



OHIO

CRIMINAL SENTENCING COMMISSION

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FELONY SENTENCING QUICK REFERENCE GUIDE

PURPOSES & PRINCIPLES OF SENTENCING [R.C. 2929.11(A)]

Overriding Purposes:

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

Principles:

- Always consider the need for incapacitation, deterrence, rehabilitation of the offender, and restitution to the victim and/or the public. [R.C. 2929.11(A)]
- Sentences should be commensurate with, and not demeaning to, the seriousness of offender’s conduct and its impact on the victim, and consistent with sentences for similar crimes by similar offenders. [R.C. 2929.11(B)]
- Courts shall not sentence based on the offender’s race, ethnicity, gender, or religion. [R.C. 2929.11(C)]

SERIOUSNESS & RECIDIVISM FACTORS - CONSIDER IN EVERY CASE

The court must weigh the following factors, if present, as well as any other relevant factors.

OFFENDER’S CONDUCT MORE SERIOUS

[R.C. 2929.12(B)]

- Injury exacerbated by victim’s physical or mental condition or age
- Victim suffered serious physical, psychological, or economic harm
- Offender held public office or position of trust related to the offense
- Offender’s occupation, elected office, or profession obliged the offender to prevent the offense or to bring those committing it to justice
- Offender’s professional reputation or occupation, elected office, or profession facilitated the offense or is likely to influence others’ conduct
- Offender’s relationship with the victim facilitated the offense
- Offender acted for hire or as part of organized criminal activity
- Offender was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or religion
- In a domestic violence or assault case, offender is parent or custodian, the victim was a family or household member, and the offense was committed in the vicinity of one or more children other than the victim

OFFENDER’S CONDUCT LESS SERIOUS

[R.C. 2929.12(C)]

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

OFFENDER’S RECIDIVISM MORE LIKELY

[R.C. 2929.12(D)]

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

- Offender has not responded favorably to sanctions previously imposed in adult or juvenile court
- Offender shows pattern of alcohol/drug use related to offense and doesn’t acknowledge it or refuses treatment
- Offender shows no genuine remorse

OFFENDER’S RECIDIVISM LESS LIKELY

[R.C. 2929.12(E)]

- Offender has no prior juvenile delinquency adjudication and/or no prior adult conviction
- Offender has led a law-abiding life for a significant number of years
- Offense was committed under circumstances unlikely to recur
- Offender shows genuine remorse

OFFENDER’S VETERAN STATUS [R.C. 2929.12(F)]

MANDATORY PRISON TERMS

Note: Factors other than prior convictions that enhance the penalty for a given offense must be specified in the indictment.

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

AGGRAVATED MURDER OR MURDER

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

ANY F-1 OR F-2

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

ASSAULTS ON PEACE OFFICERS

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

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

ASSAULTS ON PREGNANT WOMEN

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

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

REPEAT VIOLENT OFFENDER SPECIFICATION (RVO)

Defined as person who commits aggravated murder, murder, a violent F-1 or F-2, or an F-1 or F-2 attempt of violence, with a prior conviction for one or more of the same. [R.C. 2929.01(CC)]; [R.C. 2941.149]

- Discretionary RVO time: If court elects the maximum from range for underlying offense and LWOP is not imposed, it may add 1 to 10 more years if the court finds under R.C. 2929.14(B)(2)(a)(i-v) that the prison term for the underlying offense is:
 - Inadequate to punish the offender and protect the public (see recidivism factors in [R.C. 2929.12(D) - (E)]); **and**
 - Demeaning to seriousness of offense (see seriousness factors in [R.C. 2929.12(B) - (C)])
 - For F-2 offenses, the court also must find serious physical harm or attempt or threat to do so
- Under R.C. 2929.14(B)(2)(b), the court must impose the maximum prison term authorized for the offense, plus an additional 1 - 10 years for:
 - RVO with ≥ 3 RVO offenses in 20 years, including current, if LWOP not required or imposed

VIOLENT F-3 OFFENSES WITH PRIOR

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

CERTAIN SEX OFFENSES

Any offense with a sexually violent predator (SVP)

specification: Under R.C. 2929.13(F)(2), (11), and (15) and [R.C. 2971.03], at least 2 years to Life for specification, consecutive to underlying offense.

Any rape: See [R.C. 2929.13(F)(2)] and our [Rape Penalty Chart](#) for range of sentences.

