



# Felony Sentencing Bench Card

## Purposes and Principles

### Overriding Purposes:

To protect the public from future crime by the offender and others, to punish the offender, and to promote the effective rehabilitation of the offender while “using the minimum sanctions that the court determines accomplish those purposes without imposing an unnecessary burden on state or local government resources.”

[R.C. 2929.11(A)]

### Principles:

Always consider the need for incapacitation, deterrence, rehabilitation of the offender, and restitution to the victim and/or the public. [R.C. 2929.11(A)]

Sentences 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.

[R.C. 2929.11(B)]

Courts shall not sentence based on the offender’s race, ethnicity, gender or religion. [R.C. 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 [R.C. 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 [R.C. 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 [R.C. 2929.12(D)]

- Offense while on bail, awaiting sentencing, on community control or post-release control (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** [R.C. 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.

### **Offender's Veteran Status As Mitigating Factor** [R.C. 2929.12(F)]

## Considerations and Advisements

### **Presentence Investigation** [R.C. 2951.03(A)(1)]

Must be done prior to placing defendant on community control, unless waived by defendant and state.

### **Merger (Allied Offenses of Similar Import)** [R.C. 2941.25]

Allied offenses of similar import must be merged.

In determining whether offenses are allied offenses of similar import within the meaning of R.C. 2941.25, courts must evaluate three separate factors—the conduct, the animus, and the import. Two or more offenses of dissimilar import exist within the meaning of R.C. 2941.25(B) when the defendant's conduct constitutes offenses involving separate victims or if the harm that results from each offense is separate and identifiable. Under R.C. 2941.25(B), a defendant whose conduct supports multiple offenses may be convicted of all the offenses if any one of the following is true: (1) the conduct constitutes offenses of dissimilar import, (2) the conduct shows that the offenses were committed separately, or (3) the conduct shows that the offenses were committed with separate animus.

### **Consecutive Sentences** [R.C. 2929.14(C)(4)]

Presumption for concurrent sentences unless the court finds both:

- Consecutive sentences are necessary to protect the public or to punish the offender; and
- Consecutive sentences are not disproportionate to the seriousness of the offenders conduct and the danger posed to the public.

The court must also find any of the following:

- Crimes were 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.
- Offender's criminal history shows that consecutive terms are needed to protect the public.

### **Consecutive Sentences Required** [R.C. 2929.14(C)(1-3)]:

- Specifications: sentence for gun, body armor, and discharging at peace officer specifications are served before underlying offense. [R.C. 2929.14(C)(1)(a-c)]
- Certain crimes committed by an inmate or escapee from a detention facility (e.g. riot, many escapes, etc.). [R.C. 2929.14(C)(2)]
- Aggravated robbery of a deadly weapon from a law enforcement officer. [R.C. 2911.01(B) and R.C. 2929.14(C)(3)]
- Theft of a firearm (grand theft) where a prison term is imposed. [R.C. 2913.02(B)(4) and R.C. 2929.13(C)(3)]
- Sexually violent predator specification. [R.C. 2971.03(E)]
- Felony failure to comply, fleeing in a vehicle from an officer, causing substantial injury or risk of injury. [R.C. 2921.33(C-D) and R.C. 2929.14(C)(3)]

## Community Control [R.C. 2929.15]

- Find the defendant amenable to community control.
- Indicate the range from which the prison term may be imposed as a sanction for the violation.
- Notify defendant that if any conditions are violated or if the defendant leaves the state without permission, the court may impose a longer time under the same sanctions, may impose a more restrictive sanction, or may impose a prison term.
- Notify the defendant that the court may impose consecutive sentences at a future revocation hearing.

### **Residential Community Sanctions**

[R.C. 2929.16 and R.C. 2929.01]

Including, but not limited to:

- 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.
- Alternative residential facility: another place for employment, training, education, treatment, etc.

## **Non-Residential Sanctions** [R.C. 2929.17 and R.C. 2929.01]

Including, but not limited to:

- 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, which may be imposed on indigent & non-indigent persons.
- 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: defendant is 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-defendant 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 defendant treatment program (for a defendant convicted of unlawful sexual conduct with a minor committed while the defendant is <21.  
[R.C. 2929.17(O)]

## **Mandatory Community Control**

### **F-4s, F-5s, and “Division B” Drug Offenses**

[R.C. 2929.13(B)(1)(a)]:

The court shall sentence the offender to community control (CC), subject to R.C. 2929.13(B)(1)(b) below, if the most serious charge is an F-4 or F-5 that is not an offense of violence [R.C. 2901.01(A)(9)] or qualifying assault offense [R.C. 2929.13(K)(4)] and the defendant:

- Previously has not been convicted of or pled to a Felony.
- The most serious charge against the defendant at the time of sentencing is an F-4 or F-5.
- Previously has not been convicted of a misdemeanor offense of violence within 2 years prior to the offense for which sentence is being imposed.

