

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 205**

**Representative Galonski**

**Cosponsors: Representatives Smith, K., Seitz, Weinstein, Crossman, Upchurch,  
Miller, A.**

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**A BILL**

To amend sections 2925.11, 2925.12, 2925.14, and 1  
2925.141 of the Revised Code to expand immunity 2  
from prosecution for certain drug offenses when 3  
a person obtains medical assistance for a drug 4  
overdose. 5

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

**Section 1.** That sections 2925.11, 2925.12, 2925.14, and 6  
2925.141 of the Revised Code be amended to read as follows: 7

**Sec. 2925.11.** (A) No person shall knowingly obtain, 8  
possess, or use a controlled substance or a controlled substance 9  
analog. 10

(B) (1) This section does not apply to any of the 11  
following: 12

(a) Manufacturers, licensed health professionals 13  
authorized to prescribe drugs, pharmacists, owners of 14  
pharmacies, and other persons whose conduct was in accordance 15  
with Chapters 3719., 4715., 4723., 4729., 4730., 4731., and 16  
4741. of the Revised Code; 17

(b) If the offense involves an anabolic steroid, any 18  
person who is conducting or participating in a research project 19  
involving the use of an anabolic steroid if the project has been 20  
approved by the United States food and drug administration; 21

(c) Any person who sells, offers for sale, prescribes, 22  
dispenses, or administers for livestock or other nonhuman 23  
species an anabolic steroid that is expressly intended for 24  
administration through implants to livestock or other nonhuman 25  
species and approved for that purpose under the "Federal Food, 26  
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, 27  
as amended, and is sold, offered for sale, prescribed, 28  
dispensed, or administered for that purpose in accordance with 29  
that act; 30

(d) Any person who obtained the controlled substance 31  
pursuant to a prescription issued by a licensed health 32  
professional authorized to prescribe drugs if the prescription 33  
was issued for a legitimate medical purpose and not altered, 34  
forged, or obtained through deception or commission of a theft 35  
offense. 36

As used in division (B) (1) (d) of this section, "deception" 37  
and "theft offense" have the same meanings as in section 2913.01 38  
of the Revised Code. 39

(2) (a) As used in division (B) (2) of this section: 40

(i) "Community addiction services provider" has the same 41  
meaning as in section 5119.01 of the Revised Code. 42

(ii) "Community control sanction" and "drug treatment 43  
program" have the same meanings as in section 2929.01 of the 44  
Revised Code. 45

(iii) "Health care facility" has the same meaning as in 46

section 2919.16 of the Revised Code. 47

(iv) "Minor drug possession offense" means a violation of 48  
this section that is a misdemeanor or a felony of the fifth 49  
degree. 50

(v) "Post-release control sanction" has the same meaning 51  
as in section 2967.28 of the Revised Code. 52

(vi) "Peace officer" has the same meaning as in section 53  
2935.01 of the Revised Code. 54

(vii) "Public agency" has the same meaning as in section 55  
2930.01 of the Revised Code. 56

(viii) "Qualified individual" means a person who is not on 57  
community control or post-release control and is a person acting 58  
in good faith who seeks or obtains medical assistance for 59  
another person who is experiencing a drug overdose, a person who 60  
experiences a drug overdose and who seeks medical assistance for 61  
that overdose, or a person who is the subject of another person 62  
seeking or obtaining medical assistance for that overdose as 63  
described in division (B) (2) (b) of this section. 64

(ix) "Seek or obtain medical assistance" includes, but is 65  
not limited to making a 9-1-1 call, contacting in person or by 66  
telephone call an on-duty peace officer, or transporting or 67  
presenting a person to a health care facility. 68

(b) Subject to division (B) (2) (f) of this section, a 69  
qualified individual shall not be arrested, charged, prosecuted, 70  
convicted, or penalized pursuant to this chapter for a minor 71  
drug possession offense or a violation of section 2925.12, 72  
division (C) (1) of section 2925.14, or section 2925.141 of the 73  
Revised Code if all of the following apply: 74

(i) The evidence of the obtaining, possession, or use of 75  
the controlled substance or controlled substance analog, drug 76  
abuse instruments, or drug paraphernalia that would be the basis 77  
of the offense was obtained as a result of the qualified 78  
individual seeking the medical assistance or experiencing an 79  
overdose and needing medical assistance. 80

(ii) Subject to division (B) (2) (g) of this section, within 81  
thirty days after seeking or obtaining the medical assistance, 82  
the qualified individual seeks and obtains a screening and 83  
receives a referral for treatment from a community addiction 84  
services provider or a properly credentialed addiction treatment 85  
professional. 86

(iii) Subject to division (B) (2) (g) of this section, the 87  
qualified individual who obtains a screening and receives a 88  
referral for treatment under division (B) (2) (b) (ii) of this 89  
section, upon the request of any prosecuting attorney, submits 90  
documentation to the prosecuting attorney that verifies that the 91  
qualified individual satisfied the requirements of that 92  
division. The documentation shall be limited to the date and 93  
time of the screening obtained and referral received. 94