- Attempted rape, if victim <13 and, if completed, would be a sexual predator [R.C. 2929.13(F)(2)]
- 5 to 25 years for attempted statutory rape if offender ≥ 16 and victim <13 [R.C. 2941.1418]; [R.C. 2971.03(A)(3)(e)(ii) or (B)(2)(a)]; [R.C. 2929.14(E)]
- 10 years to Life for attempted statutory rape if offender ≥ 16 and victim <10 [R.C. 2941.1419]; [R.C. 2971.03(A)(3)(e)(iii) or (B)(2)(b)]
- 15 years to Life for attempted rape, if offender has prior attempted statutory rape [R.C. 2941.1420]; [R.C. 2971.03(A)(3)(e)(iv) or (B)(2)(c)]

Sexual battery after Aug. 3, 2006, if victim <13 [R.C. 2929.13(F)(3)(c)(ii)]; or

- Before Aug. 3, 2006, if victim <13, with prior rape, FSP, GSI, or sexual battery [R.C. 2929.13(F)(3)(c)(i)]

Gross Sexual Imposition if victim <13 [R.C. 2929.13(F)(3)(a) - (b)]:

- With prior rape, FSP, GSI, or sexual battery; or
- On or after Aug. 3, 2006, with corroboration of victim's testimony¹

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

SORN Registration: Repeat failure to register [R.C. 2950.99(A)(2)(b)] – mandatory sentence of at least 3 years

¹ In *State v. Bevely*, 2015-Ohio-475, the Ohio Supreme Court held that a mandatory prison term based upon corroborating evidence is unconstitutional.

CERTAIN DRUG OFFENSES

F-1, F-2, and F-3 Drug Offenses: Generally mandatory from range when required by statute [R.C. 2929.13(F)(5)] and [R.C. Chapter 2925]. See our [Drug Offense Guide](#) for specific guidance.²

F-2 Marijuana/Hashish Trafficking, Possession, or Cultivation: [R.C. 2925.03 - .04 and .11]

- 20 to <40k. marijuana, 1 to <2 k. solid hashish, or 200 to <400 g. liquid hashish: 5, 6, 7, or 8 years
- ≥40 k. marijuana, ≥2 k. solid hashish, or ≥400 g. liquid hashish: 8 years
- If in vicinity of school/juvenile: F-1 maximum

Major Drug Offenders (MDO): Defined in [R.C. 2929.01(W)]

- F-1 maximum for specified, high-quantity amounts [R.C. 2941.1410(A)]
- Additional 3- to 8-year specification when drug involved is a fentanyl-related compound [R.C. 2941.1410(B)]

CORRUPT ACTIVITY

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

CERTAIN TRAFFIC OFFENSES

Felony OVI when local incarceration is not imposed and for 5 priors in 20 years specified [R.C. 4511.19]; [R.C. 2941.1413]

- At least 60 days or at least 120 days, as specified for felony OVI [R.C. 4511.19(G)]; [R.C. 2929.13(G)(1) - (2)]
- 6 months or 1, 2, 3, 4, or 5 years on 6th OVI in 20 years [R.C. 2929.13(G)(1) - (2)], plus [R.C. 2941.1413]; [R.C. 2929.24(E)], plus [R.C. 2941.1416]

Any OVI-related aggravated vehicular homicide (AVH) and aggravated vehicular assault (AVA) [R.C. 2903.06 and .08]

Certain other involuntary manslaughters, AVHs, vehicular homicides, AVAs when specified [R.C. 2929.13(F)(14)]; [R.C. 2903.04, .06, and .08]

- 3 years for AVH with 3 or more prior OVIs or equivalent offenses [R.C. 2941.1415]; [R.C. 2929.14(B)(6)]

HUMAN TRAFFICKING

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

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

FELONY DOMESTIC VIOLENCE

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

ILLEGAL CONVEYANCE

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

OTHER SPECIFICATIONS IN R.C. 2941

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

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

- 6 years for automatic or muffled/silenced firearm [R.C. 2941.144] (9 years with prior) (cannot combine with 3- or 1-year gun specification)
- 3 years, if firearm used, displayed, brandished, or otherwise indicated [R.C. 2941.145] (54 months with prior)
- 1 year, if firearm possessed, but not used, displayed, brandished, or otherwise indicated [R.C. 2941.141] (18 months with prior)
- 5 years, if a drive-by shooting, in addition to gun specification above [R.C. 2941.146]

