



Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

# FELONY SENTENCING QUICK REFERENCE GUIDE

In Collaboration with the Ohio Judicial Conference • May 2017

## PURPOSES AND PRINCIPLES OF SENTENCING

The sentence must comply with these purposes and principles [\[§2929.11\(A\)\]](#):

**Overriding Purposes:** Punish the offender and protect the public from future crime by the offender and others...

- “Using the **minimum sanctions** that the court determines accomplish the purposes without imposing an unnecessary burden on state or local government resources.”

**Principles:** Always consider the need for incapacitation, deterrence, rehabilitation, and restitution [\[§2929.11\(A\)\]](#)

- Sentence should be commensurate with, and not demeaning to, the seriousness of offender’s conduct and its impact on the victim and consistent with sentences for similar crimes by similar offenders [\[§2929.11\(B\)\]](#)
- Do not sentence based on the offender’s race, ethnicity, gender, or religion [\[§2929.11\(C\)\]](#)

## FACTORS TO CONSIDER IN EVERY CASE

The court must weigh these, if present, and other relevant factor(s):

**Offender’s Conduct Is More Serious [\[§2929.12\(B\)\]](#):**

- Injury exacerbated by victim’s physical or mental condition or age
- Victim suffered serious physical, psychological, or economic harm
- Offender held public office or position of trust and the offense related to the office or position
- Offender’s occupation obliged the offender to prevent the offense or to bring those committing it to justice
- Offender’s reputation, occupation, or office facilitated the offense or is likely to influence others’ conduct
- Offender’s relationship with the victim facilitated the offense
- Offender acted for hire or as part of organized criminal activity
- Offender was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or

religion

- In a domestic violence or assault case, offender is a parent or other custodian, victim was a family or household member, and offense was committed in the vicinity of one or more children other than the victim.

**Offender’s Conduct Is Less Serious [\[§2929.12\(C\)\]](#):**

- Victim induced or facilitated the offense
- Offender acted under strong provocation
- Offender did not cause or expect to cause physical harm to person or property
- Substantial grounds exist to mitigate the offender’s conduct, even if they don’t constitute a defense

**Offender’s Recidivism Is More Likely [\[§2929.12\(D\)\]](#):**

- Offense while on bail, awaiting sentencing, on community control or PRC, or after PRC unfavorably terminated
- Offender has a history of criminal convictions or juvenile delinquency adjudications

## FACTORS TO CONSIDER IN EVERY CASE - *cont.*

- Offender has not responded favorably to sanctions previously imposed in adult or juvenile court
- Offender shows pattern of alcohol-/drug-use related to offense and doesn't acknowledge it or refuses treatment
- Offender shows no genuine remorse
- Offender has no prior adult conviction
- Offender led a law-abiding life for a significant number of years
- Offense was committed under circumstances unlikely to recur
- Offender shows genuine remorse

### Offender's Veteran Status [§2929.12(F)] ↩

### Offender's Recidivism Is Less Likely [§2929.12(E)]:

- Offender has no prior juvenile delinquency adjudication

## MANDATORY PRISON TERMS

Note: The General Assembly frequently changes this list and doesn't always include changes in [§2929.13(F)]'s list. Always check individual offenses. [§2929.13(F)] and elsewhere:

