

ADOPTING ORDINANCE  
GENERAL OFFENSES

City of Gahanna,  
State of Ohio

ORDINANCE No. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF GAHANNA, OHIO TO PROVIDE AMENDMENTS TO THE GENERAL OFFENSES IN THE CODIFIED ORDINANCES OF GAHANNA, OHIO CODE SECTIONS 501.01, 501.025, 501.06, 501.99, 505.03, 505.06, 505.07, 505.071, 509.03, 509.07, 513.01, 513.02, 513.03, 513.04, 513.05, 513.06, 513.07, 513.08, 525.05, 525.12, 525.16, 533.03, 533.04, 533.07, 533.09, 533.091, 533.11, 533.14, 537.02, 537.021, 537.03, 537.051, 537.06, 537.07, 537.10, 537.15, 537.16, 537.17, 537.18, 541.01, 541.02, 541.04, 545.05, 545.08, 545.10, 545.12, 545.15, 549.01, 549.04, 549.11; TO PROVIDE FOR PENALTIES; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Gahanna, Ohio is authorized by ORC § 715.01 to adopt ordinances relating to its property, affairs and local government;

THEREFORE, BE IT ORDAINED BY THE CITY OF GAHANNA, STATE OF OHIO:

Section 1. That the Codified Ordinances of Gahanna, Ohio, 1970, is hereby amended by adding the provisions as provided under Section 6, below.

Section 2. The addition, amendment, or removal of Gahanna Code sections when passed in such form as to indicate the intention of the governing authority of the City of Gahanna, Ohio to make the same a part of the Codified Ordinances shall be deemed to be incorporated in the Codified Ordinances, so that reference to the Codified Ordinances includes the additions, amendments, and removals.

Section 3. The codifier (meaning the person, agency or organization authorized to prepare the supplement to the Codified Ordinances of Gahanna, Ohio, 1970) is authorized to exclude and omit any provisions of this ordinance that are inapplicable to the Codified Ordinances.

Section 4. Supplementation of Code.

- (A) In preparing a supplement to Codified Ordinances of Gahanna, Ohio, 1970, all portions of this ordinance which have been repealed shall be excluded from the Codified Ordinances by the omission thereof from reprinted pages.
- (B) When preparing a supplement to the city's Codified Ordinances, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, non-substantive changes

Codifier: Added material is underlined, deleted material is struck through.

in this ordinance and parts of this ordinance included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

- (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Codified Ordinances printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Codified Ordinances and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Codified Ordinances which embody the substantive sections or the ordinance incorporated into the Codified Ordinances); and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Codified Ordinances; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Codified Ordinances.
- (C) In preparing a supplement to the Codified Ordinances, the pages of a supplement shall be so numbered that they will fit properly into the Codified Ordinances and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Codified Ordinances will be current through the date of the adoption of the latest ordinance included in the supplement.

Section 5. Provisions of Section 6 that duplicate or track State statutes which do not become effective until after the effective date of this ordinance, shall not take effect until such statutes take effect.

Section 6. The following sections of the Codified Ordinances of Gahanna, Ohio, 1970 are new or have been amended with new matter in the Codified Ordinances of Gahanna, Ohio, 1970, and are hereby approved, adopted and enacted:

### **501.01 DEFINITIONS.**

~~(A)~~ As used in the Codified Ordinances and ORC Title XXIX:

Codifier: Added material is underlined, deleted material is struck through.

- (A) *Force* means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (B) *Deadly force* means any force that carries a substantial risk that it will proximately result in the death of any person.
- (C) *Physical harm to persons* means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (D) *Physical harm to property* means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (E) *Serious physical harm to persons* means any of the following:
  - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
  - (2) Any physical harm that carries a substantial risk of death;
  - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
  - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
  - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (F) *Serious physical harm to property* means any physical harm to property that does either of the following:
  - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
  - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (G) *Risk* means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (H) *Substantial risk* means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (I) *Offense of violence* means any of the following:
  - (1) A violation of ORC 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31,

- 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.34(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former ORC 2907.12;
- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) ~~hereof~~ this section;
- (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
- (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) ~~hereof~~ this section.
- (J) (1) *Property* means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
- (2) As used in this section, "trade secret" has the same meaning as in ORC 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.
- (3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (K) *Law enforcement officer* means any of the following:
- (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;

- (2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
- (3) A mayor ~~or manager~~ in the mayor's ~~or manager's~~ capacity as chief conservator of the peace within the mayor's ~~or manager's~~ municipal corporation;
- (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
- (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
- (6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the purposes and during the time when the person is appointed;
- (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
- (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
- (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
- (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
- (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
- (12) The house of representatives sergeant at arms if the house of representatives sergeant at arms has arrest authority pursuant to Ohio R.C. 101.311(E)(1 and an assistant house of representatives sergeant at arms;
- (13) The Senate Sergeant of Arms and ~~or~~ an Assistant Senate Sergeant at Arms;
- (14) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.

- (L) *Privilege* means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.
- (M) *Contraband* means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
- (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
  - (2) Any unlawful gambling device, or paraphernalia;
  - (3) Any dangerous ordnance or obscene material.
- (N) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.
- ~~(B)~~(O) (1) Subject to subsection (O)(2) ~~here of~~ this section, as used in any section contained in Part Five - General Offenses Code of this Code and ORC Title XXIX that sets forth a criminal offense, "person" includes all of the following:
- (a) An individual, corporation, business trust, estate, trust, partnership, and association;
  - (b) An unborn human who is viable.
- (2) As used in any section contained in Part Five - General Offenses Code of this Code and ORC Title XXIX that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.
- (3) As used in subsection (O)(1)(b) ~~hereof~~ this section:
- (a) *Unborn human* means an individual organism of the species *Homo sapiens* from fertilization until live birth.
  - (b) *Viable* means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.
- (4) Notwithstanding subsection (O)(1)(a) hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (O)(1)(a) ~~hereof~~ this section be applied or construed in any section contained in Part Five - General Offenses Code of this Code and ORC Title XXIX that sets forth a criminal offense in any of the following manners:
- (a) Except as otherwise provided in subsection (O)(1)(b0) hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her

physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of ORC 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate ORC 2919.12, division (B) of Ohio R.C. 2919.13, or ORC 2919.15, 2919.151, 2919.17 or 2919.18, may be punished as a violation of ORC 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.15, 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.

- (b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
  - (i) Her delivery of a stillborn baby;
  - (i) Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
  - (iii) Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
  - (iv) Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
  - (v) Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

(P) As used in Part Five - General Offenses Code of the Codified Ordinances and ORC Title XXIX:

- (~~p~~1) *School safety zone* consists of a school, school building, school premises, school activity, and school bus.

- (¶ 2) *School, school building and school premises* have the same meaning as in Ohio R.C. 2925.01.
- (¶ 3) *School activity* means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a ~~nonpublic~~ public school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
- (s 4) *School bus* has the same meaning as in Ohio R.C. 4511.01.

(ORC 2901.01)

### **501.025. REAGAN TOKES LAW.**

The amendments to sections Ohio R. C. 109.42, 121.22, 149.43, 2903.06, 2903.08, 2903.11, 2903.12, 2905.01, 2905.32, 2907.02, 2907.03, 2907.05, 2907.07, 2919.22, 2919.25, 2921.321, 2921.36, 2923.132, 2925.01, 2925.02, 2925.03, 2925.04, 2925.041, 2925.11, 2929.01, 2929.14, 2929.142, 2929.15, 2929.19, 2929.191, 2929.20, 2929.61, 2930.16, 2943.032, 2953.08, 2967.01, 2967.021, 2967.03, 2967.13, 2967.19, 2967.191, 2967.193, 2967.26, 2967.28, 2971.03, 3719.99, 5120.021, 5120.53, 5120.66, and 5120.80 and the enactment of sections 2901.011, 2929.144, 2967.271, and 5120.038 of the Revised Code by S.B. 201 of the 132nd general assembly constitute the Reagan Tokes Law.

(ORC 2901.011)

### **501.06 LIMITATION OF CRIMINAL PROSECUTION.**

- (A) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:
- (1) For misdemeanor other than a minor misdemeanor, two years;
  - (2) For a minor misdemeanor, six months.
- (B) If the period of limitation provided in subsection (A) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.
- (C) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:
- (a) For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;



- (b) For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.
- (2) As used in this subsection:
  - (a) An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of Ohio R.C. 102.03, division (A) of Ohio R.C. 2921.02, division (A) or (B) of Ohio R.C. 2921.43, or division (F) or (G) of Ohio R.C. 3517.13, that is directly related to an offense involving misconduct in office of a public servant.
  - (b) "Public servant" has the same meaning as in Section 525.01.
- (D) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.
- (E) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.
- (F) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.
- (G) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.
- (H) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.
- (I) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a ~~mentally retarded,~~ ~~developmentally disabled,~~ or ~~physically impaired~~ child with a

developmental disability or physical impairment under 21 years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.
- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

~~(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.~~

(ORC 2901.13)

### **501.99 PENALTIES FOR MISDEMEANORS.**

(A) *Financial Sanctions.* In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

- (1) *Restitution.* Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of the economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim or survivor disputes the

amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.

If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five percent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

- (2) *Fines.* A fine in the following amount:
  - (a) For a misdemeanor of the first degree, not more than \$1,000.00;
  - (b) For a misdemeanor of the second degree, not more than \$750.00;
  - (c) For a misdemeanor of the third degree, not more than \$500.00;
  - (d) For a misdemeanor of the fourth degree, not more than \$250.00;
  - (e) For a minor misdemeanor, not more than \$150.00.
  - (f) For an unclassified misdemeanor, up to \$1,000.00 and/or 500 hours of community service.
- (3) *Reimbursement of costs of sanctions.*
  - (a) Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
    - (i) All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
    - (ii) All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of

repairing property damaged by the offender while confined;

(iii) All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under ORC 4510.13.

(b) The amount of reimbursement ordered under subsection (A)(3)(a) of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section. (ORC 2929.28(A))

(B) *Jail Terms.*

(1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:

- (a) For a misdemeanor of the first degree, not more than 180 days;
- (b) For a misdemeanor of the second degree, not more than 90 days;
- (c) For a misdemeanor of the third degree, not more than 60 days;
- (d) For a misdemeanor of the fourth degree, not more than 30 days.

(2) (a) A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

- (b) (i) If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if

the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

- (ii) If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
- (a) The court shall specify both of the following as part of the sentence:
    - (i) If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
    - (ii) If the person does not dispute the bill described in subsection (B)(4)(a)(i) of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
  - (b) The sentence automatically includes any certificate of judgment issued as described in subsection (B)(4)(a)(ii) of this section. (ORC 2929.24(A)—(D))

- (C) *Organizations.* Regardless of the penalties provided in subsections (A) and (B) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

Type of Misdemeanor	Maximum Fine
First degree	\$5,000.00
Second degree	4,000.00
Third degree	3,000.00
Fourth degree	2,000.00
Minor	1,000.00
Misdemeanor not specifically classified	2,000.00
Minor misdemeanor not specifically classified	1,000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (C).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (C), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (C) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (C).

(Ord. 0192-2012, ~~Passed~~ 10-15-2012)

### **505.03 REGISTRATION OF DOGS; TAGS TO BE WORN.**

- (A) No person shall be the owner, keeper of, harbinger or person in charge of any dog over three months of age after January 20 ~~31~~ of any year, or brought from outside the State at any time during the year without first registering such dog as required by Ohio R.C. Chapter 955.
- (B) Failure to display the tag issued in connection with the registration required by Ohio R.C. Chapter 955 on a dog's collar, harness, leash or

similar device shall be prima-facie evidence of lack of registration and shall subject any dog not wearing such tag to impoundment under Section 505.02.

- (C) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 28-2001. Passed 3-5-2001)

(ORC 955.05)

#### **505.06 KILLING, INJURING OR POISONING ANIMALS.**

- (A) No person shall ~~knowingly,~~ maliciously or willfully and without the consent of the owner, kill, injure or administer poison to any animal that is the property of another. ~~;~~ ~~and~~
- (B) No person shall maliciously or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a horse, mare, foal, filly, jack, mule, sheep, goat, cow, steer, bull, heifer, ass, ox, swine, dog, cat, poultry, or any other domestic animal that is the property of another.
- (C) No person shall ~~knowingly~~ willfully and without the consent of the owner ~~of the lands~~ place any poisoned food where it may be easily found and eaten by ~~children or~~ animals, either upon his own lands or the lands of another.
- (D) This section does not apply to a licensed veterinarian acting in an official capacity or Animal Warden acting in an official capacity. (ORC 959.02, ORC 959.03)

~~(b) Whoever violates this section is guilty of a misdemeanor of the first degree.~~

- ~~(B E)~~ Except as otherwise provided in this chapter, whoever violates subsection (A) of this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars or more, whoever violates subsection (A) of this section is guilty of a misdemeanor of the first degree. (ORC 959.99(B))

- ~~(E F)~~ Whoever violates subsections (B) or (C) of this section is guilty of a misdemeanor of the fourth degree. (ORC 959.99(C))

(Ord. 0105-2002. Passed 6-17-2002)

(ORC 959.02; ORC 959.03; ORC 959.99(B)(C))

#### **505.07 CRUELTY TO ANIMALS GENERALLY.**

- (A) No person shall overwork, overdrive, overload, torture an animal, deprive one of necessary sustenance or necessary veterinary care, physically attack or cruelly beat, needlessly mutilate, purposely injure, or kill an animal.

- (B) No person shall impound or confine an animal without affording it, during such confinement, a sufficient quantity of good wholesome food and water, access to shelter from extreme temperatures, wind, rain, snow, or excessive direct sunlight if it can be reasonably expected that the animal would otherwise become sick or in some other way suffer. For the purpose of this section, "shelter" means a manmade enclosure, windbreak, sunshade, or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation.
- (C) No person shall carry or convey an animal in a cruel or inhumane manner.
- (D) No person shall cause or allow any place where an animal is kept to become unclean or unwholesome.
- ~~(E) No person shall torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water.~~
- ~~(F) Keep animals other than cattle, poultry or fowl, swine, sheep, or goats in an enclosure without wholesome exercise and change of air, nor or feed cows on food that produces impure or unwholesome milk;~~
- ~~(G) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water, and attention, nor permit such stock to be so crowded as to overlie, crush, wound, or kill each other.~~
- (~~e-H~~) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal to the Capital Humane Society.

(Ord. 28-200m, ~~Passed~~ 3-5-01)

(ORC 959.13)

#### **505.071 CRUELTY TO COMPANION ANIMALS.**

- (A) As used in this section:
  - (1) *Companion animal* means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept, including a pet store as defined in ORC 956.01. "Companion animal" does not include livestock or any wild animal.
  - (2) *Cruelty, torment and torture* have the same meanings as in Ohio R.C. 1717.01.



- (3) *Residential dwelling* means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) *Practice of veterinary medicine* has the same meaning as in Ohio R.C. 4741.01.
- (5) *Wild animal* has the same meaning as in Ohio R.C. 1531.01.
- (6) *Federal animal welfare act* means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) *Dog kennel* means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.
- (8) "Boarding kennel" has the same meaning as in section 956.01 of the Revised Code.
- (9) "Training kennel" means an establishment operating for profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.
- (10) "Livestock" means horses, mules, and other equidae; cattle, sheep, goats, and other bovidae; swine and other suidae; poultry; alpacas; llamas; captive white-tailed deer; and any other animal that is raised or maintained domestically for food or fiber.
- (11) "Captive white-tailed deer" has the same meaning as in ORC 1531.01.
- (12) "Serious physical harm" means any of the following:
- (a) Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
  - (b) Physical harm that involves either partial or total permanent incapacity;
  - (c) Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
  - (d) Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food

and water that proximately causes the death of the companion animal.