(c) If a person is found to be in violation of any 95  
community control sanction and if the violation is a result of 96  
either of the following, the court shall first consider ordering 97  
the person's participation or continued participation in a drug 98  
treatment program or mitigating the penalty specified in section 99  
2929.13, 2929.15, or 2929.25 of the Revised Code, whichever is 100  
applicable, after which the court has the discretion either to 101  
order the person's participation or continued participation in a 102  
drug treatment program or to impose the penalty with the 103  
mitigating factor specified in any of those applicable sections: 104

(i) Seeking or obtaining medical assistance in good faith	105
for another person who is experiencing a drug overdose;	106
(ii) Experiencing a drug overdose and seeking medical	107
assistance for that overdose or being the subject of another	108
person seeking or obtaining medical assistance for that overdose	109
as described in division (B) (2) (b) of this section.	110
(d) If a person is found to be in violation of any post-	111
release control sanction and if the violation is a result of	112
either of the following, the court or the parole board shall	113
first consider ordering the person's participation or continued	114
participation in a drug treatment program or mitigating the	115
penalty specified in section 2929.141 or 2967.28 of the Revised	116
Code, whichever is applicable, after which the court or the	117
parole board has the discretion either to order the person's	118
participation or continued participation in a drug treatment	119
program or to impose the penalty with the mitigating factor	120
specified in either of those applicable sections:	121
(i) Seeking or obtaining medical assistance in good faith	122
for another person who is experiencing a drug overdose;	123
(ii) Experiencing a drug overdose and seeking medical	124
assistance for that emergency or being the subject of another	125
person seeking or obtaining medical assistance for that overdose	126
as described in division (B) (2) (b) of this section.	127
(e) Nothing in division (B) (2) (b) of this section shall be	128
construed to do any of the following:	129
(i) Limit the admissibility of any evidence in connection	130
with the investigation or prosecution of a crime with regards to	131
a defendant who does not qualify for the protections of division	132
(B) (2) (b) of this section or with regards to any crime other	133

than a minor drug possession offense or a violation of section 134  
2925.12, division (C) (1) of section 2925.14, or section 2925.141 135  
of the Revised Code committed by a person who qualifies for 136  
protection pursuant to division (B) (2) (b) of this section ~~for a~~ 137  
~~minor drug possession offense;~~ 138

(ii) Limit any seizure of evidence or contraband otherwise 139  
permitted by law; 140

(iii) Limit or abridge the authority of a peace officer to 141  
detain or take into custody a person in the course of an 142  
investigation or to effectuate an arrest for any offense except 143  
as provided in that division; 144

(iv) Limit, modify, or remove any immunity from liability 145  
available pursuant to law in effect prior to September 13, 2016, 146  
to any public agency or to an employee of any public agency. 147

(f) Division (B) (2) (b) of this section does not apply to 148  
any person who twice previously has been granted an immunity 149  
under division (B) (2) (b) of this section. No person shall be 150  
granted an immunity under division (B) (2) (b) of this section 151  
more than two times. 152

(g) Nothing in this section shall compel any qualified 153  
individual to disclose protected health information in a way 154  
that conflicts with the requirements of the "Health Insurance 155  
Portability and Accountability Act of 1996," 104 Pub. L. No. 156  
191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and 157  
regulations promulgated by the United States department of 158  
health and human services to implement the act or the 159  
requirements of 42 C.F.R. Part 2. 160

(C) Whoever violates division (A) of this section is 161  
guilty of one of the following: 162

(1) If the drug involved in the violation is a compound, 163  
mixture, preparation, or substance included in schedule I or II, 164  
with the exception of marihuana, cocaine, L.S.D., heroin, any 165  
fentanyl-related compound, hashish, and any controlled substance 166  
analog, whoever violates division (A) of this section is guilty 167  
of aggravated possession of drugs. The penalty for the offense 168  
shall be determined as follows: 169

(a) Except as otherwise provided in division (C) (1) (b), 170  
(c), (d), or (e) of this section, aggravated possession of drugs 171  
is a felony of the fifth degree, and division (B) of section 172  
2929.13 of the Revised Code applies in determining whether to 173  
impose a prison term on the offender. 174

(b) If the amount of the drug involved equals or exceeds 175  
the bulk amount but is less than five times the bulk amount, 176  
aggravated possession of drugs is a felony of the third degree, 177  
and there is a presumption for a prison term for the offense. 178

(c) If the amount of the drug involved equals or exceeds 179  
five times the bulk amount but is less than fifty times the bulk 180  
amount, aggravated possession of drugs is a felony of the second 181  
degree, and the court shall impose as a mandatory prison term a 182  
second degree felony mandatory prison term. 183

