IN THE SUPREME COURT OF OHIO

STATE EX REL. **LARRY RANDLETT,**	:	Case No. 2021-0310
Relator-Appellant,	:	On Appeal from the Franklin County Court of Appeals, Tenth Appellate District
-vs-	:	Court of Appeals Case No. 20AP-489
JUDGE JULIE M. LYNCH,	:	
Respondent-Appellee.	:	

MERIT BRIEF OF RELATOR-APPELLANT LARRY RANDLETT

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REFERENCES TO THE RECORD AND TRANSCRIPT

The Original Papers contained in the Record are referenced by their Docket Number as follows: "R.#." If referenced, specific page numbers will follow the comma placed after the "R.#" designated. (i.e., "R.#, *page numbers*")

An excerpt from the transcript of the proceedings in Franklin County Court of Common Pleas Case Nos. 01CR-02-705, 01CR-08-4353, 02CR-03-1721, and 02CR-03-1738 was attached as "Appendix D" to the Petition/Complaint for Writ of Mandamus filed by Relator-Appellant Larry Randlett in Tenth District Court of Appeals Case No. 20AP-489 from which he now appeals in the above-captioned case. (R.3).

The entire transcript of the February 10, 2003 plea hearing in the four trial court cases is contained on pages 4 through 46 of Appendix D. (R.3).

Excerpts from the transcript of the March 31, 2003 sentencing hearing in the four trial court cases are contained on pages 46 through 51 and pages 244 through 253 of Appendix D. (R.3). Pages 52 through 243 of the sentencing hearing transcript were intentionally omitted from Appendix D, as that portion of the sentencing hearing transcript is not pertinent to the issues raised in Randlett's petition/complaint for a writ of mandamus. However, counsel for Relator-Appellant can provide a complete copy of the sentencing hearing transcript to this Court upon request.

The transcript of the proceedings discussed above will be referenced as "R.3, AppxD." The referenced page number(s) will be included directly following the "R.3, AppxD" designation. [i.e., "R.3, AppxD-*page number*).

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SUMMARY OF THE ARGUMENT

This Court recently recognized in *State v. Harper*, 160 Ohio St. 3d 480, 2020-Ohio-2913, 159 N.E.3d 248 and *State v. Hudson*, 161 Ohio St. 3d 166, 2020-Ohio-3849, 161 N.E.3d 608 that when a trial court imposes postrelease control ("PRC") at sentencing but fails to journalize relevant details concerning the PRC imposed—such as the PRC term and the consequences of violating PRC—PRC is voidable, but not void. Essentially, then, this Court mandated that inadequacies related to the imposition of PRC in a sentencing entry must be challenged on direct appeal.

This Court made clear, however, that it intended the impact of its sudden departure from a 15-year line of void sentence doctrine jurisprudence to be felt just as much by the State as it will be by criminal defendants:

> Having realigned our jurisprudence with the traditional understanding of void and voidable sentences, we caution prosecuting attorneys, defense counsel, and pro se defendants throughout this state that they are now on notice that any claim that the trial court has failed to properly impose postrelease control in the sentence must be brought on appeal from the judgment of conviction or the sentence will be subject to res judicata. See R.C. 2953.02 (providing for appeals in criminal cases); 2953.08 (providing for prosecution and defense appeals of felony sentences); 2945.67 (providing when the prosecution may appeal).

Harper, 2020-Ohio-2913 at ¶ 43.

That caution was again emphasized by this Court just a few months later:

> We reiterate the caution we gave in Harper to prosecuting attorneys, defense counsel, and pro se defendants throughout this state: they are on notice that any claim that the trial court has failed to properly impose postrelease control in the sentence must be brought on appeal from the judgment of conviction or it will be subject to principles of res judicata.

Hudson, 2020-Ohio-3849 at ¶ 18.

Both *Harper* and *Hudson* addressed the trial judge's failure to journalize in the sentencing entry what had been imposed in open court. Currently pending before this Court are *State v. Bates*,

Case No. 2020-0255 and *State v. Leegrand,* Case No. 0726. In *Bates*, Defendant-Appellant Robert Bates has asked this Honorable Court to address the legal effect of a trial court's failure to properly impose postrelease control in open court at the sentencing hearing. In *Leegrand*, Plaintiff-Appellant State of Ohio has asked this Court to advise whether the void-sentence doctrine requires a trial court to use the precise language set forth in a particular statute in order to validly impose a sentence upon a criminal defendant under that statute. This Court's resolution of those two cases will undoubtedly impact its determination of this one.

While the impact of this Court's recent modification to its void sentence jurisprudence was felt by the defendants in both *Harper* and *Hudson*, it is the State who is subject to the principles of res judicata in this case.

After Relator-Appellant Larry Randlett was sentenced in March 2003, the trial judge failed to journalize what had been imposed in open court, including, most notably, that PRC was mandatory for five years and the consequences for violating PRC. Although Randlett timely appealed his sentence, the State did not cross-appeal.

Instead, over seventeen years later and just a few months prior to Randlett's release from prison, the State sought to correct the inadequate journal entries by moving Respondent Judge Lynch on August 21, 2020 to perform the exact act expressly prohibited by this Court in *Harper* and *Hudson*. Specifically, the State moved Judge Lynch to correct PRC-related deficiencies in the April 2003 judgment entries of Randlett's sentences in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 by issuing a nunc pro tunc entry. The trial court erroneously complied with the State's request in October 2020. That precise process was, in no uncertain terms, prohibited by this Court months earlier in *Harper* (decided May 14, 2020) and *Hudson* (decided July 30, 2020). *See also State v. Bell*, 160 Ohio St. 3d 216, 2020-Ohio-3104, 155 N.E.3d 851 (reversing on May

29, 2020 the decision of the Tenth District Court of Appeals in *State v. Bell*, 10th Dist. Franklin No. 17AP-645, 2018-Ohio-3576 remanding the matter to the trial court to correct the entry imposing postrelease control).

Harper and *Hudson* now require that PRC be vacated in this case because the trial court failed to properly journalize what had been imposed in open court in its April 2003 judgment entries of sentence and that failure was not corrected by the State on direct appeal. (*See* Proposition of Law No. 1, *infra*).

Furthermore, when Judge Lynch issued the October 2020 NPT Entries and Orders in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721, Randlett had completely served the prison sentences imposed in those three cases. Indeed, in 2020, Randlett was still incarcerated only on Case No. 02CR-03-1738, a case for which PRC was not—and could not—be imposed. Thus, Judge Lynch did not have jurisdiction to issue the Nunc Pro Tunc Entries and Orders in the other three cases. The legal effect of Respondent's improper actions on Randlett is clear: Without the October 2020 Nunc Pro Tunc Orders and Entries, the DRC did not believe PRC could be imposed on Randlett when he was released from prison. However, after Respondent issued these Nunc Pro Tunc Orders and Entries in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721, the DRC placed Randlett on a five-year term of PRC under those three cases when Randlett was released from prison on November 26, 2020. (*See* Propositions of Law Nos. 2 and 3, *infra*).

STATEMENT OF THE CASE AND FACTS

On February 2, 2001, the State filed a 10-count indictment against Relator-Appellant Larry A. Randlett in Franklin County Court of Common Pleas Case No**. 01CR-02-705**. *State v. Randlett*, 10th Dist. Franklin Nos. 03AP-385, 03AP-386, 03AP-387, 03AP-388, 2003-Ohio-6934, ¶ 11 (hereinafter "*Randlett I*"). All offenses charged in that case were sexually oriented offenses allegedly committed against B.P. by Randlett between June 30, 1999 and August 13, 2000. *See id.* at ¶¶ 2-6, 11.

On August 1, 2001, the State filed a 36-count indictment against Randlett in Franklin County Court of Common Pleas Case No. **01CR-08-4353**. *Randlett I*, 2003-Ohio-6934 at ¶ 12. All offenses charged in that case were offenses—most of which were sexually oriented—allegedly committed against J.W. and K.W. by Randlett between December 30, 1996 and August 31, 1999. *See id*. at ¶¶ 7-8, 12.

On March 28, 2002, the State filed a 40-count indictment against Randlett in Franklin County Court of Please Case No. **02CR-03-1721**. *Randlett I*, 2003-Ohio-6934 at ¶ 13. All offenses charged in that case were offenses—most of which were sexually oriented—allegedly committed against T.R. by Randlett between June 1, 1994 and December 24, 1998. *See id.* at ¶¶ 9, 13.

On March 29, 2002, the State filed a 29-count indictment against Randlett in Franklin County Court of Please Case No. **02CR-03-1738**. *Randlett I*, 2003-Ohio-6934 at ¶ 14. All offenses charged in that case were offenses—most of which were sexually oriented—allegedly committed against B.D. by Randlett between June 30, 1994 and June 30, 1996. *See id.* at ¶¶ 10, 14.

On February 10, 2003, Randlett changed his not guilty pleas to guilty pleas on sixty-eight (68) counts alleged in the four above-described cases. *See State v. Randlett*, 10th Dist. Franklin Nos. 06AP-1073, 06AP-1074, 06AP-1075, 06AP-1076, 2007-Ohio-3546, ¶ 2 (hereinafter

"*Randlett II*"). At both the February 10, 2003 plea hearing and the March 31, 2003 sentencing hearing, references are made to the "old law" and the "new law." (*See, e.g.*, R.3, AppxD-15 to AppxD-17). The "new law" is Senate Bill 2 (Am. Sub. S.B. 2), Ohio's "truth-in-sentencing" measure that applied to offenses committed on or after July 1, 1996. The "old law" refers to the sentencing laws in effect prior to July 1, 1996 in Ohio.

At the plea hearing, Randlett first pled guilty in Case No. **01CR-02-705** to two (2) counts of sexual battery, without specifications, in violation of R.C. 2907.03 (Counts 7 and 8), both being felonies of the third degree; and six (6) counts of gross sexual imposition, without specifications, in violation of R.C. 2907.05 (Counts 1, 2, 3, 4, 9, and 10), all being felonies of the fourth degree. *Randlett I*, 2003-Ohio-6934 at ¶ 15. (R.3, AppxD-4 to AppxD-6). Senate Bill 2 is the controlling sentencing law for all counts to which Randlett pled guilty in that case. (R.3, AppxD-10).

Randlett next entered a plea of guilty in **Case No. 01CR-08-4353** to seven (7) counts of gross sexual imposition, without specifications, in violation of R.C. 2907.05 (Counts 10, 11, 12, 13, 14, 15, 17), all being felonies of the third degree; three (3) counts of gross sexual imposition, in violation of R.C. 2907.05 (Counts 1, 2, and 3), all being felonies of the fourth degree; six (6) counts of corruption of a minor, in violation of R.C. 2907.04 (Counts 5, 7, 19, 21, 23, and 25) all being felonies of the four degree; six (6) counts of gross sexual imposition, in violation of R.C. 2907.05 (Counts 26, 27, 28, 29, 30, and 31), all being felonies of the fourth degree; one count of disseminating matter harmful to juveniles, in violation of R.C. 2907.31 (Count 32), a felony of the fourth degree; and two counts of disseminating matter harmful to juveniles, in violation of R.C. 2907.31 (Counts 8 and 34), both felonies of the fifth degree. *See Randlett I*, 2003-Ohio-6934 at ¶ 16. (R.3, AppxD-6 to AppxD-10). Senate Bill 2 was again the controlling sentencing law for all counts to which Randlett pled guilty in that case. (R.3, AppxD-10).

To make things simpler regarding the controlling sentencing law, the prosecuting attorney opted to proceed "out of [chronological case] order" by next presenting the parties' agreement as to Case No. **02CR-03-1738**, wherein Randlett pled guilty to six (6) counts of gross sexual imposition, in violation of R.C. 2907.05 (Counts 2, 3, 5, 7, 25, and 26), all being felonies of the third degree; eight (8) counts of gross sexual imposition, in violation of R.C. 2907.05 (Counts 9, 10, 13, 18, 19, 23, 28, and 29) all being felonies of the fourth degree; and one (1) count of corruption of a minor, in violation of R.C. 2907.04 (Count 16), a felony of the third degree. *See Randlett I*, 2003-Ohio-6934 at ¶ 18. (R.3, AppxD-10 to AppxD-13). The "old" sentencing law applied in that case because all indicted counts were alleged to have occurred prior to July 1, 1996, when Senate Bill 2 went into effect. (R.3, AppxD-10).

Randlett last entered a plea of guilty in Case No**. 02CR-03-1721** to the following offenses, which occurred before July 1996 and thus, prior to the enactment of Senate Bill 2: three (3) counts of gross sexual imposition, in violation of R.C. 2907.05 (Counts 1, 2, and 3), all being felonies of the fourth degree; and eight (8) counts of corruption of a minor, in violation of R.C. 2907.04 (Counts 5, 7, 9, 11, 13, 15, 17, and 19), all being felonies of the third degree. *See Randlett I*, 2003-Ohio-6934 at ¶ 17. (R.3, AppxD-13 to AppxD-16). In that same case, Randlett also pled guilty to nine (9) counts of corruption of a minor, in violation of R.C. 2907.04 (Counts 21, 23, 25, 27, 29, 31, 33, 35, and 37), all being felonies of the fourth degree. *See id.* (R.3, AppxD-16 to AppxD-18). Senate Bill 2 was the controlling sentencing law for these nine counts in that case. *See id.* (R.3, AppxD-16 to AppxD-18).

A. Randlett was sentenced by the trial court in all four cases on March 31, 2003.

The trial court held the sexual predator hearing and sentencing hearing for all four cases on March 31, 2003. *Randlett I*, 2003-Ohio-6934 at ¶ 19. Randlett was sentenced by Franklin County Court of Common Pleas Judge McGrath on the four cases in the following order: (1) 01CR-

02-705; (2) 02CR-03-1721; (3) 01CR-08-4353; and (4) 02CR-03-1738. (R.3, AppxD-245 to AppxD-249). The trial court's judgment entries reflecting the sentences imposed by the trial court at the March 31, 2003 sentencing hearing were filed on April 3, 2003 in all four cases. *Randlett I*, 2003-Ohio-6934 at ¶ 19. (*See* R.3, Appendix B).

1. **The trial court imposed prison sentences in all four cases and ordered that the multiple case prison sentences be consecutively served by Randlett.**

In **Case No. 01CR-02-705**, a one-year prison sentence was imposed on each of the six (6) gross sexual imposition (F4) counts (Counts 1-4, 9, 10) and a three-year prison sentence was imposed on each of the two (2) sexual battery (F3) counts (Counts 7, 8). (R.3, AppxD-245). The trial court ordered that the prison sentences imposed for all counts in that case run concurrent with each other. (R.3, AppxD-245). Thus, Randlett was ordered to serve a three-year total prison sentence for Case No. 01CR-02-705.[1] (R.3, AppxD-245).

In **Case No. 02CR-03-1721**, which was a "new law" and "old law" case, the trial court imposed a one-year prison sentence for each of the nine (9) fourth-degree felony "new law" counts (Counts 21, 23, 25, 27, 29, 31, 33, 35, and 37). (R.3, AppxD-245). As for the "old law" counts, a one-year prison sentence was imposed for each of the eleven (11) "old law" counts (Count 1, 2, 3, 5, 7, 9, 11, 13, 15, 17, and 19). (R.3, AppxD-245 to AppxD-246). The prison sentences imposed in "new law" Counts 21, 23, 25, 27, and 29 were ordered to run consecutive with "old law" Counts 5, 7, and 9. (R.3, AppxD-245 to AppxD-246). The prison sentences imposed on the remaining

[1] The Judgment Entry, however, stated that Counts 1, 2, 3, 4, 9, 10 and 7 were to be served concurrently, and Count 8 was to be served consecutively to all other counts and the other three cases. (R.3, AppxB-2). *See also Randlett I*, 2003-Ohio-6934 at ¶ 43. Randlett timely appealed that error in *Randlett I*. 2003-Ohio-6934 at ¶¶ 43-45. (Fourth Assignment of Error). As discussed *infra*, the State conceded on appeal that the trial court erred in varying the judgment entry in Case No. 01CR-02-705 from the sentence imposed at the sentencing hearing. *Id.* at ¶ 45. The Tenth District Court of Appeals therefore sustained Randlett's assignment of error relating thereto and modified that judgment of the trial court to reflect the sentence imposed at the sentencing hearing—i.e., three (3) years of incarceration on that case. *See id.*

counts were ordered to run concurrently with those "new law" and "old law" counts. (R.3, AppxD-245 to AppxD-246). Randlett was therefore ordered to serve five (5) years in prison on the "new law" counts and three (3) years on the "old law" counts, thus resulting in an eight-year total prison sentence for Case No. 02CR-03-1721. (R.3, AppxD-245 to AppxD-246).

In **Case No. 01CR-08-4353**, the trial court imposed three-year prison sentences for Counts 10, 11, 12, 13, 14, 15, and 17. (R.3, AppxD-246). The trial court further stated that "those counts are concurrent." (R.3, AppxD-246). One-year prison sentences were imposed for Counts 1, 2, 3, 5, 7, 19, 21, 23, 25, 26, 29, 30, 31, and 32. (R.3, AppxD-246 to AppxD-247). The trial court ordered that the prison sentences imposed in Counts 1, 2, and 3 be served consecutively, and "all others are concurrent." (R.3, AppxD-247). Six-month prison sentences were imposed for Counts 8 and 34, which were ordered to be served concurrently with all other prison terms imposed by the trial court in that case. (R.3, AppxD-247). Although the trial court orally stated at the sentencing hearing that there was "a six-year sentence with respect to that case," it only actually ordered at the sentencing hearing that the one-year prison sentences imposed in Counts 1, 2, and 3 be served consecutively. (*See* R.3, AppxD-246 to AppxD-247).

Finally, Randlett was sentenced in the "old law" case, **Case No. 02CR-03-1738**. (R.3, AppxD-247). The trial court imposed one and one-half year sentences on Counts 2, 3, 5, 7, 25, 26 and 16, and further stated "Count 2 and 3 will be consecutive, the rest will be concurrent. * * * There is a three-year sentence with respect to that case." (R.3, AppxD-247). One-year prison sentences were also imposed on Counts 9, 10, 13, 18, 19, 23, 28, and 29, which were ordered to be served concurrently with all other prison terms imposed in that case. (R.3, AppxD-247). Thus,

Randlett was ordered to serve a three-year prison sentence in total for Case No. 02CR-03-1738.[2] (R.3, AppxD-247).

As discussed in Proposition of Law No. 2, *infra*, the trial court ordered the prison sentences imposed in all four cases be served consecutively with each other. The trial did not, however, expressly and/or clearly indicate at the March 31, 2003 sentencing hearing or in the April 3, 2003 Judgment Entries the order in which the prison sentences imposed in the four cases were to be served. (*See* R.3, AppxD-251; R.3, Appendix B).

2. The trial court orally notified Randlett about postrelease control in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 at the March 31, 2003 sentencing hearing but failed to include the required postrelease control advisements in the April 3, 2003 judgment entries for those three cases.

At the March 31, 2003 sentencing hearing, the trial court orally advised Randlett that he would be placed on postrelease control for all "new law" cases and counts after he completed the prison sentences imposed in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 and was released from prison. Specifically, the trial court stated:

> Once released from prison * * *, you would be supervised, Mr. Randlett, for a five-year period, mandatory, by the Adult Parole Authority of Ohio. If you violated the law, you can be sent back to prison for more time on these cases, on these F-3 new law cases, counts, than the Court had given you, but in any event, no greater amount of extra time than one-half of the Court's sentence.

[2] The Judgment Entry, however, stated that "Counts Two and Three are to run consecutive with each other, with all other counts, and further, consecutive with Case Nos. 01CR-4353, 02CR-1721 and 01CR-705." (R.3, AppxB-11). *See also Randlett I*, 2003-Ohio-6934 at ¶ 44. Under the April 3, 2003 Judgment Entry, then, Randlett was ordered to serve a four-and-a-half-year prison sentence, in contrast to the three-year prison sentence imposed in Case No. 02CR-03-1738 at the March 31, 2003 sentencing hearing. *See id.* Randlett timely appealed that error in *Randlett I*. 2003-Ohio-6934 at ¶¶ 43-45. (Fifth Assignment of Error). As discussed *infra*, the State conceded on appeal that the trial court erred in varying the judgment entry in Case No. 02CR-03-1738 from the sentence imposed at the sentencing hearing. *Id.* at ¶ 45. The Tenth District Court of Appeals therefore sustained Randlett's assignment of error relating thereto and modified that judgment of the trial court to reflect the sentence imposed at the sentencing hearing—i.e., three (3) years of incarceration on that case. *See id.*

> And as to the F-4s and F-5s under the new law, I believe there is an optional supervision by the Adult Parole Authority. If you violated the law, they can send you back to prison for more time than the Court had given you on those counts, but in any event, no greater amount of extra time than one-half of the Court's sentence.

(R.3, AppxD-248).

In the April 3, 2003 judgment entries in Case Nos. 01CR-02-705, 02CR-03-1721, and 01CR-08-4353, the trial court wrote, in relevant part, that "After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of postrelease control pursuant to R.C. 2929.19(B)(3)(c), (d), and (e)." *State ex rel Randlett v. Lynch*, 10th Dist. Franklin No. 20AP-489, 2021-Ohio-221, ¶ 7 ("*Randlett IV*") (R.3, AppxB-1 to AppxB-9).

Since Randlett was sentenced in Case No. 02CR-03-1721 to counts that fell under both the "old law" and the "new law," the trial court noted in its sentencing entry for that case that Randlett was not subject to postrelease control for all offenses that occurred prior to the July 1, 1996 enactment of S.B. 2 (i.e., Counts 1, 2, 3, 5, 7, 9, 11, 13, 15, 17, and 19). *See Randlett IV*, 2021-Ohio-221 at ¶ 7. (R.3, AppxB-4 to AppxB-6). There was no language regarding the placement of Randlett on postrelease control in the judgment entry for Case No. 02CR-03-1738 because all counts in that case were controlled by the "old law." *See id.* (R.3, AppxB-10 to AppxB-11). Thus, Randlett was not subject to postrelease control as to any of the counts in that case. *See id.*

B. Randlett initiated multiple direct appeals related to sentencing, but the State never sought to correct the deficiencies in the sentencing entries related to postrelease control through direct appeal (or cross-appeal) thereof.

Randlett timely initiated a direct appeal to the Tenth District Court of Appeals in Case Nos. 03AP-385, 03AP-386, 03AP-387, and 03AP-388 alleging six assignments of error. *Randlett I*, 2003-Ohio-6934 at ¶ 45. The reference in each of the three relevant sentencing entries to "the applicable periods of post-release control" was not appealed in 2003 or thereafter by Randlett. *See Randlett IV*, 2021-Ohio-221 at ¶¶ 9-10.

No appeal or cross-appeal has ever been brought by the State in this case. *See id.*

On December 18, 2003, the Tenth District Court of Appeals issued its Opinion overruling Randlett's First, Second, Third, and Sixth Assignments of Error. *See Randlett I*, 2003-Ohio-6934 at ¶¶ 21-42, 46-54. However, with regard to Randlett's Fourth and Fifth Assignments of Error, the State "concede[d] [that] the trial court erred in varying the judgment entries in the noted cases from the sentences imposed at the sentencing hearing." *Id.* at ¶¶ 43-45. Accordingly, the Tenth District Court of Appeals sustained those two assignments of error and modified the judgment of the trial court to reflect the sentences that had actually been imposed at the March 31, 2003 sentencing hearing by the trial court in those two cases. *See id*. at ¶ 55. Specifically, the appellate court modified the sentence in Case No. 01CR-02-705 such that Counts 7 and 8 would be served concurrently with each other, producing a three-year sentence in that case. *Id*. The appellate court also modified the sentence in Case No. 02CR-03-1738 such that Counts 2 and 3 were to be served consecutively, and the remaining sentences on all other counts were to be served concurrently, resulting in a three-year sentence in that case as well. *See id*.

After modifying Randlett's prison sentence in the four cases—which "amounted to what [the Tenth District Court of Appeals] somehow later calculated as 18 years"—the Tenth District Court of Appeals affirmed the trial court's judgment entries in all other respects. *Randlett IV*, 2021-Ohio-221 at ¶ 6, citing *Randlett I*, 2003-Ohio-6934 at ¶¶ 43-45, 55; *Randlett II*, 2007-Ohio-3546 at ¶ 3 (*Randlett I* "determined that the trial court erred in imposing a greater sentence than that pronounced at the sentencing hearing and, accordingly, modified defendant's sentence to a prison term of 18 years"). Randlett's jurisdictional appeal of the appellate court's decision in *Randlett I* was denied by this Court. *See State v. Randlett*, 102 Ohio St. 3d 1447, 2004-Ohio-2263, 808 N.E.2d 398.

Randlett filed an application for reopening pursuant to App.R. 26(B) on February 10, 2006. *Randlett IV*, 2021-Ohio-221 at ¶ 10. The Tenth District Court of Appeals denied the application on the grounds that Randlett failed to demonstrate good cause for filing outside the 90-day time period set forth in the rule. *See Randlett II*, 2007-Ohio-3546 at ¶ 4. Randlett's appeal this Court was again denied. *See Randlett IV*, 2021-Ohio-221 at ¶ 10, citing *State v. Randlett*, 110 Ohio St. 3d 1443, 2006-Ohio-3862, 852 N.E.2d 190.

On February 27, 2006, this Court issued its decision in *State v. Foster*, 109 Ohio St. 3d 1, 2006-Ohio-856, 845 N.E.2d 470. *See Randlett II*, 2007-Ohio-3546 at ¶ 5. In that case, this Court held that portions of Ohio's felony sentencing scheme were unconstitutional, including, as relevant here, R.C. 2929.14(B) and 2929.14(E)(4), which require judicial factfinding before the imposition of more than the minimum and consecutive sentences, respectively. *Id*., citing *Foster*, 2006-Ohio-856 at paragraphs one and three of the syllabus. Accordingly, on August 25, 2006, Randlett filed a "Motion to Vacate Judgment on the Basis of New Supreme Court Decision in Accordance with Civ.R. 60(B)" in the four trial court cases. *Randlett II*, 2007-Ohio-3546 at ¶ 6. *See also Randlett IV*, 2021-Ohio-221 at ¶ 10. Randlett asserted therein that under Civ.R. 60(B)(4), he was entitled to relief from his sentence pursuant to the change in the law governing felony sentencing articulated in *Foster*. *See id.* Randlett also argued, under Civ.R. 60(B)(5), that his sentence was unconstitutional pursuant to *Foster*. *See id.* On November 8, 2006, the trial court filed a decision and entry denying Randlett's motions. *See Randlett II*, 2007-Ohio-3546 at ¶ 7. Randlett timely appealed that decision to the Tenth District Court of Appeals. *See id.* at ¶ 8. In his appeal, Randlett advanced a single assignment of error for review by the appellate court: "The trial court abused its discretion by failing to grant appellant's request for a resentencing contra Crim.R. 57(B), Civ.R.

60(B) and the federal and state constitutions." *Id.* at ¶ 8 (citation omitted). On July 12, 2007, the Tenth District Court of Appeals overruled Randlett's single assignment of error and again affirmed the judgments of the trial court in the four cases. *See id*. at ¶ 27. *See also Randlett IV*, 2021-Ohio-221 at ¶ 10.

On November 11, 2007, the Ohio Bureau of Criminal Identification and Investigation sent a NOTICE OF NEW CLASSIFICATION AND REGISTRATION DUTIES ("notice") to Randlett at the Ross Correctional Institution informing him that pursuant to the Ohio General Assembly's enactment of Senate Bill 10 (the "Adam Walsh Act"), Randlett would be newly classified as a Tier III Sex Offender beginning January 1, 2008. *See State v. Randlett*, 4th Dist. Ross No. 08CA3046, 2009-Ohio-112, ¶ 3 ("*Randlett III*"). Over Randlett's objection, the Ross County Court of Common Pleas applied Senate Bill 10 to him, and the Fourth District Court of Appeals affirmed that decision. *See id*. at ¶¶ 3-4, 39. A discretionary appeal of the Fourth District's Judgment Opinion was allowed by this Court in *State v. Randlett*, 121 Ohio St. 3d 1499, 2009-Ohio-2511, 907 N.E.2d 323 pending this Court's decision in *State v. Bodyke*, 126 Ohio St. 3d 266, 2010-Ohio-2424, 933 N.E.2d 753. In *Bodyke*, this Court held that provisions of the Adam Walsh Act requiring the executive branch to reclassify sex offenders already classified by court order impermissibly violated the separation of powers doctrine. *See Bodyke*, 2010-Ohio-2424. at ¶ 2. Accordingly, reclassification of Randlett under the Adam Walsh Act after he had already been classified under Megan's Law by court order was improper. *See In re Sexual Offender Reclassification Cases*, 2010-Ohio-3753, ¶¶ 15, 17. Thus, the judgment of the Fourth District Court of Appeals in *Randlett III* was reversed by this Court as to those portions of the judgment that rejected constitutional challenges to the Adam Walsh Act on separation-of-powers grounds, and remanded to the trial courts for further proceedings, if any, necessitated by *Bodyke*. *See id.*

C. Approximately 17 years after Randlett was sentenced, the State sought to correct deficiencies in the trial court's April 3, 2003 judgment entries regarding postrelease control by moving Respondent for Nunc Pro Tunc Entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 three months before Randlett was scheduled to be released from prison.