- (B) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.
- ~~(C)~~ No person shall knowingly cause serious physical harm to a companion animal.
- (~~ε~~ D) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Torture, torment, or commit an act of cruelty against the companion animal;
  - (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement or impoundment in any of those specified manners;
  - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter;
  - ~~(14)~~ Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
  - ~~(25)~~ Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
  - ~~(36)~~ Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
  - ~~(47)~~ Needlessly kill the companion animal.
- (~~δ~~ E) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:
- (1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when

there is a reasonable remedy or relief, against the companion animal;

- (2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable relief, against the companion animal;
- (3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (4) Needlessly kill the companion animal;
- (5) Deprive the companion animal of necessary sustenance, confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, or impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, confinement, or impoundment or confinement in any of those specified manners.

(e F) Subsections (B), (C) and (D) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under ORC Chapter 4741;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under ORC Chapter 4741. (ORC 959.131)

(f G) (1) Whoever violates subsection (B) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.

- (2) Whoever violates subsection (C) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
- (3) Whoever violates subsection (D) hereof is guilty of a misdemeanor of the first degree.
- (4) (a) A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in ORC 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
- (b) A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under ORC 959.132.
- (5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(ORC 959.131; 959.132; ORC 959.99)

### **509.03 DISORDERLY CONDUCT; INTOXICATION.**

- (A) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:
  - (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
  - (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
  - (3) Insulting, taunting or challenging another, under circumstances in which such conduct is likely to provoke a violent response;
  - (4) Hindering or preventing the movement of persons on a public street, road, highway or right-of-way, or to, from, within or upon public or private property, so as to interfere with the rights

- of others, and by any act which serves no lawful and reasonable purpose of the offender;
- (5) Creating a condition which is physically offensive to persons or which presents a risk of physical harm to persons or property, by any act which serves no lawful and reasonable purpose of the offender.
- (B) No person, while voluntarily intoxicated shall do either of the following:
- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if he were not intoxicated, should know is likely to have such effect on others;
- (2) Engage in conduct or create a condition which presents a risk of physical harm to himself or another, or to the property of another.
- (C) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (B) hereof.
- (D) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (B) hereof.
- (E) (1) Whoever violates this section is guilty of disorderly conduct.
- (2) Except as otherwise provided in this subsection (E)(3), disorderly conduct is a minor misdemeanor.
- (3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
- (a) The offender persists in disorderly conduct after reasonable warning or request to desist.
- (b) The offense is committed in the vicinity of a school or in a school safety zone.
- (c) The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
- (d) The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
- (4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (B) of this section, a violation of subsection (B) of this section is a misdemeanor of the fourth degree.

- (F) As used in this section:
- (1) *Emergency medical services person* is the singular of "emergency medical services personnel" as defined in ORC 2133.21.
  - (2) *Emergency facility person* is the singular of "emergency facility personnel" as defined in ORC 2909.04.
  - (3) *Emergency facility* has the same meaning as in ORC 2909.04.
  - (4) *Committed in the vicinity of a school* has the same meaning as in ORC. 2925.01.

(ORC 2917.11)

### 509.07 MAKING FALSE ALARMS.

- (A) No person shall do any of the following:
- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
  - (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
  - (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (B) This section does not apply to any person conducting an authorized fire or emergency drill.
- (C) (1) Whoever violates this section is guilty of making false alarms.
- ~~(2) Except as otherwise provided in Subsection (C)(3), (4), (5), or (6) of this section, making false alarms is a misdemeanor of the first degree.~~
- ~~(3) Except as otherwise provided in subsection (C)(4) of this section, if a violation of this section results in economic harm of \$1,000.00 or more but less than seven thousand five hundred dollars, making false alarms is a felony of the fifth degree.~~
- ~~(4) If a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony of the third degree. or~~
- ~~(5) If a violation of this section results in economic harm of seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars and if division (C)(4) of this~~

section does not apply, making false alarms is a felony of the fourth degree.

~~(6)~~ If a violation of this section results in economic harm of one hundred fifty thousand dollars or more, making false alarms is a felony of the third degree, and shall be prosecuted under appropriate State law.

~~(D) (1)~~ It is not a defense to a charge under this section that pertains to a purported, threatened, or actual use of a weapon of mass destruction that the offender did not possess or have the ability to use a weapon of mass destruction or that what was represented to be a weapon of mass destruction was not a weapon of mass destruction.

~~(2)~~ Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(E) As used in this section, "economic harm" and "weapon of mass destruction" have the same meanings as in Section 509.06.

(ORC 2917.32)

### **513.01 DEFINITIONS.**

As used in this chapter, certain terms are defined as follows:

- (A) *Administer* means the direct application of a drug, whether by injection, inhalation, ingestion or any other means to a person or an animal.
- (B) *Controlled substance* means a drug, compound, mixture, preparation or substance included in Schedule I, II, III, IV, or V.
- (C) *Dispense* means sell, leave with, give away, dispose of or deliver.
- (D) *Distribute* means to deal in, ship, transport or deliver but does not include administering or dispensing a drug.
- (E) *Hypodermic* means a hypodermic syringe or needle, or other instrument or device for the injection of medication.
- (F) *Manufacturer* means a person who manufactures a controlled substance as "manufacture" is defined in ORC 3715.01 and includes a "manufacturer of dangerous drugs" as defined in ORC 4729.01.
- (G) ~~Except as provided in subsection (g)(2) hereof:~~
- ~~(1)~~ *Marihuana* means all parts of a plant of the genus cannabis, whether growing or not, the seeds of a plant of that type; the resin extracted from a part of a plant of that type; and every compound, manufacture, salt, derivative, mixture or preparation of a plant of that type or of its seeds or resin. "Marihuana" does not include the mature stalks of the plant, fiber produced from the stalks, oils or cake made from the seeds

of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Marihuana" does not include "hemp" or a "hemp product" as those terms are defined in ORC 928.01 (ORC 3719.01)

- ~~(Z)~~ *Marihuana* does not include hashish. (ORC 2925.01)
- (H) *Controlled substance analog* has the same meaning as provided in Ohio R.C. 3719.01.
- (I) *Official written order* means an order written on a form provided for that purpose by the Director of the United States Drug Enforcement Administration, under any laws of the United States making provision for the order, if the order forms are authorized and required by Federal law.
- (J) *Pharmacist* means a person licensed under Ohio R.C. Chapter 4729 to engage in the practice of pharmacy.
- (K) *Pharmacy* has the same meaning as in Ohio R.C. 4729.01.
- (L) *Poison* means any drug, chemical, or preparation likely to be deleterious or destructive to adult human life in quantities of four grams or less.
- (M) *Licensed health professional authorized to prescribe drugs, prescriber and prescription* have the same meanings as in Ohio R.C. 4729.01.
- (N) *Sale* includes delivery, barter, exchange, transfer or gift, or offer thereof, and each transaction of those natures made by any person, whether as principal, proprietor, agent, servant or employee.
- (O) *Schedule I, Schedule II, Schedule III, Schedule IV and Schedule V* mean controlled substance Schedules I, II, III, IV, and V respectively, established pursuant to Ohio R.C. 3719.41, as amended pursuant to Ohio R.C. 3719.43 or 3719.44.
- (P) *Wholesaler* means a person who, on official written orders other than prescriptions, supplies controlled substances that the person has not manufactured, produced or prepared personally and includes a "wholesale distributor of dangerous drugs" as defined in Ohio R.C. 4729.01. (ORC 3719.01)
- (Q) *Drug of abuse* means any controlled substance as defined in subsection (B) hereof, any harmful intoxicant as defined in subsection (X) hereof and any dangerous drug as defined in subsection (R) hereof. (ORC 3719.011(A))
- (R) *Dangerous drug* means any of the following:
  - (1) Any drug to which either of the following applies:
    - (a) Under the "Federal Food, Drug, and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend "Caution: Federal law prohibits dispensing without



- prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription;
- (b) Under Ohio R.C. Chapter 3715 or 3719, the drug may be dispensed only upon a prescription;
- (2) Any drug that contains a Schedule V narcotic drug and that is exempt from Ohio R.C. Chapter 3719 or to which that chapter does not apply;
- (3) Any drug intended for administration by injection into the human body other than through a natural orifice of the human body;
- (4) Any drug that is a biological product, as defined in ORC 3715.01. (~~ORC 4729.02 01(F)~~)
- (S) *Bulk amount* of a controlled substance means any of the following:
- (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II or Schedule III, with the exception of controlled substance analogs, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound and hashish, and except as provided in subsection (S)(2), (5) or (6) hereof this section, whichever of the following is applicable:
- (a) An amount equal to or exceeding ten grams or 25 unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
- (b) An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
- (c) An amount equal to or exceeding 30 grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol, or lysergic acid amide, or a Schedule I stimulant or depressant;
- (d) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
- (e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
- (f) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a

- compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the Federal Drug Abuse Control laws as defined in Ohio R.C. 3719.01, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;
- (g) An amount equal to or exceeding three grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the Federal Drug Abuse Control laws.
- (2) An amount equal to or exceeding 120 grams or 30 times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding 20 grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance.
- (5) An amount equal to or exceeding 200 solid dosage units, 16 grams or 16 milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid.
- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in schedule III, schedule IV, or schedule V, if the defendant is charged with a violation of ORC 2925.11 and the sentencing provisions set forth in divisions (C)(10)(b) and (C)(11) of that section will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (D)(1), (2), (3), (4), or (5) of this section for the other schedule III, IV, or V controlled substance that is combined with the fentanyl-related compound.

- (T) *Unit dose* means an amount or unit of a compound, mixture or preparation containing a controlled substance, that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.
- (U) *Cultivate* includes planting, watering, fertilizing or tilling.
- (V) *Drug abuse offense* means any of the following:
- (1) A violation of Ohio R.C. 2925.02, 2925.03, 2925.04 to 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37; or a violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs;
  - (2) A violation of an existing or former law of this or any other state or of the United States, that is substantially equivalent to any section listed in subsection (V)(1) hereof;
  - (3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element;
  - (4) A conspiracy or attempt to commit, or complicity in committing or attempting to commit any offense under subsection (V)(1), (2) or (3) hereof.
- (W) *Felony drug abuse offense* means any drug abuse offense that would constitute a felony under the laws of this State, any other state or the United States.
- (X) *Fentanyl-related compound* means any of the following:
- (1) Fentanyl;
  - (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
  - (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);
  - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl) -N-phenylpropanamide];
  - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N- phenylpropanamide);
  - (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

- (7) ~~3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidinyl]-N-phenylpropanamide);~~
- (8) ~~Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]propanamide;~~
- (9) ~~Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide;~~
- (10) ~~Alfentanil;~~
- (11) ~~Carfentanil;~~
- (12) ~~Remifentanil;~~
- (13) ~~Sufentanil;~~
- (14) ~~Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide); and~~
- (15) ~~Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:~~
- (a) ~~A chemical scaffold consisting of both of the following:~~
- (i) ~~A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;~~
- (ii) ~~An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.~~
- (b) ~~A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;~~
- (c) ~~An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and~~
- (d) ~~The compound has not been approved for medical use by the United States food and drug administration.~~

- (~~×~~ Y) *Harmful intoxicant* does not include beer or intoxicating liquor, but means any of the following:
- (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes, but is not limited to, any of the following:
    - (a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
    - (b) Any aerosol propellant;
    - (c) Any fluorocarbon refrigerant;
    - (d) Any anesthetic gas.
  - (2) Gamma Butyrolactone;
  - (3) 1,4 Butanediol.
- (~~Y~~ Z) *Manufacture* means to plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (~~z~~ AA) *Possess* or *possession* means having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (~~aa~~ BB) *Sample drug* means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (~~bb~~ CC) *Standard pharmaceutical reference manual* means the current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (~~cc~~ DD) *Juvenile* means a person under 18 years of age.
- (~~dd~~ EE) *School* means any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (~~ee~~ FF) *School premises* means either of the following:

- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the premises at the time a criminal offense is committed;
- (2) Any other parcel of real property that is owned or leased by a board of education of a school, any community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.

~~(ff)~~ GG) *School building* means any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

~~(gg)~~ HH) *Counterfeit controlled substance* means:

- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to that trademark, trade name or identifying mark; or
- (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it; or
- (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance; or
- (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its marking, labeling, packaging, distribution or the price for which it is sold or offered for sale.

~~(hh)~~ II) An offense is *committed in the vicinity of a school* if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.

~~(ii)~~ JJ) An offense is *committed in the vicinity of a juvenile* if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed

within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

- (~~jj~~ KK) *Hashish* means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
- (~~kk~~ LL) *Public premises* means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.
- (~~ll~~ MM) *Methamphetamine* means methamphetamine, any salt, isomer, or salt of an isomer of methamphetamine, or any compound, mixture, preparation, or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (~~mm~~) ~~*Lawful prescription* means a prescription that is issued for a legitimate medical purpose by a licensed health professional authorized to prescribe drugs, that is not altered or forged, and that was not obtained by means of deception or by the commission of any theft offense.~~
- (~~nn~~-NN) *Deception* and *theft offense* have the same meanings as in Ohio R.C. 2913.01.

(ORC 2925.01, 3719.01)

### **513.02 GIFT OF MARIHUANA.**

- (A) No person shall knowingly give or offer to make a gift of 20 grams or less of marihuana.
- (B) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree. (ORC 2925.03(C)(3)(h))
- (C) The court may suspend for not ~~less than six months~~ or more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension. (ORC 2925.03(G)(1))

(ORC 2925.03)

**513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.**

- (A) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog. (ORC 2925.11(A))
- (B) This section does not apply to the following:
- (1) Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741;
  - (2) If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
  - (3) Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
  - (4) Any person who obtained the controlled substance pursuant to a ~~lawful~~ prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged, or obtained through deception or commission of a theft offense. As used in this subsection, "deception" and "theft offense" have the same meanings as in ORC 2913.01. (ORC 2925.11(B)(1)(d))  
(ORC 2925.11(B)(1))
- (C) Whoever violates subsection (A) hereof this section is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (A) hereof is guilty of possession of drugs. The penalty for the offense shall be determined as follows:  
~~Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.~~
  - (a) Except as otherwise provided in ORC 2925.11(C)(2)(b), (c), or (d), possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony of the fifth degree. (ORC 2925.11(C)(2)(a))



(2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates division (A) of this section is guilty of possession of marihuana. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(2)(b) of this section, possession of marihuana is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds one hundred grams but is less than two hundred grams, possession of marihuana is a misdemeanor of the fourth degree.

(ORC 2925.11(C)(3)(a),(b))

(3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates division (A) of this section is guilty of possession of hashish. The penalty for the offense shall be determined as follows:

(a) Except as otherwise provided in division (C)(3)(b) of this section, possession of hashish is a minor misdemeanor.

(b) If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.

(ORC 2925.11(C)(7)(a), (b))

(4) If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and marihuana, one of the following applies:

(a) Except as otherwise provided in subsection (C)(4)(b) of this section, the offender is guilty of possession of marihuana and shall be punished as provided in ORC 2925.11(C)(3). Except as otherwise provided in subsection (C)(4)(b) of this section, the offender is not guilty of possession of a fentanyl-related compound under ORC 2925.11(C)(11) and shall not be charged with, convicted of, or punished under ORC 2925.11(C)(11) for possession of a fentanyl-related compound.