### **Discretionary Prison Term (If Not mandatory CC)**

Under R.C. 2929.13(B)(1)(b) the sentencing court has discretion to impose a prison term if it finds any of the following:

1. Physical harm to a person.
2. Attempt or actual threat of physical harm to a person with a deadly weapon.
3. Attempt or actual threat of physical harm to a person and prior conviction for causing such harm.
4. 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.
5. Offense was for hire or part of organized criminal activity.
6. Offense was a sex offense.
7. Offender served a prior prison term or was in prison at time of offense.
8. Offense was committed while offender was under community control or on bail or bond.
9. Offender committed the offense while possessing a firearm.

## No Presumptive Sentence

F-3s generally or “Division C” drug offenses: courts are directed to fashion an appropriate sentence based on the purposes and principles of sentencing. [R.C. 2929.13(C)]

## Mandatory Prison Terms [R.C. 2929.13(F)]

*Note: The General Assembly frequently changes this list and doesn't always include changes in R.C. 2929.13(F):*

### Aggravated Murder or Murder

The court must impose a prison term specified by R.C. 2929.02 - 03. [R.C. 2929.13(F)(1)]

### F-1 Or F-2 With Specified Prior Convictions

A prison sentence is mandatory when offender has a prior conviction for aggravated murder, murder, or any F-1 or F-2 offense. [R.C. 2929.13(F)(6)]

### Assault On Police Officer

Felonious, aggravated, or simple assault when victim is a peace officer or BCI investigator who suffered serious physical harm. [R.C. 2929.13(F)(4) and (13)]

- Seven-year specification if offender shot at peace or corrections officer while committing or attempting a homicide or assault offense. [R.C. 2941.1412 and R.C. 2929.14(B)(1)(f)(i)]; and
- Five-year specification for aggravated vehicular homicide (AVH) with peace-officer victim. [R.C. 2941.1414 and R.C. 2929.14(B)(5)]

### Assault On Pregnant Woman

Mandatory, within felony range, for felonious, aggravated, or simple assault if offender knew of the pregnancy, with specification in [R.C. 2941.1423, R.C. 2929.13(F)(18), R.C. 2929.14(B)(8)]

Mandatory 30-day jail term for misdemeanor violation with specification. [R.C. 2929.24(G)]

### Repeat Violent Offender Specification (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. [R.C. 2929.01(CC) and R.C. 2941.149]

Discretionary RVO time: if court elects the maximum from range for underlying offense and Life without Parole (LWOP) is not imposed, it may add one to 10 more years if the court finds under R.C. 2929.14(B)(2)(a)(i-v) that the prison term for the underlying offense is:

- Inadequate to punish the offender and protect the public. [see recidivism factors in R.C. 2929.12(D) - (E)]; and

- Demeaning to seriousness of offense. [See seriousness factors in R.C. 2929.12(B-C)]

For F-2 offenses, the court also must find serious physical harm or attempt or threat to do so.

Under R.C. 2929.14(B)(2)(b), the court must impose the maximum prison term authorized for the offense, plus an additional one to 10 years for RVO with three or more RVO offenses in 20 years, including current, if LWOP not required or imposed.

### Violent F-3 Offenses With Prior Convictions

A prison term is mandatory for F-3 involuntary manslaughter or an attempt to commit a violent F-2 offense involving attempted or actual serious physical harm when offender has a prior conviction for aggravated murder, murder, involuntary manslaughter, rape, or other F-1 or F-2 that involved causing or attempting to cause serious physical harm. [R.C. 2929.13(F)(4) and (7)]