Randlett entered the legal custody of the Ohio Department of Rehabilitation and Correction ("DRC") on April 16, 2003. (R.3, AppxC-1). Following the appellate history discussed above, the DRC anticipated that Randlett would be released from its custody on or around November 30, 2020. *Randlett IV*, 2021-Ohio-221 at ¶ 11. (R.3, AppxC-1).

As reflected by Randlett's "Offender Information Details" accessed on March 17, 2020 in the DRC's "Departmental Offender Tracking System Portal," the DRC deduced from its review of the April 3, 2003 Judgment Entries that Randlett had a PRC term of "0 years." (R.3, AppxC-1). Further, according to the DRC's system, Randlett was deemed as being incarcerated under Case No. 02CR-03-1738 on March 17, 2020. (R.3, AppxC-1). Again, Case No. 02CR-03-1738 is an "old law" case under which postrelease control was not—and could not be—lawfully imposed. *See Randlett IV*, 2021-Ohio-221 at ¶ 7. (R.3, AppxB-10 to AppxB-11).

To be sure, on August 6, 2020, Ohio Parole Board Chief Hearing Officer Brigid A. Slaton sent a letter to the Franklin County Prosecutor's Office regarding Randlett. *See Randlett IV*, 2021-Ohio-221 at ¶ 11. (R.29). Specifically, Ms. Slaton informed the Franklin County Prosecutor's Office that after reviewing the April 3, 2003 judgment entries in Franklin County Court of Pleas Case Numbers 02CR-03-1721, 01CR-02-705, and 01CR-08-4353, the DRC had "noticed that [the judgment entries] do[] not include sufficient notification regarding postrelease control." *See id*. (R.29). Ms. Slaton further stated that "[i]n order for the APA [Adult Parole Authority] to assess this individual for postrelease control, postrelease control must be properly included in the sentencing entry." *See id.* (R.29). The APA concluded that the April 3, 2003 judgment entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 did not sufficiently impose

postrelease control because they "omit[ted] postrelease control" and "omit[ted] the duration of the postrelease control" such that "corrective action must be taken to ensure that the individual can be placed under postrelease control supervision." *See id.* (R.29).

On August 21, 2020, the State filed a Motion for Nunc Pro Tunc Entry (hereinafter the "NPT Motion") in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721. *Randlett IV*, 2021-Ohio-221 at ¶ 12. (R.3, AppxC-2 to AppxC-15). In its NPT Motion, the State explained that it had received notice from the DRC stating that corrective action was necessary in order to ensure that Randlett "serves the mandatory five-year term of postrelease control (PRC)." (R.3, AppxC-2). Although the State did "not agree that corrective action is necessary," it nonetheless requested that the trial court file nunc pro tunc entries in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 stating that Randlett is subject to a mandatory five-year term of PRC out of an abundance of caution. *See Randlett IV*, 2021-Ohio-221 at ¶ 12. (R.3, AppxC-2 to AppxC-4). In the alternative, the State requested that the trial court "schedule[e] a hearing to correct PRC pursuant to R.C. 2929.191." (R.3, AppxC-4). No such order was requested in Case No. 02CR-03-1738 because, as discussed *supra*, all counts for which Randlett was sentenced in that case fell under the "old law," which did not subject Randlett to postrelease control. Randlett opposed the motion and "request[ed] a ruling by the Court declaring that Postrelease Control is not a part of [Randlett's] sentence in these cases" to ensure that Randlett was not erroneously placed thereon by the DRC upon his release from prison. *See Randlett IV*, 2021-Ohio-221 at ¶ 12.

Respondent-Appellee Judge Julie Lynch of the Franklin County Court of Common Pleas found "good cause" for the State's NPT Motion and issued on October 6, 2020 nunc pro tunc orders in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 "to reflect that [Randlett] is subject to a mandatory five-year term of Post Release Control." *Randlett IV*, 2021-Ohio-221 at

¶ 13. (R.3, AppxC-16 to AppxC-21). On October 8, 2020, Judge Lynch issued nunc pro tunc orders modifying the original Judgment Entries filed in each of the three cases on April 3, 2003 by adding the phrase "**is Five (5) years mandatory**" at the end of the statement that "[a]fter the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of postrelease control pursuant to R.C. 2929.19(B)(3)(c), (d), and (e)." *See id.* (R.3, AppxC-23 to AppxC-33).

Randlett was released from DRC custody on November 26, 2020.[3] Upon his release, Randlett was placed on a five-year period of postrelease control supervision.[4]

D. Randlett petitioned the Tenth District Court of Appeals for a writ of mandamus ordering Respondent-Appellee Judge Lynch to vacate the October 2020 NPT Entries and Orders.

Prior to his release from prison, Randlett filed a petition/complaint for a writ of mandamus in Tenth District Court of Appeals in Case No. 20AP-489 requesting that the appellate court issue an Order directing Judge Lynch, the named Respondent, to vacate her October 6, 2020 Nunc Pro Tunc Orders and October 8, 2020 Nunc Pro Tunc Judgment Entries (hereinafter the "NPT Orders and Entries"). *See Randlett IV*, 2021-Ohio-221 at ¶ 14. (R.3, pp. 1-2). Randlett asserted therein that the April 3, 2003 Judgment Entries in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 failed to properly impose PRC because they did not contain the requisite statutorily complaint PRC notifications. *See id*. (citing R.3, ¶ 42). Randlett further argued that because this was a legal error favoring him, it was incumbent upon the State—not Randlett—to directly appeal this error. *See id.* (citing R.3, ¶¶ 31-32). The State did not, however, so it is barred by res judicata from seeking corrective action of this error more than seventeen (17) years later. *See id.*

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[3] *See* "Larry A Randlett (#A446914)," *Offender Details*, Ohio Department of Rehabilitation and Correction, https://appgateway.drc.ohio.gov/OffenderSearch/Search/Details/A446914 (last visited April 20, 2021).

[4] *See id.*

In the alternative, Randlett averred that Judge Lynch did not have subject matter jurisdiction to issue the 2020 NPT Entries and Orders in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 in October 2020. *Randlett IV*, 2021-Ohio-221 at ¶ 14 (citing R.3, ¶¶ 33-38, 46-48). This was because Randlett had already served, in complete part, the prison sentences imposed by the trial court in those three cases when Judge Lynch issued the October 2020 NPT Orders and Entries therein. *See id.* (citing R.3, ¶¶ 33-38, 46-48). Indeed, in March 2020, the DRC's system indicated that Randlett was at that time serving the prison sentence imposed in Case No. 02CR-03-1738, the "old law" case under which postrelease control was not, and could not be, imposed. (R.3, AppxC-1). To be sure, Randlett was indicted by the State and sentenced by the trial court "last" in that case. (*See* R.3, AppxD-245 to AppxD-252).

Respondent moved to dismiss Mr. Randlett's petition on November 12, 2020. (R.15). The Tenth District Court of Appeals consolidated those arguments with further filing and argument on the merits, which the appellate court considered at an oral hearing conducted on January 6, 2021. *See Randlett IV*, 2021-Ohio-221 at ¶ 15.

On January 28, 2021, the Tenth District Court of Appeals denied Randlett's petition for a writ of mandamus. *Randlett IV*, 2021-Ohio-221 at ¶ 34. Ultimately, the appellate court rejected Randlett's predicate that postrelease control would be unenforceable under the 2003 sentencing entries as originally issued. *Id.* at ¶ 15. While the Tenth District Court of Appeals acknowledged that Randlett was "correct that those original entries are res judicata," such determination, the appellate court concluded, "means not that by law he is out from under postrelease control obligations, but rather that he was to be subject to a mandatory five-year period of postrelease control upon his release from prison." *See id.*

The Tenth District Court of Appeals explained its "reading of the law is that the nunc pro tunc orders altered neither the fact nor the duration of the postrelease control imposed by the original entries." *Randlett IV*, 2021-Ohio-221 at ¶ 15. The appellate court did not find that Randlett had established a clear legal right to the writ he sought because, the court concluded, "[t]he legal effect of the challenged nunc pro tunc entries was redundant: the imposition of postrelease control for 'appropriate periods' in this case already had the effect of imposing a five-year mandatory period of PRC in each of the three cases." *Id.* at ¶¶ 15, 28. That was true, the appellate court held, "even with regard to case number 02CR-1721, where the entry—now res judicata—contained the 'appropriate periods' language despite seeming incongruity with certain remarks at the sentencing hearing." *Id.* at ¶ 28.

Randlett filed a timely Notice of Appeal of that decision on March 11, 2021. (R.36).

ARGUMENT

"To be entitled to a writ of mandamus, a relator must establish, by clear and convincing evidence, (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of the respondent to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law." *State ex rel. Olmstead v. Forsthoefel*, Slip Opinion No. 2020-Ohio-4951, ¶ 7, citing *State ex rel. Love v. O'Donnell*, 150 Ohio St. 3d 378, 2017-Ohio-5659, 81 N.E.3d 1250, ¶ 3.

The premise of Randlett's writ request to the Tenth District Court of Appeals was the corrective action of the April 3, 2003 Journal Entries in Case Nos. 01CR-02-705, 01CR-08-4353, 02CR-03-1721 was necessary in order to adequately impose postrelease control. *See Randlett IV*, 2021-Ohio-221 at ¶ 17. The State did not timely initiate a direct appeal of those three Journal Entries regarding the inadequate notice of PRC therein, so under this Court's void sentence jurisprudence, the State is res judicata from seeking corrective action. *See id.* Moreover, the trial court lacked the authority to issue the corrective order sought by the State because Randlett had already served the sentences imposed in Case Nos. 01CR-02-705, 01CR-08-4353, 02CR-03-1721 when the State's NPT Motion was filed in August 2020. *See id.*

PROPOSITION OF LAW NO. 1

> **When the trial court does not provide all required postrelease control advisements orally at the sentencing hearing and/or fails to journalize all required postrelease control advisements in the sentencing entry, postrelease control has not been validly imposed and must be corrected on direct appeal by the State. The State's failure to do so precludes supervision on postrelease control at the end of a defendant's prison sentence.**

In the years immediately following Randlett's sentence, this Court made clear that "'unless a trial court includes postrelease control in its sentence, the Adult Parole Authority is without authority to impose it.'" *Hernandez v. Kelly*, 108 Ohio St. 3d 395, 2006-Ohio-126, 844 N.E.2d

301, ¶ 20, quoting *State v. Jordan*, 104 Ohio St. 3d 21, 2004-Ohio-6085, 817 N.E.2d 864, ¶ 19, overruled in part by *Harper*, 2020-Ohio-2913.

A. Postrelease control was not validly imposed by the trial court in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353. To properly impose postrelease control in those cases, corrections to the April 3, 2003 Judgment Entries in those cases were necessary.

In *State v. Grimes*, 151 Ohio St. 3d 19, 2017-Ohio-2927, 85 N.E.3d 700, this Court held that to validly impose postrelease control, a minimally compliant sentencing entry must provide the Adult Parole Authority ("APA") the information it needs to execute the postrelease-control portion of the sentence. *See id.* at ¶¶ 1, 13. Thus, a sentencing entry must contain the following information: (1) whether postrelease control is discretionary or mandatory, (2) the duration of the postrelease-control period, and (3) a statement to the effect that the APA will administer the postrelease control pursuant to R.C. 2967.28 and that any violation by the offender of the conditions of postrelease control will subject the offender to the consequences set forth in that statute. *See State v. D.M.*, 10th Dist. Franklin No. 19AP-512, 2019-Ohio-5086, ¶ 8 n.1, quoting *Grimes*, 2017-Ohio-2927 at ¶¶ 1, 13. *See also Randlett IV*, 2021-Ohio-221 at ¶ 22.

When a trial court inadvertently failed to properly impose postrelease control pursuant to *Grimes*, this Court provided a remedy by holding that the failure rendered the sentence—or part of the sentence—void and subject to correction at any time before the expiration of the original sentence. *See Harper*, 2020-Ohio-2913 at ¶ 2, citing *State v. Fischer*, 128 Ohio St. 3d 92, 2010-Ohio-6238, 942 N.E.2d 332. In this case, the sentencing entries for the two "new law" cases—Case Nos. 01CR-705 and 01CR-4353—each recited simply: "After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of postrelease control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e)." *Randlett* IV, 2021-Ohio-221 at ¶ 7. (R.3, ¶¶ 8, 10). That same language also appeared in the judgment entry for Case No. 02CR-1721, which further divided the sentences there between "new law" and "old law" counts, noting with regard to the

latter that for offenses that "occurred prior to Am. Sub. S. B. 2," Randlett "is not subject to post release control." *Id.* (R.3, ¶ 9).

Under *Grimes*, the trial judge in Randlett's cases failed to journalize what had been imposed in open court. Specifically, the April 2003 sentencing entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 did not state that postrelease control was **mandatory**. These three sentencing entries did not state the **duration** of the postrelease control period in any of those three cases. Finally, these three sentencing entries did not include a statement explaining that the APA will administer postrelease control pursuant to R.C. 2967.28 and that any violation by Randlett of the conditions of postrelease control will subject him to consequences set forth in that statute. *See Randlett IV*, 2021-Ohio-221 at ¶ 7. Thus, the trial court did not validly impose postrelease control in the April 2003 sentencing entries.

Moreover, at the March 31, 2003 sentencing hearing, the trial court erroneously advised Randlett orally that "there is an optional supervision by the Adult Parole Authority" for the fourth- and fifth-degree felony sex offenses for which Randlett was being sentenced. *See Randlett IV*, 2021-Ohio-221 at ¶ 6. Randlett was not orally advised at the sentencing hearing the duration of any such "optional" postrelease control period. *See id.* As the Tenth District Court of Appeals noted, "[t]his erroneous mandatory/optional spoken distinction between third-degree felony sex offenses and lesser degree felony sex offenses for purposes of postrelease control (which under the law is a mandatory five years for all felony sex offenses, R.C. 2967.28(B)(1)) was not reflected in the judgment entries filed after sentencing." *Id.* at ¶ 7. Indeed, as described above, none of the required postrelease control advisements were incorporated in the April 2003 sentencing entries.

Put simply, the trial court did not orally provide all required (and accurate) postrelease control advisements at the March 2003 sentencing hearing. The trial court also failed to include

any of the required postrelease control advisements in its April 2003 sentencing entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353. Thus, postrelease control was not validly imposed by the trial court in those three cases such that corrective action was necessary.

To be sure, this Court has recently emphasized that the "DRC is obliged to execute the sentence imposed by the court." *State ex rel. Fraley v. Ohio Dep't of Rehab. & Corr.*, 161 Ohio St. 3d 209, 2020-Ohio-4410, 161 N.E.3d 646, ¶ 17, citing *Grimes*, 2017-Ohio-2927 at ¶ 21 ("It is the responsibility of the [Adult Parole Authority] to carry out the sentence after the court imposes it, not to interpret the law and impose its own sentence based on information in the sentencing entry"), overruled on other grounds, *Harper*, 2020-Ohio-2913. Indeed, it is a well-established principle that a court speaks through its journal entries. *State v. Miller*, 127 Ohio St. 3d 407, 2010-Ohio-5705, 940 N.E.2d 924, ¶ 12.

Here, Ohio Parole Board Chief Hearing Officer Brigid Slaton reviewed the trial court's April 2003 sentencing entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 a few months prior to Randlett's scheduled November 2020 release date. *See Randlett IV*, 2021-Ohio-221 at ¶ 11. Following her review of those three entries, Ms. Shelton concluded that, when the trial court spoke on postrelease control, it did not "adequately impose PRC because [the three sentencing entries] omit[ted] the duration of the PRC term"—i.e., they did not specifically state that Randlett was subject to a mandatory PRC term of five years. *See id.* Ms. Shelton's August 6, 2020 letter to the Franklin County Prosecutor's quite plainly states that, on their face, "the sentencing entries do not adequately impose PRC." *See id.* Thus, to "adequately impose" postrelease control, corrective action was necessary.

The Tenth District Court of Appeals concluded in its decision below that the "legal effect of the challenged nunc pro tunc entries was redundant." *Randlett IV*, 2021-Ohio-221 at ¶ 28. In

support of that determination, the appellate court looked to *State v. Bell*, 160 Ohio St. 3d 216, 2020-Ohio-3104, 155 N.E.3d 851, which it claimed "put[] an even finer point on the analysis." *Randlett IV*, 2021-Ohio-221 at ¶ 29. In *State v. Bell*, 10th Dist. Franklin No. 17AP-645, 2018-Ohio-3576, the Tenth District Court of Appeals affirmed a trial court judgment denying a motion to vacate postrelease control as not in compliance with *Grimes*. *Bell*, 2018-Ohio-3576 at ¶ 13. The appellate court did, however, remand the matter for the trial court to issue a nunc pro tunc entry correcting the sentencing entry in to comply with *Grimes*. *See id.* This Court reversed the remand, while leaving the affirmance in place. *Bell*, 2020-Ohio-3104 at ¶ 1. The Tenth District Court of Appeals opined that "*Bell* again confirms that res judicata entries that imposed postrelease control in a way violative of *Grimes* stand, unaltered (and unchangeable)." *Randlett IV*, 2021-Ohio-221 at ¶ 29.

Notably, though, the circumstances in this case are the opposite of those presented in *Bell*. In *Bell*, the DRC placed the defendant on a three-year period of postrelease control after he completed his prison sentence and was released from prison. *See Bell*, 2018-Ohio-3576. *See also State v. William J. Bell*, Franklin County C.P. Case No. 09CR-2448, "Motion to Vacate" (filed June 28, 2017). In stark contrast, the DRC determined in Randlett's case that, under the plain language of the April 3, 2003 judgment entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353, Randlett would not be subject to PRC following his release from prison. (*See* R.29. *See also* AppxC-1). Thus, unlike in *Bell*, the DRC would not have placed Randlett on PRC following his release from prison without corrective action.

To the contrary, then, the legal effect of the challenged nunc pro tunc entries was not, as the Tenth District Court of Appeals concluded, redundant. Before these NPT Orders and Entries were issued by Respondent, the DRC did not intend to place Randlett on PRC upon his release

from prison. (*See* R.29; AppxC-1). After the NPT Orders and Entries were issued by Respondent in October 2020, the DRC's interpretation of Randlett's sentence changed, as he was placed on a five-year period of PRC when he was released from prison on November 26, 2020. The practical effect of the October 2020 NPT Entries and Orders was—in no uncertain terms—the placement of Randlett on PRC by the DRC following his release from prison. Without these NPT Entries and Orders, Randlett would not have been placed on PRC by the DRC when he was released from prison. (*See* R.29. *See also* AppxC-1).

B. A new rule of law was not announced in *Grimes* and the trial court in this case was required to provide all of the statutorily required postrelease control advisements orally and in the sentencing entries in order to validly impose postrelease control.

Respondent argued below—and will, it is expected, argue in this case— that "*Grimes* is a judicial decision and thus does not apply retroactively to Randlett's long-final convictions." (R.15, Motion to Dismiss, *et al*. at p. 17). However, there is no retroactivity problem here because *Grimes* did not announce a new rule of law.

In *Grimes*, this Court reaffirmed its prior holdings in *State v. Qualls*, 131 Ohio St. 3d 499, 2012-Ohio-1111, 967 N.E.2d 718; *State v. Singleton*, 124 Ohio St. 3d 173, 2009-Ohio-6434, 920 N.E.2d 958; *Woods v. Telb*, 89 Ohio St. 3d 504, 2000-Ohio-171, 733 N.E.2d 1103; and *State v. Jordan*, 104 Ohio St. 3d 21, 2004-Ohio-6085, 817 N.E.2d 864. It did not judicially legislate a new set forth requirements or otherwise create a new rule of law but rather merely clarified requirements that always existed under the applicable postrelease control law statutes, R.C. 2967.28 and R.C. 2929.19. *See, e.g., State v. Payne*, 10th Dist. Franklin Nos. 19AP-248, 19AP-250, 2020-Ohio-1009, ¶ 37 *See also Hernandez v. Kelly*, 108 Ohio St. 3d 395, 2006-Ohio-126, 844 N.E.2d 301, ¶ 24, superseded by statute on other grounds ("There is no retroactivity problem here because we did not announce a new rule of law in *Jordan*. *Jordan* reaffirmed our holding in *Woods*, which preceded the sentencing entry here. Further, in *Jordan*, we merely determined what

the applicable statutes, e.g., R.C. 2929.14(F) and 2967.28, have meant since their enactment.").

In *Harper*, this Court was asked "to clarify whether [its] decision in *Grimes* applies retroactively and whether the failure to provide notice of the consequences of a violation of postrelease control in the sentencing entry renders the imposition of postrelease control void ab initio and subject to collateral attack at any time." 2020-Ohio-2913 at ¶ 1. However, this Court ultimately determined that its "resolution of the second issue [presented in *Harper*] ma[de] it unnecessary to address the first issue," which pertained to the retroactive application of *Grimes*. *See id.* at ¶¶ 1, 19.

When Randlett was orally sentenced by the trial court in March 2003 and the trial court prepared and filed sentencing entries that purported to journalize what had been imposed in open court at the sentencing hearing in April 2003, the version of R.C. 2929.19 in effect at that time stated, in relevant part, as follows:

> (B)(3) Subject to division (B)(4) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:
>
> (a) Impose a stated prison term;
>
> (b) Notify the offender that, as part of the sentence, the parole board may extend the stated prison term for certain violations of prison rules for up to one-half of the stated prison term;
>
> (c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree in the commission of which the offender caused or threatened to cause physical harm to a person;
>
> (d) Notify the offender that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(3)(c) of this section;

> (e) Notify the offender that, if a period of supervision is imposed following the offender's release from prison, as described in division (B)(3)(c) or (d) of this section, and if the offender violates that supervision or a condition of postrelease control imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the stated prison term originally imposed upon the offender;

2001 Ohio HB 170 (effective September 6, 2002). (*See* Appendix, A-68).

Although the Ohio General Assembly has since modified R.C. 2929.19 several times, these same core postrelease control notification requirements have remained.

C. Under *Harper* and *Hudson*, postrelease control must be vacated because it was not properly imposed in the April 2003 sentencing entries and/or at the March 2003 sentencing hearing and was not corrected on direct appeal by the State.

This Court's void sentence jurisprudence ultimately resulted in continuous litigation challenging errors in the imposition of postrelease control that could have been raised by either the State or the defendant at sentencing or on direct appeal. *See Harper*, 2020-Ohio-2913 at ¶ 3. Thus, in *Harper*, this Court held that "[w] hen a case is within a court's subject-matter jurisdiction and the accused is properly before the court, any error in the exercise of that jurisdiction in imposing postrelease control renders the court's judgment voidable, permitting the sentence to be set aside if the error has been successfully challenged on direct appeal." *Id.* at ¶ 4.

Accordingly, "any claim that the trial court has failed to properly impose postrelease control in the sentence must be brought on appeal from the judgment of conviction or the sentence will be subject to res judicata." *Harper*, 2020-Ohio-2913 at ¶ 43. *See also Hudson*, 2020-Ohio-3849 at ¶ 18 ("reiterat[ing]" this Court's statement in *Harper* that "any claim that the trial court has failed to properly impose postrelease control in the sentence must be brought on appeal from the judgment of conviction or it will be subject to principles of res judicata"). This Court also "reject[ed] the notion that the failure to incorporate a notice of the consequences of a violation of

postrelease control in the sentencing entry as required by *Grimes* renders the sentence void to the extent that it does not properly impose postrelease control." *Harper*, 2020-Ohio-2913 at ¶ 6.

Declaring a criminal defendant's sentence as "voidable" necessarily implies that it was capable of being voided, i.e., corrected by means of an available legal process, to wit: direct appeal by the State. *See State v. Henderson*, 161 Ohio St. 3d 285, 2020-Ohio-4784, 162 N.E.3d 776, ¶ 90 (Donnelly, J., concurring). "A direct appeal is the available legal process to address a trial court's alleged sentencing error, and the failure to challenge a sentencing error on direct appeal operates as res judicata to any later collateral attack on the judgment." *See id.*, citing *Harper*, 2020-Ohio-2913 at ¶ 41 (because Harper failed to raise alleged postrelease control sentencing error on direct appeal, the argument was barred by doctrine of res judicata). It follows, then, that "[n]either the state nor the defendant can challenge the voidable sentence through a postconviction motion" and "res judicata applies equally to the state and the defendant." *See Henderson*, 2020-Ohio-4784 at ¶ 91 (Donnelly, J., concurring), citing *Harper*, 2020-Ohio-2913 at ¶ 43 (cautioning prosecuting attorneys, defense counsel, and pro se defendants throughout the state that they are now "on notice" that claims of post release control sentencing errors "must be brought on appeal from the judgment of conviction or the sentence will be subject to res judicata"). *See also State v. Straley*, 159 Ohio St. 3d 82, 2019-Ohio-5206, 147 N.E.3d 623, ¶ 53 (Donnelly, J., concurring in judgment only).

Here, the Tenth District Court of Appeals stated that it understood "*Harper* to mean that the three entries in Mr. Randlett's cases signaling the imposition of postrelease control are controlled by res judicata regardless of any *Grimes*-type error that might have been but that was not raised on direct appeal." *Randlett IV,* 2021-Ohio-221 at ¶ 25. Thus, the appellate court erroneously suggested that Randlett—but not the State—should have initiated a direct appeal of these April 2003 judgment entries of sentence regarding postrelease control. *See id.* at ¶¶ 9-10, 25.

This Court has recently emphasized that if a journal entry contains a legal error favoring a criminal defendant, it is incumbent upon the State—not the defendant—to appeal that error. *See State ex rel. Fraley v. Ohio Dep't of Rehab. & Corr.*, 161 Ohio St. 3d 209, 2020-Ohio-4410, 161 N.E.3d 646, ¶ 17. As discussed *supra*, the April 2003 sentencing entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 **did not** validly impose postrelease control. Indeed, as Ms. Slaton noted in her August 6, 2020 letter to the Franklin County Prosecutor's Office, a corrected entry containing the required postrelease control advisements was required in those three cases in order to "enable the Parole Board to place [Randlett] on postrelease control." (R.29).

The April 2003 sentencing entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 did not validly impose postrelease control and thus, not did enable the Parole Board to place Randlett under its supervision when he was released from prison. This was a legal error favoring Randlett such that, pursuant to *Fraley*, it was incumbent upon the State—not Randlett—to directly appeal that error. The State did not directly appeal the trial court's error, and the *Harper*/*Hudson* remedy now requires that postrelease control be vacated because it was not properly imposed at sentencing and not corrected on direct appeal.

PROPOSITION OF LAW NO. 2

> **When a trial court imposes prison sentences in multiple cases and orders the defendant to serve those multiple case sentences consecutively, any ambiguity regarding the order that multiple case sentences are to be served should be construed in the defendant's favor.**

At the March 31, 2003 sentencing hearing, the trial court ordered that the prison sentence imposed in each of the four cases were "to run consecutive with each other." (R.3, AppxD-251). It did not, however, expressly state at the sentencing hearing the order in which it intended Randlett to serve the prison sentences imposed in the four cases. (*See* R.3, AppxD-251).

The April 3, 2003 judgment entries likewise did not depict the trial court's intention as to

the order in which the prison sentences imposed in the four cases were to be served. In the Judgment Entry for Case No. 01CR-02-705, the trial court stated that the prison sentence imposed in this case was "to run consecutive with * * * Case Nos. 02CR-1721, 01CR-4353, and 02CR-1738." (R.3, AppxB-2). In the Judgment Entry for Case No. 02CR-03-1721, the trial court ordered that the prison sentence imposed in that was case "to run consecutive with * * * Case Nos. 02CR-1738, 01CR-705, and 01CR-4353." (R.3, AppxB-5). In the Judgment Entry for Case No. 01CR-08-4353, the trial court ordered that the prison sentence imposed in that was case "to run consecutive with * * * Case Nos. 01CR-705, 02CR-1738, and 02CR-1721." (R.3, AppxB-9). In the Judgment Entry for Case No. 02CR-03-1738, the trial court ordered that the prison sentence imposed in that was case "to run consecutive with * * * Case Nos. 01CR-4353, 01CR-1721, and 01CR-705." (R.3, AppxB-9).

Randlett acknowledges that "consecutive with" can mean either "subsequent to" or "prior to." *See, e.g.*, R.C. 2929.14(B)(2)(d) ("consecutively to and prior to"). The table below visually depicts that which is stated above:

Journal Entry in Case No.:	***Journal Entry Case No.***	**Order of Cases Referenced in Journal Entry re: Consecutive Sentences**			***Journal Entry Case No.***
01CR-705	01CR-705	02CR-1721	01CR-4353	02CR-1738	01CR-705
02CR-1721	02CR-1721	02CR-1738	01CR-705	01CR-4353	02CR-1721
01CR-4353	01CR-4353	01CR-705	02CR-1738	02CR-1721	01CR-4353
02CR-1738	02CR-1738	01CR-4353	02CR-1721	01CR-705	02CR-1738

Put simply, there is no clear and consistent expression from the trial court in the April 3, 2003 Journal Entries as to the order in which it intended Randlett to serve the prison sentences that were imposed in the four cases. (*See* R.3, Appendix B).

There is no provision of the revised or administrative codes in Ohio that dictate how multiple case sentences are to be served. *See e.g.*, *State v. Kish*, 8th Dist. Cuyahoga No. 99895, 2014-Ohio-699, ¶ 12. Rather, it is the trial court's sentencing entry that dictates how a sentence is

to be served. *Id*., citing *State v. Holdcroft*, 137 Ohio St. 3d 526, 2013-Ohio-5014, 1 N.E.3d 382, ¶¶ 2-3, 10, overruled, in part, on other grounds.