(d) If the amount of the drug involved equals or exceeds 184  
fifty times the bulk amount but is less than one hundred times 185  
the bulk amount, aggravated possession of drugs is a felony of 186  
the first degree, and the court shall impose as a mandatory 187  
prison term a first degree felony mandatory prison term. 188

(e) If the amount of the drug involved equals or exceeds 189  
one hundred times the bulk amount, aggravated possession of 190  
drugs is a felony of the first degree, the offender is a major 191

drug offender, and the court shall impose as a mandatory prison 192  
term a maximum first degree felony mandatory prison term. 193

(2) If the drug involved in the violation is a compound, 194  
mixture, preparation, or substance included in schedule III, IV, 195  
or V, whoever violates division (A) of this section is guilty of 196  
possession of drugs. The penalty for the offense shall be 197  
determined as follows: 198

(a) Except as otherwise provided in division (C) (2) (b), 199  
(c), or (d) of this section, possession of drugs is a 200  
misdemeanor of the first degree or, if the offender previously 201  
has been convicted of a drug abuse offense, a felony of the 202  
fifth degree. 203

(b) If the amount of the drug involved equals or exceeds 204  
the bulk amount but is less than five times the bulk amount, 205  
possession of drugs is a felony of the fourth degree, and 206  
division (C) of section 2929.13 of the Revised Code applies in 207  
determining whether to impose a prison term on the offender. 208

(c) If the amount of the drug involved equals or exceeds 209  
five times the bulk amount but is less than fifty times the bulk 210  
amount, possession of drugs is a felony of the third degree, and 211  
there is a presumption for a prison term for the offense. 212

(d) If the amount of the drug involved equals or exceeds 213  
fifty times the bulk amount, possession of drugs is a felony of 214  
the second degree, and the court shall impose upon the offender 215  
as a mandatory prison term a second degree felony mandatory 216  
prison term. 217

(3) If the drug involved in the violation is marihuana or 218  
a compound, mixture, preparation, or substance containing 219  
marihuana other than hashish, whoever violates division (A) of 220



this section is guilty of possession of marihuana. The penalty 221  
for the offense shall be determined as follows: 222

(a) Except as otherwise provided in division (C) (3) (b), 223  
(c), (d), (e), (f), or (g) of this section, possession of 224  
marihuana is a minor misdemeanor. 225

(b) If the amount of the drug involved equals or exceeds 226  
one hundred grams but is less than two hundred grams, possession 227  
of marihuana is a misdemeanor of the fourth degree. 228

(c) If the amount of the drug involved equals or exceeds 229  
two hundred grams but is less than one thousand grams, 230  
possession of marihuana is a felony of the fifth degree, and 231  
division (B) of section 2929.13 of the Revised Code applies in 232  
determining whether to impose a prison term on the offender. 233

(d) If the amount of the drug involved equals or exceeds 234  
one thousand grams but is less than five thousand grams, 235  
possession of marihuana is a felony of the third degree, and 236  
division (C) of section 2929.13 of the Revised Code applies in 237  
determining whether to impose a prison term on the offender. 238

(e) If the amount of the drug involved equals or exceeds 239  
five thousand grams but is less than twenty thousand grams, 240  
possession of marihuana is a felony of the third degree, and 241  
there is a presumption that a prison term shall be imposed for 242  
the offense. 243

(f) If the amount of the drug involved equals or exceeds 244  
twenty thousand grams but is less than forty thousand grams, 245  
possession of marihuana is a felony of the second degree, and 246  
the court shall impose as a mandatory prison term a second 247  
degree felony mandatory prison term of five, six, seven, or 248  
eight years. 249

(g) If the amount of the drug involved equals or exceeds 250  
forty thousand grams, possession of marihuana is a felony of the 251  
second degree, and the court shall impose as a mandatory prison 252  
term a maximum second degree felony mandatory prison term. 253

(4) If the drug involved in the violation is cocaine or a 254  
compound, mixture, preparation, or substance containing cocaine, 255  
whoever violates division (A) of this section is guilty of 256  
possession of cocaine. The penalty for the offense shall be 257  
determined as follows: 258

(a) Except as otherwise provided in division (C) (4) (b), 259  
(c), (d), (e), or (f) of this section, possession of cocaine is 260  
a felony of the fifth degree, and division (B) of section 261  
2929.13 of the Revised Code applies in determining whether to 262  
impose a prison term on the offender. 263

(b) If the amount of the drug involved equals or exceeds 264  
five grams but is less than ten grams of cocaine, possession of 265  
cocaine is a felony of the fourth degree, and division (B) of 266  
section 2929.13 of the Revised Code applies in determining 267  
whether to impose a prison term on the offender. 268

(c) If the amount of the drug involved equals or exceeds 269  
ten grams but is less than twenty grams of cocaine, possession 270  
of cocaine is a felony of the third degree, and, except as 271  
otherwise provided in this division, there is a presumption for 272  
a prison term for the offense. If possession of cocaine is a 273  
felony of the third degree under this division and if the 274  
offender two or more times previously has been convicted of or 275  
pleaded guilty to a felony drug abuse offense, the court shall 276  
impose as a mandatory prison term one of the prison terms 277  
prescribed for a felony of the third degree. 278