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under ORC 2925.11 (C)(11) of this section.

(ORC 2925.11(C)(9)(a), (b))

~~(10)(5)~~ If the drug involved in the violation is a compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any schedule III, schedule IV, or schedule V controlled substance that is not a fentanyl-related compound, one of the following applies:

(a) Except as otherwise provided in ORC 2925.11(C)(10)(b), the offender is guilty of possession of drugs and shall be punished as provided in ORC 2925.11(C)(2). Except as otherwise provided in ORC 2925.11 (C)(10)(b), the offender is not guilty of possession of a fentanyl-related compound under ORC 2925.11 (C)(11) and shall not be charged with, convicted of, or punished under ORC 2925.11(C)(11) for possession of a fentanyl-related compound.

(b) If the offender knows or has reason to know that the compound, mixture, preparation, or substance that is the drug involved contains a fentanyl-related compound, the offender is guilty of possession of a fentanyl-related compound and shall be punished under ORC 2925.11 (C)(11). (ORC 2925.11(C)(10)(2))

~~(2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:~~

~~A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.~~

~~B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.~~

~~(3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the~~

~~maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:~~

- ~~A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.~~
- ~~B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.~~
- (D) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. (ORC 4511.19, ORC 2925.11(E))
- (E) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness. (ORC 2925.11(D))
- (F) In addition to any prison term or jail term authorized or required by subsection (C) of this section and ORC 2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 and in addition to any other sanction that is imposed for the offense under this section, ORC 2929.11 to 2929.18, or ORC 2929.21 to 2929.28, the court that sentences an offender who is convicted of or pleads guilty to a violation of subsection (a) of this section may suspend the offender's driver's or commercial driver's license or permit for not more than five years. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 4511.19, ORC 2925.11(E))
- (G) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion. (ORC 2925.11(I))

(ORC 2925.11)

**513.04 POSSESSING DRUG ABUSE INSTRUMENTS.**

- (A) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.
- (B) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with ORC Chapters 3719, 4715, 4723, 4729, 4730, 4731 and 4741.
- (C) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.
- (D) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not ~~less than six months~~ or more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.
- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the effective date of this amendment may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under subsection (D)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.12)

### **513.05 PERMITTING DRUG ABUSE.**

- (A) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in ORC 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.
- (B) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.
- (C) Whoever violates this section is guilty of permitting drug abuse which except as provided in subsection (D) of this section, is a misdemeanor of the first degree.
- (D) Permitting drug abuse is a felony of the fifth degree, and division (C) of ORC 2929.13 applies in determining whether to impose a prison term on the offender, if either of the following applies:
- (1) If The felony drug abuse offense in question is a violation of ORC 2925.02, 2925.03 or 2925.04, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.
- (2) The felony drug abuse offense in question is a violation of ORC 2925.041 and the offender had actual knowledge, at the time the offender permitted the vehicle, premises, or real estate to be used as described in subsection (A) or (B) of this section, that the person who assembled or possessed the chemicals in question in violation of ORC 2925.041 had assembled or possessed them with the intent to manufacture a controlled substance in schedule I or II in violation of ORC 2925.04 .
- ~~(E)~~ (1) In addition to any other sanction imposed for an offense under this section prison term authorized or required by subsection (C) or (D) of this section and ORC 2929.13 and 2929.14 and in addition to any other sanction imposed for the offense under this section or ORC 2929.11 to 2929.18 , the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the

offender's driver's or commercial driver's license or permit for not more than five years.

If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.

- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under subsection (E)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

- (F) Notwithstanding any contrary provision of ORC 3719.21, the clerk of the court shall pay a fine imposed for a violation of this section pursuant to division (A) of ORC 2929.18 in accordance with and subject to the requirements of division (F) of ORC 2925.03. The agency that receives the fine shall use the fine as specified in division (F) of ORC 2925.03.

- (e-G) Any premises or real estate that is permitted to be used in violation of subsection (B) hereof constitutes a nuisance subject to abatement pursuant to ORC Chapter 3767.

(ORC 2925.13)

### **513.06 ILLEGAL CULTIVATION OF MARIHUANA.**

- (A) No person shall knowingly cultivate marihuana.
- (B) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.
- (C) ~~Whoever commits a violation of subsection (A) hereof this section is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.~~
- ~~(1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in~~

~~the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.~~

- ~~(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.~~

If the drug involved in the violation is marihuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in ORC 2901.07 (C)(5)(b), (c), (d), (e), or (f), illegal cultivation of marihuana is a minor misdemeanor or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.
- (2) If the amount of marihuana involved equals or exceeds one hundred grams but is less than two hundred grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree or, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(ORC 2901.07(C)(5)(a)(b))

- (D) In addition to any prison term authorized or required by ORC 2825.04(C) or (E) and ORC 2929.13 and 2929.14 and in addition to any other sanction imposed for an offense under this section or ORC 2929.11 to 2929.18, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of ORC 2925.03. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of ORC 2925.03. If applicable, the court also shall, if the offender is a professionally licensed person, immediately comply with ORC 2925.38. (ORC 2901.07(D))

~~If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.~~

- (E) (1) If the sentencing court suspends the offender's driver's or commercial driver's license or permit under this section in accordance with division (G) of ORC 2925.03, the offender may request termination of, and the court may terminate, the suspension of the offender in accordance with that division.

- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.
- (3) Upon the filing of a motion under subsection (E)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.04(H))

- (F) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04(G))

(ORC 2925.04)

### **513.07 POSSESSING OR USING HARMFUL INTOXICANTS.**

- (A) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.
- (B) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.
- (C) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.



- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to the effective date of this amendment from which this subsection derived may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

Upon the filing of a motion under subsection (C)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.31)

### **513.08 ILLEGALLY DISPENSING DRUG SAMPLES.**

- (A) No person shall knowingly furnish another a sample drug.
- (B) Subsection (A) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4723, 4729, 4730, 4731, and 4741.
- (C) (1) Whoever violates this section is guilty of illegal dispensing of drug samples.
- (2) If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marihuana, the penalty for the offense shall be determined as follows:
- (1a) Except as otherwise provided in subsection (C)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2b) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(ORC 2925.36(C)(1), (3))

- (D) (1) In addition to any prison term authorized or required by division (C) or (E) of ORC 2935.36 and ORC 2929.13 and 2929.14 and in addition to any other sanction imposed for an offense under this section or ORC 2929.11 to 2929.18, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not less than six months or more than five years the offender's driver's or commercial driver's license or permit. However, if the offender

pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with ORC 2925.38.

- (2) Any offender who received a mandatory suspension of the offender's driver's or commercial driver's license or permit under this section prior to September 13, 2016, may file a motion with the sentencing court requesting the termination of the suspension. However, an offender who pleaded guilty to or was convicted of a violation of ORC 4511.19 or a substantially similar municipal ordinance or law of another state or the United States that arose out of the same set of circumstances as the violation for which the offender's license or permit was suspended under this section shall not file such a motion.

(ORC 2925.36(D)(1),(3))

Upon the filing of a motion under division (D)(2) of this section, the sentencing court, in its discretion, may terminate the suspension.

(ORC 2925.36(D))

- (E) Notwithstanding the prison term authorized or required by division (C) of ORC 2925.36 and ORC 2929.13 and 2929.14 , if the violation of subsection (A) of this section involves the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and if the court imposing sentence upon the offender finds that the offender as a result of the violation is a major drug offender and is guilty of a specification of the type described in division (A) of ORC 2941.1410, the court, in lieu of the prison term otherwise authorized or required, shall impose upon the offender the mandatory prison term specified in division (B)(3)(a) of ORC 2929.14.  
(ORC 2925.36(E))

(ORC 2925.36)

## **525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.**

- (A) (1) Except as provided in subsection (A)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

- (2) No person, knowing that a violation of division (B) of Ohio R.C. 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.
- (B) Except for conditions that are within the scope of subsection (E) of this section, no ~~physician, limited practitioner, nurse, or other~~ person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the ~~physician, limited practitioner, nurse, or~~ person, or any serious physical harm to persons that the ~~physician, limited practitioner, nurse, or~~ person knows or has reasonable cause to believe resulted from an offense of violence.
- (C) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained.
- For purposes of this section, "advanced practice registered nurse" does not include a certified registered nurse anesthetist.
- (D) No person shall fail to provide upon request of the person to whom a report required by subsection (C) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.
- (E) (1) As used in this subsection, "burn injury" means any of the following:
- (a) Second or third degree burns;
  - (b) Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
  - (c) Any burn injury or wound that may result in death;
  - (d) Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.
- (2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury

- immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.
- (4) No person who is required to report any burn injury under subsection (E)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).
- (5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (E) of this section.
- (F) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, ~~registered or licensed practical nurse~~, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.
- (2) Notwithstanding Ohio R.C. 4731.22, the ~~doctor-physician-patient privilege~~ or advanced practice registered nurse-patient privilege shall not be a grounds for excluding any information regarding the report containing the knowledge or belief noted under subsection (F)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

- (G) Subsections (A) and (D) of this section do not require disclosure of information, when any of the following applies:
- (1) The information is privileged by reason of the relationship between attorney and client; ~~doctor~~ physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.
  - (2) The information would tend to incriminate a member of the actor's immediate family.
  - (3) Disclosure of the information would amount to revealing a news source, privileged under ORC 2739.04 or ORC 2739.12.
  - (4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.
  - (5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.
  - (6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.
- (H) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.
- (I) Whoever violates subsection (A) or (B) of this section is guilty of failure to report a crime. Violation of subsection (A)(1) of this section

is a misdemeanor of the fourth degree. Violation of subsection (A)(2) or (B) of this section is a misdemeanor of the second degree.

- (J) Whoever violates subsection (C) or (D) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.
- (K) (1) Whoever negligently violates subsection (E) of this section is guilty of a minor misdemeanor.
- (2) Whoever knowingly violates subsection (E) of this section is guilty of a misdemeanor of the second degree.

(L) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse.

(ORC 2921.22)

#### **525.12 DERELICTION OF DUTY.**

- (A) No law enforcement officer shall negligently do any of the following:
  - (1) Fail to serve a lawful warrant without delay;
  - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.
- (B) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (C) No officer, having charge of a detention facility, shall negligently do any of the following:
  - (1) Allow the detention facility to become littered or unsanitary;
  - (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
  - (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
  - (4) Allow a prisoner to escape;
  - (5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.
- (D) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.
- (E) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

- (F) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.
- (G) Except as otherwise provided by law, a public servant who is a county treasurer; county auditor; township fiscal officer; city auditor; city treasurer; village fiscal officer; village clerk-treasurer; village clerk; in the case of a municipal corporation having a charter that designates an officer who, by virtue of the charter, has duties and functions similar to those of the city or village officers referred to in this section, the officer so designated by the charter; school district treasurer; fiscal officer of a community school established under ORC Chapter 3314; treasurer of a science, technology, engineering, and mathematics school established under ORC Chapter 3326; or fiscal officer of a college-preparatory boarding school established under ORC Chapter 3328 and is convicted of or pleads guilty to dereliction of duty is disqualified from holding any public office, employment, or position of trust in this state for four years following the date of conviction or of entry of the plea, and is not entitled to hold any public office until any repayment or restitution required by the court is satisfied.
- (H) As used in this section, "public servant" includes
- (1) An officer or employee of a contractor as defined in ORC 9.08.
  - (2) A fiscal officer employed by the operator of a community school established under ORC Chapter 3314 or by the operator of a college-preparatory boarding school established under ORC Chapter 3328.

(ORC 2921.44)

#### **525.16 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.**

- (A) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:
- (1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.
  - (2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.
- (B) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike a police dog or horse;
  - (2) Throw an object or substance at a police dog or horse;
  - (3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

- (a) Inhibits or restricts the law enforcement officer's control of the police dog or horse;
  - (b) Deprives the law enforcement officer of control of the police dog or horse;
  - (c) Releases the police dog or horse from its area of control;
  - (d) Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;
  - (e) Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.
- (5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.
- (C) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:
- (1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.
  - (2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.
- (D) No person shall recklessly do any of the following:
- (1) Taunt, torment, or strike an assistance dog;
  - (2) Throw an object or substance at an assistance dog;
  - (3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:
    - (a) Inhibits or restricts the assisted or served person's control of the dog;
    - (b) Deprives the assisted or served person of control of the dog;
    - (c) Releases the dog from its area of control;



- (d) Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;
  - (e) Inhibits or restricts the ability of the dog to assist the assisted or served person.
- (4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;
- (5) If the person is the owner, keeper or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.
- (E) (1) Whoever violates subsection (A) hereof is guilty of assaulting a police dog or horse and shall be punished as provided in subsections (E)(1)(a) and (b) of this section.
- (a) Except as otherwise provided in this subsection, assaulting a police dog or horse is a misdemeanor of the second degree. ~~If the violation results in the death of physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law. If the violation results in serious physical harm to the police dog or horse other than its death, assaulting a police dog or horse is a felony and shall be prosecuted under appropriate State law.~~ If the violation results in physical harm to the police dog or horse other than death or serious physical harm, assaulting a police dog or horse is a misdemeanor of the first degree.
  - (b) In addition to any other sanction imposed for assaulting a police dog or horse, if the violation of subsection (A) of this section results in the death of the police dog or horse, the sentencing court shall impose as a financial sanction a mandatory fine under division (B)(10) of ORC 2929.18. The fine shall be paid to the law enforcement agency that was served by the police dog or horse that was killed, and shall be used by that agency only for one or more of the following purposes:
    - (i) If the dog or horse was not owned by the agency, the payment to the owner of the dog or horse of

the cost of the dog or horse and the cost of the training of the dog or horse to qualify it as a police dog or horse, if that cost has not previously been paid by the agency;

(ii) After payment of the costs described in division (E)(1)(b)(i) of this section, if applicable, payment of the cost of replacing the dog or horse that was killed;

(iii) After payment of the costs described in division (E)(1)(b)(i) of this section, if applicable, payment of the cost of training the replacement dog or horse to qualify it as a police dog or horse;

(iv) After payment of the costs described in division (E)(1)(b)(i) of this section, if applicable, payment of the cost of further training of the replacement dog or horse that is needed to train it to the level of training that had been achieved by the dog or horse that was killed.

- (2) Whoever violates subsection (B) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse, but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.
- (3) Whoever violates subsection (C) hereof is guilty of assaulting an assistance dog. Except as otherwise provided in this subsection, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. ~~If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree.~~ If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.
- (4) Whoever violates subsection (D) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog, harassing an

assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.

- (5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (A), (B), (C) or (D) of this section is responsible for the payment of all of the following:
- (a) Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (A) or (B) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of subsection (C) or (D) of this section;
  - (b) The cost of any damaged equipment that results from the violation;
  - (c) If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;
  - (d) If the violation resulted in the death of the police dog or horse or the assistance dog that was the subject of the violation or resulted in serious physical harm to that dog or horse to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.
- (F) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.
- (G) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.

- (H) As used in this section:
- (1) *Physical harm* means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
  - (2) *Police dog or horse* means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
  - (3) *Serious physical harm* means any of the following:
    - (a) Any physical harm that carries a substantial risk of death;
    - (b) Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
    - (c) Any physical harm that causes acute pain of a duration that results in substantial suffering.
  - (4) *Assistance dog, blind, and mobility impaired person* have the same meanings as in Ohio R.C. 955.011.