Some Ohio appellate courts have proffered that, in the absence of any other guidance in the journal entry itself, a court might reasonably look to the order that the trial court addressed the charges at the sentencing hearing and infer that the court intended that the sentences be served in the order in which they were addressed. *See, e.g.*, *State v. Powell*, 2d Dist. Montgomery No. 24433, 2014-Ohio-3842, ¶ 28, overruled, in part, on other grounds; *State v. Ford*, 2d Dist. Montgomery No. 25796, 2014-Ohio-1859, ¶ 21. Here, the trial court addressed the four cases out of numerical order, sentencing Randlett last in Case No. 02CR-03-1738. (*See* R.3, AppxD-247). Thus, it could be reasonably inferred that the trial court intended Randlett to serve the four prison terms in the order in which they were imposed at the sentencing hearing.

Appellate courts have also held that when the trial court's sentencing entries are ambiguous—and, as is here, are conflicting—in that they fail to clearly set forth the sequence in which consecutive sentences imposed in multiple cases are to be served, any ambiguity regarding the order that multiple case sentences are to be served should be construed in the defendant's favor. *See, e.g.*, *State v. Collins*, 2d Dist. Montgomery No. 27939, 2018-Ohio-4760, ¶ 20; *State v. Beverly*, 2d Dist. Clark No. 2015-CA-71, 2018-Ohio-2116, ¶ 10; *State v. Cvijetinovic*, 8th Dist. Cuyahoga No. 99316, 2013-Ohio-5121, ¶¶ 22-26; *State v. Broughton*, 6th Dist. Lucas Nos. 06-1213 and L-06-1214, 2007-Ohio-5312, ¶ 14.

In this case, Randlett would benefit from a finding that the trial court intended him to serve the prison terms imposed in each of the four cases in the order in which they were addressed at sentencing. It is undisputed that PRC was not imposed in Case No. 02CR-03-1738. *Randlett* IV, 2021-Ohio-221 at ¶ 7. Nor could it have been, as all offenses of which Relator was found guilty

and sentenced for in that case occurred before Senate Bill 2 went into effect. *See id.* (R.3, AppxC-2). Thus, construing the ambiguities in the judgment entries regarding the order the multiple case prison sentences were to be served in Randlett's favor begets that Randlett serve last the prison sentence imposed in Case No. 02CR-03-1738.

Moreover, as discussed *supra*, the DRC's "Departmental Offender Tracking System Portal" indicated on March 17, 2020 that Randlett was serving at that time the prison sentence imposed in Case No. 02CR-03-1738. (R.3, AppxC-1).

Currently, no binding precedent on this matter exists. This Court should therefore hold that when a trial court imposes prison sentences in multiple cases and orders the defendant to serve the prison sentences imposed in those cases consecutively, any ambiguity regarding the order that multiple case sentences are to be served should be construed in the defendant's favor.

PROPOSITION OF LAW NO. 3

> **When a defendant is consecutively serving multiple case prison sentences, a trial court lacks jurisdiction to make any corrections to journal entries under Crim.R. 36 on a case after the prison sentence imposed on that particular case has been completely served by the defendant.**

Crim.R. 36 permits correct of judgment entries "at any time," but Crim.R. 1(A) contains a limitation by providing that "[t]hese rules prescribe the procedure to be followed in all courts of this state in the exercise of criminal jurisdiction." *See, e.g.*, *State v. Mitchell*, 11th Dist. Portage No. 2019-P-0105, 2020-Ohio-3417, ¶ 82, citing *State v. Nye*, 10th Dist. Franklin No. 95APA11-1490, 1996 Ohio App. LEXIS 2314, *3; *State v. Spears*, 8th Dist. Cuyahoga No. 94089, 2010-Ohio-2229, ¶18 ("[S]o long as the court retains criminal jurisdiction over a defendant, the court may correct journal entries using a proper nunc pro tunc entry"). Put another way, a correction via Crim.R. 36 is proper at any time before the defendant has completed his prison term on a case.

See, e.g., *State v. Qualls*, 131 Ohio St. 3d 499, 2012-Ohio-1111, 967 N.E.2d 718, ¶ 24. Indeed, in *Qualls*, this Court observed that correction through the issuance of a nunc pro tunc entry is appropriate "as long as the correction is accomplished prior to the defendant's completion of his prison term."[5] *Id*. at ¶ 24.

A trial court lacks jurisdiction to impose PRC upon an offender when the prison sentence for an entire case has been already served even if the offender is still incarcerated on a different case and the sentence in the second case was ordered to be served consecutive to the first (now finished) case. *See, e.g.*, *State v. Draper*, 10th Dist. Franklin No. 06AP-600, 2007-Ohio-1240, ¶ (finding that the trial court retained jurisdiction "because [the offender's] prison term had not yet expired at the time of resentencing."); *State v. Bristow*, 6th Dist. Lucas No. L-06-1230, 2007-Ohio-1864; *State v. Turner*, 10th Dist. Franklin No. 06AP-491, 2007-Ohio-2187; *State v. Ferrell*, 1st Dist. Hamilton No. C-070799, 2008-Ohio-5280.

For the reasons set forth in Proposition of Law No. 1, corrective action of the April 3, 2003 Judgment Entries in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 was necessary to properly impose postrelease control in this case. Before these NPT Orders and Entries were issued by Respondent, the DRC did not believe PRC could be imposed when Randlett was released from prison. (*See* R.29. *See also* AppxC-1). The NPT Orders and Entries were issued in October 2020 and when Randlett was released from prison the following month, he was placed on PRC for five years. The practical effect of the October 2020 NPT Entries and Orders, then, was the placement of Randlett on PRC following his release from prison. (*See* R.29. *See also* AppxC-1).

As stated in Proposition of Law No. 2, when Judge Lynch issued the October 2020 NPT Entries and Orders, Randlett had served the prison sentences imposed in Case Nos. 01CR-02-705,

[5] Of course, this Court's holding in *Qualls* pre-dates the *Harper* and *Hudson* decisions.

01CR-08-4353, and 02CR-03-1721 and was serving the prison sentence imposed by the trial court in Case No. 02CR-03-1738. Judge Lynch therefore lacked jurisdiction to impose postrelease control in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 in October 2020 because Randlett had served, in complete part, the prison sentences imposed in all three cases.

There is no dispute that PRC was not imposed in Case No. 02CR-03-1738. *See Randlett IV*, 2021-Ohio-221 at ¶ 7. Yet, because Respondent did not have jurisdiction in October 2020 to issue the NPT Orders and Entries in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721, it ultimately was. Prior to this Court's decisions in *Harper* and *Hudson*, under R.C. 2929.191, a trial court was able to correct an error in imposing postrelease control prior to the time the defendant was released from imprisonment under that term. *See, e.g.*, *State v. Jones*, 2d Dist. Montgomery No. 26228, 2015-Ohio-1749, ¶ 6. But, after the defendant has completed the prison term imposed in a case, the error imposing PRC cannot be corrected. *See id.*

The fact that Randlett was still incarcerated only on Case No. CR02-03-1738 in October 2020 prohibited Judge Lynch from issuing the NPT Entries and Orders in Case Nos. 01CR-02-705, 01CR-08-4353, and 02CR-03-1721 after Randlett had completed the prison sentences imposed in those three cases. Judge Lynch lacked jurisdiction to do so. Post-release control was not—and cannot now—be imposed under Case No. 02CR-03-1738. Yet, that is ultimately what resulted in this case.

CONCLUSION

This Court is asked to hold that the originally imposed sentences in Franklin County Court of Common Pleas Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353 did not validly impose postrelease control. The April 2003 Judgment Entries were not corrected on direct appeal by the State and thus, were final at the time they were corrected by Respondent in October 2020.

Moreover, when these three judgment entries were corrected by Respondent, Randlett had completely served the prison sentences imposed in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353. In 2020, Randlett was only still incarcerated under Case No. 02CR-03-1738, a case for which PRC was not—and could not—be imposed. Thus, when Respondent issued the October 2020 NPT Entries and Orders, which modified the April 2003 Judgment Entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353, Respondent did not have jurisdiction to do so. The ultimate legal effect of Respondent's actions was the erroneous placement of Randlett on PRC when he was released from prison in November 2020. Without Respondent's NPT Entries and Orders, the DRC did not believe it could properly place Randlett on PRC upon his release from prison under the plain language of the April 2003 Judgment Entries in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353.

Accordingly, this Court should reverse the holding of the Tenth District Court of Appeals, vacate Randlett's PRC in Case Nos. 02CR-03-1721, 01CR-02-705, and 01CR-08-4353, and remand this matter for further proceedings consistent with this Court's decision.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing **Merit Brief of Relator-Appellant Larry Randlett** was served via electronic mail this 3rd day of May 2021, to the Counsel of Record for Respondent-Appellee, Seth L. Gilbert (sgilbert@franklincountyohio.gov), Franklin County Assistant Prosecuting Attorney and Chief Counsel of the Appellate Division, and to Jeanine A. Hummer (jhummer@franklincountyohio.gov), First Assistant Prosecuting Attorney (Civil Division).

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IN THE SUPREME COURT OF OHIO

STATE EX REL. **LARRY RANDLETT,**	:	Case No. 2021-0310
Relator-Appellant,	:	On Appeal from the Franklin County Court of Appeals, Tenth Appellate District
-vs-	:	Court of Appeals Case No. 20AP-489
JUDGE JULIE M. LYNCH,	:	
Respondent-Appellee.	:	

APPENDIX TO
MERIT BRIEF OF RELATOR-APPELLANT LARRY RANDLETT

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IN THE SUPREME COURT OF OHIO
2021

THE STATE EX REL. LARRY RANDLETT,	:	Case No.
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-vs-	:	
		Court of Appeals Case No. 20AP-489
JUDGE JULIE M. LYNCH,	:	
Respondent-Appellee.	:	

NOTICE OF APPEAL OF APPELLANT LARRY RANDLETT

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IN THE SUPREME COURT OF OHIO
2021

THE STATE EX REL. LARRY RANDLETT,	:	Case No.
Relator-Appellant,	:	On Appeal from the Franklin County Court of Appeals, Tenth Appellate District
-vs-	:	
		Court of Appeals Case No. 20AP-489
JUDGE JULIE M. LYNCH,	:	
Respondent-Appellee.	:	

NOTICE OF APPEAL

Relator-Appellant, Larry Randlett, hereby gives notice of appeal to the Supreme Court of Ohio from the Decision and Judgment of the Franklin County Court of Appeals, Tenth Appellate District, entered in the Court of Appeals Case No. 20AP-489 on January 28, 2021. This case is an appeal of right as it originated in the Franklin County Court of Appeals for the Tenth District.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of March 2021, a copy of the foregoing was filed electronically. Parties may access this filing through the Court's system. This will certify that a copy of the foregoing has been forwarded to Counsel for Respondent-Appellee, Seth L. Gilbert, Assistant Prosecuting Attorney, by electronic mail on this 11th fay of March 2021.

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IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

The State ex rel. Larry A. Randlett,	:	
Relator,	:	
v.	:	No. 20AP-489
Judge Julie M. Lynch,	:	(REGULAR CALENDAR)
Respondent.	:	

D E C I S I O N

Rendered on January 28, 2021

On brief: *The Tyack Law Firm Co., L.P.A.,* and *Jonathan T. Tyack,* for relator. **Argued:** *Jonathan T. Tyack.*

On brief: [*G. Gary Tyack*], Prosecuting Attorney, and *Seth L. Gilbert,* for respondent. **Argued:** *Seth L. Gilbert.*

IN MANDAMUS

NELSON, J.

{¶ 1} Larry Randlett seeks a writ of mandamus that would order a common pleas court judge to withdraw her nunc pro tunc orders specifying that the duration of the period of postrelease control previously ordered for and that attaches to 41 of the 67 felony sex crimes of which he was convicted in 2003 is the five years mandated by law. Because we conclude that he does not in the circumstances of this case have a clear legal right to such a writ, we will deny his petition.

{¶ 2} We need not belabor the nature of Mr. Randlett's crimes. Suffice it to note that at the March 31, 2003 sentencing, Judge McGrath neatly summarized the offenses as involving "five separate and distinct victims, multiple counts, multiple offenses against each, young teenage boys. Predatory scheme over seven years, only stopped when caught. Abused trust, creating great psychological harm, and it's been a life-altering experience in

a negative way for each of the victims." Tr. at 244. The unpleasant facts are further laid out in *State v. Randlett*, 10th Dist. No. 03AP-385, 2003-Ohio-6934 ("*Randlett I*").

{¶ 3} On February 10, 2003, Mr. Randlett entered pleas of guilty in four cases, three of which are at issue here. In Franklin C.P. No. 01CR-705, he pled guilty to two third-degree felonies of sexual battery and six fourth-degree felonies of gross sexual imposition. In Franklin C.P. No. 01CR-4353, he pled guilty to seven third-degree felonies of gross sexual imposition, nine fourth-degree felonies of gross sexual imposition, six fourth-degree felony counts of corruption of a minor, and one fourth-degree and one fifth-degree felony of disseminating matter harmful to juveniles. In Franklin C.P. No. 02CR-1721, he pled guilty to nine fourth-degree felonies of corruption of a minor and (under "old law") to eight third-degree felonies of corruption of a minor and three fourth-degree felony counts of gross sexual imposition. In Franklin C.P. No. 02CR-1738, he pled guilty (under "old law") to six third-degree and eight fourth-degree felony counts of gross sexual imposition and to one third-degree count of corruption of a minor.

{¶ 4} Mr. Randlett signed a total of three plea forms relating to the "new law" counts as to which postrelease control would attach. Those forms specified that as to the felony sex offenses (and this box was checked on each of the three forms), Mr. Randlett certified that: "If the Court imposes a prison term, I understand that the following period(s) of post-release control is/are applicable: * * * Felony Sex Offense * * * Five Years-Mandatory [box checked]." Mr. Randlett further attested on the plea form that "I understand that a violation of post-release control" could result in certain sanctions. February 10, 2003 plea forms in 01CR-705, 01CR-4353, and 02CR-1721 (plea form regarding "new law" counts).

{¶ 5} During the plea colloquy, and consistent with the various plea forms, the trial judge distinguished between "the new law and the old law." February 10, 2003 Tr. at 28. After discussing theoretical possibilities for community control (new law) and probation (old law), the Judge said:

> in the new law sections of the case, if you go to prison on these cases for any, for felony sex offense, once released from prison, you will be subject to five years mandatory supervision by the Adult Parole Authority of Ohio, and if you violated the law while under their five-year supervision, they could send you back to prison on the new law cases, new law counts of these

> cases for additional time in addition to what the Court had given you, but in any event they can't add any more time than one-half of whatever the total of the Court's sentence was. Do you understand that?

Id. at 30. Mr. Randlett responded: "Yes, I do, Your Honor." *Id.*

{¶ 6} The Judge and the parties returned to the matter of postconviction release at the sentencing hearing, after the court had imposed prison sentences that, as later modified by this court to be consistent with trial court pronouncements at the hearing, amounted to what we somehow later calculated as 18 years. *Compare* April 3, 2003 Judgment Entries *with Randlett I* at ¶ 43-45, 55; *State v. Randlett*, 10th Dist. No. 06AP-1073, 2007-Ohio-3546, ¶ 3 (*Randlett I* "determined that the trial court erred in imposing a greater sentence than that pronounced at the sentencing hearing and, accordingly, modified defendant's sentence to a prison term of 18 years").

> THE [SENTENCING] COURT: Let's see. All right. With respect to the new law F-3s and F-4s, the F-3 GSIs, the Court believes -- is it five-year mandatory? You can correct me if I'm wrong.
>
> [DEFENSE COUNSEL]: Five-year mandatory supervised release, Your Honor.
>
> THE COURT: Right. Once released from prison after twenty years, you would be supervised, Mr. Randlett, for a five-year period, mandatory, by the Adult Parole Authority of Ohio. If you violated the law, you can be sent back to prison for more time on these cases, on these F-3 new law cases, counts, than the Court has given you, but in any event, no greater amount of extra time than one-half of the Court's sentence.
>
> And as to the F-4s and F-5s under the new law, I believe there is an optional supervision by the Adult Parole Authority. If you violated the law, they can send you back to prison for more time than the Court had given you on those counts, but in any event, no greater amount of extra time than one-half of the Court's sentence.

March 31, 2003 Tr. at 247-48.

{¶ 7} This erroneous mandatory/optional spoken distinction between third-degree felony sex offenses and lesser degree felony sex offenses for purposes of postrelease control (which under the law is a mandatory five years for all felony sex offenses, R.C.

2967.28(B)(1)) was not reflected in the judgment entries filed after sentencing. The judgment entries for "new law" cases 01CR-705 and 01CR-4353 each recited simply: **"After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e)."** April 3, 2003 Judgment Entries (emphasis added); *see also* Mandamus Petition at ¶ 8, 10. That same language also appeared in the judgment entry for 02CR-1721, which further divided the sentences there between new law and old law counts, noting with regard to the latter that for offenses that "occurred prior to Am. Sub. S. B. 2," Mr. Randlett "is not subject to post release control." April 2, 2003 Judgment Entry; *see also* Mandamus Petition at ¶ 9. Properly, and of note, no language regarding postrelease control appeared in the judgment entry for 02CR-1738, which related entirely to "old law" offenses. April 3, 2003 Judgment Entry; *see also* Mandamus Petition at ¶ 11.

{¶ 8} Consistent with the judgment entries, the trial court also signed "disposition sheets," filed on the same April 3, 2003 date, that for the three relevant cases confirmed that the "Defendant [had been] notified of * * * Post Release Control in writing and orally"; Judge McGrath took care to strike inappropriate reference to "Bad Time" notification on each of those forms. The record further reflects a "NOTICE (Prison Imposed)" form signed by Mr. Randlett and his lawyer on the day of the sentencing hearing and filed April 7, 2003 in which the trial court notified the defendant that "felony sex offenders" are subject to a "mandatory 5 years" of postrelease control: that additional advisement, while not reflected in the body of that one-page form (where the mandatory and durational aspects of the term were left blank) was provided in the one-page document's only (and slightly more than one-line-long) footnote.

{¶ 9} The reference in each of the three relevant sentencing entries to "the applicable periods of post-release control" was not appealed in 2003 or thereafter. Mr. Randlett did appeal from the consecutive nature and length of the sentences, from the trial court's determination that he was a sexual predator, and from the trial court's reliance on undisclosed victim impact statements. *See* Mandamus Petition at ¶ 12; *Randlett I* at ¶ 20. This court did modify two judgments of the trial court to reflect the precise sentence lengths imposed at the sentencing hearing: "With those modifications, the judgments of the trial court [were] affirmed as modified." *Randlett I* at ¶ 55.

{¶ 10} Nor were the judgments disturbed by Mr. Randlett's February 10, 2006 application to reopen his appeal, *see State v. Randlett*, 110 Ohio St.3d 1443, 2006-Ohio-3862 (declining review of this court's denial), or by his August 25, 2006 motion for relief from judgment under Civ.R. 60(B), *see State v. Randlett*, 10th Dist. No. 06AP-1073, 2007-Ohio-3546 (affirming trial court denials of relief from judgment).

{¶ 11} Roughly some 17 years after he was sentenced and after this court resolved his direct appeal, Mr. Randlett neared his release from prison. *See* Mandamus Petition at ¶ 22 (citing stated release date of November 30, 2020). Matters took a turn. In a form letter dated August 6, 2020 and addressed to the Franklin County Prosecutor, Ohio Parole Board Chief Hearing Officer Brigid Slaton referenced the three relevant case numbers and opined that the trial court's "entry * * * does not include sufficient notification regarding post-release control. In order for the [Adult Parole Authority] to assess this individual for post-release control, post-release control must be properly included in the sentencing entry. * * * * A corrected entry that imposes post-release control, and includes the prescribed duration in R.C. 2967.28, will enable the Parole Board to place this individual on post-release control." Ms. Slaton checked two boxes on the form: "1) As the sentencing entry for this case omits post-release control, corrective action must be taken to ensure that the individual can be placed under post-release control supervision," and "2) As the sentencing entry for this case omits the duration of the post-release control period, corrective action must be taken to ensure that the individual can be placed under post-release control supervision."

{¶ 12} The prosecuting attorney disagreed with the parole authority's understanding of the state of the law, and advised the trial court that "the * * * notice requiring [sic] corrective action is in error." August 21, 2020 Motion for Nunc Pro Tunc Entry at 2. Nonetheless, in what he called "an abundance of caution – and to ensure that Randlett is subject to the mandatory supervision upon his release," the prosecutor requested that the trial court "file nunc pro tunc entries in these cases stating that Randlett is subject to a mandatory five-year term of PRC." *Id.* at 3. Mr. Randlett opposed the motion, and, "so that there [would be] no misunderstanding on the part of the Ohio Department of Rehabilitation and Corrections, * * * request[ed] a ruling by the Court declaring that Postrelease Control is not a part of Defendant's sentence in these cases."

September 17, 2020 Memorandum Contra and Cross-Motion at 1 (in trial court docket of which this court takes judicial notice); *see id.* at 3-4 ("The language in the Sentencing Entries does not impose postrelease control, and as such, postrelease control is not a part of Defendant's sentence. * * * * Because the State did not appeal these 'voidable' Sentencing Entries, the Court's judgment in these cases is final.").

{¶ 13} The trial court found "good cause" for the state's motion and in each of the three cases issued a nunc pro tunc order "to reflect that the Defendant is subject to a mandatory five-year term of Post Release Control." October 6, 2020 Nunc Pro Tunc Order. For each case, that alteration took the form of adding the phrase "**is Five (5) years mandatory**" at the end of the April 3, 2003 sentencing entry's statement that "[a]fter the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d), and (e)." (We see no dispute that as to cases 01CR-705 and 01CR-4353, the nunc pro tunc change accurately described what actually was said at the sentencing hearing; further, the state acknowledges that the trial court at the sentencing hearing never correctly advised Mr. Randlett of the mandatory applicable five-year period of postrelease control in 02CR-1721, in that the trial court mistakenly thought that such period did not apply to fourth- or fifth-degree felony sex offenses. And because they purport to reach back to the March 31, 2003 sentencing hearing, the nunc pro tunc orders naturally do not purport to incorporate this court's *Randlett I* sentence modifications: neither those clarifications nor Mr. Randlett's prison release date is at issue here.)

{¶ 14} Mr. Randlett did not appeal the nunc pro tunc orders, but responded with his petition seeking mandamus. The gist of his argument is that the "original [three] April 3, 2003 sentencing entries * * * failed to properly impose[] PRC because they did not provide the statutorily compliant notification regarding postrelease control," Mandamus Petition at ¶ 42; that "[i]f the entries contain a legal error favoring a defendant, then the **State** should have appealed the error * * * * and is therefore barred by res judicata from now claiming, more than seventeen (17) years later, that the trial court failed to properly impose PRC in the sentencing entries," *id.* at ¶ 32, 31 (emphasis in original); and that the trial court in any event lacked subject matter jurisdiction over the three cases in which it issued nunc pro tunc entries because Mr. Randlett already had served his sentence in those three cases

and was imprisoned only on 02CR-1738, for which postrelease control does not obtain, *id.* at ¶ 33-38, 46-48.

{¶ 15} The state moved to dismiss Mr. Randlett's petition, and after review we consolidated those arguments with further filing and argument on the merits, which we considered at an oral hearing conducted on January 6, 2021. Both parties have made good presentations, but we do not accept Mr. Randlett's predicate that postrelease control would be unenforceable under the 2003 sentencing entries as originally issued. Our reading of the law is that the nunc pro tunc orders altered neither the fact nor the duration of the postrelease control imposed by the original entries. Mr. Randlett is correct that those original entries are res judicata, but that means not that by law he is out from under postrelease control obligations, but rather that he was to be subject to a mandatory five-year period of postrelease control upon his release from prison. Because the nunc pro tunc additions have no legal effect on the fact and duration of the postrelease control ordered, we do not find that Mr. Randlett has established a clear legal right to the writ he seeks. Therefore, we do not reach a conclusion as to the state's further argument that a writ would be improper because Mr. Randlett had an adequate remedy at law, through appeal, for any claims.

{¶ 16} "To be entitled to a writ of mandamus, a relator must establish, by clear and convincing evidence, (1) a clear legal right to the requested relief, (2) a clear legal duty on the part of the respondent to provide it, and (3) the lack of an adequate remedy in the ordinary course of the law." *State ex rel. Olmstead v. Forsthoefel*, __Ohio St.3d __, 2020-Ohio-4951, ¶ 7, citing *State ex rel. Love v. O'Donnell*, 150 Ohio St.3d 378, 2017-Ohio-5659, ¶ 3.

{¶ 17} The premise of Mr. Randlett's writ request is that "**To 'Adequately Impose' PRC, Corrective Action Was Necessary,**" November 18, 2020 Memorandum Contra Respondent's Motion to Dismiss, [Etc.] at 17 (emphasis in original), and that because of res judicata and also what he argues was the expiration of his relevant sentences, the trial court lacked authority to order such corrective action, *see, e.g., id.* at 22 ("**Res Judicata Applies**") (emphasis in original), 34 ("A trial court lacks jurisdiction to impose PRC upon an offender when the sentence for the entire case has been already served").

{¶ 18} To bear out the first part of his argument, Mr. Randlett leans on *State v. Grimes*, 151 Ohio St.3d 19, 2017-Ohio-2927, and argues that it has retroactive effect to mean that because the April 3, 2003 sentencing entries omitted reference to the consequences of violating postrelease control and because the entries "do not indicate the length of Relator's term of post-release control and whether said term is mandatory or not," postrelease control could not be effectuated absent corrective action by the court. November 18, 2020 Memorandum at 17-20, 21 (also arguing at 21-22 that "the 2003 Sentencing Entries * * * were clearly not sufficient to comply with pre-*Grimes* post-release control notification requirements").

{¶ 19} But *Grimes* and its progeny, as Mr. Randlett recognizes, have in some significant part been overtaken by even more recent Supreme Court rulings. Here, we paint with a bit of a broad brush simply to sketch the background landscape.

{¶ 20} In the years immediately following Mr. Randlett's sentence, the Supreme Court made clear that " 'unless a trial court includes postrelease control in its sentence, the Adult Parole Authority is without authority to impose it.' " *Hernandez v. Kelly*, 108 Ohio St.3d 395, 2006-Ohio-126, ¶ 20, quoting *State v. Jordan*, 104 Ohio St.3d 21, 2004-Ohio-6085, ¶ 19 (overruled in part by *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913). But that postrelease control sentencing language did not need to be perfect, or even entirely correct, in order to withstand collateral attack. *See, e.g., Watkins v. Collins*, 111 Ohio St.3d 425, 2006-Ohio-5082, ¶ 53 (the "sentencing entries, although they mistakenly included wording that suggested that imposition of postrelease control was discretionary, contained sufficient language to authorize the Adult Parole Authority to exercise postrelease control over the petitioners. Consequently, * * * habeas corpus is not available to contest any error in the sentencing entries, and petitioners have or had an adequate remedy by way of appeal to challenge the imposition of postrelease control").

{¶ 21} Consistent with that guidance, this court regularly upheld against collateral attack the effectiveness of sentencing entry language advising prison and parole authorities that the court had imposed postrelease control requirements for the "applicable periods." For example, in *State v. Holloman*, 10th Dist. No. 11AP-454, 2011-Ohio-6138, ¶ 10, we addressed a formulation identical to the 2003 sentencing entries relevant here: "the trial court's judgment entry imposing appellant's sentence stated that 'the Court notified the

Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e).' " We said: "In similar post-release control notification cases, this court has concluded that post-release control may be properly imposed when the 'applicable periods' language in the trial court's sentencing entry, such as in the present case, is combined with other written or oral notification of the imposition of post-release control." *Id.* at ¶ 11 (citations omitted). The entry notification was proper and effective. *Id.* at ¶ 13. *See also, e.g., State v. King*, 10th Dist. No. 15AP-930, 2016-Ohio-1247, ¶ 16 ("applicable periods" entry language upheld against collateral attack: "This court has previously held that 'post-release control may be properly imposed when the "applicable periods" language in a trial court's sentencing entry "is combined with other written or oral notification of the imposition of post-release control" ' ") (citations omitted).

{¶ 22} It is fair to say that the landscape changed with *Grimes*. That 2017 decision involved a challenge to sanctions for violation of postrelease control terms that the offender argued had not been validly imposed in the first instance. In the process of upholding the sanctions, the Supreme Court majority held that "to validly impose postrelease control when the court orally provides all the required advisements * * *, the sentencing entry must contain the following information: (1) whether postrelease control is discretionary or mandatory, (2) the duration of the postrelease-control period, and (3) a statement to the effect that the Adult Parole Authority will administer the postrelease control pursuant to R.C. 2967.28 and that any violation by the offender of the conditions of postrelease control will subject the offender to the consequences set forth in that statute." 2017-Ohio-2927, at ¶ 1. *Grimes* further said that it is "the trial judge's responsibility to impose postrelease control, including the responsibility to interpret the law to determine in each case whether postrelease control is mandatory or discretionary and to determine the term of supervision as well as to advise the offender of those determinations * * *. It is the responsibility of the APA to carry out the sentence after the court imposes it, not to interpret the law and facts and impose its own sentence based on information in the sentencing entry." *Id.* at ¶ 21.

