

# FELONY SENTENCING QUICK REFERENCE GUIDE

Ohio Criminal Sentencing Commission · Chief Justice Maureen O'Connor, Chair · Sara Andrews, Director  
Prepared in cooperation with the Ohio Judicial Conference February 2015

**PURPOSES AND PRINCIPLES.** 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, & 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
- Offender has not responded favorably to sanctions previously imposed in adult or juvenile court
- Offender shows pattern of alcohol/drug use related to offense & doesn't acknowledge it or refuses treatment
- Offender shows no genuine remorse

**Offender's Recidivism Is Less Likely—§2929.12(E):**

- Offender has no prior juvenile delinquency adjudication
- 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

**MANDATORY PRISON TERMS.** Note: 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) & 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) & (13), 2903.11, 2903.12, & 2903.13
- Assaults against pregnant woman:** felonious, aggravated, and simple assault if offender knew of pregnancy, with spec—§2929.13(F)(18) & §2929.14(B)(8)
- Any other F-1 or F-2** when offender has **prior** agg murder, murder, F-1, or F-2 (§2929.13(F)(6)), including:
  - Repeat Violent Offender (RVO)**—defined as person who commits agg 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 agg murder, murder, invol manslaughter, rape, or other F-1/F-2 causing death or physical harm—§2929.13(F)(4) & (7)
- Certain sexual offenses:**
  - Any offense with a **sexually violent predator (SVP)** spec under §2929.13(F)(2), (11), & (15) & §2971.03
  - Any **rape** and—§2929.13(F)(2)
    - Attempted rape, if victim <13 &, if completed would be a sexual predator —§2929.13(F)(2)
  - Sexual battery** if victim <13—§2929.13(F)(3)(c)(i)

- Before 8.3.06, 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) & (b));
  - On and after 8.3.06, with corroboration of victim's testimony; or
  - Before 8.3.06, with prior rape, FSP, GSI, or sexual battery, but corroboration unneeded
- Importuning**, with victim <13, if has prior sex offense or child-victim oriented offense—§2929.13(F)(4) & §2907.07(A), (C), & (F)(2)
- 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) & Ch. 2925
- Corrupt activity** if the most serious predicate offense is an F-1—§2929.13(F)(10) & §2923.32
- Certain traffic offenses**:
  - Felony OVI when local incarceration is not imposed & for 5 priors in 20 yr. spec-§4511.19 & §2941.1413
  - Any OVI-related agg vehicular homicide (AVH) & agg vehicular assault (AVA)-§§2903.06 & 08
  - Certain other involuntary manslaughters, AVHs, vehicular homicides, & vehicular assaults when specified—§§2929.13(F)(14), §2903.04, 2903.06, & 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 spec—(F)(4) & (16)
- Felony domestic violence** under certain circumstances--§2929.13(F)(17) & §2919.25(D)(2)-(6)
- Illegally conveying** improper items into facility by prison or detention employee—§2929.13(F)(12) & §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, spec time is mandatory; underlying may not be

**LENGTHS 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), & (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 spec 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 agg. murder, murder, or a violent F-1, F-2, or F-3 in a school zone (§2941.143 spec)—.14(H)(1)
  - 5 years for agg 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 or 6<sup>th</sup> OVI in 20 years (§2929.13(G)(1) & (2) + §2941.1413 spec; §2929.24(E) + §2941.1416 spec)
  - AVH with 3 or more prior OVIs or equivalent offenses (§2941.1415 spec)—§2929.13(B)(6)
  - 5-25 years for attempted statutory rape if offender >16 and victim <13 (§2941.1418 spec)—§2971.03(A)(3)(e)(ii) or (B)(2)(a) & §2929.14(E)
  - 10-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-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), & (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 yrs, 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) & (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 1-10 more if basic term inadequate to punish & 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)
- 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): (Sec. 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) & §2929.13(B)(4)
  - SVP:** At least 2 years to life for other sexual offenses with a sexually violent predator spec (§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 &/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 is less likely 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)-(iii) & (b)(i)-(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; &
  - Did not violate conditions of bond
- If court believes no appropriate community sanction available to meet purposes & 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) & (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 **find** whether *any* of these **9 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
- Attempt or actual threat of physical harm to a person + 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

~~**NOTE: State v. Foster (2006) did not affect the findings above.**~~

- If 2929.13(B)(1) does not apply, the court must comply with purposes and principles of sentencing. ~~If any of the 9 factors are found, court must impose a prison term if it finds both (§2929.13(D)(3)(a)):~~
  - ~~After weighing seriousness & recidivism factors, prison is consistent with purposes/principles &~~
  - ~~Offender is not amenable to an available community sanction.~~
  - ~~If none of the 9 factors are found—§2929.13(B)(3)(b)):~~
  - ~~Court must impose community control sanction(s) if consistent with the purposes & principles~~
  - If a prison term is imposed, defendant has **appeal** of right—§2953.08(A)(2)