- **Aggravated murder** (when death sentence not imposed) or **murder** [§2929.13(F)(1)]
- **Assaults against Peace Officers:** felonious, aggravated, or simple assault when the victim is a peace officer or BCII investigator who suffered serious physical harm [§2929.13(F)(4) and (13)]; [2903.11, 2903.12, and 2903.13]
- **Assaults against Pregnant Women:** Felonious, aggravated, and simple assault if offender knew of pregnancy, with specification [§2929.13(F)(18)] and [§2929.14(B)(8)]
- **Any other F-1 or F-2** when offender has prior aggravated murder, murder, F-1, or F-2 [§2929.13(F)(6)], including:
  - **Repeat Violent Offender (RVO):** Defined as person who commits aggravated murder, murder, a violent F-1 or F-2, or an F-1 or F-2 attempt of violence, with a prior conviction for one or more of the same [§2929.01(DD)]
- **F-3 Involuntary Manslaughter or an Attempt to Commit a Violent F-2 involving Attempted or Actual Serious Physical Harm,** if offender has prior aggravated murder, murder, involuntary manslaughter, rape, or other F-1/F-2 causing death or physical harm [§2929.13(F)(4) and (7)]
- **Certain Sexual Offenses:**
  - Any offense with a sexually violent predator (SVP) specified under [§2929.13(F)(2), (11), and (15)]; and [§2971.03].
  - **Any rape** and [§2929.13(F)(2)]
    - Attempted rape, if victim <13 and, if completed, would be a sexual predator [§2929.13(F)(2)]
  - **Sexual battery** if victim <13 [§2929.13(F)(3)(c)(i)]
    - Before 8/3/2006, if victim <13, with prior rape, FSP, GSI, or sexual battery [§2929.13(F)(3)(c)(ii)]
  - **Gross Sexual Imposition** if victim <13 [§2929.13(F)(3)(a) and (b)]:
    - On and after 8/3/2006, with corroboration of victim's testimony; or
    - With prior rape, FSP, GSI, or sexual battery

NOTE: In State v. Bevely, 2015-Ohio-475, the Supreme Court held that a mandatory prison term based upon corroborating evidence is unconstitutional.

- **Importuning,** with victim <13, if has prior sex offense or child-victim-oriented offense [§2929.13(F)(4)]; and [§2907.07(A), (C), and (F)(2)]

## MANDATORY PRISON TERMS - cont.

- **SORN Law Registration:** Repeat failure to register [§2950.99(A)(2)(b)]
- **Certain Drug Offenses:**
  - **Major Drug Offenders (MDO):** Defined in [§2929.01(X)]
  - **F-1, F-2, and F-3 Drug Offenses** when the statute requires a mandatory term [§2929.13(F)(5)] and (Ch. 2925).
- **Corrupt Activity** if the most serious predicate offense is an F-1 [§2929.13(F)(10)] and [§2923.32]
- **Certain Traffic Offenses:**
  - Felony OVI when local incarceration is not imposed and for 5 priors in 20 years specified [§4511.19] and [§2941.1413]
  - Any OVI-related aggravated vehicular homicide (AVH) and aggravated vehicular assault (AVA) [§2903.06; aggravated 08]
  - Certain other involuntary manslaughters, AVHs, vehicular homicides, aggravated vehicular assaults when specified [§2929.13(F)(14)]; [§2903.04, 2903.06, and 2903.08]
- **Human Trafficking:** Kidnapping, abduction, compelling or promoting prostitution, corrupt activity, using minor in nudity-oriented material or performance, certain child endangering with §2941.1422 specified [§2941.1422(F)(4) and (16)]
- **Felony Domestic Violence** under certain circumstances [§2929.13(F)(17)]; and [§2919.25(D)(2) through (6)]
- **Illegally Conveying** improper items into facility by prison or detention employee [§2929.13(F)(12)]; and [§2921.36]
- **Various Specifications for Firearms, Body Armor, Sexual Activity, OVI, etc.** in Ch. 2941 (listed immediately below) [§2929.13(F)(8), (9)], etc.; Typically, specified time is mandatory; underlying may not be. ↪

## LENGTH OF MANDATORY PRISON TERMS

General rule: Select any term from the [§2929.14(A)]-range, except as follows:

- **For Proof of Various Specifications** [§2929.14(B)(1), (B)(5), (B)(6), (B)(7), (E), (G), and (H)], etc.:
  - 6 years, if automatic or muffled firearm [§2941.144 spec]
  - 3 years, if other firearm used, displayed, brandished, or otherwise indicated [§2941.145 spec]
  - 1 year, if other firearm not used, displayed, brandished, or otherwise indicated [§2941.141 spec]
  - 5 years, if a drive-by shooting, plus the 6- or 3-year gun specification above [§2941.146 spec]
  - 2 years, if wearing or carrying body armor [§2941.1411 spec]
  - 7 years, if shot at peace or corrections officer in a homicide or attempted homicide [§2941.1412]
- 1, 2, or 3 years for participating in a criminal gang [§2941.142 spec]; [§2929.14(G)]
- 2 years for aggravated murder, murder, or a violent F-1, F-2, or F-3 in a school zone [§2941.143] spec, through [§2941.14(H)(1)]
- 5 years for aggravated vehicular homicide (AVH) with peace officer victim [§2941.1414 spec]
- 3 years for AVH with 3 or more prior OVIs or equivalent offenses [§2941.1415 spec]
- 6 months or 1, 2, 3, 4, or 5 years on 6th OVI in 20 years [§2929.13(G)(1) and (2)], plus [§2941.1413 spec]; [§2929.24(E)], plus [§2941.1416 spec]
- AVH with 3 or more prior OVIs or equivalent offenses [§2941.1415 spec]; [§2929.13(B)(6)]
- 5 to 25 years for attempted statutory rape if offender >16 and victim <13 [§2941.1418 spec]; [§2971.03(A)(3)(e)(ii) or (B)(2)(a)]; and [§2929.14(E)]

## LENGTH OF MANDATORY PRISON TERMS - (cont.)

- 10 to Life for attempted statutory rape if offender >16 and victim <10 [§2941.1419 spec]; [§2971.03(A)(3)(e)(iii) or (B)(2)(b)]
- 15 to Life for attempted rape if offender has prior attempted statutory rape [§2941.1420 spec];

General rule: Select any term from the [§2929.14(A)]-range, except as follows:

- For Proof of Various Specifications [§2929.14(B)(1), (B)(5), (B)(6), (B)(7), (E), (G), and (H)], etc.:
  - 6 years, if automatic or muffled firearm [§2941.144 spec]
  - 3 years, if other firearm used, displayed, brandished, or otherwise indicated [§2941.145 spec]
  - 1 year, if other firearm not used, displayed, brandished, or otherwise indicated [§2941.141 spec]
  - 5 years, if a drive-by shooting, plus the 6- or 3-year gun specification above [§2941.146 spec]
  - 2 years, if wearing or carrying body armor [§2941.1411 spec]
  - 7 years, if shot at peace or corrections officer in a homicide or attempted homicide [§2941.1412]
  - 1, 2, or 3 years for participating in a criminal gang [§2941.142 spec]; [§2929.14(G)]
  - 2 years for aggravated murder, murder, or a violent F-1, F-2, or F-3 in a school zone [§2941.143 spec, through [§2941.14(H)(1)]
  - 5 years for aggravated vehicular homicide (AVH) with peace officer victim [§2941.1414 spec]
  - 3 years for AVH with 3 or more prior OVIs or equivalent offenses [§2941.1415 spec]
  - 6 months or 1, 2, 3, 4, or 5 years on 6th OVI in 20 years [§2929.13(G)(1) and (2)], plus [§2941.1413 spec]; [§2929.24(E)], plus [§2941.1416 spec]
  - AVH with 3 or more prior OVIs or equivalent offenses [§2941.1415 spec]; [§2929.13(B)(6)]
  - 5 to 25 years for attempted statutory rape if offender >16 and victim <13 [§2941.1418 spec]; [§2971.03(A)(3)(e)(ii) or (B)(2)(a)]; and [§2929.14(E)]

- 10 to Life for attempted statutory rape if offender >16 and victim <10 [§2941.1419 spec]; [§2971.03(A)(3)(e)(iii) or (B)(2)(b)]
- 15 to Life for attempted rape if offender has prior attempted statutory rape [§2941.1420 spec]; [§2971.03(A)(3)(e)(iv) or (B)(2)(c)]
- Various terms for various sexual offenses near a school [§2941.1421 spec] [§2929.14(H)(2)(a)(i), and (H)(2)(a)(ii)] or [§2929.24(F)(1)(a), (F)(1)(b)]
- Various terms for human trafficking offenses [§2941.1422 spec]; [§2929.14(B)(7)]; [§2905.32], etc.
- Various terms for assaults on pregnant woman [§2941.1423 spec] [§2929.14(B)(8)(a)] or [§2929.24(F)]
- For Repeat Violent Offenders (RVO), etc.:
  - Must impose maximum from basic range, plus 1 to 10 more years [§2929.14(B)(2)(b)] for:
    - RVO with ≥ 3 RVO offenses in 20 years, including current, if LWOP not required [§2941.149 spec]
  - Must impose maximum from basic range, but additional 1 to 10 years optional [§2929.14(B)(2) and (3)] for:
    - RVO or terrorism with RVO prior, if doesn't otherwise carry mandatory or LWOP [§2941.149 spec]
    - Attempted forcible child rape; alternately, 10 or more to Life with [§2941.1419 spec]
    - Corrupt activity when most serious predicate is an F-1
  - Other RVOs: Term from basic range mandatory. If court elects maximum from range, may add 1 to 10 years more if basic term inadequate to punish and protect and demeaning to seriousness of offense (In F-2 cases, court also must find serious physical harm or attempt or threat to do so) [§2929.14(B)(2)(a)]