2 Certain F-3 drug offenses are subject to a 5-year mandatory term. See *State v. Pribble*, 2017-Ohio-8499.

- 2 years, if wearing or carrying body armor [R.C. 2941.1411]
- 1, 2, or 3 years for participating in a criminal gang [R.C. 2941.142]; [R.C. 2929.14(G)]
- 2 years for aggravated murder, murder, or a violent F-1, F-2, or F-3 in a school zone [R.C. 2941.143]; [R.C. 2929.14(H)(1)]
- 6 years for causing permanent, serious disfigurement or permanent, substantial incapacity when using an accelerant to commit felonious assault [R.C. 2941.1425]; [R.C. 2929.14(B)(9)]
- 6 years for causing permanent, disabling harm to a victim <10 years old [R.C. 2941.1426]; [R.C. 2929.14(B)(10)]

DISCRETIONARY PRISON OR COMMUNITY CONTROL

For anyone not facing a mandatory prison term, judge has discretion to choose a prison term from R.C. 2929.14(A) ranges, or they may impose a term of community control of up to 5 years [R.C. 2929.13(A)]; [R.C. 2929.15(A)], etc.

PRESUMPTIVE PRISON TERM

F-1s, F-2s, “In Favor” Drug Offenses, and Certain F-3s: Presumption in favor of a prison term [R.C. 2929.13(D)(1)]. To rebut presumption, court must find that non-prison sanction(s) would both [R.C. 2929.13(D)(2)]:

- Adequately protect the public and punish the offender because the factors indicating recidivism is less likely outweigh the factors indicating recidivism is more likely; and
- Not demean seriousness of the offense because less-serious factors outweigh more-serious factors

If no prison term imposed (or if judicial release is later granted) state has appeal of right [R.C. 2953.08(B)(1)]

F-3 offenses are theft of firearm [R.C. 2913.02(B)(4)], certain GSI offenses [R.C. 2907.05(A)(4) or (B)], or F-3 importuning [R.C. 2907.07(F)]

NO PRESUMPTIVE SENTENCE

Other F-3s or “Div. C” Drug Offense: No guidance other than Purposes and Principles [R.C. 2929.13(C)]

MANDATORY COMMUNITY CONTROL

F-4s and F-5s or “Div. B” Drug Offenses:

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

Mandatory* Community Control if most serious charge is an F-4 or F-5 that is not an offense of violence or qualifying assault offense and the offender:

- Did not have prior felony at any time or prior misdemeanor offense of violence within 2 years
- Court made request of DRC and was provided with available community-control sanctions under R.C. 2929.13(B)(1)(c)
 - Court may impose prison term if DRC does not name an appropriate sanction within 45 days [R.C. 2929.13(B)(1)(b)(iv) and (B)(1)(c)]

***HOWEVER**, the court *may* impose a prison term if *any* of the following 11 factors apply

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

- Physical harm to a person
- Attempt or actual threat of physical harm to a person with a deadly weapon
- Attempt or actual threat of physical harm to a person, plus prior conviction for causing such harm

- Offense related to public office/position held; position obligated offender to prevent it or to bring others to justice; or offender’s reputation/position facilitated the crime or likely to influence others
- Offense was for-hire or part of organized criminal activity
- Offense was a sex offense
- Offender served a prior prison term or was in prison at time of offense
- Offense was committed while offender was under community control or on bail or bond
- Offender committed the offense while in possession of a firearm

If R.C. 2929.13(B)(1) mandate does not apply, court must comply with R.C. 2929.11(A) purposes and principles of sentencing.

If a prison term is imposed, defendant has appeal of right under R.C. 2953.08(A)(2).

- If a sentence is given with a prison term for a F-4 or F-5 or a “Div. B” Drug Offense and the court specifies one or more factor found in R.C. 2929.13(B)(1)(b), then defendant is not entitled to an appeal as a matter of right

TARGETED COMMUNITY ALTERNATIVES TO PRISON (TCAP)

In participating counties, F-5 offenders who are sentenced to a prison term ≤12 months cannot be sent to prison, unless:

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

TCAP is a voluntary statewide program following the passage of 133 GA HB 166.

PROBATION VIOLATOR CAPS

F-4 and F-5 offenders found to be in violation of their community-control sanctions solely for so-called “**technical violations**” can only be sent to prison for 90 days on an F5 sentence and 180 days on an F4 sentence. [R.C. 2929.15(B)]

“**Technical violation**” is currently undefined and subject to conflicting interpretation throughout the state. Consult your local appellate decisions pending further legislative guidance.

INDEFINITE & DEFINITE SENTENCING

Ohio now operates under a system of both definite and indefinite sentencing. Felony offenses may be subject to a life sentence, a non-life indefinite sentence, or a definite sentence.