(ORC 2921.321)

### **533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.**

- (A) No person, who is 18 years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is 13 years of age or older but less than 16 years of age, or the offender is reckless in that regard.
- (B) Whoever violates this section is guilty of unlawful sexual conduct with a minor:
  - (1) Except as otherwise provided in subsections (B)(2), (3), and (4) of this section, unlawful sexual conduct with a minor is a felony of the fourth degree and shall be prosecuted under appropriate State law.
  - (2) Except as otherwise provided in subsection (B)(4) of this section, if the offender is less than four years older than the other person, unlawful sexual conduct with a minor is a misdemeanor of the first degree.
  - (3) Except as otherwise provided in subsection (B)(4) of this section, If the offender is ~~four~~ ten or more years older than the other person, ~~or~~ unlawful sexual conduct with a minor is a felony of the third degree and shall be prosecuted under appropriate State law.
  - (4) If the offender has previously been convicted of or pleaded guilty to a violation of ORC 2907.02, 2907.03 or 2907.04, or former ORC 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law.

(ORC 2907.04)

**533.04 SEXUAL IMPOSITION.**

- (A) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:
- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
  - (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
  - (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
  - (4) The other person or one of the other persons is 13 years of age or older but less than 16 years of age, whether or not the offender knows the age of such person, and the offender is at least 18 years of age and four or more years older than such other person.
  - (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.
- (B) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.
- (C) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of this section or of ORC 2907.02, 2907.03, 2907.04, or 2907.05, ~~2907.06~~ or former ORC 2907.12 or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section or ORC 2907.02, 2907.03, 2907.04, or 2907.05, or former ORC 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in ORC 2929.24, the court may impose on the offender a definite jail term of not more than one year.

(ORC 2907.06)

**533.07 PUBLIC INDECENCY.**

- (A) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:
- (1) Expose the person's private parts;
  - (2) Engage in sexual conduct or masturbation;
  - (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.
- (B) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender, ~~and who resides in the person's household:~~
- (1) Engage in masturbation;
  - (2) Engage in sexual conduct;
  - (3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;
  - (4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.
- (C) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (C)(2), (3), (4) and (5) of this section.
- (2) Except as otherwise provided in subsection (C)(2) of this section, a violation of subsection (A)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (A)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (A)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (A)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

- (3) Except as otherwise provided in subsection (C)(3) of this section, a violation of subsection (A)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (A)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (A)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.
- (4) Except as otherwise provided in subsection (C)(4) of this section, a violation of subsection (B)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (B)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (B)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.
- (5) Except as otherwise provided in subsection (C)(5) of this section, a violation of subsection (B)(4) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to any violation of this section, a violation of subsection (B)(4) of this section is a felony which shall be prosecuted under appropriate state law. A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.
- ~~(D) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I sex offender/child-victim offender for a violation of subsection (B)(4) of this section:~~
- ~~(a) The offender is less than ten years older than the other person.~~
- ~~(b) The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.~~
- ~~(2) If the offender is convicted of or pleads guilty to a violation of subsection (B)(4) of this section, is ten or more years older than~~

the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under ORC 2950.04, 2950.041, 2950.05, and 2950.06.

- (E) A mother is entitled to breast-feed her baby in any location of a place of public accommodation wherein the mother otherwise is permitted. "Place of public accommodation" has the same meaning as ORC 4112.01. (ORC 3781.55)

(ORC 2907.09; ORC 3781.55)

### **533.09 SOLICITING.**

- (A) (1) No person shall solicit another who is 18 years of age or older to engage with such other person in sexual activity for hire.
- (2) No person shall solicit another to engage with such other person in sexual activity for hire if the other person is sixteen or seventeen years of age and the offender knows that the other person is sixteen or seventeen years of age or is reckless in that regard.
- (3) No person shall solicit another to engage with such other person in sexual activity for hire if either of the following applies:
- (a) The other person is less than sixteen years of age, whether or not the offender knows the age of the other person.
- (b) The other person is a person with a developmental disability and the offender knows or has reasonable cause to believe the other person is a person with a developmental disability.
- (B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of division (A) of this section.
- (C) (b1) Whoever violates subsection (A) of this section is guilty of soliciting. A violation of division (A)(1) of this section is a misdemeanor of the third degree. A violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate state law. A violation of subsection (A)(3) of this section is a felony and shall be prosecuted under appropriate state law.



(2) Whoever violates subsection (B) of this section is guilty of engaging in solicitation after a positive HIV test. If the offender commits the violation prior to July 1, 1996, engaging in solicitation after a positive HIV test is a felony and shall be prosecuted under appropriate state law. If the offender commits the violation on or after July 1, 1996, engaging in solicitation after a positive HIV test is a felony and shall be prosecuted under appropriate state law.

(~~ε~~ D) If a person is convicted of or pleads guilty to a violation of any provision of this section or an attempt to commit a violation of any provision of this section, and if the person, in committing or attempting to commit the violation, was in, was on, or used a motor vehicle, the court, in addition to or independent of all other penalties imposed for the violation, ~~shall~~ may impose upon the offender a class six suspension of the person's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of ORC 4510.02. In lieu of imposing upon the offender the class six suspension, the court instead may require the offender to perform community service for a number of hours determined by the court.

(~~ϕ~~ E) As used in this section;

(1) "Person with a developmental disability" has the same meaning as in ORC 2905.32.

(2) "Sexual activity for hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

(ORC 2907.24)

### **533.091 LOITERING TO ENGAGE IN SOLICITATION.**

(A) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;
- (4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;

- (5) Interfere with the free passage of another.
- (B) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (A) of this section,
- (C) As used in this section:
  - (1) *Vehicle* has the same meaning as in ORC 4501.01.
  - (2) *Public place* means any of the following:
    - (a) A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility;
    - (b) A doorway or entrance way to a building that fronts on a place described in subsection (B)(2)(a). hereof;
    - (c) A place not described in subsection ~~(B)~~ C(2)(a) or (b) hereof this subsection that is open to the public.
- (~~ε~~ D) (1) Whoever violates subsection (A) hereof is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.
- (2) Whoever violates subsection (B) of this section is guilty of loitering to engage in solicitation after a positive HIV test. If the offender commits the violation on or after July 1, 1996, loitering to engage in solicitation after a positive HIV test is a felony and shall be prosecuted under appropriate state law.

(ORC 2907.241)

### **533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.**

- (A) No person, with knowledge of its character or content, shall recklessly do any of the following:
  - (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
  - (2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
  - (3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.

- (B) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:
- (1) The defendant is the parent, guardian or spouse of the juvenile involved.
  - (2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
  - (3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was 18 years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of 18 and unmarried.
- (C) (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.
- (2) Except as provided in subsection (B)(3) hereof, mistake of age is not a defense to a charge under this section.
- (D) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.
- (2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:

- (a) The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
  - (b) The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.
- (E) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.
- (F) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this subsection, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, a violation of this section is a felony and shall be prosecuted under appropriate State law. If the material or performance involved is obscene and the juvenile to whom it is sold, delivered, furnished, disseminated, provided, exhibited, rented, or presented, the juvenile to whom the offer is made or who is the subject of the agreement, or the juvenile who is allowed to review, peruse, or view it is under thirteen years of age, violation of this section is a felony and shall be prosecuted under appropriate State law.

(ORC 2907.31)

#### **533.14 UNLAWFUL ADVERTISING OF MASSAGE.**

- (A) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.
- (B) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.
- (C) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (A) and (B) of this section.
- (D) As used in this section, "sexual activity" has the same meaning as in ORC 2907.01.

(ORC 2927.17)

**537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.**

- (A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:
- (1) (a) As the proximate result of committing a violation of division (A) of ORC 4511.19 or of a substantially equivalent municipal ordinance;
  - (b) As the proximate result of committing a violation of division (A) of ORC 1547.11 or of a substantially equivalent municipal ordinance;
  - (c) As the proximate result of committing a violation of division (A)(3) of ORC 4561.15 or of a substantially equivalent municipal ordinance.
- (2) In one of the following ways:
- (a) Recklessly;
  - (b) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the reckless operation offense in the construction zone and does not apply as described in subsection (F) of this section.
- (3) In one of the following ways:
- (a) Negligently;
  - (b) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (F) of this section.
- (4) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Revised

Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Revised Code that is a minor misdemeanor.

- ~~(B) (1) Whoever violates subsection (A)(1) or (2) of this section is guilty of aggravated vehicular homicide and shall be punished as provided in subsection (B)(2) and (3) of this section.~~
- ~~(2) (a) Except as otherwise provided in subsection (B)(2)(b) or (c) of this section, aggravated vehicular homicide committed in violation of subsection (A)(1) of this section is a felony and shall be prosecuted under appropriate State law and the court shall impose a mandatory prison term on the offender as described in subsection (E) of this section.~~
- ~~(b) Except as otherwise provided in subsection (B)(2)(c) of this section, aggravated vehicular homicide committed in violation of subsection (A)(1) of this section is a felony and shall be prosecuted under appropriate State law, and the court shall impose a mandatory prison term on the offender as described in subsection (E) of this section, if any of the following apply:~~
- ~~(i) At the time of the offense, the offender was driving under a suspension or cancellation imposed under ORC Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under ORC 4507.10.~~
- ~~(ii) The offender previously has been convicted of or pleaded guilty to a violation of this section.~~
- ~~(iii) The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.~~
- ~~(c) Aggravated vehicular homicide committed in violation of subsection (A)(1) of this section is a felony and shall be prosecuted under appropriate State law, and the court shall sentence the offender to a mandatory prison term as~~

provided in ORC 2929.142 and described in subsection (E) of this section if any of the following apply:

- (i) The offender previously has been convicted of or pleaded guilty to three or more prior violations of ORC 4511.19 or of a substantially equivalent municipal ordinance within the previous ten years.
- (ii) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A) of ORC 1547.11 or of a substantially equivalent municipal ordinance within the previous ten years.
- (iii) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(3) of ORC 4561.15 or of a substantially equivalent municipal ordinance within the previous ten years.
- (iv) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(1) of this section within the previous ten years.
- (v) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(1) of ORC 2903.08 within the previous ten years.
- (vi) The offender previously has been convicted of or pleaded guilty to three or more prior violations of ORC 2903.04 within the previous ten years in circumstances in which division (D) of that section applied regarding the violations.
- (vii) The offender previously has been convicted of or pleaded guilty to three or more violations of any combination of the offenses listed in division (B)(2)(c)(i), (ii), (iii), (iv), (v), or (vi) of this section within the previous ten years.
- (viii) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of ORC 4511.19.(d) In addition to any other sanctions imposed pursuant to subsection (B)(2)(a), (b), or (c) of this section for aggravated vehicular homicide committed in violation of subsection (A)(1) of this section, the court shall impose upon the offender a class one

suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(1) of ORC 4510.02.

Divisions (A)(1) to (3) of ORC 4510.54 apply to a suspension imposed under subsection (B)(2)(d) of this section.

- (3) Except as otherwise provided in this division, aggravated vehicular homicide committed in violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate state law. Aggravated vehicular homicide committed in violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate state law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under ORC Chapter 4510. or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under ORC 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense. The court shall impose a mandatory prison term on the offender when required by subsection (E) of this section.

In addition to any other sanctions imposed pursuant to this section for a violation of subsection (A)(2) of this section, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of Ohio R.C. 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a traffic-related murder, felonious assault, or attempted murder offense, a class one suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(1) of ~~that section~~ Ohio R.C. 4510.02 .

- (C) Whoever violates subsection (A)(3) of this section is guilty of vehicular homicide. Except as otherwise provided in this section, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide committed in violation of subsection (A)(3) of this section is a felony and shall be prosecuted under appropriate State law, if, at the time of the offense, the offender was driving under a suspension or



cancellation imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense. The court shall impose a mandatory jail term or a mandatory prison term on the offender when required by subsection (E) of this section.

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02, or, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of that section, or, if the offender previously has been convicted of or pleaded guilty to a traffic-related murder, felonious assault, or attempted murder offense, a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege as specified in division (A)(2) of that section.

- (D) Whoever violates subsection (A)(4) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this division, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed pursuant to this division, the court shall impose upon the offender a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating

privilege from the range specified in division (A)(6) of ORC 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or a traffic-related murder, felonious assault, or attempted murder offense, a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of that section.

- (E) (1) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (A)(1) of this section. Except as otherwise provided in this division, the mandatory prison term shall be a definite term from the range of prison terms provided in division (A)(1)(b) of ORC 2929.14 for a felony of the first degree or from division (A)(2)(b) of that section for a felony of the second degree, whichever is applicable, except that if the violation is committed on or after the effective date of this amendment, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the first degree in division (A)(1)(a) of ORC 2929.14 or one of the terms prescribed for a felony of the second degree in division (A)(2)(a) of that section, whichever is applicable. If subsection (B)(2)(c)(i), (ii), (iii), (iv), (v), (vi), (vii), or (viii) of this section applies to an offender who is convicted of or pleads guilty to the violation of subsection (A)(1) of this section, the court shall impose the mandatory prison term pursuant to division (B) of ORC 2929.142. The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a misdemeanor violation of subsection (A)(3)(b) of this section and may impose upon the offender a longer jail term as authorized pursuant to ORC 2929.24.
- (2) The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of division (A)(2) or (3)(a) of this section or a felony violation of division (A)(3)(b) of this section if either division (E)(2)(a) or (b) of this section applies. The mandatory prison term shall be a definite term from the range of prison terms provided in division (A)(3)(a) of ORC 2929.14 for a felony of the third degree or from division (A)(4) of that section for a felony and shall be prosecuted under appropriate State law, whichever is applicable. The court shall impose a mandatory prison term on an offender in a category described in this division if either of the following applies:
- (a) The offender previously has been convicted of or pleaded guilty to a violation of this section or ORC 2903.08.

- (b) At the time of the offense, the offender was driving under suspension or cancellation under ORC Chapter 4510. or any other provision of the Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under ORC 4507.10.
- (F) Subsections (A)(2)(b) and (3)(b) of this section do not apply in a particular construction zone unless signs of the type described in ORC 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under ORC 5501.27. The failure to erect signs of the type described in ORC 2903.081 of the Revised Code in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsection (A)(1), (A)(2)(a), (A)(3)(a), or (A)(4) of this section in that construction zone or the prosecution of any person who violates any of those divisions in that construction zone.
- (G) (1) As used in this section:
- (a) "Mandatory prison term" and "mandatory jail term" have the same meanings as in ORC 2929.01.
- (b) "Traffic-related homicide, manslaughter, or assault offense" means a violation of ORC 2903.04 in circumstances in which division (D) of that section applies, a violation of ORC 2903.06 or ORC 2903.08, or a violation of ORC 2903.06, 2903.07, or 2903.08 as they existed prior to March 23, 2000.
- (c) "Construction zone" has the same meaning as in ORC 5501.27.
- (d) "Reckless operation offense" means a violation of ORC 4511.20 or a municipal ordinance substantially equivalent to ORC 4511.20.
- (e) "Speeding offense" means a violation of ORC 4511.21 or a municipal ordinance pertaining to speed.
- (f) "Traffic-related murder, felonious assault, or attempted murder offense" means a violation of ORC 2903.01 or 2903.02 in circumstances in which the offender used a motor vehicle as the means to commit the violation, a violation of division (A)(2) of ORC 2903.11 in circumstances in which the deadly

weapon used in the commission of the violation is a motor vehicle, or an attempt to commit aggravated murder or murder in violation of ORC 2923.02 in circumstances in which the offender used a motor vehicle as the means to attempt to commit the aggravated murder or murder.

