

# S.B. 179--QUICK REFERENCE GUIDE

(For acts occurring on or after 1-1-02)

Prepared by the  
Ohio Criminal Sentencing Commission  
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**NEW CHAPTER**

For bindover, delinquency, and traffic cases, use new Ch. 2152.  
For abuse, neglect, dependency, and unruly cases, use Ch. 2151.

**OVERRIDING PURPOSES--§2152.01(A)**

In Ch. 2152 cases, the court must consider these overriding purposes:  
Protect the public interest and safety;  
Hold the offender accountable for his or her actions;  
Restore the victim;  
Rehabilitate the offender; and  
Provide for care, protection, and mental & physical development of children.  
No longer consider removing the consequences of crime and the taint of criminality.

## S.B. 179 ELIGIBILITY TABLE

Shows eligibility for various dispositions by age and offense [§§2152.10 & 2152.11].

| OFFENSE LEVEL<br>↓                  | AGES → | DT Eligible      |                 | Not DT Eligible |             |
|-------------------------------------|--------|------------------|-----------------|-----------------|-------------|
|                                     |        | 17 & 16          | 15 & 14         | 13 & 12         | 11 & 10     |
| <b>Aggravated Murder/Murder</b>     |        | <b>MT</b>        | <b>MT*/MSYO</b> | <b>DSYO</b>     | <b>DSYO</b> |
| <b>Attempted Agg. Murder/Murder</b> |        | <b>MT</b>        | <b>MT*/MSYO</b> | <b>DSYO</b>     | <b>DSYO</b> |
| <b>F-1 Violent + Other Enhanced</b> |        | <b>MT**/MSYO</b> | <b>DSYO</b>     | <b>DSYO</b>     | <b>DSYO</b> |
| <b>F-1 Not Violent Enhanced</b>     |        | <b>DSYO</b>      | <b>DSYO</b>     | <b>DSYO</b>     | <b>TJ</b>   |
| <b>F-1 Not Enhanced</b>             |        | <b>DSYO</b>      | <b>DSYO</b>     | <b>TJ</b>       | <b>TJ</b>   |
| <b>F-2 Enhanced</b>                 |        | <b>MT**/DSYO</b> | <b>DSYO</b>     | <b>DSYO</b>     | <b>TJ</b>   |
| <b>F-2 Not Enhanced</b>             |        | <b>DSYO</b>      | <b>DSYO</b>     | <b>TJ</b>       | <b>TJ</b>   |
| <b>F-3 Enhanced</b>                 |        | <b>DSYO</b>      | <b>DSYO</b>     | <b>TJ</b>       | <b>TJ</b>   |
| <b>F-3 Not Enhanced</b>             |        | <b>DSYO</b>      | <b>TJ</b>       | <b>TJ</b>       | <b>TJ</b>   |
| <b>F-4 Enhanced or F-5 Enhanced</b> |        | <b>DSYO</b>      | <b>TJ</b>       | <b>TJ</b>       | <b>TJ</b>   |
| <b>F-4 or F-5 Not Enhanced</b>      |        | <b>TJ</b>        | <b>TJ</b>       | <b>TJ</b>       | <b>TJ</b>   |

**Key:**

- MT:** Mandatory Transfer (must be bound over to adult court).
- DT:** Discretionary Transfer (may be bound over to adult court).
- MSYO:** Mandatory Serious Youthful Offender ("blended") sentence.
- DSYO:** Discretionary Serious Youthful Offender ("blended") sentence.
- TJ:** Traditional Juvenile dispositions (no MT or SYO). Includes spec time.
- Enhanced:** At least one enhancing factor is present (offense of violence, gun used, displayed, brandished, or indicated, or certain prior DYS terms).
- Violent:** Offense of violence as defined in §2901.01(A)(9).
- \* **MT** with prior DYS commitment for Category 1 or 2 offense. Otherwise **MSYO**.
- \*\* If Category 2 (other than kidnapping), **MT** with prior DYS commitment for a Category 1 or 2 offense &/or used, displayed, or indicated a firearm in the act. Otherwise **MSYO** (F-1s) or **DSYO** (F-2s).

**BINDOVERS--§2152.12**

The court must weigh specific factors for and against *discretionary* transfer and state on the record the factors considered and weighed [§2152.12(D) & (E)].

**BLENDED SENTENCING FOR SERIOUS YOUTHFUL OFFENDERS--§2152.13**

The prosecutor initiates by indictment, information, complaint, or notice.

Juvenile's rights: grand jury; open, speedy, jury trial in juvenile court; transcript; bail; application of the Criminal Rules; nonwaivable right to counsel; right to raise incompetency; appeals; etc.

**SYO Sentencing--§2152.13(E).** In juvenile court:

Impose a sentence under Ch. 2929, as if the juvenile were an adult (except death and life without parole);

Stay the adult sentence;

Impose one or more traditional juvenile dispositions.

If mandatory (MSYO), the court must impose the adult term [§2152.13(E)(1)].

If discretionary (DSYO), the court may impose the adult term if it finds, given the nature and circumstances of the act and the child's history, that the time, security level, and resources available in the juvenile system alone are not adequate to give a reasonable expectation that the overriding purposes will be met [§2152.13(E)(2)].

**Invoking the Adult Term--§2152.14**

To invoke, the misconduct alleged must be:

A violation of the institution's rules or conditions of supervision that could be charged as a felony or a violent M-1 if committed by an adult; or

Conduct that creates a substantial risk to the safety or security of the institution, community, or victim.

If the committing juvenile court considers the motion, it must do so at a hearing.

Alleged violator has right to: receive notice of grounds; be present; nonwaivable counsel; be advised of procedures; give evidence including on mental illness or retardation; an open hearing.

Court may invoke only if it finds by clear and convincing evidence that:

The person is at least 14 and serving any juvenile part of an SYO sentence;

The person engaged in the misconduct charged; and

The person's conduct shows that he or she is unlikely to be rehabilitated during the remaining juvenile jurisdiction period.

**"TRADITIONAL JUVENILE" TERMS: DYS & COMMUNITY DISPOSITIONS**

For community dispositions, see §2152.19.

For financial dispositions, see §2152.20.

For DYS terms generally, see §2152.16.

Minimum DYS commitment age reduced to 10 for aggravated murder, murder, violent F-1s, violent F-2s, & arson [§5139.05].

For DYS's duties to place 10 & 11 year olds see §2151.011 & E.O. 2001-01T.

**Gun and Gang Specs--§2152.17(A) & (C)**

Select a definite period from these ranges:

Gun possessed (not CCW): 0 to 1 year *if* sent to DYS

Gun used, displayed, brandished, or indicated: 1 to 3 years mandatory

Automatic or silenced gun: 1 to 5 years mandatory

Drive-by shooting: 1 to 5 years mandatory

Gang involvement: 1 to 3 years mandatory

Spec time must be consecutive to, and prior to, the underlying DYS term.

For all but possession, a DYS term must be imposed for the underlying offense.

Cap on multiple specs: 5 years or age 21 [§2152.17(D)].