LIFE-SENTENCE OFFENSES

Offender is sentenced to a term of years up to life with release determinations by parole board.

- Aggravated murder (if death sentence not imposed) and murder (LWOP or X years – Life) [R.C. 2903.01 - .02]; [2929.02 - .03]
- Rape of a person <13 (LWOP); other rape or sexual battery; or GSI of a person <13, with an SVP spec (2 years - Life) [R.C. 2907.02]; [R.C. 2971.03(A)]; and [R.C. 2941.147 spec]

- Aggravated murder, murder, involuntary manslaughter in felony, felonious assault, and kidnapping with SVP and sexual motive (SM) specs (LWOP for murders, 2 years - Life for others) [R.C. 2971.03(A)]; [R.C. 2941.147 (SM spec)]; [R.C. 2941.148 (SVP spec)]

NON-LIFE FELONY INDEFINITE PRISON TERMS – 132 GA SB 201

F-1 and F2 offenses committed on or after March 22, 2019 that are not subject to life imprisonment. Judges impose both a minimum and maximum term. Release is presumed at the expiration of the minimum term. See the SB 201 Resources for further guidance.

- **Minimum Term:** Judges select a minimum term from the R.C. 2929.14(A) range
 - For offenses that specify a different term, that term is considered the minimum term
 - For offenses that carry a mandatory term, the minimum term is a mandatory term
- **Maximum Term:** Generally calculated as the minimum term plus 50 percent of itself [R.C. 2929.144(B)(1)]
 - **Concurrent Sentences:** The maximum term is equal to the longest minimum term imposed, plus 50 percent of the longest minimum term for the most serious qualifying felony being sentenced [R.C. 2929.144(B)(3)]
 - **Consecutive Sentences:** The maximum term is the sum of ALL indefinite minimum terms imposed, PLUS any

definite terms imposed, PLUS an additional 50 percent of the longest minimum term, OR definite term for the most serious felony being sentenced [R.C. 2929.144(B)(2)]

NOTE: Non-mandatory qualifying offenses are eligible for community control if presumption is overcome. Judges would then reserve an indefinite sentence.

DEFINITE PRISON TERMS

Offender sentenced to a definite term under R.C. 2929.14(A), unless offense specifies a different term. Release at the expiration of term, subject to reductions below.

- **F-3, F-4, and F-5 offenses**, as well as **Non-life F-1 and F-2 offenses committed before March 22, 2019**

COMMUNITY CONTROL & FINANCIAL SANCTIONS

RESIDENTIAL SANCTIONS

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

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

NON-RESIDENTIAL SANCTIONS

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

- Day reporting: Report to an approved location to participate in work, training, treatment, etc.
- House arrest and/or electronic monitoring and/or continuous alcohol monitoring

- Community service for up to 500 hours for felonies, which may be imposed on indigent and non-indigent persons; the 40-hour/month cap is no longer the law; community service is credited at judge's discretion
- Drug treatment: Inpatient, outpatient, or both; court determines level of security
- Drug- and alcohol-use monitoring, including random drug testing
- Intensive probation supervision; frequent contact with supervising officer, etc.
- Basic probation supervision, subject to conditions set by the court
- Monitored time: Under court control, subject to no conditions other than leading a law-abiding life
- Curfew
- Employment: Obtain or retain a job
- Education or training

- Victim-offender mediation, with the victim’s prior consent
- License violation report: Inform an agency granting a business or professional license of the violation
- Counseling generally. In particular, if a parent or custodian sentenced for domestic violence or assault involving a family or household member committed in the vicinity of a child other than the victim

SEX-OFFENDER REGISTRATION DUTIES

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

FINANCIAL SANCTIONS GENERALLY

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

- **Restitution:** For any economic loss (Plus up to 5-percent collection charge), but not “non-economic” loss [R.C. 2929.18(A)(1)]
 - Also see provisions specific to human trafficking in R.C. 2929.18(B)(8)
- **Fines**, including [R.C. 2929.18(A)(2) - (4)]:
 - Conventional fine from ranges in R.C. 2929.18(A)(3) (See Felony Sentencing Table, p. 14)
 - For organizational offenders see [R.C. 2929.31]
 - “State fine” or costs: Imposed by statute for victims, public defense, law libraries [R.C. 2929.31(A)(4)]

