offense of felonious sexual penetration, gross sexual 574

imposition, or sexual battery, and the victim of the previous 575
offense was less than thirteen years of age; 576

(b) Regarding gross sexual imposition, the offense was 577
committed on or after August 3, 2006, and evidence other than 578
the testimony of the victim was admitted in the case 579
corroborating the violation. 580

(c) Regarding sexual battery, either of the following 581
applies: 582

(i) The offense was committed prior to August 3, 2006, the 583
offender previously was convicted of or pleaded guilty to rape, 584
the former offense of felonious sexual penetration, or sexual 585
battery, and the victim of the previous offense was less than 586
thirteen years of age. 587

(ii) The offense was committed on or after August 3, 2006. 588

(4) A felony violation of section 2903.04, 2903.06, 589
2903.08, 2903.11, 2903.12, 2903.13, 2905.32, 2907.07, 2921.321, 590
or 2923.132 of the Revised Code if the section requires the 591
imposition of a prison term; 592

(5) A first, second, or third degree felony drug offense 593
for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 594
2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, 595
or 4729.99 of the Revised Code, whichever is applicable 596
regarding the violation, requires the imposition of a mandatory 597
prison term; 598

(6) Any offense that is a first or second degree felony 599
and that is not set forth in division (F) (1), (2), (3), or (4) 600
of this section, if the offender previously was convicted of or 601
pleaded guilty to aggravated murder, murder, any first or second 602
degree felony, or an offense under an existing or former law of 603

this state, another state, or the United States that is or was 604
substantially equivalent to one of those offenses; 605

(7) Any offense that is a third degree felony and either 606
is a violation of section 2903.04 of the Revised Code or an 607
attempt to commit a felony of the second degree that is an 608
offense of violence and involved an attempt to cause serious 609
physical harm to a person or that resulted in serious physical 610
harm to a person if the offender previously was convicted of or 611
pleaded guilty to any of the following offenses: 612

(a) Aggravated murder, murder, involuntary manslaughter, 613
rape, felonious sexual penetration as it existed under section 614
2907.12 of the Revised Code prior to September 3, 1996, a felony 615
of the first or second degree that resulted in the death of a 616
person or in physical harm to a person, or complicity in or an 617
attempt to commit any of those offenses; 618

(b) An offense under an existing or former law of this 619
state, another state, or the United States that is or was 620
substantially equivalent to an offense listed in division (F) (7) 621
(a) of this section that resulted in the death of a person or in 622
physical harm to a person. 623

(8) Any offense, other than a violation of section 2923.12 624
of the Revised Code, that is a felony, if the offender had a 625
firearm on or about the offender's person or under the 626
offender's control while committing the felony, with respect to 627
a portion of the sentence imposed pursuant to division (B) (1) (a) 628
of section 2929.14 of the Revised Code for having the firearm; 629

(9) Any offense of violence that is a felony, if the 630
offender wore or carried body armor while committing the felony 631
offense of violence, with respect to the portion of the sentence 632

imposed pursuant to division (B) (1) (d) of section 2929.14 of the Revised Code for wearing or carrying the body armor;

(10) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(11) Any violent sex offense or designated homicide, assault, or kidnapping offense if, in relation to that offense, the offender is adjudicated a sexually violent predator;

(12) A violation of division (A) (1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A) (1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction;

(13) A violation of division (A) (1) or (2) of section 2903.06 of the Revised Code if the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, with respect to the portion of the sentence imposed pursuant to division (B) (5) of section 2929.14 of the Revised Code;

(14) A violation of division (A) (1) or (2) of section 2903.06 of the Revised Code if the offender has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, with respect to the portion of the sentence

imposed pursuant to division (B) (6) of section 2929.14 of the Revised Code;

(15) Kidnapping, in the circumstances specified in section 2971.03 of the Revised Code and when no other provision of division (F) of this section applies;

(16) Kidnapping, abduction, compelling prostitution, promoting prostitution, engaging in a pattern of corrupt activity, a violation of division (A) (1) or (2) of section 2907.323 of the Revised Code that involves a minor, or endangering children in violation of division (B) (1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code, if the offender is convicted of or pleads guilty to a specification as described in section 2941.1422 of the Revised Code that was included in the indictment, count in the indictment, or information charging the offense;

(17) A felony violation of division (A) or (B) of section 2919.25 of the Revised Code if division (D) (3), (4), or (5) of that section, and division (D) (6) of that section, require the imposition of a prison term;

(18) A felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code, if the victim of the offense was a woman that the offender knew was pregnant at the time of the violation, with respect to a portion of the sentence imposed pursuant to division (B) (8) of section 2929.14 of the Revised Code;