{¶ 23} But *Grimes* was not the end of the saga, as the parties here recognize. *State v. Harper*, 160 Ohio St.3d 480, 2020-Ohio-2913, "realign[ed]" Ohio precedent and established that "[w]hen a case is within a court's subject-matter jurisdiction and the accused is properly before the court [as Mr. Randlett unquestionably was in 2003], *any*

error in the exercise of that jurisdiction in imposing postrelease control renders the court's judgment voidable, permitting the sentence to be set aside if the error has been successfully challenged on direct appeal." *Id.* at ¶ 4 (emphasis added). In such circumstances, that is, "*any* error * * * in failing to properly impose postrelease control rendered the judgment of conviction voidable, not void, and it is not subject to collateral attack." *Id.* at ¶ 5 (adding: "Therefore, to the extent any prior case conflicts with our holding today, it is overruled").

{¶ 24} Although the sentencing court in *Harper* had failed to "include the consequences of a violation of postrelease control in the sentencing entry itself"—thus violating one of the three *Grimes* requirements for the "valid[]" imposition of postrelease control, 2017-Ohio-2927, at ¶ 1—defendant Harper had not appealed that error. 2020-Ohio-2913, at ¶ 8. The Supreme Court found it "time * * * to reevaluate the basic premise of our void-sentence jurisprudence and the remedy for the failure to properly impose postrelease control." *Id.* at ¶ 34. The court observed that "[i]f the entry were merely voidable, res judicata would apply," *id.* at ¶ 18, and it noted the virtues of finality and judicial economy that come with a definitive end to litigation, *id.* at ¶ 37. Then the court held: "we overrule our precedent to the extent that it holds that the failure to properly impoose postrelease control in the sentence renders that portion of a defendant's sentence void." *Id.* at ¶ 40. Significantly for the purposes of the matter before us, we note that the Supreme Court continued: "*Any* error in imposing the postrelease-control sanction in [Harper's] sentence * * * could have been objected to at trial and that may have been reversible error on direct appeal. However, such an error [that is, 'any' error in imposing postrelease control] did not render any part of Harper's sentence void." *Id.* at ¶ 41 (emphasis added); *see also id.* at ¶ 43 (Court cautions "prosecuting attorneys, defense counsel, and pro se defendants throughout this state that they are now on notice that any claim that the trial court has failed to properly impose postrelease control in the sentence must be brought on appeal from the judgment of conviction or the sentence will be subject to res judicata").

{¶ 25} We understand *Harper* to mean that the three entries in Mr. Randlett's cases signaling the imposition of postrelease control are controlled by res judicata regardless of any *Grimes*-type error that might have been but that was not raised on direct appeal. That teaching has the effect of revalidating, where the issue was not taken up on direct appeal, the result of this district's substantial jurisprudence giving effect against collateral attacks

to the "appropriate periods" sentencing entry language that the Randlett sentencing entries contained.

{¶ 26} *State v. Hudson*, __ Ohio St.3d __, 2020-Ohio-3849, buttresses our reading of *Harper*. "Relying on *Grimes*," the offender there argued that he could not be subject to postrelease control because the sentencing entry did not include notice of the consequences of postrelease control violation; it was too late to correct the entry, he urged, because he had served the prison term to which postrelease control attached. *Id.* at ¶ 1. The Supreme Court said again that the sentencing entry's "failure [to include consequence language] does not render *any* part of the sentence void." *Id.* at ¶ 3 (emphasis added). We take that to mean that the failure did not invalidate the entry's imposition of postrelease control, which was res judicata. *See also id.* at ¶ 16 (any error in properly imposing postrelease control "did not render *any* part of [the] sentence void") (emphasis added); ¶ 17 (when sentencing court has jurisdiction, "sentencing errors in imposing postrelease control render the sentence voidable, not void, and the doctrine of res judicata will apply to collateral attacks on it"). Thus, the Supreme Court said that it did not need to decide whether Hudson had fully served the sentence to which postrelease control attached, "because * * * this collateral attack on his sentence is barred by res judicata." *Id.* at ¶ 10.

{¶ 27} The Supreme Court "therefore" reversed a remand that this court had ordered requiring the trial court to correct its postrelease control entry. *Id.* at ¶ 19. *Harper* had done the same thing. 2020-Ohio-2913, at ¶ 44. Informed by *Harper* and *Hudson*, we agree with what we take to be Mr. Randlett's assumption that "absent a timely appeal, res judicata generally allows only the correction of a void sanction." *State v. Holdcraft*, 137 Ohio St.3d 526, 2013-Ohio-5014, ¶ 9, citing *State v. Fischer*, 128 Ohio St.3d 92, 2010-Ohio-6238, ¶ 40. Postconviction release sentences that at one point may have been voidable, but that were not voided and are not void, cannot appropriately be revised, nor can postrelease control be added to res judicata sentences that did not mention postrelease control in the first place. But here, the more salient point—and the place where we part company with Mr. Randlett's analysis—is that because the imperfect imposition of postrelease control in his cases was never voided, that part of his sentences remained in full force.

{¶ 28} The legal effect of the challenged nunc pro tunc entries was redundant: the imposition of postrelease control for "appropriate periods" in this case already had the

effect of imposing a five-year mandatory period of PRC in each of the three cases. (That is true, we conclude, even with regard to case number 02CR-1721, where the entry—now res judicata—contained the "appropriate periods" language despite seeming incongruity with certain remarks at the sentencing hearing.)

{¶ 29} *State v. Bell*, 160 Ohio St.3d 216, 2020-Ohio-3104, puts an even finer point on the analysis. This court had *affirmed* a trial court judgment denying a motion to vacate postrelease control as not in compliance with *Grimes*, but remanded the matter for the trial court to issue a nunc pro tunc entry correcting the sentencing entry. *See State v. Bell*, 10th Dist. No. 17AP-645, 2018-Ohio-3576, ¶ 13. The Supreme Court reversed the remand, while leaving the affirmance in place. 2020-Ohio-3104, at ¶ 1. *Bell* again confirms that res judicata entries that imposed postrelease control in a way violative of *Grimes* stand, unaltered (and unchangeable).

{¶ 30} Mr. Randlett cites to *State v. Payne*, 10th Dist. No. 19AP-248, 2020-Ohio-1009, for the proposition that "the trial court's judgment entries [there, and by extension here] were contrary to law because, under *Grimes*, they did not properly impose post-release control"; therefore, he urges, the " 'applicable periods' language [employed only for the 'possibility' of use in the original entries in *Payne, id.* at ¶ 35]" does not "mean ' " 'the statute controls.' " ' " December 30, 2020 Relator's Reply at 4, citing *Payne* at ¶ 33-39 as in contrast with the state's briefing. But the single-judge lead opinion in *Payne* issued *before Harper* and *Hunter* realigned Ohio precedent and made clear that *Grimes*-type errors in imposing postrelease control do not make the postrelease control part of a sentence void. *See, e.g., Harper* at ¶ 5 ("any error * * * in failing to properly impose postrelease control rendered the judgment of conviction voidable, not void, and it is not subject to collateral attack"; previous decisions in conflict with that holding are "overruled"). The view of the lead opinion in *Payne* that "[w]hen post-release control is not appropriately imposed [under *Grimes* analysis] in a trial court's judgment entry, the sentence is partially void and never becomes final in that limited respect," 2020-Ohio-1009, at ¶ 37, has been overtaken by subsequent Supreme Court authority (here with regard to sentencing entries that did impose postrelease control, *see* 2003 sentencing entries; *see also* Mandamus Petition at ¶ 39 ("[t]hese three cases were the only cases for which postrelease could be, and was, in fact, imposed by the trial court at sentencing").

{¶ 31} Understood in light of *Harper* and *Hudson* and *Bell* and for the reasons discussed above, the legal effect of the nunc pro tunc entries here was to add a coda signifying little more than, 'and the court means it.' The imposition of postrelease control had not been appealed, and was res judicata. The law requires a five-year period of postrelease control for Mr. Randlett. R.C. 2967.28(B)(1); *see also* R.C. 2967.28(F)(4)(c) ("period of post-release control for all of the sentences should be the period of post-release control that expires last"). Here, moreover, and even beyond the "appropriate periods" sentencing entry language that had effectuated postrelease control in many cases under reasonably longstanding authority of this court, the record contains a clear "Notice (Prison Imposed)," signed by the defendant and his lawyer and filed in the trial court on April 7, 2003 reciting that the relevant "Post-Release Control" period is, for "felony sex offenders – mandatory 5 years."

{¶ 32} Thus, in appraising whether the res judicata entries' imposition of postrelease control without specification of the mandatory five-year nature of that term adequately directs that postrelease control be for the "appropriate periods," we need not even turn to the direction provided by *Fraley v. Ohio Dept. of Rehab & Corr.*, ___ Ohio St.3d ___, 2020-Ohio-4410. That decision states: "When a statute requires sentences to be served consecutively and the sentencing entry is silent as to how the sentences are to run, the statute controls." *Id.* at ¶ 13 (citation omitted). Analogy from that principle of *Fraley* to this current matter, with the trial court having adverted to postrelease control for the "appropriate periods," would not be much of a stretch in concluding that the Department of Corrections must observe statutory law in the face of silence as to the mandatory five-year nature of the period. *See also id.* at ¶ 17-18 ("DRC's role is not to correct a sentencing court's errors and impose the sentence it believes the court should have imposed. * * * * DRC has a clear legal duty to carry out the sentence that the trial court imposed * * *."). As we have observed, however, the written court record, including the "Notice (Prison Imposed)" document, is not silent (and is consistent with statute). The *Fraley* reminder thus supports, but is not necessary to, the conclusion that the sentencing entries as they issued in 2003 required a five-year mandatory period for the postrelease control to which they adverted.

{¶ 33} Because Mr. Randlett had been sentenced in the original 2003 entries to what was to amount to a five-year mandatory period of postrelease control, we do not accept his predicate that the nunc pro tunc entries imposed that component of his sentence for the first time. *See supra* at ¶ 17. We conclude, therefore, that Mr. Randlett does not have a clear legal right to the "extraordinary remedy" he seeks. *Compare, e.g., State ex rel. Evans v. Chambers-Smith*, 156 Ohio St.3d 430, 2019-Ohio-1335, ¶ 13 (prison record case: "Mandamus, as an extraordinary remedy, is available to inmates to correct prison records only upon an allegation of present harm"); *State v. White*, 10th Dist. No. 19AP-153, 2020-Ohio-4313, ¶ 3 (offender "cannot be heard now to complain that the trial court improperly used the nunc pro tunc mechanism to reduce the postrelease control term to its statutorily specified three-year period: as the state submits, that alteration in no way harms" him; also citing *Hudson* and *Harper* in noting at ¶ 2 that "[b]ecause a claimed mistake in postrelease control does not make even that portion of [a years' old] sentence void, any such asserted error that was not challenged on direct appeal from the sentence 'is now barred by the doctrine of res judicata' ").

{¶ 34} Lacking a clear legal right to the extraordinary remedy he seeks, Mr. Randlett is not entitled to the writ. Therefore we need not explore whether any adequate remedy at law also would operate to bar his mandamus pursuit. We deny Mr. Randlett's petition for a writ of mandamus, and the state's motion to dismiss the petition is rendered moot.

Petition for writ of mandamus denied;
motion to dismiss petition rendered moot.

SADLER and LUPER SCHUSTER, JJ., concur.

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

The State ex rel. Larry A. Randlett,	:	
Relator,	:	
v.	:	No. 20AP-489
Judge Julie M. Lynch,	:	(REGULAR CALENDAR)
Respondent.	:	

JUDGMENT ENTRY

For the reasons stated in the decision of this court rendered herein on January 28, 2021, it is the judgment and order of this court that relator's request for a writ of mandamus is hereby denied. Any outstanding appellate court costs are waived.

Within three (3) days from the filing hereof, the clerk of this court is hereby ordered to serve upon all parties not in default for failure to appear notice of this judgment and its date of entry upon the journal.

NELSON, SADLER & LUPER SCHUSTER, JJ.

/S/JUDGE

Tenth District Court of Appeals

Date: 01-28-2021

Case Title: STATE OF OHIO, EX REL LARRY A RANDLETT -VS- JUDGE JULIE LYNCH

Case Number: 20AP000489

Type: JEJ - JUDGMENT ENTRY

So Ordered

/s/ Judge Frederick D. Nelson

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY OHIO

CRIMINAL DIVISION

2003 APR -3 AM 7:44

CLERK OF COURTS

STATE OF OHIO, : **TERMINATED: NO. 13 BY pm**

Plaintiff, :

-v- : Case No. 01CR-02-705

Larry A. Randlett, : **JUDGE McGRATH**

Defendant. :

JUDGMENT ENTRY

On February 10, 2003, the State of Ohio was represented by Prosecuting Attorney Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to **Counts Seven and Eight** of the Indictment, to wit: **Sexual Battery without specifications**, in violation of Section 2907.03 of the Ohio Revised Code, all being felonies of the third degree; and further, to **Counts One, Two, Three, Four, Nine and Ten** of the Indictment, to wit: **Gross Sexual Imposition without specifications**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the fourth degree.

The Court found the Defendant guilty of the charges to which the plea was entered.

Upon application of the Prosecuting Attorney and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for Counts Five and Six of the indictment.

The Court ordered and received a pre-sentence investigation.

On March 31, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Prosecuting Attorney Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The prosecuting attorney and the Defendant's attorney **did not recommend a sentence**.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on him own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence: **Three (3) years** as to **Count Seven, Three (3) years** as to **Count Eight, Twelve (12) months** as to **Count One, Twelve (12) months** as to **Count Two, Twelve (12) months** as to **Count Three, Twelve (12) months** as to **Count Four, Twelve (12) months** as to **Count Nine and Twelve (12) months** as to **Count Ten at the Ohio Department of Rehabilitation and Correction. Counts One, Two, Three, Four, Nine, Ten and Seven are to run concurrent with each other and Count Eight is to run consecutive with all other counts and with Case Nos. 02CR-1721, 01CR-4353 and 02CR-1738.**

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

The Court disapproves of the offender's placement in a shock incarceration or an intensive prison program.

After imposing sentence the Court gave its finding and stated on the record its reasons for imposing this sentence as required by R.C. 2929.19(B)(2)(a), (b), (c), (d) and (e).

The Court, having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No fines imposed.**

The total costs are to be determined. The defendant shall pay the total costs of this prosecution.

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e).

The Court finds that the Defendant has **58 days** of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail

time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

Patrick M. McGrath, Judge

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 01CR-02-705

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY OHIO

CRIMINAL DIVISION

2003 APR -3 AM 7:47

CLERK OF COURTS

STATE OF OHIO, : **TERMINATED: NO. 12 BY pm**

Plaintiff, :

-v- : Case No. 01CR-08-4353

Larry A. Randlette, : **JUDGE McGRATH**

Defendant. :

JUDGMENT ENTRY

On February 10, 2003, the State of Ohio was represented by Prosecuting Attorney Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to the following: **Counts Ten, Eleven, Twelve, Thirteen, Fourteen, Fifteen and Seventeen** of the Indictment, to wit: **Gross Sexual Imposition without specifications**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the third degree; **Counts One, Two and Three** of the Indictment, to wit: **Gross Sexual Imposition**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the fourth degree; **Counts Five, Seven, Nineteen, Twenty-One, Twenty-Three and Twenty-Five** of the Indictment, to wit: **Corruption of a Minor**, in violation of Section 2907.04 of the Ohio Revised Code, all being felonies of the fourth degree; **Counts Twenty-Six, Twenty-Seven, Twenty-Eight, Twenty-Nine, Thirty and Thirty-One** of the Indictment, to wit: **Gross Sexual Imposition**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the fourth degree; **Count Thirty-Two** of the Indictment, to wit: **Disseminating Matter Harmful to Juveniles**, in violation of Section 2907.31 of the Ohio Revised Code, a felony of the fourth degree; and **Counts Eight and Thirty-Four** of the Indictment, to wit: **Disseminating Matter Harmful to Juveniles**, in violation of Section 2907.31 of the Ohio Revised Code, all being felonies of the fifth degree.

The Court found the Defendant guilty of the charges to which the plea was entered.

Upon application of the Prosecuting Attorney and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for Counts Four, Six, Nine, Sixteen, Eighteen,

Twenty, Twenty-Two, Twenty-Four, Thirty-Three, Thirty-Five and Thirty-Six of the indictment.

The Court ordered and received a pre-sentence investigation.

On March 31, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Prosecuting Attorney Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The prosecuting attorney and the Defendant's attorney **did not recommend a sentence**.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on him own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence: **Three (3) years** as to **Count Ten, Three (3) years** as to **Count Eleven, Three (3) years** as to **Count Twelve, Three (3) years** as to **Count Thirteen, Three (3) years** as to **Count Fourteen, Three (3) years** as to **Count Fifteen, Three (3) years** as to **Count Seventeen, Twelve (12) months** as to **Count One, Twelve (12) months** as to **Count Two, Twelve (12) months** as to **Count Three, Twelve (12) months** as to **Count Five, Twelve (12) months** as to **Count Seven, Twelve (12) months** as to **Count Nineteen, Twelve (12) months** as to **Count Twenty-One, Twelve (12) months** as to **Count Twenty-Three, Twelve (12) months** as to **Count Twenty-Five, Twelve (12) months** as to **Count Twenty-Six, Twelve (12) months** as to **Count Twenty-Seven, Twelve (12) months** as to **Count Twenty-Eight, Twelve (12) months** as to **Count Twenty-Nine, Twelve (12) months** as to **Count Thirty, Twelve (12) months** as to **Count Thirty-One, Twelve (12) months** as to **Count Thirty-Two, Six (6) months** as to **Count Eight and Six (6) months** as to **Count Thirty-Four at the Ohio Department of Rehabilitation and Correction. Counts**

Ten, Eleven, Five, Seven, Twelve, Thirteen, Fourteen, Fifteen, Seventeen, Nineteen, Twenty-One, Twenty-Three, Twenty-Five, Twenty-Six, Twenty-Seven, Twenty-Eight, Twenty-Nine, Thirty, Thirty-One, Thirty-Two, Eight and Thirty-Four are to run concurrent with each other. Counts One, Two and Three are to run consecutive with each other, with all other counts, and further, consecutive with Case Nos. 01CR-705, 02CR-1738 and 02CR-1721.

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

The Court disapproves of the offender's placement in a shock incarceration or an intensive prison program.

After imposing sentence the Court gave its finding and stated on the record its reasons for imposing this sentence as required by R.C. 2929.19(B)(2)(a), (b), (c), (d) and (e).

The Court, having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No fines imposed.**

The total costs are to be determined. The defendant shall pay the total costs of this prosecution.

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e).

The Court finds that the Defendant has **58 days** of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

Patrick M. McGrath, Judge

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 01CR-08-4353

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

CRIMINAL DIVISION

STATE OF OHIO,	:	**TERMINATED: NO. 12 BY pm**
Plaintiff,	:	
-v-	:	Case No. 02CR-03-1721
Larry A. Randlett,	:	**JUDGE McGRATH**
Defendant.	:	

JUDGMENT ENTRY

On February 10, 2003, the State of Ohio was represented by Prosecuting Attorney Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to **Counts Twenty-One, Twenty-Three, Twenty-Five, Twenty-Seven, Twenty-Nine, Thirty-One, Thirty-Three, Thirty-Five and Thirty-Seven** of the Indictment, to wit: **Corruption of a Minor**, in violation of Section 2907.04 of the Ohio Revised Code, all being felonies of the fourth degree.

The Defendant also entered a plea of guilty to the following offenses which occurred before July of 1996 prior to Am. Sub. S.B. 2.: **Counts One, Two and Three** of the Indictment, to wit: **Gross Sexual Imposition**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the fourth degree; and further, to **Counts Five, Seven, Nine, Eleven, Thirteen, Fifteen, Seventeen and Nineteen** of the Indictment, to wit: **Corruption of a Minor**, in violation of Section 2907.04 of the Ohio Revised Code, all being felonies of the third degree.

The Court found the Defendant guilty of the charges to which the plea was entered.

Upon application of the Prosecuting Attorney and for good cause shown, it is ORDERED that a **Nolle Prosequi** be entered for **Counts Twenty, Twenty-Two, Twenty-Four, Twenty-Six, Twenty-Eight, Thirty, Thirty-Two, Thirty-Four, Thirty-Six and Forty** and further, to the following counts that occurred before July of 1996 prior to Am. Sub. S.B. 2, **Four, Six, Eight, Ten, Twelve, Fourteen, Sixteen, Eighteen, Thirty-Eight and Thirty-Nine**.

The Court ordered and received a pre-sentence investigation.

On March 31, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Prosecuting Attorney Angela

Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The prosecuting attorney and the Defendant's attorney **did not recommend a sentence.**

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on him own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence: **Twelve (12) months** as to **Count Twenty-One, Twelve (12) months** as to **Count Twenty-Three, Twelve (12) months** as to **Count Twenty-Five, Twelve (12) months** as to **Twenty-Seven, Twelve (12) months** as to **Count Twenty-Nine, Twelve (12) months** as to **Thirty-One, Twelve (12) months** as to **Count Thirty-Three, Twelve (12) months** as to **Count Thirty-Five and Twelve (12) months** as to **Count Thirty-Seven at the Ohio Department of Rehabilitation and Correction**. The Court also imposes the following sentence with regard to the offenses, which occurred prior to Am. Sub. S.B. 2, where the defendant is not subject to post release control: **One (1) year** as to **Count One, One (1) year** as to **Count Two, One (1) year** as to **Count Three, One (1) year** as to **Count Five, One (1) year** as to **Count Seven, One (1) year** as to **Count Nine, One (1) year** as to **Count Eleven, One (1) year** as to **Count Thirteen, One (1) year** as to **Count Fifteen, One (1) year** as to **Count Seventeen,** and **One (1) year** as to **Count Nineteen at the Ohio Department of Rehabilitation and Correction. Counts Thirty-One, Thirty-Three, Thirty-Five and Thirty-Seven are to run concurrent with each other and concurrent with Counts One, Two, Three, Eleven, Thirteen, Fifteen, Seventeen and Nineteen which are also to run concurrent with each other. Counts Twenty-One, Twenty-Three, Twenty-Five, Twenty-Seven, Twenty-Nine, Five, Seven and Nine are to run consecutive with each other, with all other counts, and further, consecutive with Case Nos. 02CR-1738, 01CR-705 and 01CR-4353.**

The Court disapproves of the offender's placement in a shock incarceration or an intensive prison program.

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

After imposing sentence the Court gave its finding and stated on the record its reasons for imposing this sentence as required by R.C. 2929.19(B)(2)(a), (b), (c), (d) and (e).

The Court, having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No fines imposed.**

The total costs are to be determined. The defendant shall pay the total costs of this prosecution.

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c), (d) and (e).

The Court finds that the Defendant has **58 days** of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

Patrick M. McGrath, Judge

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 02CR-03-1721

IN THE COURT OF COMMON PLEAS OF FRANKLIN COUNTY, OHIO

CRIMINAL DIVISION

STATE OF OHIO, : **TERMINATED: NO. 12 BY PM**

Plaintiff, :

-v- : Case No. 02CR-03-1738

Larry A. Randlett, **JUDGE McGRATH**

Defendant. :

ENTRY

In the Court of Common Pleas for the County of Franklin, State of Ohio, during the term begun on January 2, 2003.

On February 10, 2003, came the Prosecuting Attorney on behalf of the State of Ohio, the defendant being in Court in custody of the Sheriff and the Court being fully advised in the premises that the defendant was in Court and being represented by counsel, Thomas Tyack.

The defendant on March 31, 2003, entered a plea of guilty to **Counts Two, Three, Five, Seven, Twenty-Five and Twenty-Six** of the Indictment, to wit: **Gross Sexual Imposition**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the third degree; to **Counts Nine, Ten, Thirteen, Eighteen, Nineteen, Twenty-Three, Twenty-Eight and Twenty-Nine** of the Indictment, to wit: **Gross Sexual Imposition**, in violation of Section 2907.05 of the Ohio Revised Code, all being felonies of the fourth degree; and further, to **Count Sixteen** of the Indictment, to wit: **Corruption of a Minor**, in violation of Section 2907.04 of the Ohio Revised Code, a felony of the third degree and was found guilty of said charges by the Court.

Upon application of the Prosecuting Attorney and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for Counts One, Four, Six, Eight, Eleven, Twelve, Fourteen, Fifteen, Seventeen, Twenty, Twenty-One, Twenty-Two, Twenty-Four and Twenty-Seven of the indictment.

The Court afforded counsel an opportunity to speak on behalf of the defendant and addressed the defendant personally affording him an opportunity to make a statement in his own behalf and present information in mitigation of punishment.

The Court has considered all matters required by Sections 2929.12 and 2951.02 of the Ohio Revised Code, and it is the sentence of the Court that the defendant pay the costs of this prosecution and serve **One and one half (1 ½) years** as to **Count Two, One and one half (1 ½) years** as to **Count Three, One and one half (1 ½) years**

as to **Count Five, One and one half (1 ½) years** as to **Count Seven, One and one half (1 ½) years** as to **Count Twenty-Five, One and one half (1 ½) years** as to **Count Twenty-Six, One and one half (1 ½) years** as to **Count Sixteen, One (1) year** as to **Count Nine, One (1) year** as to **Count Ten, One (1) year** as to **Count Thirteen, One (1) year** as to **Count Eighteen, One (1) year** as to **Count Nineteen, One (1) year** as to **Count Twenty-Three, One (1) year** as to **Count Twenty-Eight, and One (1) year** as to **Count Twenty-Nine** at the **Ohio Department of Rehabilitation and Correction. Counts Five, Seven, Twenty-Five, Twenty-Six, Sixteen, Nine, Ten, Thirteen, Eighteen, Nineteen, Twenty-Three, Twenty-Eight and Twenty-Nine are to run concurrent with each other and Counts Two and Three are to run consecutive with each other, with all other counts, and further, consecutive with Case Nos. 01CR-4353, 02CR-1721 and 01CR-705.**

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

The Court has factually found that the defendant is to receive **58 days** of jail credit and hereby certifies the same to the Ohio Department of Correction. The defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

Patrick M. McGrath, Judge

Costs: $
Jury Fee: $
Total: $

Case No. 02CR-03-1738

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
Plaintiff,	:	Case No. 01CR-02-705 Case No. 01CR-08-4353
v.	:	Case No. 02CR-03-1721
LARRY A. RANDLETT,	:	JUDGE LYNCH
Defendant.	:	

NUNC PRO TUNC ORDER

Upon motion of the State of Ohio, and for good cause shown, a nunc pro tunc entry is filed on the above-captioned cases to reflect that the Defendant is subject to a mandatory five-year term of Post Release Control.

IT IS SO ORDERED.

Copies electronically to:

Seth Gilbert
Assistant Prosecuting Attorney

Thomas M. Tyack, Esq.
Counsel for Defendant

Franklin County Court of Common Pleas

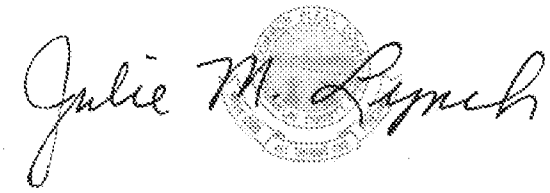
Date: 10-06-2020

Case Title: STATE OF OHIO -VS- LARRY A RANDLETT

Case Number: 01CR000705

Type: ENTRY/ORDER

It Is So Ordered.



/s/ Judge Julie M. Lynch

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	Termination 13 by: PM
Plaintiff,	:	Case No. 01CR-02-705
vs.	:	JUDGE MCGRATH JUDGE LYNCH
LARRY A. RANDLETT,	:	
Defendant.	:	

NUNC PRO TUNC
JUDGMENT ENTRY
(Prison Imposed)

On February 10, 2003, the State of Ohio was represented by Prosecuting Attorneys Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to **Counts Seven and Eight** of the Indictment, to wit: **Sexual Battery, without specifications**, a violation of Section **2907.03** of the Ohio Revised Code, all being felonies of the third degree; and further, to **Counts One, Two, Three, Four, Nine and Ten** of the Indictment, to wit: **Gross Sexual Imposition, without specifications**, a violation of Section **2907.05** of the Ohio Revised Code, all being felonies of the fourth degree.

The Court found the Defendant guilty of the charge to which the plea was entered.

Upon application of the Prosecuting Attorney, and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for Counts Five and Six of the indictment.

The Court ordered and received a pre-sentence investigation.

On March 31, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Prosecuting Attorneys Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Prosecuting Attorney and the Defendant's attorney **did not recommend a sentence**.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf in the form of mitigation and to present information regarding the existence

or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence: **Three (3) years as to Count Seven, Three (3) years as to Count Eight, Twelve (12) months as to Count One, Twelve (12) months as to Count Two, Twelve (12) months as to Count Three, Twelve (12) months as to Count Four, Twelve (12) months as to Count Nine and Twelve (12) months as to Count Ten** at the **Ohio Department of Rehabilitation and Correction. Counts One, Two, Three, Four, Nine, Ten and Seven are to run concurrent with each other and Count Eight is to run consecutive with all other counts and with Case Nos. 02CR-1721, 01CR-4353 and 02CR-1738.**

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

The Court disapproves of the offender's placement in a shock incarceration or an intensive prison program.

After imposing sentence the Court gave its finding and stated on the record its reasons for imposing this sentence as required by R.C. 2929.19(B)(2)(a),(b),(c),(d) and (e).

The Court having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No fines imposed**.

The total costs are to be determined. The defendant shall pay the total costs of this prosecution.