(d) If the amount of the drug involved equals or exceeds 279  
twenty grams but is less than twenty-seven grams of cocaine, 280  
possession of cocaine is a felony of the second degree, and the 281  
court shall impose as a mandatory prison term a second degree 282  
felony mandatory prison term. 283

(e) If the amount of the drug involved equals or exceeds 284  
twenty-seven grams but is less than one hundred grams of 285  
cocaine, possession of cocaine is a felony of the first degree, 286  
and the court shall impose as a mandatory prison term a first 287  
degree felony mandatory prison term. 288

(f) If the amount of the drug involved equals or exceeds 289  
one hundred grams of cocaine, possession of cocaine is a felony 290  
of the first degree, the offender is a major drug offender, and 291  
the court shall impose as a mandatory prison term a maximum 292  
first degree felony mandatory prison term. 293

(5) If the drug involved in the violation is L.S.D., 294  
whoever violates division (A) of this section is guilty of 295  
possession of L.S.D. The penalty for the offense shall be 296  
determined as follows: 297

(a) Except as otherwise provided in division (C) (5) (b), 298  
(c), (d), (e), or (f) of this section, possession of L.S.D. is a 299  
felony of the fifth degree, and division (B) of section 2929.13 300  
of the Revised Code applies in determining whether to impose a 301  
prison term on the offender. 302

(b) If the amount of L.S.D. involved equals or exceeds ten 303  
unit doses but is less than fifty unit doses of L.S.D. in a 304  
solid form or equals or exceeds one gram but is less than five 305  
grams of L.S.D. in a liquid concentrate, liquid extract, or 306  
liquid distillate form, possession of L.S.D. is a felony of the 307

fourth degree, and division (C) of section 2929.13 of the Revised Code applies in determining whether to impose a prison term on the offender.

(c) If the amount of L.S.D. involved equals or exceeds fifty unit doses, but is less than two hundred fifty unit doses of L.S.D. in a solid form or equals or exceeds five grams but is less than twenty-five grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the third degree, and there is a presumption for a prison term for the offense.

(d) If the amount of L.S.D. involved equals or exceeds two hundred fifty unit doses but is less than one thousand unit doses of L.S.D. in a solid form or equals or exceeds twenty-five grams but is less than one hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the second degree, and the court shall impose as a mandatory prison term a second degree felony mandatory prison term.

(e) If the amount of L.S.D. involved equals or exceeds one thousand unit doses but is less than five thousand unit doses of L.S.D. in a solid form or equals or exceeds one hundred grams but is less than five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D. is a felony of the first degree, and the court shall impose as a mandatory prison term a first degree felony mandatory prison term.

(f) If the amount of L.S.D. involved equals or exceeds five thousand unit doses of L.S.D. in a solid form or equals or exceeds five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form, possession of L.S.D.

is a felony of the first degree, the offender is a major drug 338  
offender, and the court shall impose as a mandatory prison term 339  
a maximum first degree felony mandatory prison term. 340

(6) If the drug involved in the violation is heroin or a 341  
compound, mixture, preparation, or substance containing heroin, 342  
whoever violates division (A) of this section is guilty of 343  
possession of heroin. The penalty for the offense shall be 344  
determined as follows: 345

(a) Except as otherwise provided in division (C) (6) (b), 346  
(c), (d), (e), or (f) of this section, possession of heroin is a 347  
felony of the fifth degree, and division (B) of section 2929.13 348  
of the Revised Code applies in determining whether to impose a 349  
prison term on the offender. 350

(b) If the amount of the drug involved equals or exceeds 351  
ten unit doses but is less than fifty unit doses or equals or 352  
exceeds one gram but is less than five grams, possession of 353  
heroin is a felony of the fourth degree, and division (C) of 354  
section 2929.13 of the Revised Code applies in determining 355  
whether to impose a prison term on the offender. 356

(c) If the amount of the drug involved equals or exceeds 357  
fifty unit doses but is less than one hundred unit doses or 358  
equals or exceeds five grams but is less than ten grams, 359  
possession of heroin is a felony of the third degree, and there 360  
is a presumption for a prison term for the offense. 361

(d) If the amount of the drug involved equals or exceeds 362  
one hundred unit doses but is less than five hundred unit doses 363  
or equals or exceeds ten grams but is less than fifty grams, 364  
possession of heroin is a felony of the second degree, and the 365  
court shall impose as a mandatory prison term a second degree 366

felony mandatory prison term. 367

(e) If the amount of the drug involved equals or exceeds 368  
five hundred unit doses but is less than one thousand unit doses 369  
or equals or exceeds fifty grams but is less than one hundred 370  
grams, possession of heroin is a felony of the first degree, and 371  
the court shall impose as a mandatory prison term a first degree 372  
felony mandatory prison term. 373