- “Day fine”: Standard percentage of offender’s daily income over time, based on offense seriousness [R.C. 2929.31(A)(2)]
- **Reimbursement of costs to administer any sanction** [R.C. 2929.18(A)(5)] and monitoring devices, including:
 - Pay-for-stay in jail, prison, etc. up to actual costs (Jail repayment must be authorized by local government)
- **Court Costs:** Costs of the prosecution and jury fees [R.C. 2947.23]. See [Supreme Court bench card on fines and fees](#).
- **Present and future ability to pay** must be considered when imposing fines, restitution, and many types of costs including appointed counsel fees, the costs of supervision, confinement costs, the costs of an immobilizing or disabling device, and reimbursement for controlled substance tests or arson investigation costs.
 - Courts may hold a hearing on present and future ability to pay, if necessary [R.C. 2929.18(E)]
 - Ability to pay considerations are not required to impose the costs of prosecution and any jury fees under R.C. 2947.23³
 - Courts must impose the costs of prosecution and jury fees under R.C. 2947.23, but may waive, modify, or suspend those costs at their discretion pursuant to R.C. 2947.23(C)

³ See *State v. Taylor*, Slip Opinion No. 2020-Ohio-3514 (Decided July 2, 2020).

CRIME-SPECIFIC FINANCIAL SANCTIONS

Drug offense fines [R.C. Chapter 2925] and [R.C. 2929.18(B)]:

- **F-1, F-2, F-3 Drug Offenses:** Mandatory fine at least 50 percent of the maximum conventional fine [R.C. 2929.18(B)(1)]
- **F-1, F-2, F-3 Drug Trafficking:** “Additional” fine equals value of offender’s property involved in or realized from the offense, or, if no property or undetermined value, additional fine under the R.C. 2929.18(A)(3) ranges; capped at conventional fine maximum [R.C. 2929.18(B)(4) - (7)]; (Also see million-dollar fine below)

Up to \$1 million for aggravated murder, murder, or F-1, or for F-1, F-2, or F-3 drug offense, if 3 or

more victims in instant or all such past crimes [R.C. 2929.32]

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

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

Forfeitures [R.C. Chapter 2981] and Title 45:

- Asset forfeiture, particularly in corrupt activity, drug, gang, and Medicaid fraud cases [R.C. Chapter 2981]
- Motor vehicle forfeiture for certain OVIs, DUSs, and wrongful entrustments [R.C. 4510.11, .19, and .203], etc.

SENTENCING CONSIDERATIONS & HEARING NOTICE REQUIREMENTS

PRESENTENCE INVESTIGATION (PSI)

No offender may be placed on a term of community control without a written PSI being considered by the court, unless both the defendant and the state waive the requirement. [R.C. 2951.03(A)(1)]

RISK ASSESSMENT

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

SENTENCING HEARING

A hearing is necessary before imposing sentence for a felony. [R.C. 2929.19(A)]

When Imposing a Prison Term [R.C. 2929.19(B)(2)]:

- **Prison Term(s):** State a prison term, plus any gun specification, RVO, MDO, consecutives, etc.
 - **For SB 201-qualifying offenses** subject to indefinite sentencing, impose minimum terms on each qualifying count **and** the maximum term on the record

- **Indefinite Sentencing Advisements:** For qualifying offenses, see specific required advisements in R.C. 2929.19(B)(2)(c)

- **Post-Release Control:** Notify that, as part of sentence, PRC is mandatory (for F-1, F-2, violent F-3, or sex offense) or discretionary (for all others) for 5 years (for F-1 or sex offense) or 3 years (for all other offenses). Discretionary PRC may be terminated prior to the end of the 3-year term

- Notify that violator could be sent to prison for up to 9 months, with maximum for repeated violations equal to 50 percent of stated prison term
- For a new felony, offender may be sent to prison for the remaining PRC period, or 12 months, whichever is greater, plus a prison term for the new crime [R.C. 2929.141]
- The defendant has a potential post-release control obligation on each felony count, but may be subject to only one post-release control period (the longest) per case, pursuant to R.C. 2967.28(F)(4)(c)

- **Jail Time Credit:** Notify the offender of the number of days they have been confined for the offense and include in sentencing entry [R.C. 2929.19(B)(2)(h)(i)]
- **Earned Credit Notice:** Notify that the offender may be eligible to earn credit while in prison and that the credit isn't automatic [R.C. 2929.14(D)(3)]; [R.C. 2929.19(B)(2)(g)]
- **SORN Notice:** Provide notices required by SORN Law [R.C. Chapter 2950], including duty to register [R.C. 2929.19(B)(3)]
- **Arson Registry Notice:** Notify of duty to register to arson offender who has not been sentenced to confinement in any institution [R.C. 2909.15]
- **Violent Offender Database (VOD) Notice:** See [SB 231 VOD Database Guide](#) for details. Court must provide notice **before** sentencing hearing for all offenders found or pleading guilty to:
 - Aggravated murder, murder, voluntary manslaughter, kidnapping, abduction (as F-2), or an attempt, conspiracy, or complicity conviction for any of these offenses