(g) "Motor vehicle" has the same meaning as in ORC 4501.01.

(2) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this state, or current or former law of another state or the United States.

(ORC 2903.06; ORC 2907.24; ORC 4511.19)

~~(A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:~~

~~(1) A. Negligently;~~

~~B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.~~

~~(2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.~~

~~(B) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of~~

~~this section or any traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).~~

~~(2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.~~

~~(C) The court shall impose a mandatory jail term of at least 15 days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:~~

~~(1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.~~

~~(2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.~~

~~(D) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.~~

~~(E) As used in this section:~~

~~(1) *Mandatory prison term* and *mandatory jail term* have the same meanings as in Ohio R.C. 2929.01.~~

~~(2) *Traffic-related homicide, manslaughter or assault offense* means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section~~

~~applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.~~

~~(3) Construction zone has the same meaning as in Ohio R.C. 5501.27.~~

~~(4) Speeding offense means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.~~

~~(F) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States. (ORC 2903.06)~~

~~(G) The court imposing a sentence upon an offender for any violation of this section also shall impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (B) of Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 under similar circumstances.~~

~~(ORC 2903.06; ORC 2907.24; ORC 4511.19)~~

### **537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.**

~~(A) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn in any of the following ways:~~

~~(1) (a) As the proximate result of committing a violation of division (A) of ORC 4511.19 or of a substantially equivalent municipal ordinance;~~

~~(b) As the proximate result of committing a violation of division (A) of ORC 1547.11 or of a substantially equivalent municipal ordinance;~~

~~(c) As the proximate result of committing a violation of division (A)(3) of ORC 4561.15 or of a substantially equivalent municipal ordinance.~~

~~(2) In one of the following ways:~~

~~(a) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a reckless operation offense, provided that this division applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's~~

commission of the reckless operation offense in the construction zone and does not apply as described in subsection (E) of this section;

(b) Recklessly.

(3) As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this division applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (E) of this section.

(B) (1) Whoever violates subsection (A)(1) of this section is guilty of aggravated vehicular assault. Except as otherwise provided in this division, aggravated vehicular assault is a felony and shall be prosecuted under appropriate state law. Aggravated vehicular assault is a felony and shall be prosecuted under appropriate state law if any of the following apply:

(a) At the time of the offense, the offender was driving under a suspension imposed under ORC Chapter 4510. or any other provision of the Ohio Revised Code.

(b) The offender previously has been convicted of or pleaded guilty to a violation of this section.

(c) The offender previously has been convicted of or pleaded guilty to any traffic-related homicide, manslaughter, or assault offense.

(d) The offender previously has been convicted of or pleaded guilty to three or more prior violations of ORC 4511.19 or a substantially equivalent municipal ordinance within the previous ten years.

(e) The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A) of ORC 1547.11 or of a substantially equivalent municipal ordinance within the previous ten years. The offender previously has been convicted of or pleaded guilty to three or more prior violations of division (A)(3) of ORC 4561.15 or of a substantially equivalent municipal ordinance within the previous ten years.

(f) The offender previously has been convicted of or pleaded guilty to three or more prior violations of any combination

of the offenses listed in division (B)(1)(c), (d), or (e) of this section.

(g) The offender previously has been convicted of or pleaded guilty to a second or subsequent felony violation of division (A) of ORC 4511.19.

(2) In addition to any other sanctions imposed pursuant to subsection (B)(1) of this section, except as otherwise provided in this division, the court shall impose upon the offender a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of ORC 4510.02. If the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or any traffic-related murder, felonious assault, or attempted murder offense, the court shall impose either a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of that section or a class one suspension as specified in division (A)(1) of that section.

(C) (1) Whoever violates subsection (A)(2) or (3) of this section is guilty of vehicular assault and shall be punished as provided in subsections (C)(2) and (3) of this section.

(2) Except as otherwise provided in this section, vehicular assault committed in violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate State law. Vehicular assault committed in violation of subsection (A)(2) of this section is a felony and shall be prosecuted under appropriate State law, if, at the time of the offense, the offender was driving under a suspension imposed under ORC Chapter 4510. or any other provision of the Revised Code, if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, or if, in the same course of conduct that resulted in the violation of division (A)(2) of this section, the offender also violated ORC 4549.02, 4549.021, or 4549.03.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of ORC 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault



offense, or any traffic-related murder, felonious assault, or attempted murder offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of that section.

- (3) Except as otherwise provided in this division, vehicular assault committed in violation of subsection (A)(3) of this section is a misdemeanor of the first degree. Vehicular assault committed in violation of subsection (A)(3) of this section is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension imposed under ORC Chapter 4510. or any other provision of the Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of ORC 4510.02 or, if the offender previously has been convicted of or pleaded guilty to a violation of this section, any traffic-related homicide, manslaughter, or assault offense, or any traffic-related murder, felonious assault, or attempted murder offense, a class three suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(3) of ORC 4510.02 of the Revised Code.

- (D) (1) The court shall impose a mandatory prison term, as described in subsection (D)(4) of this section, on an offender who is convicted of or pleads guilty to a violation of subsection (A)(1) of this section.
- (2) The court shall impose a mandatory prison term, as described in subsection (D)(4) of this section, on an offender who is convicted of or pleads guilty to a violation of subsection (A)(2) of this section or a felony violation of subsection (A)(3) of this section if either of the following applies:
- (a) The offender previously has been convicted of or pleaded guilty to a violation of this section or ORC 2903.06.
- (b) At the time of the offense, the offender was driving under suspension under ORC Chapter 4510. or any other provision of the Revised Code.

- (3) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a misdemeanor violation of division (A)(3) of this section and may impose upon the offender a longer jail term as authorized pursuant to ORC 2929.24 of the Revised Code.
- (4) A mandatory prison term required under subsection (D)(1) or (2) of this section shall be a definite term from the range of prison terms provided in division (A)(2)(b) of ORC 2929.14 of the Revised Code for a felony of the second degree, from division (A)(3)(a) of that section for a felony of the third degree, or from division (A)(4) of that section for a felony of the fourth degree, whichever is applicable, and shall be prosecuted under appropriate State law except that if the violation is a felony of the second degree committed on or after the effective date of this amendment, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the second degree in division (A)(2)(a) of ORC 2929.14 of the Revised Code.
- (E) Subsections (A)(2)(a) and (3) of this section do not apply in a particular construction zone unless signs of the type described in ORC 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the director of transportation under ORC 5501.27. The failure to erect signs of the type described in ORC 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsection (A)(1) or (2)(b) of this section in that construction zone or the prosecution of any person who violates either of those subsections in that construction zone.
- (F) As used in this section:
- (1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in ORC 2929.01 of the Revised Code.
- (2) "Traffic-related homicide, manslaughter, or assault offense" and "traffic-related murder, felonious assault, or attempted murder offense" have the same meanings as in ORC 2903.06 of the Revised Code.
- (3) "Construction zone" has the same meaning as in ORC 5501.27 of the Revised Code.
- (4) "Reckless operation offense" and "speeding offense" have the same meanings as in ORC 2903.06 of the Revised Code.
- (G) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a

prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this state, or current or former law of another state or the United States.

(ORC 2903.08)

- ~~(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) hereof.~~
- ~~(b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.~~
- ~~In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.~~
- ~~(c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.~~
- ~~(d) This section does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27.~~
- ~~(e) As used in this section:~~
- ~~(1) *Mandatory jail term* has the same meaning as in Ohio R.C. 2929.01.~~
  - ~~(2) *Traffic-related homicide, manslaughter or assault offense* has the same meaning as in Ohio R.C. 2903.06.~~
  - ~~(3) *Construction zone* has the same meaning as in Ohio R.C. 5501.27.~~
  - ~~(4) *Speeding offense* has the same meaning as in Ohio R.C. 2903.06.~~
- ~~(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the~~

~~specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States.~~

(ORC 2903.08)

### **537.03 ASSAULT.**

- (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 subsection is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (C) hereof. If the assault was committed under the circumstances provided in subsection (C)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
  - (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care assault is a felony and shall be prosecuted under appropriate State law.
  - (3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services, assault is a felony and shall be prosecuted under appropriate State law.
  - (4) If the offense is committed in any of the following circumstances assault is a felony of the fifth degree and shall be prosecuted under appropriate State law.
    - (a) The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.

- (b) The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
- (c) The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
- (d) The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.
- (5) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties, assault is a

felony of the fourth degree and shall be prosecuted under appropriate State law.

- (6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense, assault is a felony of the fourth degree, and the court, pursuant to division (F) of ORC 2929.13, shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the fourth degree that is at least twelve months in duration and shall be prosecuted under appropriate State law.
- (7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, assault is either a felony of the fifth degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, a felony of the fourth degree and shall be prosecuted under appropriate State law.
- (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 subsection (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) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than \$5,000.00.
- (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 and shall be prosecuted under appropriate State law.
- (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 subsection (C)(~~9-8~~)(b) of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than \$5,000.00.
  - (b) If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony and shall be prosecuted under appropriate State law.
- (10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.
- (D) As used in this section:
- (1) *Peace officer* has the same meaning as in Ohio R.C. 2935.01.
  - (2) *Firefighter* has the same meaning as in Ohio R.C. 3937.41.
  - (3) *Emergency medical service* has the same meaning as in Ohio R.C. 4765.01.
  - (4) *Local correctional facility* means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty-municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
  - (5) *Employee of a local correctional facility* means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.
  - (6) *School teacher or administrator* means either of the following:

- (a) A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
  - (b) A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
- (7) *Community control sanction* has the same meaning as in Ohio R.C. 2929.01.
  - (8) *Escorted visit* means an escorted visit granted under Ohio R.C. 2967.27.
  - (9) *Post-release control* and *transitional control* have the same meanings as in Ohio R.C. 2967.01.
  - (10) *Investigator of the Bureau of Criminal Identification and Investigation* has the same meaning as in Ohio R.C. 2903.11.
  - (11) *Health care professional* and *health care worker* have the same meanings as in Ohio R.C. 2305.234.
  - (12) *Assault or homicide offense committed against hospital personnel* means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, ~~2903.13~~ or 2903.14 committed in circumstances in which all of the following apply:
    - (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.
    - (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;
    - (c) The victim was engaged in the performance of the victim's duties.
    - (d) The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
  - (13) *De-escalation or crisis intervention training* means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
  - (14) *Assault or homicide offense committed against justice system personnel* means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11,



2903.12, ~~2903.13~~ or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.

- (15) *Court official or employee* means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (16) *Judge* means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
- (17) *Magistrate* means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
- (18) *Prosecutor* has the same meaning as in Ohio R.C. 2935.01.
- (19) (a) *Hospital* means, subject to subsection (D)(19)(b) of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
- (b) "Hospital" does not include any of the following:
  - (i) A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether organized for individual or group practice;
  - (ii) An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing 24-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.

- (20) *Health maintenance organization* has the same meaning as in Ohio R.C. 3727.01.

(ORC 2903.13)

**537.051 MENACING BY STALKING.**

- (A) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or ~~the other person's~~ mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
- (2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:
- (a) Violate subsection (A)(1) of this section;
- (b) Urge or incite another to commit a violation of subsection (A)(1) of this section.
- (3) No person, with sexual motivation, shall violate subsection (A)(1) or (2) of this section.
- (B) Whoever violates this section is guilty of menacing by stalking.
- (1) Except as otherwise provided in subsections (B)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.
- (2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:
- (a) The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of section 541.051 (ORC 2911.211).

- (b) In committing the offense under subsection (A)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (A)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.
- (c) In committing the offense under subsection (A)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (A)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.
- (d) The victim of the offense is a minor.
- (e) The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.
- (f) While committing the offense under subsection (A)(1) of this section or a violation of subsection (A)(3) of this section is based on conduct in violation of subsection (A)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (B)(2)(f) of this section does not apply in determining the penalty for a violation of subsection (A)(2) of this section or a violation of subsection (A)(3) of this section based on conduct in violation of subsection (A)(~~1~~ 2) of this section.
- (g) At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
- (h) In committing the offense under subsection (A)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (A)(2) of this section, or an offense committed under subsection (A)(3) of this section based on a violation of subsection (A)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.

- (i) Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.
- (C) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.
- (D) As used in this section:
  - (1) *Pattern of conduct* means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".
  - (2) *Mental distress* means any of the following:
    - (a) Any mental illness or condition that involves some temporary substantial incapacity;
    - (b) Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or

other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.

- (3) *Emergency medical services person* is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
- (4) *Emergency facility person* is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (5) *Public official* has the same meaning as in Ohio R.C. 2921.01.
- (6) *Computer, computer network, computer program, computer system and telecommunications device* have the same meanings as in Ohio R.C. 2913.01.
- (7) *Post a message* means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.
- (8) *Third person* means, in relation to conduct as described in subsection (A)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
- (9) *Sexual motivation* has the same meaning as in Ohio R.C. 2971.01.
- (10) *Organization* includes an entity that is a governmental employer.
- (11) "Family or household member" means any of the following:
  - (a) Any of the following who is residing or has resided with the person against whom the act prohibited in subsection (A)(1) of this section is committed:
    - (i) A spouse, a person living as a spouse, or a former spouse of the person;
    - (ii) A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
    - (iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.

(b) The natural parent of any child of whom the person against whom the act prohibited in division (A)(1) of this section is committed is the other natural parent or is the putative other natural parent.

(12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in subsection (A)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.

- (E) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (D)(2)(b) of this section.
- (F) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.
- (2) Subsection (F)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (F)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.

(ORC 2903.211)

**537.06 MENACING.**

- (A) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediately family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.
- (B) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (B), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.
- (C) As used in this section, "organization" includes an entity that is a governmental employer.

(ORC 2903.22)

**537.07 ENDANGERING CHILDREN.**

- (A) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under 18 years of age or a mentally or physically handicapped child under 21 years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.
- (B) No person shall do any of the following to a child under 18 years of age or a mentally or physically handicapped child under 21 years of age:
- (1) Abuse a the child under 18 years of age or a mentally or physically handicapped child under 21 years of age.;

- (2) Torture or cruelly abuse the child;
- (3) Administer corporal punishment or other physical disciplinary measure, or physically restrain the child in a cruel manner or for a prolonged period, which punishment, discipline, or restraint is excessive under the circumstances and creates a substantial risk of serious physical harm to the child;
- (4) Repeatedly administer unwarranted disciplinary measures to the child, when there is a substantial risk that such conduct, if continued, will seriously impair or retard the child's mental health or development;
- (5) Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter;
- (6) Allow the child to be on the same parcel of real property and within one hundred feet of, or, in the case of more than one housing unit on the same parcel of real property, in the same housing unit and within one hundred feet of, any act in violation of ORC 2925.04 or 2925.041 when the person knows that the act is occurring, whether or not any person is prosecuted for or convicted of the violation of ORC 2925.04 or 2925.041 that is the basis of the violation of this section.
- (C) (1) No person shall operate a vehicle in violation of section 333.01(a) of the Traffic Code (ORC 4511.19(A)) when one or more children under 18 years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (C) hereof and a violation of section 333.01(a) of the Traffic Code (ORC 4511.19(A)) that constitutes the basis of the charge of the violation of this subsection (C) ~~hereof~~. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of this subsection (C) ~~hereof~~ shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.
- (2) As used in this subsection (C) ~~hereof~~:
- (a) *Controlled substance* has the same meaning as in Ohio R.C. 3719.01.