(f) If the amount of the drug involved equals or exceeds 374  
one thousand unit doses or equals or exceeds one hundred grams, 375  
possession of heroin is a felony of the first degree, the 376  
offender is a major drug offender, and the court shall impose as 377  
a mandatory prison term a maximum first degree felony mandatory 378  
prison term. 379

(7) If the drug involved in the violation is hashish or a 380  
compound, mixture, preparation, or substance containing hashish, 381  
whoever violates division (A) of this section is guilty of 382  
possession of hashish. The penalty for the offense shall be 383  
determined as follows: 384

(a) Except as otherwise provided in division (C) (7) (b), 385  
(c), (d), (e), (f), or (g) of this section, possession of 386  
hashish is a minor misdemeanor. 387

(b) If the amount of the drug involved equals or exceeds 388  
five grams but is less than ten grams of hashish in a solid form 389  
or equals or exceeds one gram but is less than two grams of 390  
hashish in a liquid concentrate, liquid extract, or liquid 391  
distillate form, possession of hashish is a misdemeanor of the 392  
fourth degree. 393

(c) If the amount of the drug involved equals or exceeds 394  
ten grams but is less than fifty grams of hashish in a solid 395

form or equals or exceeds two grams but is less than ten grams 396  
of hashish in a liquid concentrate, liquid extract, or liquid 397  
distillate form, possession of hashish is a felony of the fifth 398  
degree, and division (B) of section 2929.13 of the Revised Code 399  
applies in determining whether to impose a prison term on the 400  
offender. 401

(d) If the amount of the drug involved equals or exceeds 402  
fifty grams but is less than two hundred fifty grams of hashish 403  
in a solid form or equals or exceeds ten grams but is less than 404  
fifty grams of hashish in a liquid concentrate, liquid extract, 405  
or liquid distillate form, possession of hashish is a felony of 406  
the third degree, and division (C) of section 2929.13 of the 407  
Revised Code applies in determining whether to impose a prison 408  
term on the offender. 409

(e) If the amount of the drug involved equals or exceeds 410  
two hundred fifty grams but is less than one thousand grams of 411  
hashish in a solid form or equals or exceeds fifty grams but is 412  
less than two hundred grams of hashish in a liquid concentrate, 413  
liquid extract, or liquid distillate form, possession of hashish 414  
is a felony of the third degree, and there is a presumption that 415  
a prison term shall be imposed for the offense. 416

(f) If the amount of the drug involved equals or exceeds 417  
one thousand grams but is less than two thousand grams of 418  
hashish in a solid form or equals or exceeds two hundred grams 419  
but is less than four hundred grams of hashish in a liquid 420  
concentrate, liquid extract, or liquid distillate form, 421  
possession of hashish is a felony of the second degree, and the 422  
court shall impose as a mandatory prison term a second degree 423  
felony mandatory prison term of five, six, seven, or eight 424  
years. 425

(g) If the amount of the drug involved equals or exceeds 426  
two thousand grams of hashish in a solid form or equals or 427  
exceeds four hundred grams of hashish in a liquid concentrate, 428  
liquid extract, or liquid distillate form, possession of hashish 429  
is a felony of the second degree, and the court shall impose as 430  
a mandatory prison term a maximum second degree felony mandatory 431  
prison term. 432

(8) If the drug involved is a controlled substance analog 433  
or compound, mixture, preparation, or substance that contains a 434  
controlled substance analog, whoever violates division (A) of 435  
this section is guilty of possession of a controlled substance 436  
analog. The penalty for the offense shall be determined as 437  
follows: 438

(a) Except as otherwise provided in division (C) (8) (b), 439  
(c), (d), (e), or (f) of this section, possession of a 440  
controlled substance analog is a felony of the fifth degree, and 441  
division (B) of section 2929.13 of the Revised Code applies in 442  
determining whether to impose a prison term on the offender. 443

(b) If the amount of the drug involved equals or exceeds 444  
ten grams but is less than twenty grams, possession of a 445  
controlled substance analog is a felony of the fourth degree, 446  
and there is a presumption for a prison term for the offense. 447

(c) If the amount of the drug involved equals or exceeds 448  
twenty grams but is less than thirty grams, possession of a 449  
controlled substance analog is a felony of the third degree, and 450  
there is a presumption for a prison term for the offense. 451

(d) If the amount of the drug involved equals or exceeds 452  
thirty grams but is less than forty grams, possession of a 453  
controlled substance analog is a felony of the second degree, 454



and the court shall impose as a mandatory prison term a second 455  
degree felony mandatory prison term. 456

(e) If the amount of the drug involved equals or exceeds 457  
forty grams but is less than fifty grams, possession of a 458  
controlled substance analog is a felony of the first degree, and 459  
the court shall impose as a mandatory prison term a first degree 460  
felony mandatory prison term. 461