**LENGTH OF PRISON TERMS. General rule:** Select a **definite** term from the §2929.14(A) ranges—See table

**Exceptions** requiring **indefinite** sentences:

- Aggravated murder (if death not imposed) & murder (LWOP or X to life)—§§2903.01 & .02 & 2929.02 & .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), & 2941.147 spec
- Agg murder, murder, invol manslaughter in felony, felonious assault, & kidnapping with SVP & sexual motive (SM) specs (LWOP for murders, 2-life for others)—§§2971.03(A), 2941.147 (SM spec), & 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)
- you guys need to look at this one - it looks like we can leave as is to me, but you need to confirm - you can find it on page 11 of David's 86-337-487 summary document**

**Consecutive Prison Terms Required:** When (§2929.14(C)(1), (2), & (3)):

- Specifications:** Gun & other specs carry consecutive terms, served before underlying—§2929.14(C)(1)(a)-(c);
  - Spec 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)
- Agg robbery or theft if take (or attempt to) a deadly weapon from a law enforcement officer—§2911.01(B) & §2913.02(A)—(C)(3)

**RESIDENTIAL COMMUNITY 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 OVIs)
- 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 & 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

**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 (+ 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)-(4)):
  - Conventional fine from ranges in §2929.18(A)(3)—See sentencing table
    - If the offender is an organization, see §2929.31
  - "State fine" or costs: imposed by statute for victims, public defense, law libraries—(A)(4)
  - "Day fine": standard % of offender's daily income over time, based on offense seriousness—(A)(2)
- Reimbursement of costs to administer any sanction (§2929.18(A)(5)) & monitoring devices, including:
- Pay-for-stay in jail, prison, *etc.* up to actual costs (jail repayment must be authorized by local govt.)

**Financial sanctions for particular offenses:**

- Drug offense fines (Ch. 2925 & §2929.18(B)):
  - F-1, F-2, F-3 drug offenses—mandatory fine at least 50% of the max. conventional fine—(B)(1)
  - F-1, F-2, F-3 drug trafficking "additional" fine = value of offender's property involved in or realized from the offense, or, if no property or undetermined value, additional fine under the (A)(3) ranges; capped at conventional fine maximum—§2929.18(B)(4)-(7); also see million dollar fine below

- Up to \$1 million for agg. 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) & §4511.19(G)(1)(d) or (e)
- Arson—mandatory investigation & prosecution costs reimbursement—§2929.71
- Forfeitures**—Ch. 2981 & Title 45:
  - Asset forfeiture, particularly in corrupt activity, drug, gang, & Medicaid fraud cases—Ch. 2981
  - Motor vehicle forfeiture for certain OVIs, DUSs, & wrongful entrustments—§§4510.11, .19, .203, *etc.*

**Andrews, Sara**

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**From:** libref@sc.ohio.gov  
**Sent:** Wednesday, February 11, 2015 3:59 PM  
**To:** Andrews, Sara  
**Subject:** Thank you for contacting the Supreme Court of Ohio Law Library  
**Attachments:** FELONY SENTENCING TABLE 2015 updates.docx; 292914Prison\_terms through March 23, 2015.rtf; 292918 Financial\_sanctions through March 23, 2015.docx; 296728 Post-release\_control changes through March 23 2015.docx; 292913Sentencing\_guidelines through March 23, 2015.docx

----- REPLY ABOVE THIS LINE -----

**The following response has been posted for question number #3283.**

A  
Sara,

F  
This is a chart dealing with some complex sections of the ORC. The prison terms and maximum fines columns are fine. In the footnotes, ORC 2929.31 and .32 have not changed at all since the chart was published. I have added the new language for 2929.01(CC) regarding repeat violent offenders.

I have made a few changes but I think that you, Josh and Marta might be better at this one. I am attaching the current version of the ORC sections this chart references. I have highlighted all the new language since September 30, 2011. I have also included the removed language (you will see the strikethroughs). Please note ORC 2929.14 will go into effect March 23, 2015. I thought it best to go with the section that is going to be effective since it will take a couple of weeks for you to get this updated and out to people (no reason for it not to be current two weeks after you publish it).

I hope this will make it very easy for you to determine what needs changed on the chart. Please let me know if you have any questions.

A  
Sincerely,

Erin N. Waltz | Library Public Services Manager | Supreme Court of Ohio  
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S  
Your original question:

U  
Update "Felony Sentencing Table"

L  
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## FELONY SENTENCING TABLE

Felony Level	Sentencing Guidance §2929.13(B)-(E)	Prison Terms §2929.14(A)	Maximum Fine <sup>a</sup> §2929.18(A)(2) & (3)	Repeat Violent Offender Enhancement §2929.14(B)(2)	Is Post-Release Control Required? §2967.28(B) & (C)	PRC Period §2967.28(B) & (D)(2)
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, no reduction
F-2		2, 3, 4, 5, 6, 7, or 8 years	\$15,000			If sex offense, 5 years, no reduction;
F-3	No guidance other than purposes & 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 invol. manslaughter: 1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years; otherwise none	Yes if sex or violent offense; otherwise optional	
F-4	Mandatory 1 year community control for non-violent, no prior felony, etc. <sup>c</sup> <b>Otherwise:</b> If any of 11 factors & not amenable to other sanction(s), guidance for prison. <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	
F-5	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			

**Exceptions: Indeterminate sentences** for agg murder, murder, human trafficking, and certain sex offenses & 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: agg. murder, murder, any F-1 or F-2 that is an offense of violence, or an attempt to commit any of these offenses if the attempt is a F-1 or F-2, with a prior conviction for one or more of the same offenses or their equivalents.