## LENGTH OF MANDATORY PRISON TERMS - (cont.)

- For Major Drug Offenders (MDO):
  - F-1 maximum for MDO's specified, high-quantity amounts, with [§2941.1410 spec]
- For Marijuana/Hashish F-2 Trafficking, Possession, Cultivation: [§2925.03, 2925.04, 2925.11]
  - 20 to <40 k. marijuana, 1 to <2 k. solid hashish, or 200 to <400 g. liquid hashish: 4, 5, 6, 7, or 8 years
  - ≥40 k. marijuana, ≥2 k. solid hashish, or ≥400 g. liquid hashish: 8 years
  - In either case, if near school/juvenile: F-1 maximum
- For Trafficking in Persons (F1) [§2905.32(E)]: 10, 11, 12, 13, 14, or 15 years
- For Certain Other Crimes:
  - **OVI**: At least 60 days or at least 120 days, as specified for felony OVI [§4511.19(G)]; and [§2929.13(G)(1) and (2)]
  - **SVP**: At least 2 years to life for other sexual offenses with a sexually violent predator specification [§2971.03]
  - **SORN Failure to Register/Report**: Felony of the same degree as the most serious charge in original crime
  - **SORN Repeat Failure to Register/Report**: At least 3 years [§2950.99(A)(2)(b)] ↻

## OPTIONAL PRISON TERMS

For anyone not facing a mandatory prison term, judge may choose a prison term and/or any community sanction(s) [§2929.13(A)], [§2929.15(A)], etc.

**F-1s, F-2s, "In Favor" Drug Offense, or Certain F-3s** (theft of weapon) [§2913.02(B)(4)], GSI with victim <13 [§2907.05(B)(2)] or F-3 importuning [§2907.07(F)]:  
Presumption in favor of a prison term [§2929.13(D)(1)]

- To rebut the presumption, court must find that non-prison sanction(s) would both [§2929.13(D)(2)]:
  - Adequately protect the public and punish the offender because the factors indicating recidivism are less likely to outweigh the factors indicating recidivism is more likely; and
  - Not demean seriousness of the offense because less serious factors outweigh more serious factors
  - If no prison term (or if judicial release is later granted), state has appeal of right [§2953.08(B)]
- **Other F-3s or "Div. C" Drug Offense**: No guidance other than Purposes and Principles [§2929.13(C)]
- **Certain F-4s & F-5s**: Mandatory 1-year community control sanction(s) if [§2929.13(B)(1)(a)(i) through (iii)] and §2929.13(B)(1)(b)(i) through (iii):
  - Most serious charge is an F-4 or F-5 that is not an offense of violence and the offender:
    - Did not cause physical harm to another person;
    - Did not have a firearm during offense;
    - Did not have prior felony at any time or prior misdemeanor offense of violence within 2 years; and
    - Did not violate conditions of bond
  - If court believes no appropriate community sanction is available to meet Purposes and Principles, it must stay sentencing and give DRC 45 days to identify appropriate sanction which, if named, court must impose
  - Court may impose prison term if DRC does not name an appropriate sanction within 45 days [§2929.13(B)(1)(b)(iv) and (B)(1)(c)]
- **Other F-4s, F-5s, or "Div. B" Drug Offenses**: If mandatory 1-year community control doesn't apply, the court may impose a prison term if *any* of these 11 factors apply [§2929.13(B)(2)]:
  - Physical harm to a person
  - Attempt or actual threat of physical harm to a person with a deadly weapon