(f) If the amount of the drug involved equals or exceeds 462  
fifty grams, possession of a controlled substance analog is a 463  
felony of the first degree, the offender is a major drug 464  
offender, and the court shall impose as a mandatory prison term 465  
a maximum first degree felony mandatory prison term. 466

(9) If the drug involved in the violation is a compound, 467  
mixture, preparation, or substance that is a combination of a 468  
fentanyl-related compound and marihuana, one of the following 469  
applies: 470

(a) Except as otherwise provided in division (C) (9) (b) of 471  
this section, the offender is guilty of possession of marihuana 472  
and shall be punished as provided in division (C) (3) of this 473  
section. Except as otherwise provided in division (C) (9) (b) of 474  
this section, the offender is not guilty of possession of a 475  
fentanyl-related compound under division (C) (11) of this section 476  
and shall not be charged with, convicted of, or punished under 477  
division (C) (11) of this section for possession of a fentanyl- 478  
related compound. 479

(b) If the offender knows or has reason to know that the 480  
compound, mixture, preparation, or substance that is the drug 481  
involved contains a fentanyl-related compound, the offender is 482  
guilty of possession of a fentanyl-related compound and shall be 483

punished under division (C) (11) of this section. 484

(10) If the drug involved in the violation is a compound, 485  
mixture, preparation, or substance that is a combination of a 486  
fentanyl-related compound and any schedule III, schedule IV, or 487  
schedule V controlled substance that is not a fentanyl-related 488  
compound, one of the following applies: 489

(a) Except as otherwise provided in division (C) (10) (b) of 490  
this section, the offender is guilty of possession of drugs and 491  
shall be punished as provided in division (C) (2) of this 492  
section. Except as otherwise provided in division (C) (10) (b) of 493  
this section, the offender is not guilty of possession of a 494  
fentanyl-related compound under division (C) (11) of this section 495  
and shall not be charged with, convicted of, or punished under 496  
division (C) (11) of this section for possession of a fentanyl- 497  
related compound. 498

(b) If the offender knows or has reason to know that the 499  
compound, mixture, preparation, or substance that is the drug 500  
involved contains a fentanyl-related compound, the offender is 501  
guilty of possession of a fentanyl-related compound and shall be 502  
punished under division (C) (11) of this section. 503

(11) If the drug involved in the violation is a fentanyl- 504  
related compound and neither division (C) (9) (a) nor division (C) 505  
(10) (a) of this section applies to the drug involved, or is a 506  
compound, mixture, preparation, or substance that contains a 507  
fentanyl-related compound or is a combination of a fentanyl- 508  
related compound and any other controlled substance and neither 509  
division (C) (9) (a) nor division (C) (10) (a) of this section 510  
applies to the drug involved, whoever violates division (A) of 511  
this section is guilty of possession of a fentanyl-related 512  
compound. The penalty for the offense shall be determined as 513

follows: 514

(a) Except as otherwise provided in division (C) (11) (b), 515  
(c), (d), (e), (f), or (g) of this section, possession of a 516  
fentanyl-related compound is a felony of the fifth degree, and 517  
division (B) of section 2929.13 of the Revised Code applies in 518  
determining whether to impose a prison term on the offender. 519

(b) If the amount of the drug involved equals or exceeds 520  
ten unit doses but is less than fifty unit doses or equals or 521  
exceeds one gram but is less than five grams, possession of a 522  
fentanyl-related compound is a felony of the fourth degree, and 523  
division (C) of section 2929.13 of the Revised Code applies in 524  
determining whether to impose a prison term on the offender. 525

(c) If the amount of the drug involved equals or exceeds 526  
fifty unit doses but is less than one hundred unit doses or 527  
equals or exceeds five grams but is less than ten grams, 528  
possession of a fentanyl-related compound is a felony of the 529  
third degree, and there is a presumption for a prison term for 530  
the offense. 531

(d) If the amount of the drug involved equals or exceeds 532  
one hundred unit doses but is less than two hundred unit doses 533  
or equals or exceeds ten grams but is less than twenty grams, 534  
possession of a fentanyl-related compound is a felony of the 535  
second degree, and the court shall impose as a mandatory prison 536  
term one of the prison terms prescribed for a felony of the 537  
second degree. 538

(e) If the amount of the drug involved equals or exceeds 539  
two hundred unit doses but is less than five hundred unit doses 540  
or equals or exceeds twenty grams but is less than fifty grams, 541  
possession of a fentanyl-related compound is a felony of the 542

first degree, and the court shall impose as a mandatory prison 543  
term one of the prison terms prescribed for a felony of the 544  
first degree. 545

(f) If the amount of the drug involved equals or exceeds 546  
five hundred unit doses but is less than one thousand unit doses 547  
or equals or exceeds fifty grams but is less than one hundred 548  
grams, possession of a fentanyl-related compound is a felony of 549  
the first degree, and the court shall impose as a mandatory 550  
prison term the maximum prison term prescribed for a felony of 551  
the first degree. 552