### Certain Sex Offenses

- Any offense with a sexually violent predator (SVP) specification at least two years to life for specification, consecutive to underlying offense. [R.C. 2929.13(F)(2), (11), and (15) and R.C. 2971.03]
- Any rape. [R.C. 2929.13(F)(2)]
- Attempted rape, if victim <13 and, if completed, defendant would be classified as a sexual predator. [R.C. 2929.13(F)(2)]
- Five to 25 years for attempted statutory rape if offender ≥16 and victim <13. [R.C. 2941.1418, R.C. 2971.03(A)(3)(e)(ii) or (B)(2)(a) R.C. 2929.14(E)]
- Ten years to life for attempted statutory rape if the victim is <10, OR if offender ≥16 and compelled victim <13 to submit by force or threat of force. [R.C. 2941.1419, R.C. 2971.03(A)(3)(e)(iii) or (B)(2)(b)]
- Fifteen years to life for attempted rape, if offender has prior attempted statutory rape. [R.C. 2941.1420, R.C. 2971.03(A)(3)(e)(iv) or (B)(2)(c)]
- Sexual battery
  - After Aug. 3, 2006, if victim <13. [R.C. 2929.13(F)(3)(c)(ii); or
  - Before Aug. 3, 2006, if victim <13, with prior rape, Felonious Sexual Penetration, Gross Sexual Imposition, or sexual battery. [R.C. 2929.13(F)(3)(c)(i)]
- Gross Sexual Imposition if victim <13. [R.C. 2929.13(F)(3)(a-b)]

- Importuning, with victim <13, if offender has prior sex offense or child-victim-oriented offense. [R.C. 2929.13(F)(4); R.C. 2907.07(A), (C), and (F)]
- Sex Offender Registration and Notification (SORN): repeat failure to register is a mandatory sentence of at least three years. [R.C. 2950.99(A)(2)(b)]

### Certain Drug Offenses

F-1, F-2, and F-3 Drug Offenses: Generally mandatory from range when required by statute. [R.C. 2929.13(F)(5) and R.C. Chapter 2925]

- F-2 marijuana/hashish trafficking, possession, or cultivation. [R.C. 2925.03 - .04 and .11]
  - 20 to <40k. marijuana, 1 to <2 k. solid hashish, or 200 to <400 g liquid hashish: five, six, seven, or eight years.
  - ≥40 k. marijuana, ≥2 k. solid hashish, or ≥400 g liquid hashish: eight years;
  - If in vicinity of school/juvenile: F-1 maximum.
- Major Drug Offenders (MDO): Defined in R.C. 2929.01(W).
  - F-1 maximum for specified, high-quantity amounts. [R.C. 2941.1410(A)]
  - Additional three- to eight-year specification when drug involved is a fentanyl-related compound. [R.C. 2941.1410(B)]

### Corrupt Activity

Engaging in a pattern of corrupt activity in violation of R.C. 2923.32 when the most serious predicate offense is an F-1. [R.C. 2929.13(F)(10)]

### Certain Traffic Offenses

- Felony operating vehicle under the influence (OVI) when local incarceration is not imposed and for five priors in 20 years specified. [R.C. 4511.19, R.C. 2941.1413]
- At least 60 days or at least 120 days, as specified for felony OVI. [R.C. 4511.19(G), R.C. 2929.13(G)(1-2)]
- Six months or one, two, three, four, or five years on 6th OVI in 20 years. [R.C. 2929.13(G)(1-2), R.C. 2941.1413, R.C. 2929.24(E), R.C. 2941.1416]
- Any OVI-related aggravated vehicular homicide (AVH) and aggravated vehicular assault (AVA). [R.C. 2903.06 and .08]
- Certain other involuntary manslaughters, AVHs, vehicular homicides, AVAs when specified. [R.C. 2929.13(F)(14), R.C. 2903.04, .06, and .08]
- Three years for AVH with three or more prior OVIs or equivalent offenses. [R.C. 2941.1415, R.C. 2929.14(B)(6)]

### Human Trafficking

Violations of R.C. 2905.32(E) punishable by 10, 11, 12, 13, 14, or 15 years.

Specification for offenses committed in furtherance of human trafficking. [R.C. 2941.1422 and R.C. 2929.14(B)(7)]

### Felony Domestic Violence

When offender knew the victim was pregnant and/or caused serious physical harm to unborn child. [R.C. 2929.13(F)(17) and R.C. 2919.25(D)(3-6)].

### Illegal Conveyance

When prison or detention employee takes weapons, ammunition, or drugs into the facility. [R.C. 2929.13(F)(12) and R.C. 2921.36]

Specifications in R.C. 2941.