- (b) *Vehicle* has the same meaning as in Ohio R.C. 4511.01.
- (D) (1) Subsection (B)(5) of this section does not apply to any material or performance that is produced, presented, or disseminated for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance.
- (2) Mistake of age is not a defense to a charge under subsection (B)(5) of this section.
- (3) In a prosecution under subsection (B)(5) of this section, the trier of fact may infer that an actor, model, or participant in the material or performance involved is a juvenile if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the actor, model, or participant as a juvenile.
- (4) As used in this section and subsection (B)(5) of this section:
- (a) "Material," "performance," "obscene," and "sexual activity" have the same meanings as in ORC 2907.01.
- (b) "Nudity-oriented matter" means any material or performance that shows a minor in a state of nudity and that, taken as a whole by the average person applying contemporary community standards, appeals to prurient interest.
- (c) "Sexually oriented matter" means any material or performance that shows a minor participating or engaging in sexual activity, masturbation, or bestiality.
- (E) (1) Whoever violates this section is guilty of endangering children.
- (2) Whoever If the offender violates subsection (A) or (B)(1) here of this section, endangering children is one of the following, and, in the circumstances described in subsection (E)(2)(e) of this section, that subsection applies:
- (a) Except as otherwise provided in subsection (E)(2)(b), (c), or (d) of this section, a misdemeanor of the first degree;
- (b) If the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of,

- or physical abuse of a child, except as otherwise provided in subsection (E)(2)(c) or (d) of this section, a felony of the fourth degree and shall be prosecuted under appropriate State law;
- (c) If the violation is a violation of subsection (A) of this section and results in serious physical harm to the child involved, a felony of the third degree and shall be prosecuted under appropriate State law;
- (d) If the violation is a violation of subsection (B)(1) of this section and results in serious physical harm to the child involved, a felony of the second degree and shall be prosecuted under appropriate State law.
- (e) If the violation is a felony violation of subsection (B)(1) of this section and the offender also is convicted of or pleads guilty to a specification as described in ORC 2941.1422 that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in Division (B)(7) of ORC 2929.14 and shall order the offender to make restitution as provided in Division (B)(8) of ORC 2929.18.
- (3) If the offender violates subsection (B)(2), (3), (4), or (6) of this section, except as otherwise provided in this section, endangering children is a felony of the third degree and shall be prosecuted under appropriate State law. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, endangering children is a felony of the second degree and shall be prosecuted under appropriate State law. If the offender violates subsection (B)(2), (3), or (4) of this section and the offender also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1422 that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of Ohio R.C. 2929.14 and shall order the offender to make restitution as provided in division (B)(8) of ORC 2929.18. If the offender violates subsection (B)(6) of this section and the drug involved is methamphetamine, the court shall impose a mandatory prison term on the offender as follows:
- (a) If the violation is a violation of subsection (B)(6) of this section that is a felony of the third degree under subsection (E)(3) of this section and the drug involved is

methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than two years. If the violation is a violation of division (B)(6) of this section that is a felony of the third degree under division (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of subsection (B)(6) of this section, a violation of division (A) of Ohio R.C. 2925.04, or a violation of division (A) of Ohio R.C. 2925.041, the court shall impose as a mandatory prison term one of the prison terms prescribed for a felony of the third degree that is not less than five years and shall be prosecuted under appropriate State law.

- (b) If the violation is a violation of division (B)(6) of this section that is a felony of the second degree under subsection (E)(3) of this section and the drug involved is methamphetamine, except as otherwise provided in this division, the court shall impose as a mandatory prison term one of the definite prison terms prescribed for a felony of the second degree in division (A)(2)(b) of ORC 2929.14 that is not less than three years, except that if the violation is committed on or after the effective date of this amendment, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the minimum terms prescribed for a felony of the second degree in division (A)(2)(a) of that section that is not less than three years and shall be prosecuted under appropriate State law. If the violation is a violation of subsection (B)(6) of this section that is a felony of the second degree under subsection (E)(3) of this section, if the drug involved is methamphetamine, and if the offender previously has been convicted of or pleaded guilty to a violation of subsection (B)(6) of this section, a violation of division (A) of ORC 2925.04, or a violation of division (A) of Ohio R.C. 2925.041 ~~of the Revised Code~~, the court shall impose as a mandatory prison term one of the definite prison terms prescribed for a felony of the second degree in division (A)(2)(b) of Ohio R.C. 2929.14 that is not less than five years, except that if the violation is committed on or after the effective date of this amendment, the court shall impose as the minimum prison term for the offense a mandatory prison term that is one of the terms prescribed for a felony of the second degree subsection (A)(2)(a) of that section that is not less than five years and shall be prosecuted under appropriate State law.

- (4) If the offender violates subsection (B)(5) of this section, endangering children is a felony of the second degree and shall be prosecuted under appropriate State law. If the offender also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1422 that was included in the indictment, count in the indictment, or information charging the offense, the court shall sentence the offender to a mandatory prison term as provided in division (B)(7) of Ohio R.C. 2929. and shall order the offender to make restitution as provided in division (B)(8) of Ohio R.C. 2929.18.
- (5) If the offender violates subsection (C) of this section, the offender shall be punished as follows:
- (a) Except as otherwise provided in subsection (E)(5)(b) or (c) of this section, endangering children in violation of subsection (C) of this section is a misdemeanor of the first degree.
- (b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in subsection (E)(5)(c) of this section, endangering children in violation of subsection (C) of this section is a felony of the fifth degree and shall be prosecuted under appropriate State law.
- (c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of subsection (C) of this section, ORC 2903.06 or 2903.08, Ohio R.C. 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of subsection (C) of this section is a felony of the fourth degree and shall be prosecuted under appropriate State law.
- (d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Ohio R.C. Chapter 4506., 4509., 4510., or 4511. or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial

driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

- ~~(e)~~ In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to subsection (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of law for the violation of subsection (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of Ohio R.C. 4511.19 that was the basis of the charge of the violation of subsection (c) of this section, the offender also shall be sentenced in accordance with Ohio R.C. 4511.19 for that violation of division (A) of Ohio R.C. 4511.19.
- ~~(F) (1) (a)~~ A court may require an offender to perform not more than two hundred hours of supervised community service work under the authority of an agency, subdivision, or charitable organization. The requirement shall be part of the community control sanction or sentence of the offender, and the court shall impose the community service in accordance with and subject to subsections (F)(1)(a) and (b) of this section. The court may require an offender whom it requires to perform supervised community service work as part of the offender's community control sanction or sentence to pay the court a reasonable fee to cover the costs of the offender's participation in the work, including, but not limited to, the costs of procuring a policy or policies of liability insurance to cover the period during which the offender will perform the work. If the court requires the offender to perform supervised community service work as part of the offender's community control sanction or sentence, the court shall do so in accordance with the following limitations and criteria:
- ~~(i)~~ The court shall require that the community service work be performed after completion of the term of imprisonment or jail term imposed upon the offender for the violation of subsection (C) of this section, if applicable.
- ~~(ii)~~ The supervised community service work shall be subject to the limitations set forth in divisions (B)(1), (2), and (3) of Ohio R.C. 2951.02.
- ~~(iii)~~ The community service work shall be supervised in the manner described in division (B)(4) of

ORC 2951.02 by an official or person with the qualifications described in that division. The official or person periodically shall report in writing to the court concerning the conduct of the offender in performing the work.

- (iv) The court shall inform the offender in writing that if the offender does not adequately perform, as determined by the court, all of the required community service work, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of subsection (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191, and that, if the court orders that the offender be so committed, the court is authorized, but not required, to grant the offender credit upon the period of the commitment for the community service work that the offender adequately performed.
- (b) If a court, pursuant to subsection (F)(1)(a) of this section, orders an offender to perform community service work as part of the offender's community control sanction or sentence and if the offender does not adequately perform all of the required community service work, as determined by the court, the court may order that the offender be committed to a jail or workhouse for a period of time that does not exceed the term of imprisonment that the court could have imposed upon the offender for the violation of subsection (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under the sentence or term that was imposed upon the offender for that violation and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191. The court may order that a person committed pursuant to this division shall receive hour-for-hour credit upon the period of the commitment for the community service work that the offender adequately performed. No commitment pursuant to this division shall exceed the period of the term of

imprisonment that the sentencing court could have imposed upon the offender for the violation of subsection (C) of this section, reduced by the total amount of time that the offender actually was imprisoned under that sentence or term and by the total amount of time that the offender was confined for any reason arising out of the offense for which the offender was convicted and sentenced as described in Ohio R.C. 2949.08 and 2967.191.

- (2) Subsection (F)(1) of this section does not limit or affect the authority of the court to suspend the sentence imposed upon a misdemeanor offender and place the offender under a community control sanction pursuant to Ohio R.C. 2929.25, to require a misdemeanor or felony offender to perform supervised community service work in accordance with division (B) of Ohio R.C. 2951.02, or to place a felony offender under a community control sanction.
- (G) (1) If a court suspends an offender's driver's or commercial driver's license or permit or nonresident operating privilege under subsection (E)(5)(d) of this section, the period of the suspension shall be consecutive to, and commence after, the period of suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege that is imposed under Ohio R.C. Chapter 4506, 4509, 4510, or 4511 or under any other provision of law in relation to the violation of subsection (C) of this section that is the basis of the suspension under division (E)(5)(d) of this section or in relation to the violation of division (A) of ORC 4511.19 that is the basis for that violation of subsection (C) of this section.
- (2) An offender is not entitled to request, and the court shall not grant to the offender, limited driving privileges if the offender's license, permit, or privilege has been suspended under subsection (E)(5)(d) of this section and the offender, within the preceding six years, has been convicted of or pleaded guilty to three or more violations of one or more of the following:
- (a) Subsection (C) of this section;
- (b) Any equivalent offense, as defined in Ohio R.C. 4511.18.
- (H) (1) If a person violates subsection (C) of this section and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (C) of this section for each of the children, but the court may sentence the offender for only one of the violations.

- ~~(2) (a) If a person is convicted of or pleads guilty to a violation of subsection (C) of this section but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of division (A) of Ohio R.C. 4511.19 that was the basis of the charge of the violation of subsection (C) of this section, both of the following apply:~~
- ~~(i) For purposes of the provisions of Ohio R.C. 4511.19 that set forth the penalties and sanctions for a violation of division (A) of Ohio R.C. 4511.19, the conviction of or plea of guilty to the violation of subsection (C) of this section shall not constitute a violation of division (A) of Ohio R.C. 4511.19;~~
- ~~(ii) For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of Ohio R.C. 4511.19 and that is not described in subsection (H)(2)(a)(i) of this section, the conviction of or plea of guilty to the violation of subsection (C) of this section shall constitute a conviction of or plea of guilty to a violation of division (A) of Ohio R.C. 4511.19.~~
- ~~(b) If a person is convicted of or pleads guilty to a violation of subsection (C) of this section and the person also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of Ohio R.C. 4511.19 that was the basis of the charge of the violation of subsection (C) of this section, the conviction of or plea of guilty to the violation of subsection (C) of this section shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of division (A) of Ohio R.C. 4511.19, a conviction of or plea of guilty to a violation of division (A) of Ohio R.C. 4511.19.~~

~~(I) As used in this section:~~

- ~~(1) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01;~~
- ~~(2) "Limited driving privileges" has the same meaning as in Ohio R.C. 4501.01;~~
- ~~(3) "Methamphetamine" has the same meaning as in Ohio R.C. 2925.01.~~



~~is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.~~

~~(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:~~

~~A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.~~

~~B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section.~~

~~(3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).~~

~~(e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under 18 years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.~~

~~(2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:~~

~~1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.~~

~~2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.~~

~~B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.~~

(ORC 2919.22)

### **537.10 TELECOMMUNICATION HARASSMENT.**

- (A) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:
- (1) Fails to identify the caller to the recipient of the telecommunication and makes the telecommunication with purpose to harass, or abuse, any person at the premises to which the telecommunication is made, whether or not actual communication takes place between the caller and a recipient;
  - (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
  - (3) During the telecommunication, violates Ohio R.C. 2903.21;
  - (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
  - (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.

- (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten, or harass the recipient;
- (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
- (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document, or other communication that prevents that person from using the person's telephone service or electronic communication device;
- (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
- (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
- (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (B) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
- (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (C) (1) Whoever violates this section is guilty of telecommunication harassment.
- (2) A violation of subsections (A)(1), (2), (3), ~~or (5)~~, (6), (7), (8), (9), (10), or (11) or (B) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.
- (3) Except as otherwise provided in subsection (C)(3) of this section, whoever violates subsection (A)(4) hereof this section is guilty of a misdemeanor of the first degree for a first offense and a felony of the fifth degree on each subsequent offense which shall be prosecuted under appropriate State law. ~~For each subsequent offense or~~ If a violation of subsection (A)(4) hereof

results in economic harm of \$1,000.00 or more, a violation of subsection (A)(4) hereof this section is a felony and shall be prosecuted under appropriate State law.

- (D) No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in section 230 of Title 47 of the United States Code, or information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.
- ~~(E) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.~~
- (2) Subsection (E)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.

- (3) Subsection (E)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
- (4) A provider or user of an interactive computer service, as defined in section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in section 230 of Title 47 of the United States Code. Nothing in this division shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.
- (F) Subsections (A)(5) to (11) and (B)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing, or disseminating information for the general public within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.
- (e G) As used in this section:
- (1) *Economic harm* means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
    - (a) All wages, salaries, or other compensation lost as a result of the criminal conduct;
    - (b) The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
    - (c) The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
    - (d) The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
  - (2) *Caller* means the person described in subsection (A) ~~hereof~~ this section who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
  - (3) *Telecommunication* and *telecommunications device* have the same meanings as in Ohio R.C. 2913.01.

(4) *Sexual activity* has the same meaning as in Ohio R.C. 2907.01.

(5) "Family or household member" means any of the following:

(a) Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed:

(i) A spouse, a person living as a spouse, or a former spouse of the recipient;

(ii) A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;

(iii) A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.

(b) The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in division (A)(9) of this section is committed is the other natural parent or is the putative other natural parent.

(6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (A)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.

(7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.

(f H) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended.

(ORC 2917.21)

### **537.15 TEMPORARY PROTECTION ORDER.**

(A) No person shall recklessly violate the terms of any of the following:

- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
  - (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
  - (3) A protection order issued by a court of another state.
- (B) (1) Whoever violates this section is guilty of violating a protection order.
- (2) Except as otherwise provided in subsection (B)(3) or (4) of this section, violating a protection order is a misdemeanor of the first degree.
  - (3) If the offender previously has been convicted of, pleaded guilty to or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, 2903.213, ~~or 2903.214~~, 2919.26, or 3113.31; two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211, or any combination of those offenses, that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section, violating a protection order is a felony and shall be prosecuted under appropriate state law.
  - (4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.
  - (5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed \$300,000.00 per year.

- (C) It is an affirmative defense to a charge under subsection (A)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).
- (D) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.
- (E) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States.