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c),(d) and (e) is **Five (5) years mandatory.**

The Court finds that the Defendant has **58** days of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 01CR-02-705

Franklin County Court of Common Pleas

Date: 10-08-2020

Case Title: STATE OF OHIO -VS- LARRY A RANDLETT

Case Number: 01CR000705

Type: ENTRY/ORDER

It Is So Ordered.

/s/ Judge Julie M. Lynch

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
Plaintiff,	:	Case No. 01CR-02-705 Case No. 01CR-08-4353
v.	:	Case No. 02CR-03-1721
LARRY A. RANDLETT,	:	JUDGE LYNCH
Defendant.	:	

NUNC PRO TUNC ORDER

Upon motion of the State of Ohio, and for good cause shown, a nunc pro tunc entry is filed on the above-captioned cases to reflect that the Defendant is subject to a mandatory five-year term of Post Release Control.

IT IS SO ORDERED.

Copies electronically to:

Seth Gilbert
Assistant Prosecuting Attorney

Thomas M. Tyack, Esq.
Counsel for Defendant

Franklin County Court of Common Pleas

Date: 10-06-2020

Case Title: STATE OF OHIO -VS- LARRY A RANDLETT

Case Number: 01CR004353

Type: ENTRY/ORDER

It Is So Ordered.

/s/ Judge Julie M. Lynch

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	Termination 12 by: PM
Plaintiff,	:	Case No. 01CR-08-4353
vs.	:	JUDGE MCGRATH JUDGE LYNCH
LARRY A. RANDLETT,	:	
Defendant.	:	

NUNC PRO TUNC
JUDGMENT ENTRY
(Prison Imposed)

On February 10, 2003, the State of Ohio was represented by Prosecuting Attorneys Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to the following: **Counts Ten, Eleven, Twelve, Thirteen, Fourteen, Fifteen and Seventeen** of the Indictment, to wit: **Gross Sexual Imposition, without specifications**, in violation of Section **2907.05** of the Ohio Revised Code, all being felonies of the third degree; **Counts One, Two and Three** of the Indictment, to wit: **Gross Sexual Imposition,** in violation of Section **2907.05** of the Ohio Revised Code, all being felonies of the fourth degree; **Counts Five, Seven, Nineteen, Twenty-One, Twenty-Three and Twenty-Five** of the Indictment, to wit: **Corruption of a Minor,** in violation of Section **2907.04** of the Ohio Revised Code, all being felonies of the fourth degree; **Counts Twenty-Six, Twenty-Seven, Twenty-Eight, Twenty-Nine, Thirty and Thirty-One** of the Indictment, to wit: **Gross Sexual Imposition,** in violation of Section **2907.05** of the Ohio Revised Code, all being felonies of the fourth degree; **Count Thirty-Two** of the Indictment, to wit: **Disseminating Matter Harmful to Juveniles,** in violation of Section **2907.31** of the Ohio Revised Code, a felony of the fourth degree; and **Counts Eight and Thirty-Four** of the Indictment, to wit: **Disseminating Matter Harmful to Juveniles,** in violation of Section **2907.31** of the Ohio Revised Code, all being felonies of the fifth degree.

The Court found the Defendant guilty of the charges to which the plea was entered.

Upon application of the Prosecuting Attorney, and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for **Counts Four, Six, Nine, Sixteen, Eighteen, Twenty, Twenty-Two, Twenty-Four, Thirty-Three, Thirty-Five and Thirty-Six** of the indictment.

The Court ordered and received a pre-sentence investigation.

On March 31, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Prosecuting Attorneys Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Prosecuting Attorney and the Defendant's attorney **did not recommend a sentence**.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence: **Three (3) years as to Count Ten, Three (3) years as to Count Eleven, Three (3) years as to Count Twelve, Three (3) yeas as to Count Thirteen, Three (3) years as to Count Fourteen, Three (3) years as to Count Fifteen, Three (3) years as to Count Seventeen, Twelve (12) months as to Count One, Twelve (12) months as to Count Two, Twelve (12) months as to Count Three, Twelve (12) months as to Count Five, Twelve (12) months as to Count Seven, Twelve (12) months as to Count Nineteen, Twelve (12) months as to Count Twenty-One, Twelve (12) months as to Count Twenty-Three, Twelve (12) months as to Count Twenty-Five, Twelve (12) months as to Count Twenty-Six, Twelve (12) months as to Count Twenty-Seven, Twelve (12) months as to Count Twenty-Eight, Twelve (12) months as to Count Twenty-Nine, Twelve (12) months as to Count Thirty, Twelve (12) months as to Count Thirty-One, Twelve (12) months as to Count Thirty-Two, Six (6) months as to Count Eight and Six (6) months as to Count Thirty-Four** at the **Ohio Department of Rehabilitation and Correction. Counts Ten, Eleven, Five, Seven,**

Twelve, Thirteen, Fourteen, Fifteen, Seventeen, Nineteen, Twenty-One, Twenty-Three, Twenty-Five, Twenty-Six, Twenty-Seven, Twenty-Eight, Twenty-Nine, Thirty, Thirty-One, Thirty-Two, Eight and Thirty-Four are to run concurrent with each other. Counts One, Two and Three are to run consecutive with each other, with all other counts, and further, consecutive with Case Nos. 01CR-705, 02CR-1738 and 02CR-1721.

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

The Court disapproves of the offender's placement in a shock incarceration or an intensive prison program.

After imposing sentence the Court gave its finding and stated on the record its reasons for imposing this sentence as required by R.C. 2929.19(B)(2)(a),(b),(c),(d) and (e).

The Court, having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No fines imposed**.

The total costs are to be determined. The defendant shall pay the total costs of this prosecution.

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c),(d) and (e) is **Five (5) years mandatory.**

The Court finds that the Defendant has **58** days of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 01CR-08-4353

Franklin County Court of Common Pleas

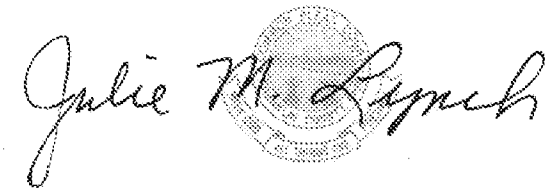
Date: 10-08-2020

Case Title: STATE OF OHIO -VS- LARRY A RANDLETT

Case Number: 01CR004353

Type: ENTRY/ORDER

It Is So Ordered.



/s/ Judge Julie M. Lynch

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
Plaintiff,	:	Case No. 01CR-02-705 Case No. 01CR-08-4353
v.	:	Case No. 02CR-03-1721
LARRY A. RANDLETT,	:	JUDGE LYNCH
Defendant.	:	

NUNC PRO TUNC ORDER

Upon motion of the State of Ohio, and for good cause shown, a nunc pro tunc entry is filed on the above-captioned cases to reflect that the Defendant is subject to a mandatory five-year term of Post Release Control.

IT IS SO ORDERED.

Copies electronically to:

Seth Gilbert
Assistant Prosecuting Attorney

Thomas M. Tyack, Esq.
Counsel for Defendant

Franklin County Court of Common Pleas

Date: 10-06-2020

Case Title: STATE OF OHIO -VS- LARRY A RANDLETT

Case Number: 02CR001721

Type: ENTRY/ORDER

It Is So Ordered.

/s/ Judge Julie M. Lynch

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	Termination 12 by: PM
Plaintiff,	:	Case No. 02CR-03-1721
vs.	:	JUDGE MCGRATH JUDGE LYNCH
LARRY A. RANDLETT,	:	
Defendant.	:	

NUNC PRO TUNC
JUDGMENT ENTRY
(Prison Imposed)

On February 10, 2003, the State of Ohio was represented by Prosecuting Attorneys Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Defendant, after being advised of his rights pursuant to Crim. R. 11, entered a plea of guilty to **Counts Twenty-One, Twenty-Three, Twenty-Five, Twenty-Seven, Twenty-Nine, Thirty-One, Thirty-Three, Thirty-Five, and Thirty-Seven** of the Indictment, to wit: **Corruption of a Minor,** in violation of Section **2907.04** of the Ohio Revised Code, all being felonies of the fourth degree.

The Defendant also entered a plea of guilty to the following offenses which occurred before July of 1996 prior to Am. Sub. S.B.2: **Counts One, Two and Three** of the Indictment, to wit: **Gross Sexual Imposition,** in violation of Section **2907.05** of the Ohio Revised Code, all being felonies of the fourth degree; and further, to **Counts Five, Seven, Nine, Eleven, Thirteen, Fifteen, Seventeen and Nineteen** of the Indictment, to wit: **Corruption of a Minor**, in violation of Section 2907.04 of the Ohio Revised Code, all being felonies of the third degree.

The Court found the Defendant guilty of the charge to which the plea was entered.

Upon application of the Prosecuting Attorney, and for good cause shown, it is ORDERED that a Nolle Prosequi be entered for **Counts Twenty, Twenty-Two, Twenty-Four, Twenty-Six, Twenty-Eight, Thirty, Thirty-Two, Thirty-Four, Thirty-Six, and Forty** and further, to the following counts that occurred before July of 1996 prior to Am. Sub. S.B. 2, **Four, Six, Eight, Ten, Twelve, Fourteen, Sixteen, Eighteen, Thirty-Eight and Thirty-**

Nine.

The Court ordered and received a pre-sentence investigation.

On March 31, 2003, a sentencing hearing was held pursuant to R.C. 2929.19. The State of Ohio was represented by Prosecuting Attorneys Angela Canepa and David Zeyen and the Defendant was represented by Attorney Thomas Tyack. The Prosecuting Attorney and the Defendant's attorney **did not recommend a sentence**.

The Court afforded counsel an opportunity to speak on behalf of the Defendant and addressed the Defendant personally affording him an opportunity to make a statement on his own behalf in the form of mitigation and to present information regarding the existence or non-existence of the factors the Court has considered and weighed.

The Court has considered the purposes and principles of sentencing set forth in R.C. 2929.11 and the facts set forth in R.C. 2929.12. In addition, the Court has weighed the factors as set forth in the applicable provisions of R.C. 2929.13 and R.C. 2929.14. The Court further finds that a prison term is not mandatory pursuant to R.C. 2929.13(F).

The Court hereby imposes the following sentence: **Twelve (12) months as to Count Twenty-One, Twelve (12) months as to Count Twenty-Three, Twelve (12) months as to Count Twenty-Five, Twelve (12) months as to Count Twenty-Seven, Twelve (12) months as to Count Twenty-Nine, Twelve (12) months as to Count Thirty-One, Twenty (12) months as to Count Thirty-Three, Twelve (12) months as to Count Thirty-Five and Twelve (12) months as to Count Thirty-Seven** at the **Ohio Department of Rehabilitation and Correction.** The Court also imposes the following sentence with regard to the offenses, which occurred prior to Am. Sub. S.B.2, where the defendant is not subject to post release control: **One (1) year as to Count One, One (1) year as to Count Two, One (1) year as to Count Three, One (1) year as to Count Five, One (1) year as to Count Seven, One (1) year as to Count Nine, One (1) year as to Count Eleven, One (1) year as to Count Thirteen, One (1) year as to Count Fifteen, One (1) year as to Count Seventeen, and One (1)year as to Count Nineteen** at the **Ohio Department of Rehabilitation and Correction. Counts Thirty-One, Thirty-Three, Thirty-Five and Thirty-Seven are to run concurrent with each other and concurrent with Counts One, Two, Three, Eleven, Thirteen, Fifteen, Seventeen, and Nineteen which are also to run concurrent with each other. Counts Twenty-One, Twenty-Three, Twenty-Five, Twenty-Seven, Twenty-Nine,**

Five, Seven and Nine are to run consecutive with each other, with all other counts, and further, consecutive with Case Nos. 02CR01738, 01CR-705 and 01CR-4353.

The Court disapproves of the offender's placement in a shock incarceration or an intensive prison program.

In addition, a hearing was held and the Court declared the Defendant to be a sexual predator under Section 2950.03 of the Ohio Revised Code.

After imposing sentence the Court gave its finding and stated on the record its reasons for imposing this sentence as required by R.C. 2929.19(B)(2)(a),(b),(c),(d) and (e).

The Court having considered the Defendant's present and future ability to pay a fine and financial sanctions, and, pursuant to R.C. 2929.18, hereby renders judgment for the following fine and/or financial sanctions: **No fines imposed**.

The total costs are to be determined. The defendant shall pay the total costs of this prosecution.

After the imposition of sentence, the Court notified the Defendant, orally and in writing, of the applicable periods of post-release control pursuant to R.C. 2929.19(B)(3)(c),(d) and (e) is **Five (5) years mandatory.**

The Court finds that the Defendant has **58** days of jail credit and hereby certifies the time to the Ohio Department of Corrections. The Defendant is to receive jail time credit for all additional jail time served while awaiting transportation to the institution from the date of the imposition of this sentence.

cc: Prosecuting Attorney
Defendant's Attorney

Case No. 02CR-03-1721

Franklin County Court of Common Pleas

Date: 10-08-2020

Case Title: STATE OF OHIO -VS- LARRY A RANDLETT

Case Number: 02CR001721

Type: ENTRY/ORDER

It Is So Ordered.

/s/ Judge Julie M. Lynch

Ohio | Department of Rehabilitation & Correction

Mike DeWine, Governor
Annette Chambers-Smith, Director

8/6/2020
To Prosecutor
Franklin County Courthouse
373 S. High St., 14th Fl. County Courthouse
Columbus, Ohio 43215

RE: A446914 Randlett, Larry A.
Franklin County Case No 02CR031721, 01CR02705 & 01CR084353
EST (all cases) 11/30/2020

Dear Prosecutor:

After reviewing the attached entry, we noticed that it does not include sufficient notification regarding post-release control.

In order for the APA to assess this individual for post-release control, post-release control must be properly included in the sentencing entry.

__X_1.) As the sentencing entry for this case omits post-release control, corrective action must be taken to ensure that the individual can be placed under post-release control supervision.

__X_2.) As the sentencing entry for this case omits the duration of the post-release control period, corrective action must be taken to ensure that the individual can be placed under post-release control supervision.

___3.)The sentencing entry for this case includes a duration of post-release control that is not consistent with R.C. 2967.28.

A corrected entry that imposes post-release control, and includes the prescribed duration in R.C. 2967.28, will enable the Parole Board to place this individual on post-release control.

Please send any entries to:
Ohio Parole Board
4545 Fisher Road, Suite D
Columbus, Ohio 43228
OR email to:
DRC.BOSC@odrc.state.oh.us
Thank you for your consideration in this matter.

Sincerely,
Brigid A. Slaton
Chief Hearing Officer
Ohio Parole Board

4545 Fisher Road, Suite D
Columbus, Ohio 43228
www.drc.ohio.gov

ORC Ann. 2929.14, Part 1 of 3

Current through File 8 of the 134th (2021-2022) General Assembly; all acts passed as of April 10, 2021.

§ 2929.14 Basic prison terms.

(A) Except as provided in division (B)(1), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (B)(8), (B)(9), (B)(10), (B)(11), (E), (G), (H), (J), or (K) of this section or in division (D)(6) of section 2919.25 of the Revised Code and except in relation to an offense for which a sentence of death or life imprisonment is to be imposed, if the court imposing a sentence upon an offender for a felony elects or is required to impose a prison term on the offender pursuant to this chapter, the court shall impose a prison term that shall be one of the following:

(1)

(a) For a felony of the first degree committed on or after the effective date of this amendment, the prison term shall be an indefinite prison term with a stated minimum term selected by the court of three, four, five, six, seven, eight, nine, ten, or eleven years and a maximum term that is determined pursuant to section 2929.144 of the Revised Code, except that if the section that criminalizes the conduct constituting the felony specifies a different minimum term or penalty for the offense, the specific language of that section shall control in determining the minimum term or otherwise sentencing the offender but the minimum term or sentence imposed under that specific language shall be considered for purposes of the Revised Code as if it had been imposed under this division.

(b) For a felony of the first degree committed prior to the effective date of this amendment, the prison term shall be a definite prison term of three, four, five, six, seven, eight, nine, ten, or eleven years.

(2)

(a) For a felony of the second degree committed on or after the effective date of this amendment, the prison term shall be an indefinite prison term with a stated minimum term selected by the court of two, three, four, five, six, seven, or eight years and a maximum term that is determined pursuant to section 2929.144 of the Revised Code, except that if the section that criminalizes the conduct constituting the felony specifies a different minimum term or penalty for the offense, the specific language of that section shall control in determining the minimum term or otherwise sentencing the offender but the minimum term or sentence imposed under that specific language shall be considered for purposes of the Revised Code as if it had been imposed under this division.

(b) For a felony of the second degree committed prior to the effective date of this amendment, the prison term shall be a definite term of two, three, four, five, six, seven, or eight years.

(3)

(a) For a felony of the third degree that is a violation of section 2903.06, 2903.08, 2907.03, 2907.04, 2907.05, 2907.321, 2907.322, 2907.323, or 3795.04 of the Revised Code or that is a violation of section 2911.02 or 2911.12 of the Revised Code if the offender previously has been convicted of or pleaded guilty in two or more separate proceedings to two or more violations of section 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code, the prison term shall be a definite term of twelve, eighteen, twenty-four, thirty, thirty-six, forty-two, forty-eight, fifty-four, or sixty months.

(b) For a felony of the third degree that is not an offense for which division (A)(3)(a) of this section applies, the prison term shall be a definite term of nine, twelve, eighteen, twenty-four, thirty, or thirty-six months.

(4) For a felony of the fourth degree, the prison term shall be a definite term of six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months.

(5) For a felony of the fifth degree, the prison term shall be a definite term of six, seven, eight, nine, ten, eleven, or twelve months.

(B)

(1)

(a) Except as provided in division (B)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, the court shall impose on the offender one of the following prison terms:

(i)A prison term of six years if the specification is of the type described in division (A) of section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender's person or under the offender's control while committing the offense;

(ii)A prison term of three years if the specification is of the type described in division (A) of section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using it to facilitate the offense;

(iii)A prison term of one year if the specification is of the type described in division (A) of section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense;

(iv)A prison term of nine years if the specification is of the type described in division (D) of section 2941.144 of the Revised Code that charges the offender with having a firearm that is an automatic firearm or that was equipped with a firearm muffler or suppressor on or about the offender's person or under the offender's control while committing the offense and specifies that the offender previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code;

(v)A prison term of fifty-four months if the specification is of the type described in division (D) of section 2941.145 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and displaying the firearm, brandishing the firearm, indicating that the offender possessed the firearm, or using the firearm to facilitate the offense and that the offender previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code;

(vi)A prison term of eighteen months if the specification is of the type described in division (D) of section 2941.141 of the Revised Code that charges the offender with having a firearm on or about the offender's person or under the offender's control while committing the offense and that the offender previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code.

(b) If a court imposes a prison term on an offender under division (B)(1)(a) of this section, the prison term shall not be reduced pursuant to section 2967.19, section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. Except as provided in division (B)(1)(g) of this section, a court shall not impose more than one prison term on an offender under division (B)(1)(a) of this section for felonies committed as part of the same act or transaction.

(c)

(i) Except as provided in division (B)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in division (A) of section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (B)(2), or (B)(3) of this section, shall impose an additional prison term of five years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code.

(ii) Except as provided in division (B)(1)(e) of this section, if an offender who is convicted of or pleads guilty to a violation of section 2923.161 of the Revised Code or to a felony that includes, as an essential element, purposely or knowingly causing or attempting to cause the death of or physical harm to another, also is convicted of or pleads guilty to a specification of the type described in division (C) of section 2941.146 of the Revised Code that charges the offender with committing the offense by discharging a firearm from a motor vehicle other than a manufactured home and that the offender previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the violation of section 2923.161 of the Revised Code or for the other felony offense under division (A), (B)(2), or (3) of this section, shall impose an additional prison term of ninety months upon the offender that shall not be reduced pursuant to section 2929.20, 2967.19, 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code.

(iii)A court shall not impose more than one additional prison term on an offender under division (B)(1)(c) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term on an offender under division (B)(1)(c) of this section relative to an offense, the court also shall impose a prison term under division (B)(1)(a) of this section relative to the same offense, provided the criteria specified in that division for imposing an additional prison term are satisfied relative to the offender and the offense.

(d) If an offender who is convicted of or pleads guilty to an offense of violence that is a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.1411 of the Revised Code that charges the offender with wearing or carrying body armor while committing the felony offense of violence, the court shall impose on the offender an additional prison term of two years. The prison term so imposed, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(1)(d) of this section for felonies committed as part of the same act or transaction. If a court imposes an additional prison term under division (B)(1)(a) or (c) of this section, the court is not precluded from imposing an additional prison term under division (B)(1)(d) of this section.

(e) The court shall not impose any of the prison terms described in division (B)(1)(a) of this section or any of the additional prison terms described in division (B)(1)(c) of this section upon an offender for a violation of section 2923.12 or 2923.123 of the Revised Code. The court shall not impose any of the prison terms described in division (B)(1)(a) or (b) of this section upon an offender for a violation of section 2923.122 that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16, or section 2923.121 of the Revised Code. The court shall not impose any of the prison terms described in division (B)(1)(a) of this section or any of the additional prison terms described in division (B)(1)(c) of this section upon an offender for a violation of section 2923.13 of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

(f)

(i) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in division (A) of section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer as defined in section 2935.01 of the Revised Code or a corrections officer, as defined in section 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (B)(2), or (B)(3) of this section, shall impose an additional prison term of seven years upon the offender that shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code.

(ii) If an offender is convicted of or pleads guilty to a felony that includes, as an essential element, causing or attempting to cause the death of or physical harm to another and also is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.1412 of the Revised Code that charges the offender with committing the offense by discharging a firearm at a peace officer, as defined in section 2935.01 of the Revised Code, or a corrections officer, as defined in section 2941.1412 of the Revised Code, and that the offender previously has been convicted of or pleaded guilty to a specification of the type described in section 2941.141, 2941.144, 2941.145, 2941.146, or 2941.1412 of the Revised Code, the court, after imposing a prison term on the offender for the felony offense under division (A), (B)(2), or (3) of this section, shall impose an additional prison term of one hundred twenty-six months upon the offender that shall not be reduced pursuant to section 2929.20, 2967.19, 2967.193, or any other provision of Chapter 2967. or 5120. of the Revised Code.

(iii) If an offender is convicted of or pleads guilty to two or more felonies that include, as an essential element, causing or attempting to cause the death or physical harm to another and also is convicted of or pleads guilty to a specification of the type described under division (B)(1)(f) of this section in connection with two or more of the felonies of which the offender is convicted or to which the offender pleads guilty, the sentencing court shall impose on the offender the prison term specified under division (B)(1)(f) of this section for each of two of the specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications. If a court imposes an additional prison term on an offender under division (B)(1)(f) of this section relative to an offense, the court shall not impose a prison term under division (B)(1)(a) or (c) of this section relative to the same offense.

(g) If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies are aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (B)(1)(a) of this section in connection with two or more of the felonies, the sentencing court shall impose on the offender the prison term specified under division (B)(1)(a) of this section for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications.

(2)

(a) If division (B)(2)(b) of this section does not apply, the court may impose on an offender, in addition to the longest prison term authorized or required for the offense or, for offenses for which division (A)(1)(a) or (2)(a) of this section applies, in addition to the longest minimum prison term authorized or required for the offense, an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offense of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(iii) The court imposes the longest prison term for the offense or the longest minimum prison term for the offense, whichever is applicable, that is not life imprisonment without parole.

(iv) The court finds that the prison terms imposed pursuant to division (B)(2)(a)(iii) of this section and, if applicable, division (B)(1) or (3) of this section are inadequate to punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a greater likelihood of recidivism outweigh the applicable factors under that section indicating a lesser likelihood of recidivism.

(v) The court finds that the prison terms imposed pursuant to division (B)(2)(a)(iii) of this section and, if applicable, division (B)(1) or (3) of this section are demeaning to the seriousness of the offense, because one or more of the factors under section 2929.12 of the Revised Code indicating that the offender's conduct is more serious than conduct normally constituting the offense are present, and they outweigh the applicable factors under that section indicating that the offender's conduct is less serious than conduct normally constituting the offense.

(b) The court shall impose on an offender the longest prison term authorized or required for the offense or, for offenses for which division (A)(1)(a) or (2)(a) of this section applies, the longest minimum prison term authorized or required for the offense, and shall impose on the offender an additional definite prison term of one, two, three, four, five, six, seven, eight, nine, or ten years if all of the following criteria are met:

(i) The offender is convicted of or pleads guilty to a specification of the type described in section 2941.149 of the Revised Code that the offender is a repeat violent offender.

(ii) The offender within the preceding twenty years has been convicted of or pleaded guilty to three or more offenses described in division (CC)(1) of section 2929.01 of the Revised Code, including all offenses described in that division of which the offender is convicted or to which the offender pleads guilty in the current prosecution and all offenses described in that division of which the offender previously has been convicted or to which the offender previously pleaded guilty, whether prosecuted together or separately.

(iii) The offense or offenses of which the offender currently is convicted or to which the offender currently pleads guilty is aggravated murder and the court does not impose a sentence of death or life imprisonment without parole, murder, terrorism and the court does not impose a sentence of life imprisonment without parole, any felony of the first degree that is an offense of violence and the court does not impose a sentence of life imprisonment without parole, or any felony of the second degree that is an offense of violence and the trier of fact finds that the offense involved an attempt to cause or a threat to cause serious physical harm to a person or resulted in serious physical harm to a person.

(c) For purposes of division (B)(2)(b) of this section, two or more offenses committed at the same time or as part of the same act or event shall be considered one offense, and that one offense shall be the offense with the greatest penalty.

(d)A sentence imposed under division (B)(2)(a) or (b) of this section shall not be reduced pursuant to section 2929.20, section 2967.19, or section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. The offender shall serve an additional prison term imposed under division (B)(2)(a) or (b) of this section consecutively to and prior to the prison term imposed for the underlying offense.

(e) When imposing a sentence pursuant to division (B)(2)(a) or (b) of this section, the court shall state its findings explaining the imposed sentence.

(3) Except when an offender commits a violation of section 2903.01 or 2907.02 of the Revised Code and the penalty imposed for the violation is life imprisonment or commits a violation of section 2903.02 of the Revised Code, if the offender commits a violation of section 2925.03 or 2925.11 of the Revised Code and that section classifies the offender as a major drug offender, if the offender commits a violation of section 2925.05 of the Revised Code and division (E)(1) of that section classifies the offender as a major drug offender, if the offender commits a felony violation of section 2925.02, 2925.04, 2925.05, 2925.36, 3719.07, 3719.08, 3719.16, 3719.161, 4729.37, or 4729.61, division (C) or (D) of section 3719.172, division (E) of section 4729.51, or division (J) of section 4729.54 of the Revised Code that includes the sale, offer to sell, or possession of a schedule I or II controlled substance, with the exception of marihuana, and the court imposing sentence upon the offender finds that the offender is guilty of a specification of the type described in division (A) of section 2941.1410 of the Revised Code charging that the offender is a major drug offender, if the court imposing sentence upon an offender for a felony finds that the offender is guilty of corrupt activity with the most serious offense in the pattern of corrupt activity being a felony of the first degree, or if the offender is guilty of an attempted violation of section 2907.02 of the Revised Code and, had the offender completed the violation of section 2907.02 of the Revised Code that was attempted, the offender would have been subject to a sentence of life imprisonment or life imprisonment without parole for the violation of section 2907.02 of the Revised Code, the court shall impose upon the offender for the felony violation a mandatory prison term determined as described in this division that, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, cannot be reduced pursuant to section 2929.20, section 2967.19, or any other provision of Chapter 2967. or 5120. of the Revised Code. The mandatory prison term shall be the maximum definite prison term prescribed in division (A)(1)(b) of this section for a felony of the first degree, except that for offenses for which division (A)(1)(a) of this section applies, the mandatory prison term shall be the longest minimum prison term prescribed in that division for the offense.

(4) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the sentencing court shall impose upon the offender a mandatory prison term in accordance with that division. In addition to the mandatory prison term, if the offender is being sentenced for a fourth degree felony OVI offense, the court, notwithstanding division (A)(4) of this section, may sentence the offender to a definite prison term of not less than six months and not more than thirty months, and if the offender is being sentenced for a third degree felony OVI offense, the sentencing court may sentence the offender to an additional prison term of any duration specified in division (A)(3) of this section. In either case, the additional prison term imposed shall be reduced by the sixty or one hundred twenty days imposed upon the offender as the mandatory prison term. The total of the additional prison term imposed under division (B)(4) of this section plus the sixty or one hundred twenty days imposed as the mandatory prison term shall equal a definite term in the range of six months to thirty months for a fourth degree felony OVI offense and shall equal one of the authorized prison terms specified in division (A)(3) of this section for a third degree felony OVI offense. If the court imposes an additional prison term under division (B)(4) of this section, the offender shall serve the additional prison term after the offender has served the mandatory prison term required for the offense. In addition to the mandatory prison term or mandatory and additional prison term imposed as described in division (B)(4) of this section, the court also may sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code and the court imposes a mandatory term of local incarceration, the court may impose a prison term as described in division (A)(1) of that section.

(5) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1414 of the Revised Code that charges that the victim of the offense is a peace officer, as defined in section 2935.01 of the Revised Code, or an investigator of the bureau of criminal identification and investigation, as defined in section 2903.11 of the Revised Code, the court shall impose on the offender a prison term of five years. If a court imposes a prison term on an offender under division (B)(5) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code.