(g) If the amount of the drug involved equals or exceeds 553  
one thousand unit doses or equals or exceeds one hundred grams, 554  
possession of a fentanyl-related compound is a felony of the 555  
first degree, the offender is a major drug offender, and the 556  
court shall impose as a mandatory prison term the maximum prison 557  
term prescribed for a felony of the first degree. 558

(D) Arrest or conviction for a minor misdemeanor violation 559  
of this section does not constitute a criminal record and need 560  
not be reported by the person so arrested or convicted in 561  
response to any inquiries about the person's criminal record, 562  
including any inquiries contained in any application for 563  
employment, license, or other right or privilege, or made in 564  
connection with the person's appearance as a witness. 565

(E) In addition to any prison term or jail term authorized 566  
or required by division (C) of this section and sections 567  
2929.13, 2929.14, 2929.22, 2929.24, and 2929.25 of the Revised 568  
Code and in addition to any other sanction that is imposed for 569  
the offense under this section, sections 2929.11 to 2929.18, or 570  
sections 2929.21 to 2929.28 of the Revised Code, the court that 571  
sentences an offender who is convicted of or pleads guilty to a 572

violation of division (A) of this section may suspend the 573  
offender's driver's or commercial driver's license or permit for 574  
not more than five years. However, if the offender pleaded 575  
guilty to or was convicted of a violation of section 4511.19 of 576  
the Revised Code or a substantially similar municipal ordinance 577  
or the law of another state or the United States arising out of 578  
the same set of circumstances as the violation, the court shall 579  
suspend the offender's driver's or commercial driver's license 580  
or permit for not more than five years. If applicable, the court 581  
also shall do the following: 582

(1) (a) If the violation is a felony of the first, second, 583  
or third degree, the court shall impose upon the offender the 584  
mandatory fine specified for the offense under division (B) (1) 585  
of section 2929.18 of the Revised Code unless, as specified in 586  
that division, the court determines that the offender is 587  
indigent. 588

(b) Notwithstanding any contrary provision of section 589  
3719.21 of the Revised Code, the clerk of the court shall pay a 590  
mandatory fine or other fine imposed for a violation of this 591  
section pursuant to division (A) of section 2929.18 of the 592  
Revised Code in accordance with and subject to the requirements 593  
of division (F) of section 2925.03 of the Revised Code. The 594  
agency that receives the fine shall use the fine as specified in 595  
division (F) of section 2925.03 of the Revised Code. 596

(c) If a person is charged with a violation of this 597  
section that is a felony of the first, second, or third degree, 598  
posts bail, and forfeits the bail, the clerk shall pay the 599  
forfeited bail pursuant to division (E) (1) (b) of this section as 600  
if it were a mandatory fine imposed under division (E) (1) (a) of 601  
this section. 602

(2) If the offender is a professionally licensed person, 603  
in addition to any other sanction imposed for a violation of 604  
this section, the court immediately shall comply with section 605  
2925.38 of the Revised Code. 606

(F) It is an affirmative defense, as provided in section 607  
2901.05 of the Revised Code, to a charge of a fourth degree 608  
felony violation under this section that the controlled 609  
substance that gave rise to the charge is in an amount, is in a 610  
form, is prepared, compounded, or mixed with substances that are 611  
not controlled substances in a manner, or is possessed under any 612  
other circumstances, that indicate that the substance was 613  
possessed solely for personal use. Notwithstanding any contrary 614  
provision of this section, if, in accordance with section 615  
2901.05 of the Revised Code, an accused who is charged with a 616  
fourth degree felony violation of division (C) (2), (4), (5), or 617  
(6) of this section sustains the burden of going forward with 618  
evidence of and establishes by a preponderance of the evidence 619  
the affirmative defense described in this division, the accused 620  
may be prosecuted for and may plead guilty to or be convicted of 621  
a misdemeanor violation of division (C) (2) of this section or a 622  
fifth degree felony violation of division (C) (4), (5), or (6) of 623  
this section respectively. 624

(G) When a person is charged with possessing a bulk amount 625  
or multiple of a bulk amount, division (E) of section 2925.03 of 626  
the Revised Code applies regarding the determination of the 627  
amount of the controlled substance involved at the time of the 628  
offense. 629

(H) It is an affirmative defense to a charge of possession 630  
of a controlled substance analog under division (C) (8) of this 631  
section that the person charged with violating that offense 632

obtained, possessed, or used one of the following items that are 633  
excluded from the meaning of "controlled substance analog" under 634  
section 3719.01 of the Revised Code: 635

(1) A controlled substance; 636

(2) Any substance for which there is an approved new drug 637  
application; 638

(3) With respect to a particular person, any substance if 639  
an exemption is in effect for investigational use for that 640  
person pursuant to federal law to the extent that conduct with 641  
respect to that substance is pursuant to that exemption. 642