(ORC 2919.27)

**537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS.**

- (A) As used in this section:
- (1) *Age verification* means a service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is ~~18~~ 21 years of age or older.
- (2) (a) *Alternative nicotine product* means, subject to subsection (A)(2)(b) of this section, an electronic ~~cigarette-smoking~~



- device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving or inhaling.
- (b) *Alternative nicotine product* does not include any of the following:
- (i) Any cigarette or other tobacco product;
  - (ii) Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
  - (iii) Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
  - (iv) Any product that is a "combination product" as described in 21 U.S.C. 353(g).
- ~~(3) *Child* has the same meaning as in Ohio R.C. 2151.011.~~
- ~~(4-3) *Cigarette* includes clove cigarettes and hand-rolled cigarettes.~~
- ~~(5-4) *Distribute* means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.~~
- ~~(6-5) (a) *Electronic cigarette-smoking device* means, subject to subsection (a)(6)B. of this section, any electronic product or device that produces a vapor that delivers nicotine or any other substance to the person inhaling from the device to simulate smoking and that is likely to be offered to or purchased by consumers as an electronic cigarette, electronic cigar, electronic cigarillo or electronic pipe. any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. "Electronic smoking device" includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. "Electronic smoking device" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).~~
- ~~(b) *Electronic cigarette* does not include any item, product or device described in subsections (a)(2)B.1. to 4. of this section.~~
- ~~(7-6) *Proof of age* means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is 18 years of age or older.~~
- ~~(8-7) *Tobacco product* means any product that is made or derived from tobacco, or that contains any form of nicotine, if it is~~

intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, or snuff or snus. "Tobacco product" also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. "Tobacco product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

(8) "Vapor product" means a product, other than a cigarette or other tobacco product as defined in Chapter 5743. of the Revised Code, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. "Vapor product" includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. "Vapor product" does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). "Vapor product" includes any product containing nicotine, regardless of concentration.

(9) *Vending machine* has the same meaning as "coin machine" in Ohio R.C. 2913.01.

(B) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:

- (1) Give, sell or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any ~~child~~ person under 21 years of age;
- (2) Give away, sell or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under ~~18~~ 21 years of age is prohibited by law;
- (3) Knowingly furnish any false information regarding the name, age or other identification of any ~~child~~ person under 21 years of

- age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that ~~child~~ person;
- (4) Manufacture, sell or distribute in this state any pack or other container of cigarettes containing fewer than 20 cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
  - (5) Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
  - (6) Give, sell or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (C) No person shall sell or offer to sell cigarettes, other tobacco products or alternative nicotine products by or from a vending machine, except in the following locations:
- (1) An area within a factory, business, office, or other place not open to the general public;
  - (2) An area to which ~~children~~ persons under twenty-one years of age are not generally permitted access;
  - (3) Any other place not identified in subsection (C)(1) or (2) of this section, upon all of the following conditions:
    - (a) The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway or outer-waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
    - (b) The vending machine is inaccessible to the public when the place is closed.
    - (c) A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high:

"It is illegal for any person under the age of 21 to purchase tobacco or alternative nicotine products."

- (D) The following are affirmative defenses to a charge under subsection (B)(1) of this section:
- (1) The ~~child~~ person under 21 years of age was accompanied by a parent, spouse who is ~~18~~ 21 years of age or older, or legal guardian of the ~~child~~ person under 21 years of age.
  - (2) The person who gave, sold or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a ~~child~~ person under 21 years of age under subsection (B)(1) of this section is a parent, spouse who is ~~18~~ 21 years of age or older, or legal guardian of the ~~child~~ person under 21 years of age.
- (E) It is not a violation of subsection (B)(1) or (2) of this section for a person to give or otherwise distribute to a ~~child~~ person under 21 years of age cigarettes, other tobacco products, alternative nicotine products or papers used to roll cigarettes while the ~~child~~ person under 21 years of age is participating in a research protocol if all of the following apply:
- (1) The parent, guardian or legal custodian of the ~~child~~ person under 21 years of age has consented in writing to the ~~child~~ person under 21 years of age participating in the research protocol;
  - (2) An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol;
  - (3) The ~~child~~ person under 21 years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (F) (1) Whoever violates subsection (B)(1), (2), (4), (5) or (6) or (C) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (B)(1), (2), (4), (5) or (6) or (C) of this section, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (2) Whoever violates subsection (B)(3) of this section is guilty of permitting ~~children~~ a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this subsection, permitting ~~children~~ a person under 21 years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (B)(3) of this section, permitting ~~children~~ a person under 21 years of

age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.

- (G) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold or otherwise distributed to a ~~child~~ person under 21 years of age in violation of this section and that are used, possessed, purchased or received by a ~~child~~ person under 21 years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981.

(ORC 2927.02)

### **537.17 CRIMINAL CHILD ENTICEMENT.**

- (A) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under 14 years of age to accompany the person in any manner, including entering into any vehicle, or onto any vessel, whether or not the offender knows the age of the child, if both of the following apply:
- (1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;
  - (2) The actor is not a law enforcement officer, medic, firefighter, or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of the actor's lawful duties in that capacity.
- (B) No person, with a sexual motivation, shall violate subsection (A) of this section.
- (C) No person, for any unlawful purpose other than, or in addition to, that proscribed by subsection (A) of this section, shall engage in any activity described in subsection (A) of this section.
- (D) It is an affirmative defense to a charge under subsection (A) hereof that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.
- (E) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section or Ohio R.C. ~~2905.05~~, 2907.02, or 2907.03, or former Ohio R.C. 2907.12, or Ohio R.C. 2905.01 or 2907.05 when the victim of that prior offense was under 17 years of age at the time of the offense, criminal child enticement is a felony and shall be prosecuted under appropriate State law.

- (F) As used in this section:
- (1) *Sexual motivation* has the same meaning as in Ohio R.C. 2971.01.
  - (2) *Vehicle* has the same meaning as in Ohio R.C. 4501.01.
  - (3) *Vessel* has the same meaning as in Ohio R.C. ~~1547.01~~ 1546.01.

(ORC 2905.05)

### **537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.**

(A) As used in this section:

- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
- (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.

(B) No person, including a parent, guardian or other custodian of a child, shall do any of the following:

- (1) Aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming an unruly child ~~as defined in Ohio R.C. 2151.022~~, or a delinquent child ~~as defined in Ohio R.C. 2152.02~~.
- (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly ~~child as defined in Ohio R.C. 2151.022~~ or a delinquent child ~~as defined in Ohio R.C. 2152.02~~.
- (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
- (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.

~~(C)~~ Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense.

(ORC 2919.24)

**541.01 DETERMINING PROPERTY VALUE IN ARSON.**

- (A) When a person is charged with a violation of subsections (A)(1) or (B)(1) of section 541.02 (division (A)(1) or (B)(1) of Ohio R.C. 2909.03) involving property value or an amount of physical harm of one thousand dollars or more or with a violation of Ohio R.C. 2909.05 involving property value or an amount of physical harm of one thousand dollars or more which shall be prosecuted under appropriate State law, the jury or court trying the accused shall determine the value of the property or amount of physical harm and, if a guilty verdict is returned, shall return the finding as part of the verdict. In any such case, it is unnecessary to find or return the exact value or amount of physical harm, ORC 2945.75 applies, and it is sufficient if either of the following applies, as appropriate, relative to the finding and return of the value or amount of physical harm:
- (1) If the finding and return relate to a violation of subsection (A)(1) or (B)(1) of section 541.02 (division (A)(1) or (B)(1) of ORC 2909.0) and are that the value or amount of the physical harm was one thousand dollars or more, the finding and return shall include a statement that the value or amount was one thousand dollars or more.
- (2) If the finding and return relate to a violation of Ohio R.C. 2909.05 and are that the value or amount of the physical harm was in any of the following categories, the finding and return shall include one of the following statements, as appropriate:
- (a) If the finding and return are that the value or amount was one hundred fifty thousand dollars or more, a statement that the value or amount was one hundred fifty thousand dollars or more;
- (b) If the finding and return are that the value or amount was seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars a statement that the value or amount was seven thousand five hundred dollars or more but less than one hundred fifty thousand dollars;
- (c) If the finding and return are that the value or amount was one thousand dollars or more but less than seven thousand five hundred dollars, a statement that the value or amount was one thousand dollars or more but less than seven thousand five hundred dollars.
- (B) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of

subsections (A)(1) or (B)(1) of section 541.02 (division (A)(1) or (B)(1) of ORC 2909.03) or ORC 2909.05:

- (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record, or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort, or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
- (2) If the property is not covered under subsection (B)(1) of this section and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.
- (3) If the property is not covered under subsection (B)(1) of this section and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and, in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

~~(b-C)~~ As used in this section, "fair market value" has the same meaning as in section 545.02(c)(3) (ORC 2913.61).

~~(e-D)~~ Prima-facie evidence of the value of property, as provided in section 545.02(d) (division (E) of ORC 2913.61), may be used to establish the value of property pursuant to this section.

~~(a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02:~~

- ~~(1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.~~
- ~~(2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.~~
- ~~(3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the~~



~~difference in the fair market value of the property immediately before and immediately after the offense.~~

(ORC 2909.11)

**541.02 ARSON.**

- (A) No person, by means of fire or explosion, shall knowingly do any of the following:
- (1) Cause or create a substantial risk of physical harm to any property of another without the other person's consent;
  - ~~(2) Cause, or create a substantial risk of, physical harm to any property of the offender or another, with purpose to defraud;~~
  - ~~(3) Cause, or create a substantial risk of, physical harm to the statehouse or a courthouse, school building, or other building or structure that is owned or controlled by the state, any political subdivision, or any department, agency, or instrumentality of the state or a political subdivision, and that is used for public purposes;~~
  - ~~(4) Cause, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other consideration, to any property of another without the other person's consent or to any property of the offender or another with purpose to defraud;~~
  - ~~(5) Cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person, the state, or a political subdivision without the consent of the other person, the state, or the political subdivision;~~
  - ~~(6) With purpose to defraud, cause, or create a substantial risk of, physical harm to any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by the offender, another person, the state, or a political subdivision.~~
- ~~(B) No person, by means of fire or explosion, shall knowingly do any of the following:~~
- ~~(1) Cause, or create a substantial risk of, physical harm to any structure of another that is not an occupied structure;~~
  - ~~(2) Cause, or create a substantial risk of, physical harm, through the offer or the acceptance of an agreement for hire or other~~

consideration, to any structure of another that is not an occupied structure;

(3) Cause, or create a substantial risk of, physical harm to any structure that is not an occupied structure and that is in or on any park, preserve, wildlands, brush-covered land, cut-over land, forest, timberland, greenlands, woods, or similar real property that is owned or controlled by another person, the state, or a political subdivision.

(C) (1) It is an affirmative defense to a charge under subsection (B)(1) or (2) of this section that the defendant acted with the consent of the other person.

(2) It is an affirmative defense to a charge under subsection (B)(3) of this section that the defendant acted with the consent of the other person, the state, or the political subdivision.

(D) (1) Whoever violates this section is guilty of arson.

(2) A violation of subsection (A)(1) or (B)(1) of this section is one of the following:

(a) Except as otherwise provided in subsection (D)(2)(b) of this section, a misdemeanor of the first degree;

(b) If the value of the property or the amount of the physical harm involved is one thousand dollars or more, a felony of the fourth degree and shall be prosecuted under appropriate State law.

(3) A violation of subsection (A)(2), (3), (5), or (6) or (B)(3) of this section is a felony of the fourth degree and shall be prosecuted under appropriate State law.

(4) A violation of subsection (A)(4) or (B)(2) of this section is a felony of the third degree and shall be prosecuted under appropriate State law.

~~(b) This section does not apply if the violation is done with purpose to defraud or the property involved is a statehouse or a courthouse, school building or other building or structure that is owned or controlled by the State, any political subdivision, or any department, agency or instrumentality of the State or a political subdivision, and that is used for public purposes.~~

~~(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is \$1,000.00 or more, arson is a felony and shall be prosecuted under appropriate State law.~~

(ORC 2909.03)

**541.04 CRIMINAL MISCHIEF.**

- (A) No person shall:
- (1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:
    - (a) The property of another;
    - (b) One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:
      - (i) The residential real property is subject to a mortgage.
      - (ii) The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this division, "pending" includes the time between judgment entry and confirmation of sale.
  - (2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;
  - (3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.
  - (4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to destroy or diminish its effectiveness or availability for its intended purpose;
  - (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
  - (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
    - (a) In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or

- modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
- (b) Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
- (B) As used in this section, "safety device" means any fire extinguisher, fire hose or fire axe, or any fire escape, emergency exit or emergency escape equipment, or any life line, life-saving ring, life preserver or life boat or raft, or any alarm, light, flare, signal, sign or notice intended to warn of danger, or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.
- (C) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (C)(2) or (3) of this section.
- (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (A)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this subsection, if the violation of subsection (A)(1), (2), (3), (4) or (5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (A)(1), (2), (3), (4) or (5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (A)(1), (2), (3), (4) or (5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft, criminal mischief committed in violation of subsection (A)(1), (2), (3), (4) or (5) of this section is a felony and shall be prosecuted under appropriate State law.
- (3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (A)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (A)(6) of this section or the loss to the victim resulting from the violation is \$1,000.00 or more, or if the computer, computer system, computer network, computer software, computer program or data involved in the violation of subsection (A)(6) of this section is used or intended to be used in the operation of an aircraft and the violation creates a risk of physical harm to any person, criminal mischief committed in

violation of subsection (A)(6) of this section is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.07)

#### 545.05 PETTY THEFT.

(A) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(B) ~~(1)~~ Whoever violates this section is guilty of ~~petty~~ theft.

~~(2)~~ Except as otherwise provided in this subsection, a violation of this section is petty theft, a misdemeanor of the first degree.

~~—~~ ~~Petty~~ Theft is a felony and shall be prosecuted under appropriate State law if:

~~(1)(a)~~ The value of the property or services stolen is \$1,000.00 or more and is less than seven thousand five hundred dollars or if the property stolen is any of the property listed in ORC 2913.71; or

~~(2)(b)~~ The value of the property or services stolen is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a violation of this section is grand theft;

~~(c)~~ The value of the property or services stolen is one hundred fifty thousand dollars or more and is less than seven hundred fifty thousand dollars, a violation of this section is aggravated theft;

~~(d)~~ The value of the property or services is seven hundred fifty thousand dollars or more and is less than one million five hundred thousand dollars, a violation of this section is aggravated theft;

~~(e)~~ The value of the property or services stolen is one million five hundred thousand dollars or more, a violation of this section is aggravated theft of one million five hundred thousand dollars or more;

~~(f)~~ The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active

duty service member, a violation of this subsection is theft from a person in a protected class, ~~or~~

~~(3)~~(g) The property stolen is a firearm or dangerous ordnance, a violation of this subsection is grand theft;  ~~or~~

~~(4)~~(h) The property stolen is a motor vehicle, a violation of this section is grand theft of a motor vehicle;  ~~or~~

~~(5)~~(i) The property stolen is any dangerous drug, a violation of this section is theft of drugs;  ~~or~~

~~(6)~~(j) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, a violation of this section is theft of a police dog or horse or an assistance dog;  ~~or~~

~~(7)~~(k) The property stolen is anhydrous ammonia, a violation of this section is theft of anhydrous ammonia;  ~~or~~

~~(8)~~(l) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or is a bulk merchandise container as defined in Ohio R.C. 4737.012, a violation of this section is theft of a special purpose article or articles or theft of a bulk merchandise container or containers;

(C) In addition to the offenses/penalties described in subsection (B) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (C)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (C)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (C)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

- (D) In addition to the penalties described in subsection (B) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.
- (E) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (C) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510.