A court shall not impose more than one prison term on an offender under division (B)(5) of this section for felonies committed as part of the same act.

(6) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1415 of the Revised Code that charges that the offender previously has been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or an equivalent offense, as defined in section 2941.1415 of the Revised Code, or three or more violations of any combination of those divisions and offenses, the court shall impose on the offender a prison term of three years. If a court imposes a prison term on an offender under division (B)(6) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(6) of this section for felonies committed as part of the same act.

(7)

(a) If an offender is convicted of or pleads guilty to a felony violation of section 2905.01, 2905.02, 2907.21, 2907.22, or 2923.32, division (A)(1) or (2) of section 2907.323 involving a minor, or division (B)(1), (2), (3), (4), or (5) of section 2919.22 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1422 of the Revised Code that charges that the offender knowingly committed the offense in furtherance of human trafficking, the court shall impose on the offender a mandatory prison term that is one of the following:

(i) If the offense is a felony of the first degree, a definite prison term of not less than five years and not greater than eleven years, except that if the offense is a felony of the first degree committed on or after the effective date of this amendment, the court shall impose as the minimum prison term a mandatory term of not less than five years and not greater than eleven years;

(ii) If the offense is a felony of the second or third degree, a definite prison term of not less than three years and not greater than the maximum prison term allowed for the offense by division (A)(2)(b) or (3) of this section, except that if the offense is a felony of the second degree committed on or after the effective date of this amendment, the court shall impose as the minimum prison term a mandatory term of not less than three years and not greater than eight years;

(iii) If the offense is a felony of the fourth or fifth degree, a definite prison term that is the maximum prison term allowed for the offense by division (A) of section 2929.14 of the Revised Code.

(b) Subject to divisions (C) to (I) of section 2967.19 of the Revised Code, the prison term imposed under division (B)(7)(a) of this section shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(7)(a) of this section for felonies committed as part of the same act, scheme, or plan.

(8) If an offender is convicted of or pleads guilty to a felony violation of section 2903.11, 2903.12, or 2903.13 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1423 of the Revised Code that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, notwithstanding the range prescribed in division (A) of this section as the definite prison term or minimum prison term for felonies of the same degree as the violation, the court shall impose on the offender a mandatory prison term that is either a definite prison term of six months or one of the prison terms prescribed in division (A) of this section for felonies of the same degree as the violation, except that if the violation is a felony of the first or second degree committed on or after the effective date of this amendment, the court shall impose as the minimum prison term under division (A)(1)(a) or (2)(a) of this section a mandatory term that is one of the terms prescribed in that division, whichever is applicable, for the offense.

(9)

(a) If an offender is convicted of or pleads guilty to a violation of division (A)(1) or (2) of section 2903.11 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1425 of the Revised Code, the court shall impose on the offender a mandatory prison term of six years if either of the following applies:

(i) The violation is a violation of division (A)(1) of section 2903.11 of the Revised Code and the specification charges that the offender used an accelerant in committing the violation and the serious physical harm to another or to another's unborn caused by the violation resulted in a permanent, serious disfigurement or permanent, substantial incapacity;

(ii) The violation is a violation of division (A)(2) of section 2903.11 of the Revised Code and the specification charges that the offender used an accelerant in committing the violation, that the violation caused physical harm to another or to another's unborn, and that the physical harm resulted in a permanent, serious disfigurement or permanent, substantial incapacity.

(b) If a court imposes a prison term on an offender under division (B)(9)(a) of this section, the prison term shall not be reduced pursuant to section 2929.20, section 2967.19, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(9) of this section for felonies committed as part of the same act.

(c) The provisions of divisions (B)(9) and (C)(6) of this section and of division (D)(2) of section 2903.11, division (F)(20) of section 2929.13, and section 2941.1425 of the Revised Code shall be known as "Judy's Law."

(10) If an offender is convicted of or pleads guilty to a violation of division (A) of section 2903.11 of the Revised Code and also is convicted of or pleads guilty to a specification of the type described in section 2941.1426 of the Revised Code that charges that the victim of the offense suffered permanent disabling harm as a result of the offense and that the victim was under ten years of age at the time of the offense, regardless of whether the offender knew the age of the victim, the court shall impose upon the offender an additional definite prison term of six years. A prison term imposed on an offender under division (B)(10) of this section shall not be reduced pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code. If a court imposes an additional prison term on an offender under this division relative to a violation of division (A) of section 2903.11 of the Revised Code, the court shall not impose any other additional prison term on the offender relative to the same offense.

(11) If an offender is convicted of or pleads guilty to a felony violation of section 2925.03 or 2925.05 of the Revised Code or a felony violation of section 2925.11 of the Revised Code for which division (C)(11) of that section applies in determining the sentence for the violation, if the drug involved in the violation is a fentanyl-related compound or a compound, mixture, preparation, or substance containing a fentanyl-related compound, and if the offender also is convicted of or pleads guilty to a specification of the type described in division (B) of section 2941.1410 of the Revised Code that charges that the offender is a major drug offender, in addition to any other penalty imposed for the violation, the court shall impose on the offender a mandatory prison term of three, four, five, six, seven, or eight years. If a court imposes a prison term on an offender under division (B)(11) of this section, the prison term, subject to divisions (C) to (I) of section 2967.19 of the Revised Code, shall not be reduced pursuant to section 2929.20, 2967.19, or 2967.193, or any other provision of Chapter 2967. or 5120. of the Revised Code. A court shall not impose more than one prison term on an offender under division (B)(11) of this section for felonies committed as part of the same act.

(C)

(1)

(a) Subject to division (C)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison

term imposed under either division or under division (B)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (B)(2), or (B)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(b) If a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(d) of this section for wearing or carrying body armor while committing an offense of violence that is a felony, the offender shall serve the mandatory term so imposed consecutively to any other mandatory prison term imposed under that division or under division (B)(1)(a) or (c) of this section, consecutively to and prior to any prison term imposed for the underlying felony under division (A), (B)(2), or (B)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(c) If a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(f) of this section, the offender shall serve the mandatory prison term so imposed consecutively to and prior to any prison term imposed for the underlying felony under division (A), (B)(2), or (B)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(d) If a mandatory prison term is imposed upon an offender pursuant to division (B)(7) or (8) of this section, the offender shall serve the mandatory prison term so imposed consecutively to any other mandatory prison term imposed under that division or under any other provision of law and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(e) If a mandatory prison term is imposed upon an offender pursuant to division (B)(11) of this section, the offender shall serve the mandatory prison term consecutively to any other mandatory prison term imposed under that division, consecutively to and prior to any prison term imposed for the underlying felony, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(2) If an offender who is an inmate in a jail, prison, or other residential detention facility violates section 2917.02, 2917.03, or 2921.35 of the Revised Code or division (A)(1) or (2) of section 2921.34 of the Revised Code, if an offender who is under detention at a detention facility commits a felony violation of section 2923.131 of the Revised Code, or if an offender who is an inmate in a jail, prison, or other residential detention facility or is under detention at a detention facility commits another felony while the offender is an escapee in violation of division (A)(1) or (2) of section 2921.34 of the Revised Code, any prison term imposed upon the offender for one of those violations shall be served by the offender consecutively to the prison term or term of imprisonment the offender was serving when the offender committed that offense and to any other prison term previously or subsequently imposed upon the offender.

(3) If a prison term is imposed for a violation of division (B) of section 2911.01 of the Revised Code, a violation of division (A) of section 2913.02 of the Revised Code in which the stolen property is a firearm or dangerous ordnance, or a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single

prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

(5) If a mandatory prison term is imposed upon an offender pursuant to division (B)(5) or (6) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code. If a mandatory prison term is imposed upon an offender pursuant to division (B)(5) of this section, and if a mandatory prison term also is imposed upon the offender pursuant to division (B)(6) of this section in relation to the same violation, the offender shall serve the mandatory prison term imposed pursuant to division (B)(5) of this section consecutively to and prior to the mandatory prison term imposed pursuant to division (B)(6) of this section and consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.06 of the Revised Code pursuant to division (A) of this section or section 2929.142 of the Revised Code.

(6) If a mandatory prison term is imposed on an offender pursuant to division (B)(9) of this section, the offender shall serve the mandatory prison term consecutively to and prior to any prison term imposed for the underlying violation of division (A)(1) or (2) of section 2903.11 of the Revised Code and consecutively to and prior to any other prison term or mandatory prison term previously or subsequently imposed on the offender.

(7) If a mandatory prison term is imposed on an offender pursuant to division (B)(10) of this section, the offender shall serve that mandatory prison term consecutively to and prior to any prison term imposed for the underlying felonious assault. Except as otherwise provided in division (C) of this section, any other prison term or mandatory prison term previously or subsequently imposed upon the offender may be served concurrently with, or consecutively to, the prison term imposed pursuant to division (B)(10) of this section.

(8) Any prison term imposed for a violation of section 2903.04 of the Revised Code that is based on a violation of section 2925.03 or 2925.11 of the Revised Code or on a violation of section 2925.05 of the Revised Code that is not funding of marihuana trafficking shall run consecutively to any prison term imposed for the violation of section 2925.03 or 2925.11 of the Revised Code or for the violation of section 2925.05 of the Revised Code that is not funding of marihuana trafficking.

(9) When consecutive prison terms are imposed pursuant to division (C)(1), (2), (3), (4), (5), (6), (7), or (8) or division (H)(1) or (2) of this section, subject to division (C)(10) of this section, the term to be served is the aggregate of all of the terms so imposed.

(10) When a court sentences an offender to a non-life felony indefinite prison term, any definite prison term or mandatory definite prison term previously or subsequently imposed on the offender in addition to that indefinite sentence that is required to be served consecutively to that indefinite sentence shall be served prior to the indefinite sentence.

(11) If a court is sentencing an offender for a felony of the first or second degree, if division (A)(1)(a) or (2)(a) of this section applies with respect to the sentencing for the offense, and if the court is required under the Revised Code section that sets forth the offense or any other Revised Code provision to impose a mandatory prison term for the offense, the court shall impose the required mandatory prison term as the minimum term imposed under division (A)(1)(a) or (2)(a) of this section, whichever is applicable.

(D)

(1) If a court imposes a prison term, other than a term of life imprisonment, for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is an offense of violence and that is not a felony sex offense, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with section 2967.28 of the Revised Code. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a court to include a post-release control requirement in the sentence pursuant to this division does not negate, limit, or otherwise affect the mandatory period of post-release

control that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(2) If a court imposes a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (D)(1) of this section, it shall include in the sentence a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment, in accordance with that division, if the parole board determines that a period of post-release control is necessary. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to include in the sentence pursuant to this division a statement regarding post-release control.

(E) The court shall impose sentence upon the offender in accordance with section 2971.03 of the Revised Code, and Chapter 2971. of the Revised Code applies regarding the prison term or term of life imprisonment without parole imposed upon the offender and the service of that term of imprisonment if any of the following apply:

(1)A person is convicted of or pleads guilty to a violent sex offense or a designated homicide, assault, or kidnapping offense, and, in relation to that offense, the offender is adjudicated a sexually violent predator.

(2)A person is convicted of or pleads guilty to a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007, and either the court does not impose a sentence of life without parole when authorized pursuant to division (B) of section 2907.02 of the Revised Code, or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code.

(3)A person is convicted of or pleads guilty to attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(4)A person is convicted of or pleads guilty to a violation of section 2905.01 of the Revised Code committed on or after January 1, 2008, and that section requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(5)A person is convicted of or pleads guilty to aggravated murder committed on or after January 1, 2008, and division (A)(2)(b)(ii) of section 2929.022, division (A)(1)(e), (C)(1)(a)(v), (C)(2)(a)(ii), (D)(2)(b), (D)(3)(a)(iv), or (E)(1)(a)(iv) of section 2929.03, or division (A) or (B) of section 2929.06 of the Revised Code requires the court to sentence the offender pursuant to division (B)(3) of section 2971.03 of the Revised Code.

(6)A person is convicted of or pleads guilty to murder committed on or after January 1, 2008, and division (B)(2) of section 2929.02 of the Revised Code requires the court to sentence the offender pursuant to section 2971.03 of the Revised Code.

(F) If a person who has been convicted of or pleaded guilty to a felony is sentenced to a prison term or term of imprisonment under this section, sections 2929.02 to 2929.06 of the Revised Code, section 2929.142 of the Revised Code, section 2971.03 of the Revised Code, or any other provision of law, section 5120.163 of the Revised Code applies regarding the person while the person is confined in a state correctional institution.

(G) If an offender who is convicted of or pleads guilty to a felony that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.142 of the Revised Code that charges the offender with having committed the felony while participating in a criminal gang, the court shall impose upon the offender an additional prison term of one, two, or three years.

(H)

(1) If an offender who is convicted of or pleads guilty to aggravated murder, murder, or a felony of the first, second, or third degree that is an offense of violence also is convicted of or pleads guilty to a specification of the type described in section 2941.143 of the Revised Code that charges the offender with having committed the offense in a school safety zone or towards a person in a school safety zone, the court shall impose upon the offender an additional prison term of two years. The offender shall serve the additional two years consecutively to and prior to the prison term imposed for the underlying offense.

(2)

(a) If an offender is convicted of or pleads guilty to a felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and to a specification of the type described in section 2941.1421 of the Revised Code and if the court imposes a prison term on the offender for the felony violation, the court may impose upon the offender an additional prison term as follows:

(i) Subject to division (H)(2)(a)(ii) of this section, an additional prison term of one, two, three, four, five, or six months;

(ii) If the offender previously has been convicted of or pleaded guilty to one or more felony or misdemeanor violations of section 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25 of the Revised Code and also was convicted of or pleaded guilty to a specification of the type described in section 2941.1421 of the Revised Code regarding one or more of those violations, an additional prison term of one, two, three, four, five, six, seven, eight, nine, ten, eleven, or twelve months.

(b) In lieu of imposing an additional prison term under division (H)(2)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional prison term that the court could have imposed upon the offender under division (H)(2)(a) of this section. A sanction imposed under this division shall commence on the date specified by the court, provided that the sanction shall not commence until after the offender has served the prison term imposed for the felony violation of section 2907.22, 2907.24, 2907.241, or 2907.25 of the Revised Code and any residential sanction imposed for the violation under section 2929.16 of the Revised Code. A sanction imposed under this division shall be considered to be a community control sanction for purposes of section 2929.15 of the Revised Code, and all provisions of the Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(I) At the time of sentencing, the court may recommend the offender for placement in a program of shock incarceration under section 5120.031 of the Revised Code or for placement in an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program of shock incarceration or an intensive program prison of that nature, or make no recommendation on placement of the offender. In no case shall the department of rehabilitation and correction place the offender in a program or prison of that nature unless the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for the placement.

If the court disapproves placement of the offender in a program or prison of that nature, the department of rehabilitation and correction shall not place the offender in any program of shock incarceration or intensive program prison.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison, and if the offender is subsequently placed in the recommended program or prison, the department shall notify the court of the placement and shall include with the notice a brief description of the placement.

If the court recommends placement of the offender in a program of shock incarceration or in an intensive program prison and the department does not subsequently place the offender in the recommended program or prison, the department shall send a notice to the court indicating why the offender was not placed in the recommended program or prison.

If the court does not make a recommendation under this division with respect to an offender and if the department determines as specified in section 5120.031 or 5120.032 of the Revised Code, whichever is applicable, that the offender is eligible for placement in a program or prison of that nature, the department shall screen the offender and determine if there is an available program of shock incarceration or an intensive program prison for which the offender is suited. If there is an available program of shock incarceration or an intensive program prison for which the offender is suited, the department shall notify the court of the proposed placement of the offender as specified in section 5120.031 or 5120.032 of the Revised Code and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement.

(J) If a person is convicted of or pleads guilty to aggravated vehicular homicide in violation of division (A)(1) of section 2903.06 of the Revised Code and division (B)(2)(c) of that section applies, the person shall be sentenced pursuant to section 2929.142 of the Revised Code.

(K)

(1) The court shall impose an additional mandatory prison term of two, three, four, five, six, seven, eight, nine, ten, or eleven years on an offender who is convicted of or pleads guilty to a violent felony offense if the offender also is convicted of or pleads guilty to a specification of the type described in section 2941.1424 of the Revised Code that charges that the offender is a violent career criminal and had a firearm on or about the offender's person or under the offender's control while committing the presently charged violent felony offense and displayed or brandished the firearm, indicated that the offender possessed a firearm, or used the firearm to facilitate the offense. The offender shall serve the prison term imposed under this division consecutively to and prior to the prison term imposed for the underlying offense. The prison term shall not be reduced pursuant to section 2929.20 or 2967.19 or any other provision of Chapter 2967. or 5120. of the Revised Code. A court may not impose more than one sentence under division (B)(2)(a) of this section and this division for acts committed as part of the same act or transaction.

(2) As used in division (K)(1) of this section, "violent career criminal" and "violent felony offense" have the same meanings as in section 2923.132 of the Revised Code.

(L) If an offender receives or received a sentence of life imprisonment without parole, a sentence of life imprisonment, a definite sentence, or a sentence to an indefinite prison term under this chapter for a felony offense that was committed when the offender was under eighteen years of age, the offender's parole eligibility shall be determined under section 2967.132 of the Revised Code.

History

146 v S 2 (Eff 7-1-96); 146 v S 269 (Eff 7-1-96); 146 v H 88 (Eff 9-3-96); 146 v H 445 (Eff 9-3-96); 146 v H 154 (Eff 10-4-96); 146 v S 166 (Eff 10-17-96); 146 v H 180 (Eff 1-1-97); 147 v H 151 (Eff 9-16-97); 147 v H 32 (Eff 3-10-98); 147 v S 111 (Eff 3-17-98); 147 v H 2 (Eff 1-1-99); 148 v S 1 (Eff 8-6-99); 148 v H 29 (Eff 10-29-99); 148 v S 107 (Eff 3-23-2000); 148 v S 22 (Eff 5-17-2000); 148 v S 222 (Eff 3-22-2001); 149 v H 485 (Eff 6-13-2002); 149 v H 327 (Eff 7-8-2002); 149 v H 130. Eff 4-7-2003; 149 v S 123, § 1, eff. 1-1-04; 150 v H 12, §§ 1, 3, eff. 4-8-04; 150 v H 52, § 1, eff. 6-1-04; 150 v H 163, § 1, eff. 9-23-04; 150 v H 473, § 1, eff. 4-29-05; 151 v H 95, § 1, eff. 8-3-06; 151 v H 137, § 1, eff. 7-11-06; 151 v H 137, § 3, eff. 8-3-06; 151 v S 260, § 1, eff. 1-2-07; 151 v S 281, § 1, eff. 1-4-07; 151 v H 461, § 1, eff. 4-4-07; 152 v S 10, § 1, eff. 1-1-08; 152 v S 184, § 1, eff. 9-9-08; 152 v S 220, § 1, eff. 9-30-08; 152 v H 280, § 1, eff. 4-7-09; 152 v H 130, § 1, eff. 4-7-09; 2011 HB 86, § 1, eff. Sept. 30, 2011; 2012 SB 337, § 1, eff. Sept. 28, 2012; 2014 hb234, § 1, effective March 23, 2015; 2016 sb97, § 1, effective September 14, 2016; 2016 hb470, § 1, effective March 21, 2017; 2016 sb319, § 1, effective April 6, 2017; 2017 hb63, § 1, effective October 17, 2017; 2018 sb1, § 1, effective October 31, 2018; 2018 sb20, § 1, effective March 20, 2019; 2018 sb201, § 1, effective March 22, 2019; 2020 hb136, § 1, effective April 12, 2021; 2020 sb256, § 1, effective April 12, 2021.

End of Document

ORC Ann. 2929.19

Current through File 8 of the 134th (2021-2022) General Assembly; all acts passed as of April 10, 2021.

Page's Ohio Revised Code Annotated > Title 29: Crimes — Procedure (Chs. 2901 — 2981) > Chapter 2929: Penalties and Sentencing (§§ 2929.01 — 2929.72) > Penalties for Felony (§§ 2929.11 — 2929.201)

§ 2929.19 Sentencing hearing.

(A) The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender.

(B)

(1) At the sentencing hearing, the court, before imposing sentence, shall do all of the following:

(a) Consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report made pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code;

(b) If the offense was committed when the offender was under eighteen years of age, in addition to other factors considered, consider youth and its characteristics as mitigating factors, including:

(i) 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;

(ii) 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;

(iii) 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;

(iv) 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;

(v) Examples of the offender's rehabilitation, including any subsequent growth or increase in maturity during confinement.

(2) Subject to division (B)(3) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) Impose a stated prison term and, if the court imposes a mandatory prison term, notify the offender that the prison term is a mandatory prison term;

(b) In addition to any other information, include in the sentencing entry the name and section reference to the offense or offenses, the sentence or sentences imposed and whether the sentence or sentences contain

mandatory prison terms, if sentences are imposed for multiple counts whether the sentences are to be served concurrently or consecutively, and the name and section reference of any specification or specifications for which sentence is imposed and the sentence or sentences imposed for the specification or specifications;

(c) If the prison term is a non-life felony indefinite prison term, notify the offender of all of the following:

(i) That it is rebuttably presumed that the offender will be released from service of the sentence on the expiration of the minimum prison term imposed as part of the sentence or on the offender's presumptive earned early release date, as defined in section 2967.271 of the Revised Code, whichever is earlier;

(ii) That the department of rehabilitation and correction may rebut the presumption described in division (B)(2)(c)(i) of this section if, at a hearing held under section 2967.271 of the Revised Code, the department makes specified determinations regarding the offender's conduct while confined, the offender's rehabilitation, the offender's threat to society, the offender's restrictive housing, if any, while confined, and the offender's security classification;

(iii) That if, as described in division (B)(2)(c)(ii) of this section, the department at the hearing makes the specified determinations and rebuts the presumption, the department may maintain the offender's incarceration after the expiration of that minimum term or after that presumptive earned early release date for the length of time the department determines to be reasonable, subject to the limitation specified in section 2967.271 of the Revised Code;

(iv) That the department may make the specified determinations and maintain the offender's incarceration under the provisions described in divisions (B)(2)(c)(i) and (ii) of this section more than one time, subject to the limitation specified in section 2967.271 of the Revised Code;

(v) That if the offender has not been released prior to the expiration of the offender's maximum prison term imposed as part of the sentence, the offender must be released upon the expiration of that term.

(d) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced, other than to a sentence of life imprisonment, for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree that is an offense of violence and is not a felony sex offense. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a non-life felony indefinite prison term and including a term imposed for any offense of a type described in this division that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. If a court imposes a sentence including a prison term of a type described in division (B)(2)(d) of this section on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(d) of this section that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under division (B) of section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(d) of this section and failed to notify the offender pursuant to division (B)(2)(d) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(e) Notify the offender that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(2)(d) of this section. This division applies with respect to all prison terms imposed for an offense of a type described in this division, including a term imposed for any such offense that is a risk reduction sentence, as defined in section 2967.28 of the Revised Code. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(e) of this section and failed to notify the offender pursuant to division (B)(2)(e) of this section regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence a statement regarding post-release control.

(f) Notify the offender that, if a period of supervision is imposed following the offender's release from prison, as described in division (B)(2)(d) or (e) of this section, and if the offender violates that supervision or a

condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the definite prison term originally imposed upon the offender as the offender's stated prison term or up to one-half of the minimum prison term originally imposed upon the offender as part of the offender's stated non-life felony indefinite prison term. If a court imposes a sentence including a prison term on or after July 11, 2006, the failure of a court to notify the offender pursuant to division (B)(2)(f) of this section that the parole board may impose a prison term as described in division (B)(2)(f) of this section for a violation of that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code or to include in the judgment of conviction entered on the journal a statement to that effect does not negate, limit, or otherwise affect the authority of the parole board to so impose a prison term for a violation of that nature if, pursuant to division (D)(1) of section 2967.28 of the Revised Code, the parole board notifies the offender prior to the offender's release of the board's authority to so impose a prison term. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(2)(f) of this section regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(g)

(i) Determine, notify the offender of, and include in the sentencing entry the total number of days, including the sentencing date but excluding conveyance time, that the offender has been confined for any reason arising out of the offense for which the offender is being sentenced and by which the department of rehabilitation and correction must reduce the definite prison term imposed on the offender as the offender's stated prison term or, if the offense is an offense for which a non-life felony indefinite prison term is imposed under division (A)(1)(a) or (2)(a) of section 2929.14 of the Revised Code, the minimum and maximum prison terms imposed on the offender as part of that non-life felony indefinite prison term, under section 2967.191 of the Revised Code. The court's calculation shall not include the number of days, if any, that the offender served in the custody of the department of rehabilitation and correction arising out of any prior offense for which the prisoner was convicted and sentenced.

(ii) In making a determination under division (B)(2)(g)(i) of this section, the court shall consider the arguments of the parties and conduct a hearing if one is requested.

(iii) The sentencing court retains continuing jurisdiction to correct any error not previously raised at sentencing in making a determination under division (B)(2)(g)(i) of this section. The offender may, at any time after sentencing, file a motion in the sentencing court to correct any error made in making a determination under division (B)(2)(g)(i) of this section, and the court may in its discretion grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court shall cause the entry granting that change to be delivered to the department of rehabilitation and correction without delay. Sections 2931.15 and 2953.21 of the Revised Code do not apply to a motion made under this section.

(iv) An inaccurate determination under division (B)(2)(g)(i) of this section is not grounds for setting aside the offender's conviction or sentence and does not otherwise render the sentence void or voidable.

(v) The department of rehabilitation and correction shall rely upon the latest journal entry of the court in determining the total days of local confinement for purposes of division (B)(2)(f)(i) to (iii) of this section and section 2967.191 of the Revised Code.

(3)

(a) The court shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender, and the court shall comply with the requirements of section 2950.03 of the Revised Code if any of the following apply:

(i) The offender is being sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense that the offender committed on or after January 1, 1997, and the offender is adjudicated a sexually violent predator in relation to that offense.

(ii) The offender is being sentenced for a sexually oriented offense that the offender committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iii) The offender is being sentenced on or after July 31, 2003, for a child-victim oriented offense, and the offender is a tier III sex offender/child-victim offender relative to that offense.

(iv) The offender is being sentenced under section 2971.03 of the Revised Code for a violation of division (A)(1)(b) of section 2907.02 of the Revised Code committed on or after January 2, 2007.

(v) The offender is sentenced to a term of life without parole under division (B) of section 2907.02 of the Revised Code.

(vi) The offender is being sentenced for attempted rape committed on or after January 2, 2007, and a specification of the type described in section 2941.1418, 2941.1419, or 2941.1420 of the Revised Code.

(vii) The offender is being sentenced under division (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code for an offense described in those divisions committed on or after January 1, 2008.

(b) Additionally, if any criterion set forth in divisions (B)(3)(a)(i) to (vii) of this section is satisfied, in the circumstances described in division (E) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(4) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code and as described in section 2929.15 of the Revised Code.

(5) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.32 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

(6) If the sentencing court sentences the offender to a sanction of confinement pursuant to section 2929.14 or 2929.16 of the Revised Code that is to be served in a local detention facility, as defined in section 2929.36 of the Revised Code, and if the local detention facility is covered by a policy adopted pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code and section 2929.37 of the Revised Code, both of the following apply:

(a) The court shall specify both of the following as part of the sentence:

(i) If the offender is presented with an itemized bill pursuant to section 2929.37 of the Revised Code for payment of the costs of confinement, the offender is required to pay the bill in accordance with that section.

(ii) If the offender does not dispute the bill described in division (B)(6)(a)(i) of this section and does not pay the bill by the times specified in section 2929.37 of the Revised Code, the clerk of the court may issue a certificate of judgment against the offender as described in that section.

(b) The sentence automatically includes any certificate of judgment issued as described in division (B)(6)(a)(ii) of this section.

(7) The failure of the court to notify the offender that a prison term is a mandatory prison term pursuant to division (B)(2)(a) of this section or to include in the sentencing entry any information required by division (B)(2)(b) of this section does not affect the validity of the imposed sentence or sentences. If the sentencing court notifies the offender at the sentencing hearing that a prison term is mandatory but the sentencing entry does not specify that

the prison term is mandatory, the court may complete a corrected journal entry and send copies of the corrected entry to the offender and the department of rehabilitation and correction, or, at the request of the state, the court shall complete a corrected journal entry and send copies of the corrected entry to the offender and department of rehabilitation and correction.

(C)

(1) If the offender is being sentenced for a fourth degree felony OVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender except that the court may impose a prison term upon the offender as provided in division (A)(1) of section 2929.13 of the Revised Code.

(2) If the offender is being sentenced for a third or fourth degree felony OVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. In addition to the mandatory prison term or mandatory prison term and additional prison term the court imposes, the court also may impose a community control sanction on the offender, but the offender shall serve all of the prison terms so imposed prior to serving the community control sanction.

(D) The sentencing court, pursuant to division (I)(1) of section 2929.14 of the Revised Code, may recommend placement of the offender in a program of shock incarceration under section 5120.031 of the Revised Code or an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program or prison of that nature, or make no recommendation. If the court recommends or disapproves placement, it shall make a finding that gives its reasons for its recommendation or disapproval.