## OPTIONAL PRISON TERMS - *cont.*

- Attempt or actual threat of physical harm to a person, *plus* prior conviction for causing such harm
- Offense related to public office/position held; position obligated offender to prevent it or to bring others to justice; or offender's reputation/position facilitated the crime or likely to influence others
- Offense was for-hire or part of organized criminal activity
- Offense was a sex offense
- Offender served a prior prison term or was in prison at time of offense
- Offense was committed while offender was under community control or on bail or bond
- Offender committed the offense while possessing a firearm
- If [\[§2929.13\(B\)\(1\)\]](#) does not apply, the court must comply with Purposes and Principles of sentencing.
- If a prison term is imposed, defendant has appeal of right [\[§2953.08\(A\)\(2\)\]](#)
  - If a sentence is given with a prison term for a F3 or F4 and the court specifies one or more factor found in 2929.13 to apply, then defendant is not entitled to an appeal as a matter of right under this division.
- **Merger Doctrine:** If merger doctrine applies, allied offenses of similar import must be merged (this is separate from deciding consecutive/concurrent sentences). [\[§2941.25\]](#) ↪

## LENGTH OF OPTIONAL PRISON TERMS

General rule: Select a definite term from the [\[§2929.14\(A\)\]](#)-ranges (See Felony Sentencing Table):

- **Exceptions** requiring indefinite sentences:
  - Aggravated murder (if death not imposed) and murder (LWOP or X to Life) [\[§2903.01 and .02\]](#); [\[2929.02 and .03\]](#)
  - Rape of a person <13 (LWOP); other rape or sexual battery; or GSI of a person <13, with an SVP spec (2 to Life) [\[§2907.02\]](#), [\[§2971.03\(A\)\]](#); and [\[§2941.147 spec\]](#)
  - Aggravated murder, murder, involuntary manslaughter in felony, felonious assault, and kidnapping with SVP and sexual motive (SM) specs (LWOP for murders, 2 to Life for others) [\[§2971.03\(A\)\]](#); [\[§2941.147 \(SM spec\) and §2941.148 \(SVP spec\)\]](#)
  - Certain attempted rapes, sex offenses near school, human trafficking, assaults on pregnant women (Terms vary)
- **Consecutive Prison Terms General Rule:** Presumption of concurrent terms [\[§2929.41\(A\)\]](#) with court discretion to impose consecutive sentences if necessary to protect/punish, not disproportionate, and find [\[§2929.14\(C\)\(4\)\]](#):
  - Crimes committed while awaiting trial/sentencing, under sanction, or under post-release control;
  - Two or more of the multiple offenses committed as a single course of conduct; and harm so great or unusual that a single term does not adequately reflect seriousness of the conduct; or
  - Offender's criminal history shows that consecutive terms are needed to protect the public

NOTE: The findings above are allowed under *State v. Hodge* (2010), which modified *State v. Foster* (2006).

  - Defendant may appeal consecutives exceeding the maximum for the worst offense involved [\[§2953.08\(C\)\]](#)

## LENGTH OF OPTIONAL PRISON TERMS - *cont.*

- **Consecutive Prison Terms Required When** [§2929.14(C)(1), (2), and (3)]:
  - **Specifications:** Gun and other specifications carry consecutive terms, served before underlying [§2929.14(C)(1)(a) through (c)];
    - Specified time must be served prior to the term on the underlying offense
    - Underlying offense may not be mandatory for judicial release and other purposes
  - Certain crimes committed by a prison, jail, etc. inmate or escapee (e.g., riot, many escapes, etc.) [§2929.14(C)(2)]
  - Aggravated robbery or theft if take (or attempt to) a deadly weapon from a law enforcement officer [§2911.01(B)]; and [§2913.02(A) through (C)(3)]
  - **Sexually Violent Predators** [§2971.03)(E)]
  - **Felony Failure to Comply:** Fleeing in a vehicle from an officer, causing substantial injury or risk of it [§2921.331(C) and (D)] ↻

## SANCTIONS

### RESIDENTIAL SANCTIONS

Include, but not limited to [§2929.16]; (See [§2929.01] for definitions):

- Community-based correctional facility (CBCF) for up to 6 months
- Jail or minimum-security jail for up to 6 months (or up to 1 year for certain F-4 OVI's)
- Halfway house: no stated time limit, depends on program
- Alternative residential facility: Another place for employment, training, education, treatment, etc.