(ORC 2913.02)

#### **545.08 UNAUTHORIZED USE OF PROPERTY.**

- (A) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.
- ~~(B) No person, in any manner and by any means, including, but not limited to, computer hacking, shall knowingly gain access to, attempt to gain access to, or cause access to be gained to any computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service without the consent of, or beyond the scope of the express or implied consent of, the owner of the computer, computer system, computer network, cable service, cable system, telecommunications device, telecommunications service, or information service or other person authorized to give consent.~~
- ~~(C) Except as permitted under ORC 5503.101, no person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the law enforcement automated database system created pursuant to ORC 5503.10 without the consent of, or beyond the scope of the express or implied consent of, the chair of the law enforcement automated data system steering committee.~~
- ~~(D) No person shall knowingly gain access to, attempt to gain access to, cause access to be granted to, or disseminate information gained from access to the Ohio law enforcement gateway established and operated pursuant to division (C)(1) of Ohio R.C. 109.57 without the consent of, or beyond the scope of the express or implied consent of, the superintendent of the bureau of criminal identification and investigation.~~

- (b E) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.
- (e F) (1) Whoever violates this section is guilty of unauthorized use of property.
- (2) Except as provided in subsection (d-F)(3) or (4) hereof this section, unauthorized use of property is a misdemeanor of the fourth degree.
- (3) Except as otherwise provided in subsection (F)(4) of this section, if unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is whichever of the following is applicable:
- (a) Except as otherwise provided in division (F)(3)(b), (c), or (d) of this section, a misdemeanor of the first degree.
- (b) If the value of the property or services or the loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fifth degree and shall be prosecuted under appropriate State law.
- (c) If the value of the property or services or the loss to the victim is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, a felony of the fourth degree and shall be prosecuted under appropriate State law.
- (d) If the value of the property or services or the loss to the victim is one hundred fifty thousand dollars or more, a felony of the third degree and shall be prosecuted under appropriate State law.
- (4) If the victim of the offense is an elderly person or disabled adult, unauthorized use of property is whichever of the following is applicable:
- (a) Except as otherwise provided in subsection (F)(4)(b), (c), or (d) of this section, a felony of the fifth degree and shall be prosecuted under appropriate State law.
- (b) If the value of the property or services or loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fourth degree and shall be prosecuted under appropriate State law.
- (c) If the value of the property or services or loss to the victim is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a



~~felony of the third degree~~ and shall be prosecuted under appropriate State law.

(d) ~~If the value of the property or services or loss to the victim is thirty-seven thousand five hundred dollars or more, a felony of the second degree~~ and shall be prosecuted under appropriate State law.

(G) (1) ~~Whoever violates subsection (B) of this section is guilty of unauthorized use of computer, cable, or telecommunication property, and shall be punished as provided in subsection (G) (2), (3), or (4) of this section.~~

(2) ~~Except as otherwise provided in subsection (G)(3) or (4) of this section, unauthorized use of computer, cable, or telecommunication property is a felony of the fifth degree and shall be prosecuted under appropriate State law.~~

(3) ~~Except as otherwise provided in subsection (G)(4) of this section, if unauthorized use of computer, cable, or telecommunication property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, for obtaining money, property, or services by false or fraudulent pretenses, or for committing any other criminal offense, unauthorized use of computer, cable, or telecommunication property is whichever of the following is applicable:~~

(a) ~~Except as otherwise provided in subsection (G)(3)(b) of this section, if the value of the property or services involved or the loss to the victim is seven thousand five hundred dollars or more and less than one hundred fifty thousand dollars, a felony of the fourth degree~~ and shall be prosecuted under appropriate State law.

(b) ~~If the value of the property or services involved or the loss to the victim is one hundred fifty thousand dollars or more, a felony of the third degree~~ and shall be prosecuted under appropriate State law.

(4) ~~If the victim of the offense is an elderly person or disabled adult, unauthorized use of computer, cable, or telecommunication property is whichever of the following is applicable:~~

(a) ~~Except as otherwise provided in division (G)(4)(b), (c), or (d) of this section, a felony of the fifth degree~~ and shall be prosecuted under appropriate State law.

(b) ~~If the value of the property or services or loss to the victim is one thousand dollars or more and is less than~~

- seven thousand five hundred dollars, a felony of the fourth degree and shall be prosecuted under appropriate State law.
- (c) If the value of the property or services or loss to the victim is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a felony of the third degree and shall be prosecuted under appropriate State law.
- (d) If the value of the property or services or loss to the victim is thirty-seven thousand five hundred dollars or more, a felony of the second degree and shall be prosecuted under appropriate State law.
- (H) Whoever violates subsection (C) of this section is guilty of unauthorized use of the law enforcement automated database system, a felony of the fifth degree and shall be prosecuted under appropriate State law.
- (I) Whoever violates subsection (D) of this section is guilty of unauthorized use of the Ohio law enforcement gateway, a felony of the fifth degree and shall be prosecuted under appropriate State law.
- (J) As used in this section:
- (1) "Cable operator" means any person or group of persons that does either of the following:
- (a) Provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system;
- (b) Otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.
- (2) "Cable service" means any of the following:
- (a) The one-way transmission to subscribers of video programming or of information that a cable operator makes available to all subscribers generally;
- (b) Subscriber interaction, if any, that is required for the selection or use of video programming or of information that a cable operator makes available to all subscribers generally, both as described in subsection (J)(2)(a) of this section.
- (c) Any cable television service.

(3) "Cable system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community. "Cable system" does not include any of the following:

(a) Any facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) Any facility that serves subscribers without using any public right-of-way;

(c) Any facility of a common carrier that, under 47 U.S.C.A. 522 (7)(c), is excluded from the term "cable system" as defined in 47 U.S.C.A. 522 (7);

(d) Any open video system that complies with 47 U.S.C.A. 573;

(e) Any facility of any electric utility used solely for operating its electric utility system.

~~(b) If the value of the property or services or loss to the victim is one thousand dollars or more and is less than seven thousand five hundred dollars, a felony of the fourth degree;~~

~~(c) If the value of the property or services or loss to the victim is seven thousand five hundred dollars or more and is less than thirty seven thousand five hundred dollars, a felony of the third degree;~~

~~(d) If the value of the property or services or loss to the victim is thirty seven thousand five hundred dollars or more, a felony of the second degree.~~

~~(e) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:~~

~~(1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is \$1,000.00 or more; or~~

~~(2) If the victim of the offense is an elderly person or disabled adult.~~

(ORC 2913.04)

#### **545.10 MISUSE OF CREDIT CARDS.**

(A) No person shall do any of the following:

- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
  - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
  - (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under Ohio R.C. 2921.01, knowingly misuse a credit card account held by a political subdivision.
- (B) No person, with purpose to defraud, shall do any of the following:
- (1) Obtain control over a credit card as security for a debt;
  - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
  - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
  - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (C) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (D) (1) Whoever violates this section is guilty of misuse of credit cards.
- (2) Except as otherwise provided in subsection (D)(4) of this section, a violation of subsections (A), (B)(1), or (C) of this section is a misdemeanor of the first degree.
- (3) Except as otherwise provided in this subsection or subsection (D)(4) of this section, a violation of subsection (B)(2), (3), or (4) of this section is a misdemeanor of the first degree. If the cumulative retail value of the property and services involved in one or more violations of subsection (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars or more and is less than seven thousand five hundred dollars, misuse of credit cards in violation of any of those divisions is a felony and shall be prosecuted under appropriate State law. If the cumulative retail value of the property and services involved in one or more violations of subsection (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is seven thousand five hundred dollars or more and is less than one hundred fifty thousand dollars, misuse of credit cards in

violation of any of those divisions is a felony and shall be prosecuted under appropriate State law. If the cumulative retail value of the property and services involved in one or more violations of subsection (B)(2), (3), or (4) of this section, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one hundred fifty thousand dollars or more, misuse of credit cards in violation of any of those subdivisions is a felony and shall be prosecuted under appropriate State law.

- (4) If the victim of the offense is an elderly person or disabled adult, and if the offense involves a violation of subsection (B)(1) or (2) of this section, subsection (D)(4) of this section applies. Except as otherwise provided in subsection (d)(4) of this section, a violation of subsection (B)(1) or (2) of this section is a felony and shall be prosecuted under appropriate State law. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is one thousand dollars or more and is less than seven thousand five hundred dollars, a violation of either of those subdivisions is a felony and shall be prosecuted under appropriate State law. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is seven thousand five hundred dollars or more and is less than thirty-seven thousand five hundred dollars, a violation of either of those subdivisions is a felony and shall be prosecuted under appropriate State law. If the debt for which the card is held as security or the cumulative retail value of the property or services involved in the violation is thirty-seven thousand five hundred dollars or more, a violation of either of subsections is a felony and shall be prosecuted under appropriate State law. In addition to any other penalty imposed under subsection (D)(4) of this section, the offender shall be required to pay full restitution to the victim and to pay a fine of up to fifty thousand dollars.

(ORC 2913.21)

#### **545.12 TAMPERING WITH COIN MACHINES.**

- (A) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.
- (B) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense as defined in Ohio R.C. 2913.01, tampering with coin

machines is a felony and shall be prosecuted under appropriate State law.

(ORC 2911.32)

#### **545.15 SECURING WRITINGS BY DECEPTION.**

- (A) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.
- (B) (1) Whoever violates this section is guilty of securing writings by deception.
  - (2) Except as otherwise provided in this subsection or subsection (B)(3) of this section, securing writings by deception is a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if the value of the property or obligation involved is \$1,000.00 or more; ~~or.~~
  - (2 3) If the victim of the offense is an elderly person, disabled adult, active duty service member or spouse of an active duty service member division (B)(3) of Ohio R.C. 2913.43 applies and shall be prosecuted under appropriate state law.

(ORC 2913.43)

#### **549.01 DEFINITIONS.**

As used in this chapter:

- (A) *Deadly weapon* means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (B) (1) *Firearm* means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm which is inoperable but which can readily be rendered operable.
  - (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (C) *Handgun* means any of the following:
  - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;

- (2) Any combination of parts from which a firearm of a type described in subsection (C)(1) of this section can be assembled.
- (D) *Semi-automatic firearm* means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (E) *Automatic firearm* means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (F) *Sawed-off firearm* means a shotgun with a barrel less than 18 inches long, or a rifle with a barrel less than 16 inches long, or a shotgun or rifle less than 26 inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol, tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (G) *Zip-gun* means any of the following:
- (1) Any firearm of crude and extemporized manufacture;
  - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
  - (3) Any industrial tool, signaling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (H) *Explosive device* means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (I) *Incendiary device* means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (J) *Ballistic knife* means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (K) *Dangerous ordnance* means any of the following, except as provided in subsection (I) hereof this section:
- (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
  - (2) Any explosive device or incendiary device;
  - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive

- compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
- (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
  - (5) Any firearm muffler or suppressor;
  - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (L) *Dangerous ordnance* does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, which employs a percussion cap or other obsolete ignition system, or which is designed and safe for use only with black powder;
  - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
  - (3) Any cannon or other artillery piece which, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
  - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (L)(3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
  - (5) Dangerous ordnance which is inoperable or inert and cannot readily be rendered operable or activated, and which is kept as a trophy, souvenir, curio or museum piece.
  - (6) Any device which is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(4), as amended, and regulations issued under that Act.
  - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the federal bureau of alcohol,



tobacco, firearms, and explosives under the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the bureau not to be regulated under the "National Firearms Act," 68A Stat. 725 (1934), 26 U.S.C. 5845(a).

- (M) *Explosive* means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
- (N) (1) *Concealed handgun license or license to carry a concealed handgun* means, subject to subsection (N)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a license to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (O) *Valid concealed handgun license or valid license to carry a concealed handgun* means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio

R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.

- (P) *Misdemeanor punishable by imprisonment for a term exceeding one year* does not include any of the following:
- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
  - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (Q) *Alien registration number* means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (R) Active duty has the same meaning as defined in 10 U.S.C. 101.

(ORC 2923.11)

#### **549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.**

- (A) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:
- (1) In a closed package, box or case;
  - (2) In a compartment which can be reached only by leaving the vehicle;
  - (3) In plain sight and secured in a rack or holder made for the purpose;
  - (4) If the firearm is at least 24 inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least 18 inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.
- (B) No person who has been issued a concealed handgun license, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:
- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been

- issued a concealed handgun license and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
  - (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
  - (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (C) (1) This section does not apply to any of the following:
- (a) An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
  - (b) Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (C)(1)(b) does not apply to the person.
- (2) Subsection (A) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:
- (a) The person transporting or possessing the handgun is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
  - (b) The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (3) Subsection (A) of this section does not apply to a person if all of the following apply:

- (a) The person possesses a valid ~~electric-powered~~ all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
  - (b) The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle during the open hunting season for a wild quadruped or game bird.
  - (c) The person is on or in an ~~electric-powered~~ all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife, ~~provided that the road is identified by an electric-powered all-purpose vehicle sign.~~
- (D) (1) The affirmative defenses authorized in Section 549.02(D)(1) and (2) are affirmative defenses to a charge under subsection (A) that involves a firearm other than a handgun.
- (2) It is an affirmative defense to a charge under subsection (A) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (A) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.
- (E) (1) No person who is charged with a violation of subsection (A) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (B) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (B) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.
- (3) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (A) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (A) of this section on or after September 30, 2011, due to the application of subsection (B)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

- (F) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (A) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (B)(1) or (2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (B)(1) or (2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (B)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (B)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (B)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (G) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.
- (H) As used in this section:
- (1) *Motor vehicle, street* and *highway* have the same meanings as in Ohio R.C. 4511.01.
  - (2) (a) *Unloaded* means:
    - (i) With respect to a firearm other than a firearm described in subsection (H)(2)(b) of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:
      - (A) There is no ammunition in a magazine or speed loader that is in the vehicle in

- question and that may be used with the firearm in question.
- (B) Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.
- (ii) For the purposes of subsection (H)(2)(a)(i)(B) of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:
- ~~a.~~ (A) A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;
- ~~b.~~ (B) A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.
- (iii) For the purposes of subsection (H)(2)(a) of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.
- (b) *Unloaded* means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.
- (3) *Commercial motor vehicle* has the same meaning as in Ohio R.C. 4506.25(A).

- (4) *Motor carrier enforcement unit* means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.
- (I) Subsection (H)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Chapter 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Chapter 2923.

(ORC 2923.16)

**549.11 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.**

- (A) No person shall do either of the following:
- (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
  - (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.
- (B) (1) Whoever violates subsection (A)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (A)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (A)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (A)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law.
- (C) Subsection (A) of this section does not apply to any firearm on which no manufacturer's serial number was inscribed at the time of its manufacture.

(ORC 2923.201)

Section 7. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule, or regulation adopted or issued in pursuance thereof shall be punished by a fine or imprisonment, or both. The fine shall not to exceed five hundred dollars (\$500.00) and imprisonment shall not exceed six months.

Section 8. If any section, subsection, sentence, clause, phrase or portion of the Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The governing authority of the City of Gahanna, Ohio hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable

Section 9. All ordinances and parts of ordinances in conflict herewith are expressly repealed.

Section 10. The adoption date of this ordinance is \_\_\_\_\_ and the effective date of this ordinance shall be \_\_\_\_\_.

ORDAINED this \_\_\_\_ day of \_\_\_\_\_, 2021.

City of Gahanna, Ohio

\_\_\_\_\_  
Date \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Date \_\_\_\_\_  
City Clerk

Approved by the Mayor \_\_\_\_\_ Date \_\_\_\_\_

•

APPROVED AS TO CONTENT, FORM AND LEGALITY:

Codifier: Added material is underlined, deleted material is struck through.



\_\_\_\_\_ Date \_\_\_\_\_.  
City Attorney

Certificate of Adoption

I certify that the foregoing ordinance was duly passed by the governing authority of the City of Gahanna, Ohio on the \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
City Clerk