(19) (a) Any violent felony offense if the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control during the commission of the violent felony offense and displayed or

brandished the firearm, indicated that the offender possessed a 691
firearm, or used the firearm to facilitate the offense, with 692
respect to the portion of the sentence imposed under division 693
(K) of section 2929.14 of the Revised Code. 694

(b) As used in division (F)(19)(a) of this section, 695
"violent career criminal" and "violent felony offense" have the 696
same meanings as in section 2923.132 of the Revised Code. 697

(20) Any violation of division (A)(1) of section 2903.11 698
of the Revised Code if the offender used an accelerant in 699
committing the violation and the serious physical harm to 700
another or another's unborn caused by the violation resulted in 701
a permanent, serious disfigurement or permanent, substantial 702
incapacity or any violation of division (A)(2) of that section 703
if the offender used an accelerant in committing the violation, 704
the violation caused physical harm to another or another's 705
unborn, and the physical harm resulted in a permanent, serious 706
disfigurement or permanent, substantial incapacity, with respect 707
to a portion of the sentence imposed pursuant to division (B)(9) 708
of section 2929.14 of the Revised Code. The provisions of this 709
division and of division (D)(2) of section 2903.11, divisions 710
(B)(9) and (C)(6) of section 2929.14, and section 2941.1425 of 711
the Revised Code shall be known as "Judy's Law." 712

(21) Any violation of division (A) of section 2903.11 of 713
the Revised Code if the victim of the offense suffered permanent 714
disabling harm as a result of the offense and the victim was 715
under ten years of age at the time of the offense, with respect 716
to a portion of the sentence imposed pursuant to division (B) 717
(10) of section 2929.14 of the Revised Code. 718

(22) A felony violation of section 2925.03, 2925.05, or 719
2925.11 of the Revised Code, if the drug involved in the 720

violation is a fentanyl-related compound or a compound, mixture, 721
preparation, or substance containing a fentanyl-related compound 722
and the offender is convicted of or pleads guilty to a 723
specification of the type described in division (B) of section 724
2941.1410 of the Revised Code that was included in the 725
indictment, count in the indictment, or information charging the 726
offense, with respect to the portion of the sentence imposed 727
under division (B) (11) of section 2929.14 of the Revised Code. 728

(G) Notwithstanding divisions (A) to (E) of this section, 729
if an offender is being sentenced for a fourth degree felony OVI 730
offense or for a third degree felony OVI offense, the court 731
shall impose upon the offender a mandatory term of local 732
incarceration or a mandatory prison term in accordance with the 733
following: 734

(1) If the offender is being sentenced for a fourth degree 735
felony OVI offense and if the offender has not been convicted of 736
and has not pleaded guilty to a specification of the type 737
described in section 2941.1413 of the Revised Code, the court 738
may impose upon the offender a mandatory term of local 739
incarceration of sixty days or one hundred twenty days as 740
specified in division (G) (1) (d) of section 4511.19 of the 741
Revised Code. The court shall not reduce the term pursuant to 742
section 2929.20, 2967.193, or any other provision of the Revised 743
Code. The court that imposes a mandatory term of local 744
incarceration under this division shall specify whether the term 745
is to be served in a jail, a community-based correctional 746
facility, a halfway house, or an alternative residential 747
facility, and the offender shall serve the term in the type of 748
facility specified by the court. A mandatory term of local 749
incarceration imposed under division (G) (1) of this section is 750
not subject to any other Revised Code provision that pertains to 751

a prison term except as provided in division (A) (1) of this section. 752
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(2) If the offender is being sentenced for a third degree felony OVI offense, or if the offender is being sentenced for a fourth degree felony OVI offense and the court does not impose a mandatory term of local incarceration under division (G) (1) of this section, the court shall impose upon the offender a mandatory prison term of one, two, three, four, or five years if the offender also is convicted of or also pleads guilty to a specification of the type described in section 2941.1413 of the Revised Code or shall impose upon the offender a mandatory prison term of sixty days or one hundred twenty days as specified in division (G) (1) (d) or (e) of section 4511.19 of the Revised Code if the offender has not been convicted of and has not pleaded guilty to a specification of that type. Subject to divisions (C) to (I) of section 2967.19 of the Revised Code, the court shall not reduce the term pursuant to section 2929.20, 2967.19, 2967.193, or any other provision of the Revised Code. The offender shall serve the one-, two-, three-, four-, or five-year mandatory prison term consecutively to and prior to the prison term imposed for the underlying offense and consecutively to any other mandatory prison term imposed in relation to the offense. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration pursuant to division (G) (1) of this section for a fourth degree felony OVI offense be sentenced to another mandatory term of local incarceration under that division for any violation of division (A) of section 4511.19 of the Revised Code. In addition to the mandatory prison term described in division (G) (2) of this section, the court may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised 754
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Code, but the offender shall serve the prison term prior to 783
serving the community control sanction. The department of 784
rehabilitation and correction may place an offender sentenced to 785
a mandatory prison term under this division in an intensive 786
program prison established pursuant to section 5120.033 of the 787
Revised Code if the department gave the sentencing judge prior 788
notice of its intent to place the offender in an intensive 789
program prison established under that section and if the judge 790
did not notify the department that the judge disapproved the 791
placement. Upon the establishment of the initial intensive 792
program prison pursuant to section 5120.033 of the Revised Code 793
that is privately operated and managed by a contractor pursuant 794
to a contract entered into under section 9.06 of the Revised 795
Code, both of the following apply: 796