When Not Imposing a Prison Term

[R.C. 2929.19(B)(4)]: Directly sentence to community-control sanction(s) and:

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

- Court orders sex offender, arson, or violent offender registration

MERGER DOCTRINE

In cases with multiple counts, courts must consider whether sentences for allied offenses of similar import must be merged (a separate decision from consecutive/concurrent sentencing). See [R.C. 2941.25].

CONSECUTIVE PRISON TERMS

General Rule: Presumption of concurrent terms [R.C. 2929.41(A)] with court discretion to impose consecutive sentences if necessary to protect/punish, not disproportionate, and makes findings in R.C. 2929.14(C)(4):

- Crimes committed while awaiting trial/sentencing, under sanction, or under post-release control;
- Two or more of the multiple offenses committed as a single course of conduct; and harm so great or unusual that a single term does not adequately reflect seriousness of the conduct; or
- Offender's criminal history shows that consecutive terms are needed to protect the public

Defendant may appeal consecutives exceeding the maximum penalty for the worst offense involved [R.C. 2953.08(C)]

Consecutive Prison Terms Required:

[R.C. 2929.14(C)(1) - (3)]:

- **Specifications:** Sentence for gun and other specifications served before underlying offense [R.C. 2929.14(C)(1)(a) - (c)]
- **Certain crimes** committed by an inmate or escapee from a detention facility (e.g., riot, many escapes, etc.) [R.C. 2929.14(C)(2)]
- **Aggravated robbery** of a deadly weapon from a law enforcement officer [R.C. 2911.01(B)]; [R.C. 2929.14(C)(3)]
- **Theft of a firearm** (Grand Theft) where a prison term is imposed [R.C. 2913.04(B)(4)]; [R.C. 2929.14(C)(3)]

-
- **Sexually violent predators** [R.C. 2971.03)(E)]
 - **Felony failure to comply:** Fleeing in a vehicle from an officer, causing substantial injury or risk of it [R.C. 2921.331(C) - (D)]; [R.C. 2929.14(C)(3)]

SENTENCING JUVENILES

Recent U.S. Supreme Court decisions prohibit mandatory life-without-parole sentences for juvenile offenders. The Ohio Supreme Court has extended this decision to include sentences that exceed a juvenile’s life expectancy for non-homicide offenses.

REVERSE BINDOVERS

Under certain circumstances, the court sentencing an offender who was transferred from a juvenile court where the ultimate conviction is for an offense that would not be subject to mandatory bindover, the court must transfer the case back to juvenile court for disposition. See [R.C. 2152.122(B)].

CONCURRENT SUPERVISION

For the rules governing supervision of offenders subject to supervision by more than one court, see [R.C. 2951.022].

RELEASE & SENTENCE-REDUCTION MECHANISMS

JUDICIAL RELEASE

Eligibility: Any non-mandatory term, except certain offenses by public office holders [R.C. 2929.20(A)(1)(b)]

- If serving an eligible term consecutive to a mandatory term, eligible after serving the mandatory term
- A PSI is not necessary to grant judicial release

Filing Deadlines [R.C. 2929.20(C)]:

- If <2 years, can file any time after entering prison or after mandatory term(s) expires
- If 2 to <5 years, can file 180 days after entering prison or 180 days after mandatory term(s) expires
- If 5 years, can file after serving 4 years of stated prison term or 4 years after mandatory term expires
- If >5 to <10 years, can file after serving 5 years of their stated prison term or 5 years after mandatory term expires
- If >10 years, can file after serving 50 percent of stated prison term or 5 years after expiration of mandatory term, whichever is later

Hearings: The court may deny judicial release without a hearing, but must schedule a hearing to grant the petition.

- If denied at a hearing, offender cannot re-file;
- Court must make findings under R.C. 2929.20(J) to grant judicial release on an eligible F-1 or F-2. The state may appeal under R.C. 2953.08(B)(3)

RISK-REDUCTION SENTENCE

Court may recommend a “risk-reduction sentence” under which the inmate may be released by DRC after serving 80 percent of their term [R.C. 2929.143]; [R.C. 5120.036].