See [R.C. 2929.13(F)(8-9) and R.C. 2929.14(B)(1)(5-7), (E), (G-H)]

*Note: Time for specification is mandatory; term for the underlying offense may or may not be.*

- Six years for automatic or muffled/silenced firearm (nine years with prior, cannot combine with three- or one-year gun specification). [R.C. 2941.144]
- Three years, if firearm used, displayed, brandished, or otherwise indicated (54 months with prior). [R.C. 2941.145]
- One year, if firearm possessed, but not used, displayed, brandished, or otherwise indicated (18 months with prior). [R.C. 2941.141]
- Five years, if a drive-by shooting, in addition to gun specification above. [R.C. 2941.146]
- Two years, if wearing or carrying body armor. [R.C. 2941.1411]
- One, two, or three years for participating in a criminal gang. [R.C. 2941.142 and R.C. 2929.14(G)]
- Two years for aggravated murder, murder, or a violent F-1, F-2, or F-3 in a school zone. [R.C. 2941.143 and R.C. 2929.14(H)(1)]
- Six years for causing permanent, serious disfigurement or permanent, substantial incapacity when using an accelerant to commit felonious assault. [R.C. 2941.1425 and R.C. 2929.14(B)(9)]
- Six years for causing permanent, disabling harm to a victim <10. [R.C. 2941.1426 and R.C. 2929.14(B)(10)].



## Indefinite And Definite Sentences

### Life-Sentence Offenses

Defendant is sentenced to a term of years up to life with release determinations by the parole board if applicable.

- Aggravated murder (if death sentence is not imposed) can be a sentence of 20-life, 25-life, 30-life, or life without parole. [R.C. 2929.03]
- Murder carries a sentence of 15-life. [R.C. 2929.02]
- Rape (victim <10) [R.C. 2907.02 and R.C. 2971.03]
- Aggravated murder, murder, involuntary manslaughter as a felony, felonious assault, and kidnapping with sexually violent predator (SVP) and sexual motivation (SM) specs (LWOP for murders, 2 years to life for others). [R.C. 2971.03(A), R.C. 2941.147 (Sexual Motivation), R.C. 2941.148 (Sexually Violent Predator)]

### Indefinite Sentence [R.C. 2929.144]

For F1 and F2 offenses committed on or after March 22, 2019 the court will impose a minimum and maximum prison term.

- Minimum prison term, selected from R.C. 2929.14(A) ranges:
  - F1: 3, 4, 5, 6, 7, 8, 9, 10 or 11 years
  - F2: 2, 3, 4, 5, 6, 7 or 8 years

If offense specifies a different prison term, then that is considered the minimum term.

For offenses that carry a mandatory prison term, the minimum term is a mandatory prison term.

- Maximum prison term:
  - Minimum term plus 50%.
  - Concurrent sentences: the maximum term is equal to the longest minimum term imposed, plus 50% of the longest minimum term for the most serious qualifying felony being sentenced. [R.C. 2929.144(B)(3)]
  - Consecutive sentences: the maximum term is the sum of all consecutive indefinite minimum prison terms, plus any consecutive definite prison terms, plus an additional 50% of the longest minimum prison term, or definite term for the most serious felony being sentenced. [R.C. 2929.144(B)(2)]

### Definite Sentence [R.C. 2929.14]

F-3, F-4, and F-5 offenses as well as non-life F-1 and F-2 offenses committed before March 22, 2019 are subject to a definite prison term under R.C. 2929.14(A).

### Post Release Control [R.C. 2967.28]

Notify the defendant that upon release from any prison term, the defendant will be subject to supervision by the Adult Parole Authority for a period determined by the type and nature of the conviction(s) and the Parole Board:

- ANY Felony sex offense: mandatory 5-year term.
- F1 offenses: mandatory 2 – 5-year term.
- F2 offense: mandatory 18 months – 3-year term.
- F3 offense of violence: 1 year – 3-year term.
- All other F3, F4 and F5: up to 2 years at discretion of parole board.

### Registration Requirements

- Sex Offender Registration Notice (SORN). [R.C. 2950]
  - For offenses prior to Jan.1, 2008, classify under Megan's Law.
- Arson registry notice [R.C. 2909.15]
- Violent offender database (VOD) [R.C. 2903.41-44]

### Fines, Restitution And Court Costs

Present and future ability to pay must be considered when imposing fines, restitution, and many types of costs including the costs of supervision, confinement costs, the costs of an immobilizing or disabling device, and reimbursement for controlled substance tests or arson investigation costs.

Prior to or at sentencing, courts may hold a hearing on present and future ability to pay, if necessary. [R.C. 2929.18(E)]

Fines, generally: [R.C. 2929.18]

- F1 not more than \$20,000.
- F2 not more than \$15,000.
- F3 not more than \$10,000.
- F4 not more than \$5,000.
- F5 not more than \$2,500.

## **Restitution** [R.C. 2929.18(A)(1)]

Restitution may be ordered when economic losses are suffered by the victim as a direct and proximate result of the commission of the offense.

## **Costs of Prosecution and Jury Fees.** [R.C. 2947.23]

## **Appointed Counsel Fees** [R.C. 2941.51(D)]

Civil assessment (should be noted in entry if not done separately).

