

AGENDA August 20, 2015
Moyer Judicial Center, Room 101
10:00 a.m.

- I. Call to Order & Roll Call of Commission Members, Advisory Committee
Vice-Chair Marcelain**

- II. Approval of Minutes from April 23, 2015
Vice-Chair Marcelain**

- III. Welcome and remarks from Chief Justice O'Connor**

- IV. Recodification Committee Update – Judge Fredrick Pepple**

- V. Commission Committee Overview – Sara Andrews**

- VI. Report on work to date & proposed vote items**
 - Sentencing: Chair Judge Spanagel**
 - Criminal Justice: Chair Yates**
 - Juvenile Justice: Chair Dobson**
 - Data Collection & Sharing: Chair Judge Dumm**

- VII. New Business**

- VIII. Adjourn**

- IX. Food for Thought – Lunch provided for those who reserved one**

RAPE (R.C. 2907.02)			
Circumstances	Level	Term	Revised Code Section
Nonconsensual	F1	3, 4, 5, 6, 7, 8, 9, 10, or 11 yrs	2907.02(A)(2); 2929.13(F)(2)
Impaired Consent	F1	3, 4, 5, 6, 7, 8, 9, 10, or 11 yrs (5 yr minimum if use drug)	2907.02(A)(1)(a) 2929.13(F)(2)
Repeat Violent Offender <ul style="list-style-type: none"> No physical harm or disfigurement Physical harm w/ substantial risk of death or permanent disfigurement If terms inadequate under 2929.12 	F1	Additional 10 years Range of terms for specific offense Longest term for specific offense 1 – 10 years additional (only if got longest term for underlying offense)	2929.14(D)(2)
Sexually Violent Predator Specification	F1	10 - life	

Child Under 13	F1		2907.02(A)(1)(b)
<ul style="list-style-type: none"> No force, serious physical harm or prior 		3, 4, 5, 6, 7, 8, 9, 10, or 11 years	2907.02(B) 2929.14
<ul style="list-style-type: none"> < 10 		10 years – life	2907.02(B)
<ul style="list-style-type: none"> Force 		10 years – life	2907.02(B)
<ul style="list-style-type: none"> Serious physical harm or prior 		10 years – life	2907.02(B)
<ul style="list-style-type: none"> Sexually violent predator specification 		10 years – life	2907.02(B)
<ul style="list-style-type: none"> Sexually violent predator specification and force 		Life without parole	2907.02(B)
<ul style="list-style-type: none"> Sexually violent predator and serious physical harm or prior 		Life without parole	2907.02(B)

2152.20 Authorized dispositions for delinquent child or juvenile traffic offender.

(A) If a child is adjudicated a delinquent child or a juvenile traffic offender, the court may order any of the following dispositions, in addition to any other disposition authorized or required by this chapter:

(1) Impose a fine in accordance with the following schedule:

(a) For an act that would be a minor misdemeanor or an unclassified misdemeanor if committed by an adult, a fine not to exceed fifty dollars;

(b) For an act that would be a misdemeanor of the fourth degree if committed by an adult, a fine not to exceed one hundred dollars;

(c) For an act that would be a misdemeanor of the third degree if committed by an adult, a fine not to exceed one hundred fifty dollars;

(d) For an act that would be a misdemeanor of the second degree if committed by an adult, a fine not to exceed two hundred dollars;

(e) For an act that would be a misdemeanor of the first degree if committed by an adult, a fine not to exceed two hundred fifty dollars;

(f) For an act that would be a felony of the fifth degree or an unclassified felony if committed by an adult, a fine not to exceed three hundred dollars;

(g) For an act that would be a felony of the fourth degree if committed by an adult, a fine not to exceed four hundred dollars;

(h) For an act that would be a felony of the third degree if committed by an adult, a fine not to exceed seven hundred fifty dollars;

(i) For an act that would be a felony of the second degree if committed by an adult, a fine not to exceed one thousand dollars;

(j) For an act that would be a felony of the first degree if committed by an adult, a fine not to exceed one thousand five hundred dollars;

(k) For an act that would be aggravated murder or murder if committed by an adult, a fine not to exceed two thousand dollars.

(2) Require the child or a parent or parents, guardian, or custodian of the child, or both, to pay costs, including, but not limited to, costs described in section 2746.05 of the Revised Code;

(3) Unless the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or could be disposed of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the court has established a juvenile traffic violations bureau, require the child to make restitution to the victim of the child's delinquent act or juvenile traffic offense or, if the victim is deceased, to a survivor

of the victim in an amount based upon the victim's economic loss caused by or related to the delinquent act or juvenile traffic offense. The court may not require a child to make restitution pursuant to this division if the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or could be disposed of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the court has established a juvenile traffic violations bureau. If the court requires restitution under this division, the restitution shall be made directly to the victim in open court or to the probation department that serves the jurisdiction or the clerk of courts on behalf of the victim.

If the court requires restitution under this division, the restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim or survivor of the victim, the performance of community service work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution.