### NON-RESIDENTIAL SANCTIONS

Include, but not limited to [§2929.17]; (See [§2929.01] for definitions):

- Day reporting: Report to an approved location to participate in work, training, treatment, etc.
- House arrest and/or electronic monitoring and/or continuous alcohol monitoring
- Community service for up to 500 hours for felonies, which may be imposed on indigent and non-indigent persons; the 40-hour/month cap is no longer the law; how community service is credited is judge's discretion.
- Drug treatment: Inpatient, outpatient, or both; court determines level of security

- Drug- and alcohol-use monitoring, including random drug testing
- Intensive probation supervision: Frequent contact with supervising officer, etc.
- Basic probation supervision: Contact with a supervising officer subject to conditions set by the court
- Monitored time: Under court control, subject to no conditions other than leading a law-abiding life
- Curfew: Be at a designated place at a specific time
- Employment: Obtain or retain a job
- Education or training
- Victim-offender mediation, with the victim's prior consent
- License violation report: Inform an agency granting a business or professional license of the violation
- Counseling generally. In particular, if a parent or custodian sentenced for domestic violence or assault involving a family or household member committed in the vicinity of a child other than the victim

## SANCTIONS - cont.

### Sex Offender Registration and Reporting:

- Tier 3 Offender: Must report every 90 days for life
- Tier 2 Offender: Must report every 180 days for 25 years (Juveniles report for 20 years, unless modified)
- Tier 1 Offender: Must report every 12 months for 15 years (Juveniles report for 10 years, unless modified)

### FINANCIAL SANCTIONS

Include, but not limited to [§2929.18(A)] (See [§2929.01] for definitions):

- Restitution: For any economic loss (*Plus* up to 5% collection charge), but not “non-economic” loss [§2929.18(A)(1)]
  - Also see provisions specific to human trafficking in [§2929.18(B)(8)]
- Fines, including [§2929.18(A)(2) through (4)]:
  - Conventional fine from ranges in [§2929.18(A)(3)] (See Felony Sentencing Table)
    - If the offender is an organization, see [§2929.31]
  - “State fine” or costs: Imposed by statute for victims, public defense, law libraries [§2929.31(A)(4)]
  - “Day fine”: Standard percentage of offender’s daily income over time, based on offense seriousness [§2929.31(A)(2)]
- Reimbursement of costs to administer any sanction [§2929.18(A)(5)] and monitoring devices, including:
  - Pay-for-stay in jail, prison, etc. up to actual costs (Jail repayment must be authorized by local government)

### FINANCIAL SANCTIONS FOR PARTICULAR OFFENSES

- Drug offense fines (Ch. 2925) and [§2929.18(B)]:
  - F-1, F-2, F-3 drug offenses: Mandatory fine at least 50% of the maximum conventional fine [§2929.18(B)(1)]
  - F-1, F-2, F-3 drug trafficking “additional” fine equals value of offender’s property involved in or realized from the offense, or, if no property or undetermined value, additional fine under the [§2929.18(A)(3)] ranges; capped at conventional fine maximum [§2929.18(B)(4) through (7)]; (Also see million-dollar fine below)
- Up to \$1 million for aggravated murder, murder, or F-1, or for F-1, F-2, or F-3 drug offense, if 3 or more victims in instant or all such past crimes [§2929.32]
- Felony OVI, mandatory fine specified by offense level [§2929.18(B)(3)]; and [§4511.19(G)(1)(d) or (e)]
- Arson: Mandatory investigation- and prosecution-costs reimbursement [§2929.71]
- Forfeitures (Ch. 2981 and Title 45):
  - Asset forfeiture, particularly in corrupt activity, drug, gang, and Medicaid fraud cases (Ch. 2981)
  - Motor vehicle forfeiture for certain OVIs, DUSs, and wrongful entrustments [§4510.11, .19, .203], etc. ↪