<sup>a</sup>**Maximum Fines**—Cover conventional and day fines. There are exceptions in drug trafficking cases (§2929.18(B)(4)-(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.

2929.18(B)(9) 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 section 2950.01 of the Revised Code, may impose a fine of not less than fifty nor more than five hundred dollars.

<sup>b</sup>**Higher F-3s**—The longer sentence range applies to agg vehicular homicides & assaults, sexual battery, GSI, sex with minor, & robbery or burglary with 2 or more separate agg or non-agg 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)-(c)) & **Other F-4s, F-5s, or "Div. B" Drug Offenses** (§2929.13(B)(2) & (3)).

**OHIO CRIMINAL SENTENCING COMMISSION—September 30, 2011—March 23, 2015**

**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 + any gun spec, 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 = 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, + 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) & §2929.19(B)(2)(g)
- SORN Notice**—Provide notices required by SORN Law (Ch. 2950), including duty to register—§2929.19(B)(3)
- IPP Recommendation**—**Optional**: recommend for or against **boot camp or intensive program prison** (§2929.19(D) & §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 & §5120.036 must notify subject to post release control after release from prison. DRC must adopt rules see §2929.19(B)(2)(c)&(d) & 2967.28(A)(4),(B)-(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**—(B)(5)
- If local incarceration imposed, specify, if appropriate, offender must **reimburse costs** of confinement—(B)(6)

**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 & treat as if never occurred (and for other purposes, treat as if it were delinquency adjudication) div.(B)(2)
- For details and effect of prosecutorial objection see §2152.121 & §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—(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 years after mandatory term(s) expires
  - If > 5 to 10 years**, can file 5 years after entering prison or 5 years after mandatory term(s) expires
  - If > 10 years**, can file once 50% is served after entering prison, or 5 years after mandatory term(s) expires, whichever is **later**
- Hearing**: May deny without hearing. Must hold hearing to grant
  - Presumption**: Against granting to F-1 or F-2  
Under Roberta's Law, the victim or victim's representative must be notified of the hearing if the offense was an offense of violence and an F1, F2, or F3 (the court notifies the prosecutor and the prosecutor notifies the victim)  
If a motion for judicial release is denied after a hearing, the court cannot consider a subsequent motion for judicial release
- 80% Judicial Release**—Initiated by DRC within 90 days of offender's serving 80%—§2967.19
  - Procedures**: Similar to regular judicial release

SB 143 also made a few changes to TRANSITIONAL CONTROL and the judicial veto. There is currently no section for transitional control on this reference guide, but I think it impacts sentencing and should be included. Also, importantly, SB 143 made the Commission of Felony While on Transitional Control a factor in considering someone more likely to re-offend, with an additional sentence of up to 1 year (2929.12(D)(1) and 2929.141(B) /similar to PRC/-- I think that is important enough to be included.

**INTERVENTION-IN-LIEU OF CONVICTION**—§2951.041

**Impact:** Before guilty plea and after hearing & assessment, court may accept defendant's request—div. (A)(1)

If granted, court must take guilty plea and place defendant under probationary, APA, or other appropriate supervision, to follow an intervention plan—divs. (C) & (D)

If court finds defendant successfully completed, it must dismiss all proceedings—div. (E)

If, after a hearing, court finds defendant failed to complete, it must impose sentence—div. (F)

**Eligible:** These defendants, if **alcohol, other drug usage, mental illness, or intellectual disabilities** were a factor in the offense charged (subject to ineligibility rules, below):

Any offense, specifically including theft, unauthorized use of a vehicle, passing bad checks, forgery, nonsupport, F-5 drug trafficking, F-4 drug possession, *etc.*—div. (A)(1)

Any offender with no prior felony offense of violence or prior I-in-L—div. (B)(1)

Any offender with prior felony that wasn't offense of violence, with prosecutor's approval—(B)(1)

**Ineligible:** However, defendants charged with the following aren't eligible:

Corrupting another with drugs; drug manufacture/cultivation; steroid violations; F-1, F-2, F-3, or F-4 drug trafficking; F-1, F-2, or F-3 drug possession—div. (B)(3)

Tampering with drugs if physical harm to a person or the defendant had prior drug treatment—(B)(8)

Any other: F-1, F-2, F-3; offense of violence; OVI carrying mandatory prison or jail term; OVI-related, reckless, or construction zone vehicular homicide; OVI-related vehicular assault—div. (B)(2)

An offense in which the victim was  $\geq 65$ ,  $< 13$ , a peace officer on duty, or permanently & totally disabled—div. (B)(7)