(a) The department of rehabilitation and correction shall 797
make a reasonable effort to ensure that a sufficient number of 798
offenders sentenced to a mandatory prison term under this 799
division are placed in the privately operated and managed prison 800
so that the privately operated and managed prison has full 801
occupancy. 802

(b) Unless the privately operated and managed prison has 803
full occupancy, the department of rehabilitation and correction 804
shall not place any offender sentenced to a mandatory prison 805
term under this division in any intensive program prison 806
established pursuant to section 5120.033 of the Revised Code 807
other than the privately operated and managed prison. 808

(H) If an offender is being sentenced for a sexually 809
oriented offense or child-victim oriented offense that is a 810
felony committed on or after January 1, 1997, the judge shall 811
require the offender to submit to a DNA specimen collection 812

procedure pursuant to section 2901.07 of the Revised Code. 813

(I) If an offender is being sentenced for a sexually 814
oriented offense or a child-victim oriented offense committed on 815
or after January 1, 1997, the judge shall include in the 816
sentence a summary of the offender's duties imposed under 817
sections 2950.04, 2950.041, 2950.05, and 2950.06 of the Revised 818
Code and the duration of the duties. The judge shall inform the 819
offender, at the time of sentencing, of those duties and of 820
their duration. If required under division (A) (2) of section 821
2950.03 of the Revised Code, the judge shall perform the duties 822
specified in that section, or, if required under division (A) (6) 823
of section 2950.03 of the Revised Code, the judge shall perform 824
the duties specified in that division. 825

(J) (1) Except as provided in division (J) (2) of this 826
section, when considering sentencing factors under this section 827
in relation to an offender who is convicted of or pleads guilty 828
to an attempt to commit an offense in violation of section 829
2923.02 of the Revised Code, the sentencing court shall consider 830
the factors applicable to the felony category of the violation 831
of section 2923.02 of the Revised Code instead of the factors 832
applicable to the felony category of the offense attempted. 833

(2) When considering sentencing factors under this section 834
in relation to an offender who is convicted of or pleads guilty 835
to an attempt to commit a drug abuse offense for which the 836
penalty is determined by the amount or number of unit doses of 837
the controlled substance involved in the drug abuse offense, the 838
sentencing court shall consider the factors applicable to the 839
felony category that the drug abuse offense attempted would be 840
if that drug abuse offense had been committed and had involved 841
an amount or number of unit doses of the controlled substance 842

that is within the next lower range of controlled substance 843
amounts than was involved in the attempt. 844

(K) As used in this section: 845

(1) "Community addiction services provider" has the same 846
meaning as in section 5119.01 of the Revised Code. 847

(2) "Drug abuse offense" has the same meaning as in 848
section 2925.01 of the Revised Code. 849

(3) "Minor drug possession offense" has the same meaning 850
as in section 2925.11 of the Revised Code. 851

(4) "Qualifying assault offense" means a violation of 852
section 2903.13 of the Revised Code for which the penalty 853
provision in division (C) (4) (e), (C) (4) (f), (C) (8) (b), or (C) (9) 854
(b) of that section applies. 855

(L) At the time of sentencing an offender for any sexually 856
oriented offense, if the offender is a tier III sex 857
offender/child-victim offender relative to that offense and the 858
offender does not serve a prison term or jail term, the court 859
may require that the offender be monitored by means of a global 860
positioning device. If the court requires such monitoring, the 861
cost of monitoring shall be borne by the offender. If the 862
offender is indigent, the cost of compliance shall be paid by 863
the crime victims reparations fund. 864

Section 2. That existing sections 2903.13 and 2929.13 of 865
the Revised Code are hereby repealed. 866