History

146 v S 2 (Eff 7-1-96); 146 v S 269 (Eff 7-1-96); 146 v S 166 (Eff 10-17-96); 146 v H 180 (Eff 1-1-97); 148 v S 107 (Eff 3-23-2000); 148 v S 22 (Eff 5-17-2000); 148 v H 349 (Eff 9-22-2000); 149 v H 485 (Eff 6-13-2002); 149 v H 327 (Eff 7-8-2002); 149 v H 170. Eff 9-6-2002; 149 v H 490, § 1, eff. 1-1-04; 149 v S 123, § 1, eff. 1-1-04; 150 v S 5, § 1, Eff 7-31-03; 150 v S 5, § 3, eff. 1-1-04; 150 v H 163, § 1, eff. 9-23-04; 150 v H 473, § 1, eff. 4-29-05; 151 v H 137, § 1, eff. 7-11-06; 151 v S 260, § 1, eff. 1-2-07; 151 v H 461, § 1, eff. 4-4-07; 152 v S 10, § 1, eff. 1-1-08; 152 v H 130, § 1, eff. 4-7-09; 2011 HB 86, § 1, eff. Sept. 30, 2011; 2012 HB 487, § 101.01, eff. Sept. 10, 2012; 2012 SB 337, § 1, eff. Sept. 28, 2012; 2018 sb66, § 1, effective October 29, 2018; 2018 sb201, § 1, effective March 22, 2019; 2020 sb256, § 1, effective April 12, 2021.

End of Document

2001 Ohio HB 170

Enacted, June 7, 2002

Reporter
2001 Ohio HB 170

OHIO ADVANCE LEGISLATIVE SERVICE > OHIO 124TH GENERAL ASSEMBLY -- 2001-02 REGULAR SESSION > HOUSE BILL NO. 170

Notice

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED **<A]**
[D> Text within these symbols is deleted **<D]**

Synopsis

AN ACT To amend sections 307.93, 341.14, 341.19, 341.21, 341.23, 341.26, 753.02, 753.04, 753.16, 2152.20, 2301.56, 2929.18, 2929.19, 2929.21, 2947.14, 2947.19, 2949.111, 3924.53, and 5120.56, and to enact sections 2929.35, 2929.36, 2929.37, 2929.38, 5120.57, and 5120.58, and to repeal sections 341.06 and 2929.223 of the Revised Code relative to health care services provided to offenders who are in the custody or under the supervision of the Department of Rehabilitation and Correction, to the revision of the procedures by which costs related to a prisoner's confinement in a local detention facility are collected and the consolidation of the provisions containing those procedures, and to the increase from $ 30 to $ 50 the daily fine credit given to an offender jailed for failure to pay a fine.

Text

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 307.93, 341.14, 341.19, 341.21, 341.23, 341.26, 753.02, 753.04, 753.16, 2152.20, 2301.56, 2929.18, 2929.19, 2929.21, 2947.14, 2947.19, 2949.111, 3924.53, and 5120.56 be amended and sections 2929.35, 2929.36, 2929.37, 2929.38, 5120.57, and 5120.58 of the Revised Code be enacted to read as follows:

Sec. 307.93. (A) The boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or the boards of two or more counties may contract with any municipal corporation or municipal corporations located in that county or those counties for the joint establishment of a municipal-county or multicounty-municipal correctional center. The center shall augment county and, where applicable, municipal jail programs and facilities by providing custody and rehabilitative programs for those persons under the charge of the sheriff of any of the contracting counties or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility who, in the opinion of the sentencing court, need programs of custody and rehabilitation not available at the county or

(c) A proceeding in aid of execution under Chapter 2333. of the Revised Code, including:

(i) A proceeding for the examination of the judgment debtor under sections 2333.09 to 2333.12 and sections 2333.15 to 2333.27 of the Revised Code;

(ii) A proceeding for attachment of the person of the judgment debtor under section 2333.28 of the Revised Code;

(iii) A creditor's suit under section 2333.01 of the Revised Code.

(d) The attachment of the property of the judgment debtor under Chapter 2715. of the Revised Code;

(e) The garnishment of the property of the judgment debtor under Chapter 2716. of the Revised Code.

(2) Obtain an order for the assignment of wages of the judgment debtor under section 1321.33 of the Revised Code.

(E) A court that imposes a financial sanction upon an offender may hold a hearing if necessary to determine whether the offender is able to pay the sanction or is likely in the future to be able to pay it.

(F) Each court imposing a financial sanction upon an offender under this section or under section 2929.25 of the Revised Code may designate a court employee to collect, or may enter into contracts with one or more public agencies or private vendors for the collection of, amounts due under the financial sanction imposed pursuant to this section or section 2929.25 of the Revised Code. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this section or section 2929.25 of the Revised Code, a court shall comply with sections 307.86 to 307.92 of the Revised Code.

(G) If a court that imposes a financial sanction under division (A) or (B) of this section finds that an offender satisfactorily has completed all other sanctions imposed upon the offender and that all restitution that has been ordered has been paid as ordered, the court may suspend any financial sanctions imposed pursuant to this section or section 2929.25 of the Revised Code that have not been paid.

(H) No financial sanction imposed under this section or section 2929.25 of the Revised Code shall preclude a victim from bringing a civil action against the offender.

Sec. 2929.19. (A)(1) The court shall hold a sentencing hearing before imposing a sentence under this chapter upon an offender who was convicted of or pleaded guilty to a felony and before resentencing an offender who was convicted of or pleaded guilty to a felony and whose case was remanded pursuant to section 2953.07 or 2953.08 of the Revised Code. At the hearing, the offender, the prosecuting attorney, the victim or the victim's representative in accordance with section 2930.14 of the Revised Code, and, with the approval of the court, any other person may present information relevant to the imposition of sentence in the case. The court shall inform the offender of the verdict of the jury or finding of the court and ask the offender whether the offender has anything to say as to why sentence should not be imposed upon the offender.

(2) Except as otherwise provided in this division, before imposing sentence on an offender who is being sentenced for a sexually oriented offense that was committed on or after January 1, 1997, and that is not a sexually violent offense, and before imposing sentence on an offender who is being sentenced for a sexually violent offense committed on or after January 1, 1997, and who was not charged with a sexually violent predator specification in the indictment, count in the indictment, or information charging the sexually violent offense, the court shall conduct a hearing in accordance with division (B) of section 2950.09 of the Revised Code to determine whether the offender is a sexual predator. The court shall not conduct a hearing under that division if the offender is being sentenced for a sexually violent offense and a sexually violent predator specification was included in the indictment, count in the indictment, or information charging the sexually violent offense. Before imposing sentence on an offender who is being sentenced for a sexually oriented offense, the court also shall comply with division (E) of section 2950.09 of the Revised Code.

(B)(1) At the sentencing hearing, the court, before imposing sentence, shall consider the record, any information presented at the hearing by any person pursuant to division (A) of this section, and, if one was prepared, the presentence investigation report made pursuant to section 2951.03 of the Revised Code or Criminal Rule 32.2, and any victim impact statement made pursuant to section 2947.051 of the Revised Code.

(2) The court shall impose a sentence and shall make a finding that gives its reasons for selecting the sentence imposed in any of the following circumstances:

(a) Unless the offense is a sexually violent offense for which the court is required to impose sentence pursuant to division (G) of section 2929.14 of the Revised Code, if it imposes a prison term for a felony of the fourth or fifth degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to division (B) of section 2929.13 of the Revised Code for purposes of sentencing, its reasons for imposing the prison term, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and any factors listed in divisions (B)(1)(a) to (i) of section 2929.13 of the Revised Code that it found to apply relative to the offender.

(b) If it does not impose a prison term for a felony of the first or second degree or for a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and for which a presumption in favor of a prison term is specified as being applicable, its reasons for not imposing the prison term and for overriding the presumption, based upon the overriding purposes and principles of felony sentencing set forth in section 2929.11 of the Revised Code, and the basis of the findings it made under divisions (D)(1) and (2) of section 2929.13 of the Revised Code.

(c) If it imposes consecutive sentences under section 2929.14 of the Revised Code, its reasons for imposing the consecutive sentences;

(d) If the sentence is for one offense and it imposes a prison term for the offense that is the maximum prison term allowed for that offense by division (A) of section 2929.14 of the Revised Code, its reasons for imposing the maximum prison term;

(e) If the sentence is for two or more offenses arising out of a single incident and it imposes a prison term for those offenses that is the maximum prison term allowed for the offense of the highest degree by division (A) of section 2929.14 of the Revised Code, its reasons for imposing the maximum prison term.

(3) Subject to division (B)(4) of this section, if the sentencing court determines at the sentencing hearing that a prison term is necessary or required, the court shall do all of the following:

(a) Impose a stated prison term;

(b) Notify the offender that, as part of the sentence, the parole board may extend the stated prison term for certain violations of prison rules for up to one-half of the stated prison term;

(c) Notify the offender that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the first degree or second degree, for a felony sex offense, or for a felony of the third degree in the commission of which the offender caused or threatened to cause physical harm to a person;

(d) Notify the offender that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison if the offender is being sentenced for a felony of the third, fourth, or fifth degree that is not subject to division (B)(3)(c) of this section;

(e) Notify the offender that, if a period of supervision is imposed following the offender's release from prison, as described in division (B)(3)(c) or (d) of this section, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code, the parole board may impose a prison term, as part of the sentence, of up to one-half of the stated prison term originally imposed upon the offender;

(f) Require that the offender not ingest or be injected with a drug of abuse and submit to random drug testing as provided in section 341.26, 753.33, or 5120.63 of the Revised Code, whichever is applicable to the offender who is serving a prison term, and require that the results of the drug test administered under any of those sections indicate that the offender did not ingest or was not injected with a drug of abuse.

(4) If the offender is being sentenced for a sexually violent offense that the offender committed on or after January 1, 1997, and the offender also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging the sexually violent offense or if the offender is being sentenced for a sexually oriented offense that the offender committed on or after January 1, 1997, and the court imposing the sentence has determined

pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator, the court shall include in the offender's sentence a statement that the offender has been adjudicated as being a sexual predator and shall comply with the requirements of section 2950.03 of the Revised Code. Additionally, in the circumstances described in division (G) of section 2929.14 of the Revised Code, the court shall impose sentence on the offender as described in that division.

(5) If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, if the offender commits a violation of any law, or if the offender leaves this state without the permission of the court or the offender's probation officer, the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the specific prison term that may be imposed as a sanction for the violation, as selected by the court from the range of prison terms for the offense pursuant to section 2929.14 of the Revised Code.

(6) Before imposing a financial sanction under section 2929.18 of the Revised Code or a fine under section 2929.25 of the Revised Code, the court shall consider the offender's present and future ability to pay the amount of the sanction or fine.

[A> (7) IF THE SENTENCING COURT SENTENCES THE OFFENDER TO A SANCTION OF CONFINEMENT PURSUANT TO SECTION 2929.14 OR 2929.16 OF THE REVISED CODE THAT IS TO BE SERVED IN A LOCAL DETENTION FACILITY, AS DEFINED IN SECTION 2929.35 OF THE REVISED CODE, AND IF THE LOCAL DETENTION FACILITY IS COVERED BY A POLICY ADOPTED PURSUANT TO SECTION 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, OR 2947.19 OF THE REVISED CODE AND SECTION 2929.37 OF THE REVISED CODE, BOTH OF THE FOLLOWING APPLY: **<A]**

[A> (A) THE COURT SHALL SPECIFY BOTH OF THE FOLLOWING AS PART OF THE SENTENCE: **<A]**

[A> (I) IF THE OFFENDER IS PRESENTED WITH AN ITEMIZED BILL PURSUANT TO SECTION 2929.37 OF THE REVISED CODE FOR PAYMENT OF THE COSTS OF CONFINEMENT, THE OFFENDER IS REQUIRED TO PAY THE BILL IN ACCORDANCE WITH THAT SECTION. **<A]**

[A> (II) IF THE OFFENDER DOES NOT DISPUTE THE BILL DESCRIBED IN DIVISION (B)(7)(A)(I) OF THIS SECTION AND DOES NOT PAY THE BILL BY THE TIMES SPECIFIED IN SECTION 2929.37 OF THE REVISED CODE, THE CLERK OF THE COURT MAY ISSUE A CERTIFICATE OF JUDGMENT AGAINST THE OFFENDER AS DESCRIBED IN THAT SECTION. **<A]**

[A> (B) THE SENTENCE AUTOMATICALLY INCLUDES ANY CERTIFICATE OF JUDGMENT ISSUED AS DESCRIBED IN DIVISION (B)(7)(A)(II) OF THIS SECTION. **<A]**

(C)(1) If the offender is being sentenced for a fourth degree felony OMVI offense under division (G)(1) of section 2929.13 of the Revised Code, the court shall impose the mandatory term of local incarceration in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose additional sanctions as specified in sections 2929.15, 2929.16, 2929.17, and 2929.18 of the Revised Code. The court shall not impose a prison term on the offender.

(2) If the offender is being sentenced for a third or fourth degree felony OMVI offense under division (G)(2) of section 2929.13 of the Revised Code, the court shall impose the mandatory prison term in accordance with that division, shall impose a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code, and, in addition, may impose an additional prison term as specified in section 2929.14 of the Revised Code. The court shall not impose any community control sanction on the offender.

(D) The sentencing court, pursuant to division (K) of section 2929.14 of the Revised Code, may recommend placement of the offender in a program of shock incarceration under section 5120.031 of the Revised Code or an intensive program prison under section 5120.032 of the Revised Code, disapprove placement of the offender in a program or prison of that nature, or make no recommendation. If the court recommends or disapproves placement, it shall make a finding that gives its reasons for its recommendation or disapproval.

[A> SEC. 5120.58. THE DEPARTMENT OF REHABILITATION AND CORRECTION SHALL ADOPT RULES UNDER SECTION 111.15 OF THE REVISED CODE TO DO BOTH OF THE FOLLOWING: **<A]**

[A> (A) ESTABLISH A SCHEDULE OF HEALTH CARE BENEFITS THAT ARE AVAILABLE TO OFFENDERS WHO ARE IN THE CUSTODY OR UNDER THE SUPERVISION OF THE DEPARTMENT; **<A]**

[A> (B) ESTABLISH A PROGRAM TO ENCOURAGE THE UTILIZATION OF PREVENTIVE HEALTH CARE SERVICES BY OFFENDERS. **<A]**

Section 2. That existing sections 307.93, 341.14, 341.19, 341.21, 341.23, 341.26, 753.02, 753.04, 753.16, 2152.20, 2301.56, 2929.18, 2929.19, 2929.21, 2947.14, 2947.19, 2949.111, 3924.53, and 5120.56 and sections 341.06 and 2929.223 of the Revised Code are hereby repealed.

Section 3. (A) The Department of Rehabilitation and Correction shall examine the feasibility and desirability of purchasing insurance coverage to protect against unpredictable or catastrophic losses that may be incurred by the state in the provision of health care services to offenders who are in the custody or under the supervision of the Department. Not later than six months after the effective date of this act, the Department shall report its findings and any recommendations to the Speaker of the House of Representatives, the President of the Senate, and the chairs of the standing committees of the House of Representatives and the Senate that have primary jurisdiction over issues related to the Department.

(B) The Department of Rehabilitation and Correction shall develop specifications for a utilization review program under which the clinical necessity, appropriateness, efficacy, or efficiency of any outside health care service recommended for an offender may be evaluated by an external utilization review organization. The Department shall request proposals for the provision of services of that nature. The request for proposals shall adequately describe the specifications developed by the Department. Within six months after the effective date of this section, the Department shall report the responses to the request for proposals to the Speaker of the House of Representatives, the President of the Senate, and the chairs of the standing committees of the House of Representatives and the Senate that have primary jurisdiction over issues related to the Department. The Department is not required to enter into a contract for the provision of that nature unless money has been appropriated to the Department adequate to fund the provision of services of that nature.

Section 4. Section 2929.18 of the Revised Code is presented in this act as a composite of the section as amended by Am. H.B. 528, Am. Sub. S.B. 22, and Am. Sub. S.B. 107 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

History

Approved by the Governor on June 7, 2002

Sponsor

Schuring

End of Document

ORC Ann. 2929.191

Current through File 8 of the 134th (2021-2022) General Assembly; all acts passed as of April 10, 2021.

Page's Ohio Revised Code Annotated > Title 29: Crimes — Procedure (Chs. 2901 — 2981) > Chapter 2929: Penalties and Sentencing (§§ 2929.01 — 2929.72) > Penalties for Felony (§§ 2929.11 — 2929.201)

§ 2929.191 Correction to judgment of conviction concerning post-release control.

(A)

(1) If, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(d) of section 2929.19 of the Revised Code and failed to notify the offender pursuant to that division that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include a statement to that effect in the judgment of conviction entered on the journal or in the sentence pursuant to division (D)(1) of section 2929.14 of the Revised Code, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that the offender will be supervised under section 2967.28 of the Revised Code after the offender leaves prison.

If, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in division (B)(2)(e) of section 2929.19 of the Revised Code and failed to notify the offender pursuant to that division that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison or to include a statement to that effect in the judgment of conviction entered on the journal or in the sentence pursuant to division (D)(2) of section 2929.14 of the Revised Code, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that the offender may be supervised under section 2967.28 of the Revised Code after the offender leaves prison.

(2) If a court prepares and issues a correction to a judgment of conviction as described in division (A)(1) of this section before the offender is released from imprisonment under the prison term the court imposed prior to July 11, 2006, the court shall place upon the journal of the court an entry nunc pro tunc to record the correction to the judgment of conviction and shall provide a copy of the entry to the offender or, if the offender is not physically present at the hearing, shall send a copy of the entry to the department of rehabilitation and correction for delivery to the offender. If the court sends a copy of the entry to the department, the department promptly shall deliver a copy of the entry to the offender. The court's placement upon the journal of the entry nunc pro tunc before the offender is released from imprisonment under the term shall be considered, and shall have the same effect, as if the court at the time of original sentencing had included the statement in the sentence and the judgment of conviction entered on the journal and had notified the offender that the offender will be so supervised regarding a sentence including a prison term of a type described in division (B)(2)(d) of section 2929.19 of the Revised Code or that the offender may be so supervised regarding a sentence including a prison term of a type described in division (B)(2)(e) of that section.

(B)

(1) If, prior to July 11, 2006, a court imposed a sentence including a prison term and failed to notify the offender pursuant to division (B)(2)(f) of section 2929.19 of the Revised Code regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control or to include in the judgment of conviction entered on the journal a statement to that effect, at any time before the offender is released from imprisonment under that term and at a hearing conducted in accordance with division (C) of this section, the

court may prepare and issue a correction to the judgment of conviction that includes in the judgment of conviction the statement that if a period of supervision is imposed following the offender's release 7 from prison, as described in division (B)(2)(d) or (e) of section 2929.19 of the Revised Code, and if the offender violates that supervision or a condition of post-release control imposed under division (B) of section 2967.131 of the Revised Code the parole board may impose as part of the sentence a prison term of up to one-half of the stated prison term originally imposed upon the offender.

(2) If the court prepares and issues a correction to a judgment of conviction as described in division (B)(1) of this section before the offender is released from imprisonment under the term, the court shall place upon the journal of the court an entry nunc pro tunc to record the correction to the judgment of conviction and shall provide a copy of the entry to the offender or, if the offender is not physically present at the hearing, shall send a copy of the entry to the department of rehabilitation and correction for delivery to the offender. If the court sends a copy of the entry to the department, the department promptly shall deliver a copy of the entry to the offender. The court's placement upon the journal of the entry nunc pro tunc before the offender is released from imprisonment under the term shall be considered, and shall have the same effect, as if the court at the time of original sentencing had included the statement in the judgment of conviction entered on the journal and had notified the offender pursuant to division (B)(2)(f) of section 2929.19 of the Revised Code regarding the possibility of the parole board imposing a prison term for a violation of supervision or a condition of post-release control.

(C) On and after July 11, 2006, a court that wishes to prepare and issue a correction to a judgment of conviction of a type described in division (A)(1) or (B)(1) of this section shall not issue the correction until after the court has conducted a hearing in accordance with this division. Before a court holds a hearing pursuant to this division, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender who is the subject of the hearing, the prosecuting attorney of the county, and the department of rehabilitation and correction. The offender has the right to be physically present at the hearing, except that, upon the court's own motion or the motion of the offender or the prosecuting attorney, the court may permit the offender to appear at the hearing by video conferencing equipment if available and compatible. An appearance by video conferencing equipment pursuant to this division has the same force and effect as if the offender were physically present at the hearing. At the hearing, the offender and the prosecuting attorney may make a statement as to whether the court should issue a correction to the judgment of conviction.

History

151 v H 137, § 1, eff. 7-11-06; 2011 HB 86, § 1, eff. Sept. 30, 2011; 2018 sb201, § 1, effective March 22, 2019.

End of Document

ORC Ann. 2967.28

Current through File 8 of the 134th (2021-2022) General Assembly; all acts passed as of April 10, 2021.

Page's Ohio Revised Code Annotated > Title 29: Crimes — Procedure (Chs. 2901 — 2981) > Chapter 2967: Pardon; Parole; Probation (§§ 2967.01 — 2967.31)

§ 2967.28 Period of post-release control for certain offenders; sanctions; proceedings upon violation.

(A) As used in this section:

(1)"Monitored time" means the monitored time sanction specified in section 2929.17 of the Revised Code.

(2)"Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(3)"Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.

(4)"Risk reduction sentence" means a prison term imposed by a court, when the court recommends pursuant to section 2929.143 of the Revised Code that the offender serve the sentence under section 5120.036 of the Revised Code, and the offender may potentially be released from imprisonment prior to the expiration of the prison term if the offender successfully completes all assessment and treatment or programming required by the department of rehabilitation and correction under section 5120.036 of the Revised Code.

(5)"Victim's immediate family" has the same meaning as in section 2967.12 of the Revised Code.

(6)"Minor drug possession offense" has the same meaning as in section 2925.11 of the Revised Code.

(B) Each sentence to a prison term, other than a term of life imprisonment, for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third 1 degree that is an offense of violence and is not a felony sex offense shall include a requirement that the offender be subject to a period of post-release control imposed by the parole board after the offender's release from imprisonment. This division applies with respect to all prison terms of a type described in this division, including a term of any such type that is a risk reduction sentence. If a court imposes a sentence including a prison term of a type described in this division on or after July 11, 2006, the failure of a sentencing court to notify the offender pursuant to division (B)(2)(d) of section 2929.19 of the Revised Code of this requirement or to include in the judgment of conviction entered on the journal a statement that the offender's sentence includes this requirement does not negate, limit, or otherwise affect the mandatory period of supervision that is required for the offender under this division. This division applies with respect to all prison terms of a type described in this division, including a non-life felony indefinite prison term. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B)(2)(d) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (D)(1) of section 2929.14 of the Revised Code a statement regarding post-release control. Unless reduced by the parole board pursuant to division (D) of this section when authorized under that division, a period of post-release control required by this division for an offender shall be of one of the following periods:

(1) For a felony of the first degree or for a felony sex offense, five years;

(2) For a felony of the second degree that is not a felony sex offense, three years;

(3) For a felony of the third degree that is an offense of violence and is not a felony sex offense, three years.

(C) Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (B)(1) or (3) of this section shall include a requirement that the offender be subject to a period of post-release control of up to three years after the offender's release from imprisonment, if the parole board, in accordance with division (D) of this section, determines that a period of post-release control is necessary for that offender. This division applies with respect to all prison terms of a type described in this division, including a term of any such type that is a risk reduction sentence. Section 2929.191 of the Revised Code applies if, prior to July 11, 2006, a court imposed a sentence including a prison term of a type described in this division and failed to notify the offender pursuant to division (B)(2) (e) of section 2929.19 of the Revised Code regarding post-release control or to include in the judgment of conviction entered on the journal or in the sentence pursuant to division (D)(2) of section 2929.14 of the Revised Code a statement regarding post-release control. Pursuant to an agreement entered into under section 2967.29 of the Revised Code, a court of common pleas or parole board may impose sanctions or conditions on an offender who is placed on post-release control under this division.

(D)

(1) Before the prisoner is released from imprisonment, the parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court shall impose upon a prisoner described in division (B) of this section, shall impose upon a prisoner described in division (C) of this section who is to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, may impose upon a prisoner described in division (C) of this section who is not to be released before the expiration of the prisoner's stated prison term under a risk reduction 2 sentence, and shall impose upon a prisoner described in division (B)(2)(b) of section 5120.031 or in division (B)(1) of section 5120.032 of the Revised Code, one or more post-release control sanctions to apply during the prisoner's period of post-release control. Whenever the board or court imposes one or more post-release control sanctions upon a prisoner, the board or court, in addition to imposing the sanctions, also shall include as a condition of the post-release control that the offender not leave the state without permission of the court or the offender's parole or probation officer and that the offender abide by the law. The board or court may impose any other conditions of release under a post-release control sanction that the board or court considers appropriate, and the conditions of release may include any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code. Prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board or court shall review the prisoner's criminal history, results from the single validated risk assessment tool selected by the department of rehabilitation and correction under section 5120.114 of the Revised Code, all juvenile court adjudications finding the prisoner, while a juvenile, to be a delinquent child, and the record of the prisoner's conduct while imprisoned. The parole board or court shall consider any recommendation regarding post-release control sanctions for the prisoner made by the office of victims' services. After considering those materials, the board or court shall determine, for a prisoner described in division (B) of this section, division (B)(2)(b) of section 5120.031, or division (B)(1) of section 5120.032 of the Revised Code and for a prisoner described in division (C) of this section who is to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances or, for a prisoner described in division (C) of this section who is not to be released before the expiration of the prisoner's stated prison term under a risk reduction sentence, whether a post-release control sanction is necessary and, if so, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances. In the case of a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, the board or court shall presume that monitored time is the appropriate post-release control sanction unless the board or court determines that a more restrictive sanction is warranted. A post-release control sanction imposed under this division takes effect upon the prisoner's release from imprisonment.

Regardless of whether the prisoner was sentenced to the prison term prior to, on, or after July 11, 2006, prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board shall notify the prisoner that, if the prisoner violates any sanction so imposed or any condition of post-release control described in division (B) of section 2967.131 of the Revised Code that is imposed on the prisoner, the parole board may impose a prison term of up to one-half of the stated prison term originally imposed upon the prisoner.

At least thirty days before the prisoner is released from imprisonment under post-release control, except as otherwise provided in this paragraph, the department of rehabilitation and correction shall notify the victim and the victim's immediate family of the date on which the prisoner will be released, the period for which the prisoner will be under post-release control supervision, and the terms and conditions of the prisoner's post-release control regardless of whether the victim or 3 victim's immediate family has requested the notification. The notice described in this paragraph shall not be given to a victim or victim's immediate family if the victim or the victim's immediate family has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the notice not be provided to the victim or the victim's immediate family. At least thirty days before the prisoner is released from imprisonment and regardless of whether the victim or victim's immediate family has requested that the notice described in this paragraph be provided or not be provided to the victim or the victim's immediate family, the department also shall provide notice of that nature to the prosecuting attorney in the case and the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense.

If the notice given under the preceding paragraph to the victim or the victim's immediate family is based on an offense committed prior to March 22, 2013, and if the department of rehabilitation and correction has not previously successfully provided any notice to the victim or the victim's immediate family under division (B), (C), or (D) of section 2930.16 of the Revised Code with respect to that offense and the offender who committed it, the notice also shall inform the victim or the victim's immediate family that the victim or the victim's immediate family may request that the victim or the victim's immediate family not be provided any further notices with respect to that offense and the offender who committed it and shall describe the procedure for making that request. The department may give the notices to which the preceding paragraph applies by any reasonable means, including regular mail, telephone, and electronic mail. If the department attempts to provide notice to any specified person under the preceding paragraph but the attempt is unsuccessful because the department is unable to locate the specified person, is unable to provide the notice by its chosen method because it cannot determine the mailing address, electronic mail address, or telephone number at which to provide the notice, or, if the notice is sent by mail, the notice is returned, the department shall make another attempt to provide the notice to the specified person. If the second attempt is unsuccessful, the department shall make at least one more attempt to provide the notice. If the notice is based on an offense committed prior to March 22, 2013, in each attempt to provide the notice to the victim or victim's immediate family, the notice shall include the opt-out information described in this paragraph. The department, in the manner described in division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this paragraph and the preceding paragraph. The record shall be considered as if it was kept under division (D)(2) of section 2930.16 of the Revised Code. This paragraph, the preceding paragraph, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which this paragraph and the preceding paragraph were enacted, shall be known as "Roberta's Law."

(2) If a prisoner who is placed on post-release control under this section is released before the expiration of the definite term that is the prisoner's stated prison term or the expiration of the minimum term that is part of the prisoner's indefinite prison term imposed under a non-life felony indefinite prison term by reason of credit earned under section 2967.193 or a reduction under division (F) of section 2967.271 of the Revised Code and if the prisoner earned sixty or more days of credit, the adult parole authority shall supervise the offender with an active global positioning system 4 device for the first fourteen days after the offender's release from imprisonment. This division does not prohibit or limit the imposition of any post-release control sanction otherwise authorized by this section.