## FELONY SENTENCING TABLE - MAY 2017

Felony Level	Sentencing Guidance [§2929.13(B) through (E)]	Prison Terms [§2929.14(A)]	Maximum Fine [§2929.18(A)(2) and (3)]	Repeat Violent Offender Enhancement [§2929.14(B)(2)]	Is Post-Release Control (PRC) Required? [§2967.28(B) and (C)]	PRC Period [§2967.28(B)]
F-1	Presumption for prison (also applies to “in favor” drug offenses)	3, 4, 5, 6, 7, 8, 9, 10, or 11 years	\$20,000	1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years	Yes	5 years
F-2		2, 3, 4, 5, 6, 7, or 8 years	\$15,000			3 years 5 years, if sex offense
F-3	No guidance, other than PURPOSES AND PRINCIPLES (Also applies to “Div.(C)” drug offenses)	9, 12, 18, 24, 30, or 36 months or 12, 18, 24, 30, 36, 42, 48, 54, or 60 months <sup>b</sup>	\$10,000	For F-2 involving attempted serious harm or for involuntary manslaughter: 1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years; otherwise none	Yes, if sex or violent offense; otherwise optional	3 years
F-4	Mandatory 1-year community control for non-violent, no prior felony, etc. <sup>c</sup>	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months	\$5,000	None	Yes, if sex offense; otherwise optional	5 years, if sex offense
F-5	Otherwise: If any of 11 factors and not amenable to other sanction(s), guidance for prison. <sup>c</sup> If none of 11 factors, guidance against prison (Also applies to “Div.(B)” drug offenses)	6, 7, 8, 9, 10, 11, or 12 months	\$2,500			

### SENTENCING TABLE NOTES

**Exceptions: Indeterminate sentences** for aggravated murder, murder, human trafficking, and certain sex offenses and crimes with sexual motivation.

**Drug Offenses** – Note penalties track degree of offense, but the sentencing guidance may be different than for other offenses at that felony level.

**Repeat Violent Offenders** are [§2929.01(CC)]: Being sentenced for aggravated murder, murder, a violent F-1 or F-2 that is an offense of violence, or an attempt to commit any of these offenses if the attempt is an F-1 or F-2, with a prior conviction for one or more of the same offenses or their equivalents.

**Post-Release Control** [§2967.28D(3)]: The board or court shall review the releasee’s behavior and may reduce the duration. The reduction for offenses described in division (B)(1) shall not be a period less than the length of the stated prison term originally imposed, and in no case shall the board or court permit the releasee to leave the state without permission of the court or the releasee’s parole or probation officer.

<sup>a</sup> **Maximum Fines:** Cover conventional and day fines. There are exceptions in drug trafficking cases [§2929.18(B)(4) through (7)]. And some offenses call for a superfine of up to \$1 million [§2929.32]. For the fine, if the offender is an organization, see [§2929.31].

In addition to any other fine that is or may be imposed under this section, the court imposing sentence upon an offender for a felony that is a sexually oriented offense or a child-victim oriented offense, as those terms are defined in [§2950.01], may impose a fine of not less than \$50, nor more than \$500. [§2929.18(B)(9)]

<sup>b</sup> **Higher F-3s:** The longer-sentence range applies to aggravated vehicular homicides and assaults, sexual battery, GSI, sex with minor, and robbery or burglary with 2 or more separate aggravated or non-aggravated robberies or burglaries (See [§2929.14(A)(3)(a)]).

<sup>c</sup> **F-4s & F-5s:** See Certain F-4s & F-5s [§2929.13(B)(1)(a) through (c)] and Other F-4s, F-5s, or “Div. B” Drug Offenses [§2929.13(B)(2) and (3)].

## OTHER SENTENCING CONSIDERATIONS

### RISK ASSESSMENT

The court and its probation officers must use the risk-assessment tool selected by DRC if the court orders an assessment of an offender for sentencing or other purposes [§5120.114(A)].