If the court requires restitution under this division, the court may base the restitution order on an amount recommended by the victim or survivor of the victim, the delinquent child, the juvenile traffic offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and any 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 delinquent act or juvenile traffic offense. If the court decides to order restitution under this division and the amount of the restitution is disputed by the victim or survivor or by the delinquent child or juvenile traffic offender, the court shall hold a hearing on the restitution. If the court requires restitution under this division, the court shall determine, or order the determination of, the amount of restitution to be paid by the delinquent child or juvenile traffic offender. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by or on behalf of the victim against the delinquent child or juvenile traffic offender or the delinquent child's or juvenile traffic offender's parent, guardian, or other custodian.

If the court requires restitution under this division, the court may order that the delinquent child or juvenile traffic offender pay a surcharge, in an amount not exceeding five per cent of the amount of restitution otherwise ordered under this division, to the entity responsible for collecting and processing the restitution payments.

The victim or the survivor of the victim may request that the prosecuting authority file a motion, or the delinquent child or juvenile traffic offender may file a motion, for modification of the payment terms of any restitution ordered under this division. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(4) Require the child or a parent or parents, guardian, or custodian of the child, or both, to reimburse any or all of the costs incurred for services or sanctions provided or imposed, including, but not limited to, the following:

(a) All or part of the costs of implementing any community control imposed as a disposition under section 2152.19 of the Revised Code, including a supervision fee;

(b) All or part of the costs of confinement in a residential facility described in section 2152.19 of the Revised Code ~~or in a department of youth services institution~~, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged

while so confined. ~~The amount of reimbursement ordered for a child under this division shall not exceed the total amount of reimbursement the child or parent or parents is are able to pay as determined at a hearing and shall not exceed the actual cost of the confinement. The court may collect any reimbursement ordered under this division. If the court does not order reimbursement under this division, confinement costs may be assessed pursuant to a repayment policy adopted under section 2929.37 of the Revised Code and division (D) of section 307.93, division (A) of section 341.19, division (C) of section 341.23 or 753.16, division (C) of section 2301.56, or division (B) of section 341.14, 753.02, 753.04, or 2947.19 of the Revised Code.~~

(B) Chapter 2981. of the Revised Code applies to a child who is adjudicated a delinquent child for violating section 2923.32 or 2923.42 of the Revised Code or for committing an act that, if committed by an adult, would be a felony drug abuse offense.

(C) The court ~~may~~ shall, at disposition, hold a hearing ~~if necessary~~ to determine whether a child or a parent or parents, guardian, or custodian of the child, or both, is are able to pay a sanction under this section. ~~The amount of reimbursement ordered for a child under this division shall not exceed the total amount of reimbursement the child or parent or parents is are able to pay as determined at a hearing and shall not exceed the actual cost of the confinement. The court may collect any reimbursement ordered under this division.~~

(D) If a child who is adjudicated a delinquent child is indigent, the court shall consider imposing a term of community service under division (A) of section 2152.19 of the Revised Code in lieu of imposing a financial sanction under this section. If a child who is adjudicated a delinquent child is not indigent, the court may impose a term of community service under that division in lieu of, or in addition to, imposing a financial sanction under this section. The court may order community service for an act that if committed by an adult would be a minor misdemeanor.

If a child fails to pay a financial sanction imposed under this section, the court may impose a term of community service in lieu of the sanction.

(E) The clerk of the court, or another person authorized by law or by the court to collect a financial sanction imposed under this section, may do any of the following:

(1) Enter into contracts with one or more public agencies ~~or private vendors~~ for the collection of the amounts due under the financial sanction, which amounts may include interest from the date of imposition of the financial sanction;

(2) Permit payment of all, or any portion of, the financial sanction in installments, by credit or debit card, by another type of electronic transfer, or by any other reasonable method, within any period of time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years or the child's twenty-first birthday, whichever occurs first. The clerk may pay any fee associated with processing an electronic transfer out of public money and may charge the fee to the delinquent child.

(3) To defray administrative costs, charge a reasonable fee ~~to a child who~~ to the obligor if the obligor elects a payment plan rather than a lump sum payment of a financial sanction.



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

Vision: To enhance justice

Mission: To ensure fair sentencing in the State of Ohio

To fulfill its vision, the Ohio Criminal Sentencing Commission will develop and recommend sentencing policy to the General Assembly that is designed to:

- Advance public safety
- Realize fairness in sentencing
- Preserve meaningful judicial discretion
- Distinguish the most efficient and effective use of correctional resources
- Provide a meaningful array of sentencing options

The Ohio Criminal Sentencing Commission will achieve its mission by:

- Analyzing current adult and juvenile criminal statutes and law in Ohio and other states
- Studying sentencing patterns and outcomes and balancing the needs of criminal sentencing and available correctional resources
- Researching and recommending evidence based approaches to reducing recidivism
- Recommending reasonable and specific criminal justice reforms