(3) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority or court may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. The authority also may recommend that the parole board or court increase or reduce the duration of the period of post-release control imposed by the

court. If the authority recommends that the board or court increase the duration of post-release control, the board or court shall review the releasee's behavior and may increase the duration of the period of post-release control imposed by the court up to eight years. If the authority recommends that the board or court reduce the duration of control for an offense described in division (B) or (C) of this section, the board or court shall review the releasee's behavior and, subject to divisions (D)(3)(a) to (c) of this section, may reduce the duration of the period of control imposed by the court or, if the period of control was imposed for a non-life felony indefinite prison term, reduce the duration of or terminate the period of control imposed by the court. In no case shall the board or court do any of the following:

(a) Reduce the duration of the period of control imposed for an offense described in division (B)(1) of this section to a period less than the length of the definite prison term included in the stated prison term originally imposed on the offender as part of the sentence or, with respect to a stated non-life felony indefinite prison term, to a period less than the length of the minimum prison term imposed as part of that stated prison term;

(b) Consider any reduction or termination of the duration of the period of control imposed on a releasee prior to the expiration of one year after the commencement of the period of control, if the period of control was imposed for a non-life felony indefinite prison term and the releasee's minimum prison term or presumptive earned early release date under that term was extended for any length of time under division (C) or (D) of section 2967.271 of the Revised Code.

(c) Permit the releasee to leave the state without permission of the court or the releasee's parole or probation officer.

(4) The department of rehabilitation and correction shall develop factors that the parole board or court shall consider in determining under division (D)(3) of this section whether to terminate the period of control imposed on a releasee for a non-life felony indefinite prison term.

(E) The department of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish standards for the imposition by the parole board of post-release control sanctions under this section that are consistent with the overriding purposes and sentencing principles set forth in section 2929.11 of the Revised Code and that are appropriate to the needs of releasees;

(2) Establish standards that provide for a period of post-release control of up to three years for all prisoners described in division (C) of this section who are to be released before the expiration 5 of their stated prison term under a risk reduction sentence and standards by which the parole board can determine which prisoners described in division (C) of this section who are not to be released before the expiration of their stated prison term under a risk reduction sentence should be placed under a period of post-release control;

(3) Establish standards to be used by the parole board in reducing the duration of the period of post-release control imposed by the court when authorized under division (D) of this section, in imposing a more restrictive post-release control sanction than monitored time upon a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, or in imposing a less restrictive control sanction upon a releasee based on the releasee's activities including, but not limited to, remaining free from criminal activity and from the abuse of alcohol or other drugs, successfully participating in approved rehabilitation programs, maintaining employment, and paying restitution to the victim or meeting the terms of other financial sanctions;

(4) Establish standards to be used by the adult parole authority in modifying a releasee's post-release control sanctions pursuant to division (D)(2) of this section;

(5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following:

(a) Classify violations according to the degree of seriousness;

(b) Define the circumstances under which formal action by the parole board is warranted;

(c) Govern the use of evidence at violation hearings;

(d) Ensure procedural due process to an alleged violator;

(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;

(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.

(F)

(1) Whenever the parole board imposes one or more post-release control sanctions upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the field services section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.

(2) If the adult parole authority or, pursuant to an agreement under section 2967.29 of the Revised Code, the court determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority or court may impose a more restrictive sanction upon the releasee, in accordance with the standards established under division (E) of this section or in accordance with the agreement made under section 2967.29 of the Revised Code, 6 or may report the violation to the parole board for a hearing pursuant to division (F)(3) of this section. The authority or court may not, pursuant to this division, increase the duration of the releasee's post-release control or impose as a post-release control sanction a residential sanction that includes a prison term, but the authority or court may impose on the releasee any other residential sanction, nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code.

(3) The parole board or, pursuant to an agreement under section 2967.29 of the Revised Code, the court may hold a hearing on any alleged violation by a releasee of a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed upon the releasee. If after the hearing the board or court finds that the releasee violated the sanction or condition, the board or court may increase the duration of the releasee's post-release control up to the maximum duration authorized by division (B) or (C) of this section or impose a more restrictive post-release control sanction. If a releasee was acting pursuant to division (B)(2)(b) of section 2925.11 of the Revised Code and in so doing violated the conditions of a post-release control sanction based on a minor drug possession offense as defined in that section, the board or the court may consider the releasee's conduct in seeking or obtaining medical assistance for another in good faith or for self or may consider the releasee being the subject of another person seeking or obtaining medical assistance in accordance with that division as a mitigating factor before imposing any of the penalties described in this division. When appropriate, the board or court may impose as a post-release control sanction a residential sanction that includes a prison term. The board or court shall consider a prison term as a post-release control sanction imposed for a violation of post-release control when the violation involves a deadly weapon or dangerous ordnance, physical harm or attempted serious physical harm to a person, or sexual misconduct, or when the releasee committed repeated violations of post-release control sanctions. Unless a releasee's stated prison term was reduced pursuant to section 5120.032 of the Revised Code, the period of a prison term that is imposed as a post-release control sanction under this division shall not exceed nine months, and the maximum cumulative prison term for all violations under this division shall not exceed one-half of the definite prison term that was the stated prison term originally imposed upon the offender as part of this sentence or, with respect to a stated non-life felony indefinite prison term, one-half of the minimum prison term that was imposed as part of that stated prison term originally imposed upon the offender. If a releasee's stated prison term was reduced pursuant to section 5120.032 of the Revised Code, the period of a prison term that is imposed as a post-release control sanction under this division and the maximum cumulative prison term for all violations under this division shall not exceed the period of time not served in prison under the sentence imposed by the court. The period of a prison term that is imposed as a

post-release control sanction under this division shall not count as, or be credited toward, the remaining period of post-release control.

If an offender is imprisoned for a felony committed while under post-release control supervision and is again released on post-release control for a period of time determined by division (F)(4)(d) of this section, the maximum cumulative prison term for all violations under this division shall not exceed one-half of the total stated prison terms of the earlier felony, reduced by any prison term administratively imposed by the parole board or court, plus one-half of the total stated prison term of the new felony.

(4) Any period of post-release control shall commence upon an offender's actual release from prison. If an offender is serving an indefinite prison term or a life sentence in addition to a stated prison term, the offender shall serve the period of post-release control in the following manner:

(a) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under a life sentence or an indefinite sentence, and if the period of post-release control ends prior to the period of parole, the offender shall be supervised on parole. The offender shall receive credit for post-release control supervision during the period of parole. The offender is not eligible for final release under section 2967.16 of the Revised Code until the post-release control period otherwise would have ended.

(b) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under an indefinite sentence, and if the period of parole ends prior to the period of post-release control, the offender shall be supervised on post-release control. The requirements of parole supervision shall be satisfied during the post-release control period.

(c) If an offender is subject to more than one period of post-release control, the period of post-release control for all of the sentences shall be the period of post-release control that expires last, as determined by the parole board or court. Periods of post-release control shall be served concurrently and shall not be imposed consecutively to each other.

(d) The period of post-release control for a releasee who commits a felony while under post-release control for an earlier felony shall be the longer of the period of post-release control specified for the new felony under division (B) or (C) of this section or the time remaining under the period of post-release control imposed for the earlier felony as determined by the parole board or court.

History

146 v S 2 (Eff 7-1-96); 146 v S 269 (Eff 7-1-96); 147 v S 111 (Eff 3-17-98); 148 v S 107 (Eff 3-23-2000); 149 v H 327 (Eff 7-8-2002); 149 v H 510; Eff 3-31-2003; 151 v H 137, § 1, eff. 7-11-06; 152 v H 130, § 1, eff. 4-7-09; 2011 HB 86, § 1, eff. Sept. 30, 2011; 2012 HB 487, § 101.01, eff. Sept. 10, 2012; 2012 SB 160, § 1, eff. Mar. 22, 2013; 2016 hb110, § 1, effective September 13, 2016; 2018 sb66, § 1, effective October 29, 2018; 2018 sb201, § 1, effective March 22, 2019.

End of Document

2001 Ohio HB 327

Enacted, April 8, 2002

Reporter
2001 Ohio HB 327

OHIO ADVANCE LEGISLATIVE SERVICE > OHIO 124TH GENERAL ASSEMBLY -- 2001-02 REGULAR SESSION > HOUSE BILL NO. 327

Notice

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED **<A]**
[D> Text within these symbols is deleted **<D]**

Synopsis

AN ACT To amend sections 181.25, 2307.62, 2913.01, 2913.04, 2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5120.033, 5145.01, and 5149.22 and to enact section 2929.141 of the Revised Code to clarify certain provisions of the Felony Sentencing Law, to correct the penalty provisions for illegal processing of drug documents, to clarify the eligibility criteria for intervention in lieu of conviction, to require applicants for nurse licensure and dialysis technician certification to have a criminal records check, to expand the offense of unauthorized use of property to specifically include nonconsensual access to a cable service or cable system, to revise certain provisions of the law governing nurses and dialysis technicians as to licensing or certification, duties, and training, to specify that the members of the Ohio Council for Interstate Adult Supervision serve without compensation but are to be reimbursed for expenses, and to extend until July 1, 2002, the date by which the State Criminal Sentencing Commission must recommend changes to the state's criminal forfeiture laws.

Text

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 181.25, 2307.62, 2913.01, 2913.04, 2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5120.033, 5145.01, and 5149.22 be amended and section 2929.141 of the Revised Code be enacted to read as follows:

Sec. 181.25. (A) If the comprehensive criminal sentencing structure that it recommends to the general assembly pursuant to section 181.24 of the Revised Code or any aspects of that sentencing structure are enacted into law, the state criminal sentencing commission shall do all of the following:

(1) Assist the general assembly in the implementation of those aspects of the sentencing structure that are enacted into law;

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Intervention in lieu of conviction" means any court-supervised activity that complies with this section.

(3) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.

Sec. 2967.16. (A) Except as provided in division (D) of this section, when a paroled prisoner has faithfully performed the conditions and obligations of the paroled prisoner's parole and has obeyed the rules and regulations adopted by the adult parole authority that apply to the paroled prisoner, the authority upon the recommendation of the superintendent of parole supervision may enter upon its minutes a final release and thereupon shall issue to the paroled prisoner a certificate of final release, but the authority shall not grant a final release earlier than one year after the paroled prisoner is released from the institution on parole, and, in the case of a paroled prisoner whose minimum sentence is life imprisonment, the authority shall not grant a final release earlier than five years after the paroled prisoner is released from the institution on parole.

(B) **[A>** (1) **<A]** When a prisoner who has been released under a period of post-release control pursuant to section 2967.28 of the Revised Code has faithfully performed the conditions and obligations of the released prisoner's post-release control sanctions and has obeyed the rules and regulations adopted by the adult parole authority that apply to the released prisoner **[A>** OR HAS THE PERIOD OF POST-RELEASE CONTROL TERMINATED BY A COURT PURSUANT TO SECTION 2929.141 OF THE REVISED CODE **<A]** , the authority, upon the recommendation of the superintendent of parole supervision, may enter upon its minutes a final release and, upon the entry of the final release, shall issue to the released prisoner a certificate of final release. In the case of a prisoner who has been released under a period of post-release control pursuant to division (B) of section 2967.28 of the Revised Code, the authority shall not grant a final release earlier than one year after the released prisoner is released from the institution under a period of post-release control. **[A>** THE AUTHORITY SHALL CLASSIFY THE TERMINATION OF POST-RELEASE CONTROL AS FAVORABLE OR UNFAVORABLE DEPENDING ON THE OFFENDER'S CONDUCT AND COMPLIANCE WITH THE CONDITIONS OF SUPERVISION. **<A]** In the case of a released prisoner whose sentence is life imprisonment, the authority shall not grant a final release earlier than five years after the released prisoner is released from the institution under a period of post-release control.

[A> (2) THE DEPARTMENT OF REHABILITATION AND CORRECTION, NO LATER THAN SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL ADOPT A RULE IN ACCORDANCE WITH CHAPTER 119. OF THE REVISED CODE THAT ESTABLISHES THE CRITERIA FOR THE CLASSIFICATION OF A POST-RELEASE CONTROL TERMINATION AS "FAVORABLE" OR "UNFAVORABLE." **<A]**

(C) The following prisoners or person shall be restored to the rights and privileges forfeited by a conviction:

(1) A prisoner who has served the entire prison term that comprises or is part of the prisoner's sentence and has not been placed under any post-release control sanctions;

(2) A prisoner who has been granted a final release by the adult parole authority pursuant to division (A) or (B) of this section;

(3) A person who has completed the period of a community control sanction or combination of community control sanctions, as defined in section 2929.01 of the Revised Code, that was imposed by the sentencing court.

(D) Division (A) of this section does not apply to a prisoner in the shock incarceration program established pursuant to section 5120.031 of the Revised Code.

(E) The adult parole authority shall record the final release of a parolee or prisoner in the official minutes of the authority.

Sec. 2967.28. (A) As used in this section:

(1) "Monitored time" means the monitored time sanction specified in section 2929.17 of the Revised Code.

(2) "Deadly weapon" and "dangerous ordnance" have the same meanings as in section 2923.11 of the Revised Code.

(3) "Felony sex offense" means a violation of a section contained in Chapter 2907. of the Revised Code that is a felony.

(B) Each sentence to a prison term for a felony of the first degree, for a felony of the second degree, for a felony sex offense, or for a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened to cause physical harm to a person shall include a requirement that the offender be subject to a period of post-release control imposed by the parole board after the offender's release from imprisonment. Unless reduced by the parole board pursuant to division (D) of this section when authorized under that division, a period of post-release control required by this division for an offender shall be of one of the following periods:

(1) For a felony of the first degree or for a felony sex offense, five years;

(2) For a felony of the second degree that is not a felony sex offense, three years;

(3) For a felony of the third degree that is not a felony sex offense and in the commission of which the offender caused or threatened physical harm to a person, three years.

(C) Any sentence to a prison term for a felony of the third, fourth, or fifth degree that is not subject to division (B)(1) or (3) of this section shall include a requirement that the offender be subject to a period of post-release control of up to three years after the offender's release from imprisonment, if the parole board, in accordance with division (D) of this section, determines that a period of post-release control is necessary for that offender.

(D)(1) Before the prisoner is released from imprisonment, the parole board shall impose upon a prisoner described in division (B) of this section, may impose upon a prisoner described in division (C) of this section, and shall impose upon a prisoner described in division (B)(2)(b) of section 5120.031 or in division (B)(1) of section 5120.032 of the Revised Code, one or more post-release control sanctions to apply during the prisoner's period of post-release control. Whenever the board imposes one or more post-release control sanctions upon a prisoner, the board, in addition to imposing the sanctions, also shall include as a condition of the post-release control that the individual or felon not leave the state without permission of the court or the individual's or felon's parole or probation officer and that the individual or felon abide by the law. The board may impose any other conditions of release under a post-release control sanction that the board considers appropriate, and the conditions of release may include any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code. Prior to the release of a prisoner for whom it will impose one or more post-release control sanctions under this division, the parole board shall review the prisoner's criminal history, all juvenile court adjudications finding the prisoner, while a juvenile, to be a delinquent child, and the record of the prisoner's conduct while imprisoned. The parole board shall consider any recommendation regarding post-release control sanctions for the prisoner made by the office of victims' services. After considering those materials, the board shall determine, for a prisoner described in division (B) of this section, division (B)(2)(b) of section 5120.031, or division (B)(1) of section 5120.032 of the Revised Code, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances or, for a prisoner described in division (C) of this section, whether a post-release control sanction is necessary and, if so, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances. In the case of a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, the board shall presume that monitored time is the appropriate post-release control sanction unless the board determines that a more restrictive sanction is warranted. A post-release control sanction imposed under this division takes effect upon the prisoner's release from imprisonment.

(2) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. Unless the period of post-release control was imposed for an offense described in division (B)(1) of this section, the authority also may recommend that the parole board reduce the duration of the period of post-release control imposed by the court. If the authority recommends that the board reduce the duration of control for an offense described in division (B)(2), (B)(3), or (C) of this section, the board shall review the releasee's behavior and may reduce the duration of the period of control imposed by the court. In no case shall the board reduce the duration of the period of control imposed by the court for an offense described in division (B)(1) of this section, and in no case shall the board permit the releasee to leave the state without permission of the court or the releasee's parole or probation officer.

(E) The department of rehabilitation and correction, in accordance with Chapter 119. of the Revised Code, shall adopt rules that do all of the following:

(1) Establish standards for the imposition by the parole board of post-release control sanctions under this section that are consistent with the overriding purposes and sentencing principles set forth in section 2929.11 of the Revised Code and that are appropriate to the needs of releasees;

(2) Establish standards by which the parole board can determine which prisoners described in division (C) of this section should be placed under a period of post-release control;

(3) Establish standards to be used by the parole board in reducing the duration of the period of post-release control imposed by the court when authorized under division (D) of this section, in imposing a more restrictive post-release control sanction than monitored time upon a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, or in imposing a less restrictive control sanction upon a releasee based on the releasee's activities including, but not limited to, remaining free from criminal activity and from the abuse of alcohol or other drugs, successfully participating in approved rehabilitation programs, maintaining employment, and paying restitution to the victim or meeting the terms of other financial sanctions;

(4) Establish standards to be used by the adult parole authority in modifying a releasee's post-release control sanctions pursuant to division (D)(2) of this section;

(5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following:

(a) Classify violations according to the degree of seriousness;

(b) Define the circumstances under which formal action by the parole board is warranted;

(c) Govern the use of evidence at violation hearings;

(d) Ensure procedural due process to an alleged violator;

(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;

(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.

(F)(1) If a post-release control sanction is imposed upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the parole supervision section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.

(2) If the adult parole authority determines that a releasee has violated a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code imposed upon the releasee and that a more restrictive sanction is appropriate, the authority may impose a more restrictive sanction upon the releasee, in accordance with the standards established under division (E) of this section, or may report the violation to the parole board for a hearing pursuant to division (F)(3) of this section. The authority may not, pursuant to this division, increase the duration of the releasee's post-release control or impose as a post-release control sanction a residential sanction that includes a prison term, but the authority may impose on the releasee any other residential sanction, nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the Revised Code.

(3) The parole board may hold a hearing on any alleged violation by a releasee of a post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed upon the releasee. If after the hearing the board finds that the releasee violated the sanction or condition, the board may increase the duration of the releasee's post-release control up to the maximum duration authorized by division (B) or (C) of this section or impose a more restrictive post-release control sanction. When appropriate, the board may impose as a post-release control sanction a residential sanction that includes a prison term. The board shall consider a prison term as a post-release control sanction imposed for a violation of post-release control when the violation involves a deadly weapon or dangerous ordnance, physical harm or attempted serious physical harm to a person, or sexual misconduct, or when the releasee committed repeated violations of post-release control sanctions. The period of a prison term that is imposed as a post-release control sanction under this division shall not exceed nine months, and the maximum cumulative prison term for all violations under this division shall not exceed one-half of the stated prison term originally imposed upon the offender as part of this sentence. The period of a prison term that is imposed as a post-release control sanction under this division shall not count as, or be credited toward, the remaining period of post-release control.

[A> IF AN OFFENDER IS IMPRISONED FOR A FELONY COMMITTED WHILE UNDER POST-RELEASE CONTROL SUPERVISION AND IS AGAIN RELEASED ON POST-RELEASE CONTROL FOR A PERIOD OF TIME DETERMINED BY DIVISION (F)(4)(D) OF THIS SECTION, THE MAXIMUM CUMULATIVE PRISON TERM FOR ALL VIOLATIONS UNDER THIS DIVISION SHALL NOT EXCEED ONE-HALF OF THE TOTAL STATED PRISON TERMS OF THE EARLIER FELONY, REDUCED BY ANY PRISON TERM ADMINISTRATIVELY IMPOSED BY THE PAROLE BOARD, PLUS ONE-HALF OF THE TOTAL STATED PRISON TERM OF THE NEW FELONY. **<A]**

(4) **[D>** A parolee or releasee who has violated any condition of parole, any post-release control sanction, or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed upon the releasee by committing a felony may be prosecuted for the new felony, and, upon conviction, the court shall impose sentence for the new felony. In addition to the sentence imposed for the new felony, the court may impose a prison term for the violation, and the term imposed for the violation shall be reduced by any prison term that is administratively imposed by the parole board or adult parole authority as a post-release control sanction. If the person is a releasee, the maximum prison term for the violation shall be either the maximum period of post-release control for the earlier felony under division (B) or (C) of this section minus any time the releasee has spent under post-release control for the earlier felony or twelve months, whichever is greater. A prison term imposed for the violation shall be served consecutively to any prison term imposed for the new felony. If the person is a releasee, a prison term imposed for the violation, and a prison term imposed for the new felony, shall not count as, or be credited toward, the remaining period of post-release control imposed for the earlier felony. **<D]**

[D> (5) **<D]** Any period of post-release control shall commence upon an offender's actual release from prison. If an offender is serving an indefinite prison term or a life sentence in addition to a stated prison term, the offender shall serve the period of post-release control in the following manner:

(a) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under a life sentence or an indefinite sentence, and if the period of post-release control ends prior to the period of parole, the offender shall be supervised on parole. The offender shall receive credit for post-release control supervision during the period of parole. The offender is not eligible for final release under section 2967.16 of the Revised Code until the post-release control period otherwise would have ended.

(b) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under an indefinite sentence, and if the period of parole ends prior to the period of post-release control, the offender shall be supervised on post-release control. The requirements of parole supervision shall be satisfied during the post-release control period.

(c) If an offender is subject to more than one period of post-release control, the period of post-release control for all of the sentences shall be the period of post-release control that expires last, as determined by the parole board. Periods of post-release control shall be served concurrently and shall not be imposed consecutively to each other.

(d) The period of post-release control for a releasee who commits a felony while under post-release control for an earlier felony shall be the longer of the period of post-release control specified for the new felony under division (B) or (C) of this section or the time remaining under the period of post-release control imposed for the earlier felony as determined by the parole board.

Sec. 3719.21. Except as provided in division (C) of section 2923.42, division (B)(5) of section 2923.44, divisions (D)(1), (F), and (H) of section 2925.03, division (D)(1) of section 2925.02, 2925.04, or 2925.05, division (E)(1) of section 2925.11, division (F) of section 2925.13 **[D>** or **<D] [A>** , DIVISION (F) OF SECTION **<A]** 2925.36, division (D) of section 2925.22, division (H) of section 2925.23, division (M) of section 2925.37, division (B)(5) of section 2925.42, division (B) of section 2929.18, division (D) of section 3719.99, division (B)(1) of section 4729.65, and division (E)(3) of section 4729.99 of the Revised Code, the clerk of the court shall pay all fines or forfeited bail assessed and collected under prosecutions or prosecutions commenced for violations of this chapter, section 2923.42 of the Revised Code, or Chapter 2925. of the Revised Code, within thirty days, to the executive director of the state board of pharmacy, and the executive director shall deposit the fines into the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4723.09. (A) **[A>** (1) **<A]** An application for licensure by examination to practice as a registered nurse or as a licensed practical nurse shall be submitted to the board of nursing in the form prescribed by rules of the board. The application shall include evidence that the applicant has completed requirements of a nursing education program approved by the board or approved by another jurisdiction's board that regulates nurse licensure. The application also shall include any other information required by rules of the board. The application shall be accompanied by the application fee required by section 4723.08 of the Revised Code.

[A> (2) **<A]** The board shall grant a license to practice nursing as a registered nurse or as a licensed practical nurse if **[D>** the **<D] [A>** ALL OF THE FOLLOWING APPLY: **<A]**

[A> (A) FOR ALL APPLICANTS, THE **<A]** applicant passes the examination accepted by the board under section 4723.10 of the Revised Code **[D>** and the **<D] [A>** . **<A]**

[A> (B) FOR AN APPLICANT WHO ENTERED A PRELICENSURE NURSING EDUCATION PROGRAM ON OR AFTER JUNE 1, 2003, THE CRIMINAL RECORDS CHECK OF THE APPLICANT THAT IS COMPLETED BY THE BUREAU OF CRIMINAL IDENTIFICATION AND INVESTIGATION AND INCLUDES A CHECK OF FEDERAL BUREAU OF INVESTIGATION RECORDS AND THAT THE BUREAU SUBMITS TO THE BOARD INDICATES THAT THE APPLICANT HAS NOT BEEN CONVICTED OF, HAS NOT PLEADED GUILTY TO, AND HAS NOT HAD A JUDICIAL FINDING OF GUILT FOR VIOLATING SECTION 2903.01, 2903.02, 2903.03, 2903.11, 2905.01, 2907.02, 2907.03, 2907.05, 2909.02, 2911.01, OR 2911.11 OF THE REVISED CODE OR A SUBSTANTIALLY SIMILAR LAW OF ANOTHER STATE, THE UNITED STATES, OR ANOTHER COUNTRY. **<A]**

[A> (C) FOR ALL APPLICANTS, THE **<A]** board determines that the applicant has not committed any act that is grounds for disciplinary action under section 3123.47 or 4723.28 of the Revised Code **[D>** , **<D]** or determines that an applicant who has committed **[D>** such acts **<D] [A>** ANY ACT THAT IS GROUNDS FOR DISCIPLINARY ACTION UNDER EITHER SECTION **<A]** has made restitution or has been rehabilitated, or both. **[D>** The **<D]**

[A> (3) THE **<A]** board is not required to afford an adjudication to an individual to whom it has refused to grant a license because of that individual's failure to pass the examination.

(B) An application for license by endorsement to practice nursing as a registered nurse or as a licensed practical nurse shall be submitted to the board in the form prescribed by rules of the board and shall be accompanied by the application fee required by section 4723.08 of the Revised Code. The application shall include evidence that the applicant holds a license in good standing in another jurisdiction granted after passing an examination approved by the board of that jurisdiction that is equivalent to the examination requirements under this chapter for a license to practice nursing as a registered nurse or licensed practical nurse **[D>** , **<D]** and shall include other information required by rules of the board of nursing. The board shall grant a license by endorsement if the applicant is licensed or certified by another jurisdiction and the board determines, pursuant to rules established under section 4723.07 of the Revised Code, that all of the following apply:

COMPENSATION, BUT EACH MEMBER SHALL BE REIMBURSED FOR THE MEMBER'S ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE MEMBER'S OFFICIAL DUTIES ON THE COUNCIL. **<A]**

The compact administrator for this state for the interstate compact for adult offender supervision, or the administrator's designee shall serve as commissioner of the state council and as this state's representative to the interstate commission established under Article III of that compact.

Section 2. That existing sections 181.25, 2307.62, 2913.01, 2913.04, 2919.25, 2925.23, 2929.01, 2929.12, 2929.13, 2929.14, 2929.19, 2929.20, 2951.041, 2967.16, 2967.28, 3719.21, 4723.09, 4723.28, 4723.72, 4723.74, 4723.75, 4723.77, 5120.031, 5120.032, 5120.033, 5145.01, and 5149.22 of the Revised Code are hereby repealed.

Section 3. The amendments to section 5149.22 of the Revised Code that are made in Sections 1 and 2 of this act shall take effect on the effective date of section 5149.22 of the Revised Code, which is the time specified in Section 3 of Sub. H.B. 269 of the 124th General Assembly, or on the earliest date permitted by law, whichever is later.

Section 4. Section 2919.25 of the Revised Code is presented in this act as a composite of the section as amended by both H.B. 238 and Am. Sub. S.B. 1 of the 122nd General Assembly. Section 2929.01 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 349, Am. Sub. S.B. 179, and Am. Sub. S.B. 222 of the 123rd General Assembly. Section 2929.13 of the Revised Code is presented in this act as a composite of the section as amended by Am. H.B. 528, Am. Sub. S.B. 22, Am. Sub. S.B. 107, Am. S.B. 142, and Am. Sub. S.B. 222 of the 123rd General Assembly. Section 2929.19 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 349, Am. Sub. S.B. 22, and Am. Sub. S.B. 107 of the 123rd General Assembly. Section 2951.041 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 202 and Am. Sub. S.B. 107 of the 123rd General Assembly. Section 4723.09 of the Revised Code is presented in this act as a composite of the section as amended by both Sub. H.B. 511 and Am. Sub. S.B. 180 of the 123rd General Assembly. Section 5120.032 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. S.B. 22 and Am. Sub. S.B. 107 of the 123rd General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composites are the resulting versions of the sections in effect prior to the effective date of the sections as presented in this act.

History

Approved by the Governor on April 8, 2002

Sponsor

Latta

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Ohio Crim. R. 1

Rules current through rule amendments received through March 23, 2021

OH - Ohio Local, State & Federal Court Rules > Ohio Rules Of Criminal Procedure

Rule 1. Scope of rules: Applicability; Construction; Exceptions

(A)Applicability.

These rules prescribe the procedure to be followed in all courts of this state in the exercise of criminal jurisdiction, with the exceptions stated in division (C) of this rule.

(B)Purpose and construction.

These rules are intended to provide for the just determination of every criminal proceeding. They shall be construed and applied to secure the fair, impartial, speedy, and sure administration of justice, simplicity in procedure, and the elimination of unjustifiable expense and delay.

(C)Exceptions.

These rules, to the extent that specific procedure is provided by other rules of the Supreme Court or to the extent that they would by their nature be clearly inapplicable, shall not apply to procedure (1) upon appeal to review any judgment, order or ruling, (2) upon extradition and rendition of fugitives, (3) in cases covered by the Uniform Traffic Rules, (4) upon the application and enforcement of peace bonds, (5) in juvenile proceedings against a child as defined in Rule 2(D) of the Rules of Juvenile Procedure, (6) upon forfeiture of property for violation of a statute of this state, or (7) upon the collection of fines and penalties. Where any statute or rule provides for procedure by a general or specific reference to the statutes governing procedure in criminal actions, the procedure shall be in accordance with these rules.

History

Amended, eff 7-1-75; 7-1-96.

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Ohio Crim. R. 36

Rules current through rule amendments received through March 23, 2021

OH - Ohio Local, State & Federal Court Rules > Ohio Rules Of Criminal Procedure

Rule 36. Clerical mistakes

Clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission, may be corrected by the court at any time.

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