### SENTENCING HEARING

Required before imposing sentence for a felony [§2929.19]

#### When Imposing a Prison Term [§2929.19(B)(2)]:

- **Prison Term(s):** State a prison term basic range *plus* any gun specification, RVO, MDO, consecutives, etc.
- **Post-Release Control:** Notify that, as part of sentence, PRC is mandatory (for F-1, F-2, violent F-3, or sex offense) or optional (for all others) for up to 5 years (for F-1 or sex offense) or up to 3 years (for all others).
  - Notify that violator could be sent to prison for up to 9 months, with maximum for repeated violations equal to 50% of stated prison term.
  - For a new felony, offender may be sent to prison for the remaining PRC period, or 12 months – whichever is greater, *plus* a prison term for the new crime [§2929.141]
- **Drugs:** Require offender to remain free of illegal drugs and that offender is subject to random drug testing
- **Earned Credit Notice:** Notify that the offender may be eligible to earn credit while in prison and that the credit isn't automatic [§2929.14(D)(3) and §2929.19(B)(2)(g)]
- **SORN Notice:** Provide notices required by SORN Law (Ch. 2950), including duty to register [§2929.19(B)(3)]

- **Arson Registry Notice:** Provide notice of duty to register to arson offender who has not been sentenced to confinement in any institution [§2909.15]
- **IPP Recommendation:** Optional – recommend for or against boot camp or intensive program prison [§2929.19(D) and §2929.14(I)]
- **Risk Reduction Sentence:** Option to impose such on eligible, non-mandatory prison sentences, under which the inmate may be released by DRC after serving 80% of the term (See [§2929.143] and [§5120.036]) must notify subject of post-release control after release from prison. DRC must adopt rules. (See [§2929.19(B)(2)(c) and (d)]; and [2967.28(A)(4), and (B) through (E)]). DRC required to provide relates assessment, programs, treatment

#### When Not Imposing a Prison Term [§2929.19(B)(4)]:

Directly sentence to community-control sanction(s) and:

- Notify that, if violated, court may impose longer time, more restrictive sanction, or a specified prison term
- Before imposing financial sanction(s), consider offender's present and future ability to pay [§2929.19(B)(5)]
- If local incarceration imposed, specify, if appropriate, offender must reimburse costs of confinement [§2929.19(B)(6)]
- **LEADS Notification:** court must submit certain information to LEADS if either:
  1. Court orders mental health evaluation or treatment for mental illness upon conviction of offense of violence
  2. Court approves conditional release

## OTHER SENTENCING CONSIDERATIONS - *cont.*

### REVERSE BINDOVERS

If the court is sentencing an offender who was transferred from a juvenile court and:

- If the ultimate conviction is for an offense that would not be subject to mandatory or discretionary bindover, the court must transfer the case back to juvenile court for disposition [\[§2152.122\(B\)\]](#)
- If the ultimate conviction is for an offense that would not be subject to mandatory bindover, but could be subject to discretionary bindover, the court must impose an adult sentence, stay that sentence, and transfer the case back to juvenile court for a blended (serious youthful offender) disposition [\[§2152.121\(B\)\(3\)\]](#)
- The court and other agencies with a record of conviction or guilty plea must expunge and treat as if never occurred (and for other purposes, treat as if it were delinquency adjudication) [\[§2152.121\(B\)\(2\)\]](#)
- For details and effect of prosecutorial objection, see [\[§2152.121\]](#) and [\[§2152.122\]](#).

### CONCURRENT SUPERVISION

For the rules governing the supervision of offenders subject to community control by more than one court, see [\[§2951.022\]](#).

### JUDICIAL RELEASE [\[§2929.20\]](#)

- **Eligibility:** Any non-mandatory term, except certain offenses by public office holders [\[§2929.20\(A\)\(1\)\(b\)\]](#)
  - If serving eligible non-mandatory term consecutive to a mandatory term, eligible after serving mandatory
- A PSI is not necessary to grant judicial release
- **Filing Deadlines:** Based on aggregate non-mandatory terms [\[§2929.20\(C\)\]](#):
  - If < 2 years, can file 30 days after entering prison or 30 days after mandatory term(s) expires
  - If 2 to < 5 years, can file 180 days after entering prison or 180 days after mandatory term(s) expires
  - If 5 years, can file 4 years after entering prison or 4



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