- Murder offenses, violent F-1 or F-2 offenses, or sexually oriented offenses not eligible
- Sentence cannot include a mandatory term
- Offender must agree to assessment and to participate in any recommended programming

80-PERCENT RELEASE RECOMMENDATION

- **“80-Percent Release”:** DRC director may petition the sentencing court to release certain eligible offenders after having served 80 percent of their term [R.C. 2967.19].
 - Must be serving a term of 1 year or more
 - Disqualifying prisons found in R.C. 2967.19(A)(2)
 - Mandatory prison terms may be eligible if not a “restricting prison term” under R.C. 2967.19(A)(4)
 - Eligible offenders are reviewed by the Ohio Parole Board before being considered by the director, who then makes recommendation to the sentencing court and notifies the prosecutor of the recommendation
 - Sentencing court then must either schedule a hearing or notify DRC that it will not hold a hearing. The offender cannot be released early without a hearing. See R.C. 2967.19(H) for hearing requirements
 - If 80-percent release is granted, the court must place the offender on community control for up to 5 years and reserve the right to reimpose the original sentence

EARNED CREDIT

An inmate may earn either one or five days of credit per month of incarceration for productive participation in education, vocational training, employment in prison industries, substance abuse treatment, or other constructive DRC program [R.C. 2967.193].

- Determination on the number of days that may be earned is based upon the most serious offense for which the offender is being confined
- Earned credit may not exceed 8 percent of the total prison term
- An award of the lesser of 90 days’ credit or a 10-percent reduction of the stated prison term

is possible for completion of programming listed in R.C. 2967.193(A)(2)

- Administrative rules of the earned credit program are laid out in Ohio Adm.Code 5120-2-06. For additional information, see [DRC Earned Credit policy](#)

TRANSITIONAL CONTROL

Certain eligible inmates able to be transitioned into the community during the final 180 days of their sentence. DRC to monitor offender’s reentry into community. [R.C. 2967.26]

- Sentencing court may disapprove of transition for offenders serving a prison term of two years or less
- Offenders on transitional-control status must stay in sanctioned facility or housing, and are subject to electronic monitoring

EARNED REDUCTION OF MINIMUM TERM

Offenders sentenced to an indefinite term for an SB 201-qualifying offense may receive a 5- to 15-percent reduction of their minimum term for “exceptional conduct or adjustment to incarceration” at the request of DRC and with approval of the sentencing court [R.C. 2967.271(F)(7)]

- See the [SB 201 Resources](#) for further guidance

SUBSTANCE ABUSE DISORDER TREATMENT

DRC may place certain prisoners into community-based substance abuse treatment for those individuals who suffer from a substance abuse disorder [R.C. 5120.035].

- Qualified offenders must be serving a prison term for an F-4 or F-5 and must not have a prior conviction for a felony offense of violence, or for a misdemeanor offense within the past five years. For other qualifications, see R.C. 5120.035(A)(4)
- Time must be served at a facility properly licensed as a halfway house or community residential center, pursuant to R.C. 2967.14

MEDICAL RELEASE

The DRC director may recommend that an inmate who is terminally ill, medically incapacitated, or in imminent danger of death be released as if on parole [R.C. 2967.05]

- DRC recommendation must include certification by attending physician
- Inmates serving a sentence of death, life without parole, for aggravated murder or murder, for a F-1 or F-2 under R.C. 2971, or for a mandatory prison term for an offense of violence or an R.C. 2941-specification are ineligible

OVERCROWDING EMERGENCY

When the total prison population exceeds capacity, the DRC director may notify the Correctional Institution Inspection Committee (CIIC) of an overcrowding emergency. The CIIC must review the situation and make a recommendation to the governor to reduce prison terms for eligible offenders by 30, 60, or 90 days. The governor then may declare an emergency on a recommendation from the CIIC. [R.C. 2967.18]

- See R.C. 2967.18(E) for sentences ineligible for the reduction
- Released offenders still may be subject to post-release control

EXECUTIVE CLEMENCY

The governor may, upon recommendation of the parole board, grant relief from a criminal conviction through pardons, commutations, or reprieves. Recommendations may come from the parole board [R.C. 2967.03].