## Crime-Specific Fines

### **Drug Offense Fines:** [R.C. Chapter 2925 and R.C. 2929.18(B)]

**F-1, F-2, F-3 Drug Offenses:** mandatory fine of at least 50-percent of the maximum conventional fine [R.C. 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 R.C. 2929.18(A)(3) ranges; capped at conventional fine maximum. [R.C. 2929.18(B)(4-7)]. (Also see million-dollar fine below.)

**Up to \$1 million:** applies when:

1. Aggravated murder, murder, F1 or F1/F2/F3 drug offense; and
2. Three or more victims in the current case; OR
3. Previous conviction for offenses listed above and three or more victims across all cases. [R.C. 2929.32]

**Felony OVI:** mandatory fine specified by offense level. [R.C. 2929.18(B)(3) and R.C. 4511.19(G)(1)(d) or (e)]

**Arson:** mandatory investigation and prosecution costs reimbursement. [R.C. 2929.71].

### **Forfeitures** [R.C. Chapter 2981 and Title 45]

Asset forfeiture may be considered in corrupt activity, drug, gang, and Medicaid fraud cases [R.C. Chapter 2981]

Motor vehicle forfeiture for certain OVIs, DUSs, and wrongful entrustments. [R.C. 4510.11, R.C. 4511.19, and R.C. 4511.203]

## Jail Time Credit [R.C. 2929.19(B)(2)(g)]

- Determine and notify the defendant of the number of days the defendant has been confined.
- Include the sentencing date but exclude conveyance time.
- Consider the arguments and other evidence of the parties.
- Include the determination in the sentencing entry.

## Technical Violation Community Control Violator Caps

A “technical violation” is a violation of the conditions of a community control sanction imposed for an F-5, or for an F-4 that is not an offense of violence, is not a sexually oriented offense, and to which neither of the following applies: [R.C. 2929.15(E)]

- The violation consists of a new criminal offense that is a felony or that is a misdemeanor other than a minor misdemeanor, and the violation is committed while under the community control sanction.
- The violation consists of or includes the offender’s articulated or demonstrated refusal to participate in the community control sanction imposed on the offender or any of its conditions, and the refusal demonstrates to the court that the offender has abandoned the objects of the community control sanction or condition.
- The 90- or 180-day prison term imposed for a F-5 or F-4 technical violation cannot exceed the time remaining on the defendant’s community control sanction or the reserved prison term for the charge. Time served for the technical violation must be credited against the defendant’s remaining time on community control. If the defendant was serving a residential sanction of community control pursuant to R.C. 2929.16 at the time of the technical violation, the time served for the technical violation must be credited against their remaining time on community control, their remaining time on the residential sanction, and the reserved prison term in the case [R.C. 2929.15(B)(2)(b)(ii)].
- Defendants sent to prison for a technical violation sentence on an F-4 or F-5 shall be returned to community control in the sentencing court at the completion of the sentence if there is any remaining time to be served on the community control sanction. This return to community control will be at the discretion of the sentencing court.

## Targeted Community Alternatives to Prison (TCAP)

TCAP is a voluntary program statewide following the passage of 133 GA HB 166. In participating counties, F-4 and F-5 offenders who are sentenced to a prison term ≤12 months cannot be sent to prison and instead must serve the sentence locally, unless [R.C. 2929.34(B)(3)]:

- The offense was an offense of violence, a sex offense, a trafficking offense, or other mandatory prison term; or
- The offender has a prior conviction for a sex offense or felony offense of violence; or
- The sentence is to be served concurrently to a prison-eligible felony offense.

## Sentencing Youth – Mitigating Factors

[R.C. 2929.19(B)(1)(b)(i)-(v)]

If the offense was committed when defendant <18:

- The chronological age of the offender at the time of the offense and that age’s hallmark features, including intellectual capacity, immaturity, impetuosity, and a failure to appreciate risks and consequences;
- The family and home environment of the offender at the time of the offense, the offender’s inability to control the offender’s surroundings, a history of trauma regarding the offender, and the offender’s school and special education history;
- The circumstances of the offense, including the extent of the offender’s participation in the conduct and the way familial and peer pressures may have impacted the offender’s conduct;
- Whether the offender might have been charged and convicted of a lesser offense if not for the incompetencies associated with youth, such as the offender’s inability to deal with police officers and prosecutors during the offender’s interrogation or possible plea agreement or the offender’s inability to assist the offender’s own attorney;
- Examples of the offender’s rehabilitation, including any subsequent growth or increase in maturity during confinement.