- **Pardons** may be conditional or unconditional, alleviating some or all of the consequences of criminal convictions

- **Commutations** also may be conditional or unconditional, reducing the penalty of a criminal conviction
- **Reprieves** temporarily postpone the imposition or execution of a sentence. A temporary, definite reprieve of a sentence of death may be granted without notice or application [R.C. 2967.08]
- Applications for pardons must be filed in accordance with R.C. 2967.07

SHOCK PROBATION/PAROLE

Offenders with an offense date prior to July 1, 1996 (Senate Bill 2) still may be eligible for shock probation [Former R.C. 2947.061] or shock parole [Former R.C. 2967.31].

- **Shock probation** currently is referenced in R.C. 2929.201. Shock probation was available for non-repeat, non-dangerous offenders within 30 - 60 days of incarceration for certain non-aggravated F-1, F-2, or F-3 offenses, or after 6 months for certain aggravated F-1, F-2, or F-3 offenses
- **Shock parole** is a power granted to the parole board to grant parole to eligible pre-SB2 offenders who had not previously served a prison term of greater than 30 days. See [Ohio Adm.Code 5120:1-1-06](#) for additional information

INTENSIVE PROGRAM PRISON

IPP Recommendation: At sentencing, the court may recommend for or against boot camp or intensive program prison. [R.C. 2929.19(D)]; [R.C. 2929.14(I)]

- DRC has rescinded the administrative rules regarding this program. It is no longer in use

FELONY SENTENCING TABLE - DECEMBER 2019

Felony Level	Sentencing Guidance [R.C. 2929.13(B) - (E)]	Prison Terms [R.C. 2929.14(A)]	Maximum Fines ^a [R.C. 2929.18(A)(2) - (3)]	Repeat Violent Offender Enhancement [R.C. 2929.14(B)(2)]; [R.C. 2941.149]	Is Post-Release Control (PRC) Required? [R.C. 2967.28(B) - (C)]	PRC Period [R.C. 2967.28(B)]
F-1	Presumption for prison (Also applies to “in favor” drug offenses)	3, 4, 5, 6, 7, 8, 9, 10, or 11 years	\$20,000	1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years	Yes	5 years
F-2		2, 3, 4, 5, 6, 7, or 8 years	\$15,000			3 years 5 years, if sex offense
F-3	No guidance, other than PURPOSES AND PRINCIPLES (Also applies to “Div. (C)” drug offenses)	9, 12, 18, 24, 30, or 36 months or ^b 12, 18, 24, 30, 36, 42, 48, 54, or 60 months	\$10,000	For F-2 involving att. serious harm or for involuntary manslaughter: 1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years; otherwise none	Yes, if sex or violent offense; otherwise optional	3 years; 5 years, if sex offense
F-4	Mandatory 1- year community control for non- violent, no prior felony, etc. ^c	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months	\$5,000	None	Yes, if sex offense; otherwise optional	Up to 3 years; 5 years, if sex offense
F-5	Otherwise: If any of 11 [R.C. 2929.13(B)(2)] factors and not amenable to other sanction(s), guidance in favor of prison term. ^c If none of 11 factors, guidance against prison term (Also applies to “Div.(B)” drug offenses)	6, 7, 8, 9, 10, 11, or 12 months	\$2,500			

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

Indefinite Sentences (132 GA SB 201) – Non-life F-1 and F-2 offenses committed after March 22, 2019 receive both a minimum and maximum term

Drug Offenses – Penalties track degree of offense, but the sentencing guidance may be different than for other offenses at that felony level. See [Drug Offense Quick Reference](#).

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

^a **Maximum Fines:** Covers conventional and day fines. There are exceptions in drug trafficking cases [R.C. 2929.18(B)(4) - (7)].

Some offenses call for a superfine of up to \$1 million [R.C. 2929.32]. For organizational offenders, see [R.C. 2929.31].

In addition to any other fine that is or may be imposed under this section, the court imposing sentence for a felony that is a sexually oriented offense or a child-victim-oriented offense as defined in R.C. 2950.01 may impose a fine of \$50-\$500 [R.C. 2929.18(B)(9)].

^b **Higher F-3s:** The longer-sentence range applies to aggravated vehicular homicides and assaults, sexual battery, GSI, sex with a minor, and robbery or burglary with 2 or more separate aggravated or non-aggravated robberies or burglaries (See [R.C. 2929.14(A)(3)(a)]), and certain F-3 drug offenses [See, e.g., R.C. 2925.04(C)(i)].

^c **F-4s & F-5s:** Certain F-4s and F-5s [R.C. 2929.13(B)(1)(a) - (c)]; other F-4s, F-5s, or “Div. B.” Drug Offenses [R.C. 2929.13(B)(2) - (3)].