(I) Any offender who received a mandatory suspension of 643  
the offender's driver's or commercial driver's license or permit 644  
under this section prior to September 13, 2016, may file a 645  
motion with the sentencing court requesting the termination of 646  
the suspension. However, an offender who pleaded guilty to or 647  
was convicted of a violation of section 4511.19 of the Revised 648  
Code or a substantially similar municipal ordinance or law of 649  
another state or the United States that arose out of the same 650  
set of circumstances as the violation for which the offender's 651  
license or permit was suspended under this section shall not 652  
file such a motion. 653

Upon the filing of a motion under division (I) of this 654  
section, the sentencing court, in its discretion, may terminate 655  
the suspension. 656

**Sec. 2925.12.** (A) No person shall knowingly make, obtain, 657  
possess, or use any instrument, article, or thing the customary 658  
and primary purpose of which is for the administration or use of 659  
a dangerous drug, other than marihuana, when the instrument 660  
involved is a hypodermic or syringe, whether or not of crude or 661

extemporized manufacture or assembly, and the instrument, 662  
article, or thing involved has been used by the offender to 663  
unlawfully administer or use a dangerous drug, other than 664  
marihuana, or to prepare a dangerous drug, other than marihuana, 665  
for unlawful administration or use. 666

(B) (1) This section does not apply to manufacturers, 667  
licensed health professionals authorized to prescribe drugs, 668  
pharmacists, owners of pharmacies, and other persons whose 669  
conduct was in accordance with Chapters 3719., 4715., 4723., 670  
4729., 4730., 4731., and 4741. of the Revised Code. 671

(2) Division (B) (2) of section 2925.11 of the Revised Code 672  
applies with respect to a violation of this section when a 673  
person seeks or obtains medical assistance for another person 674  
who is experiencing a drug overdose, a person experiences a drug 675  
overdose and seeks medical assistance for that overdose, or a 676  
person is the subject of another person seeking or obtaining 677  
medical assistance for that overdose. 678

(C) Whoever violates this section is guilty of possessing 679  
drug abuse instruments, a misdemeanor of the second degree. If 680  
the offender previously has been convicted of a drug abuse 681  
offense, a violation of this section is a misdemeanor of the 682  
first degree. 683

(D) (1) In addition to any other sanction imposed upon an 684  
offender for a violation of this section, the court may suspend 685  
for not more than five years the offender's driver's or 686  
commercial driver's license or permit. However, if the offender 687  
pleaded guilty to or was convicted of a violation of section 688  
4511.19 of the Revised Code or a substantially similar municipal 689  
ordinance or the law of another state or the United States 690  
arising out of the same set of circumstances as the violation, 691



the court shall suspend the offender's driver's or commercial 692  
driver's license or permit for not more than five years. If the 693  
offender is a professionally licensed person, in addition to any 694  
other sanction imposed for a violation of this section, the 695  
court immediately shall comply with section 2925.38 of the 696  
Revised Code. 697

(2) Any offender who received a mandatory suspension of 698  
the offender's driver's or commercial driver's license or permit 699  
under this section prior to ~~the effective date of this amendment~~ 700  
September 13, 2016, may file a motion with the sentencing court 701  
requesting the termination of the suspension. However, an 702  
offender who pleaded guilty to or was convicted of a violation 703  
of section 4511.19 of the Revised Code or a substantially 704  
similar municipal ordinance or law of another state or the 705  
United States that arose out of the same set of circumstances as 706  
the violation for which the offender's license or permit was 707  
suspended under this section shall not file such a motion. 708

Upon the filing of a motion under division (D) (2) of this 709  
section, the sentencing court, in its discretion, may terminate 710  
the suspension. 711

**Sec. 2925.14.** (A) As used in this section, "drug 712  
paraphernalia" means any equipment, product, or material of any 713  
kind that is used by the offender, intended by the offender for 714  
use, or designed for use, in propagating, cultivating, growing, 715  
harvesting, manufacturing, compounding, converting, producing, 716  
processing, preparing, testing, analyzing, packaging, 717  
repackaging, storing, containing, concealing, injecting, 718  
ingesting, inhaling, or otherwise introducing into the human 719  
body, a controlled substance in violation of this chapter. "Drug 720  
paraphernalia" includes, but is not limited to, any of the 721

following equipment, products, or materials that are used by the	722
offender, intended by the offender for use, or designed by the	723
offender for use, in any of the following manners:	724
(1) A kit for propagating, cultivating, growing, or	725
harvesting any species of a plant that is a controlled substance	726
or from which a controlled substance can be derived;	727
(2) A kit for manufacturing, compounding, converting,	728
producing, processing, or preparing a controlled substance;	729
(3) Any object, instrument, or device for manufacturing,	730
compounding, converting, producing, processing, or preparing	731
methamphetamine;	732
(4) An isomerization device for increasing the potency of	733
any species of a plant that is a controlled substance;	734
(5) Testing equipment for identifying, or analyzing the	735
strength, effectiveness, or purity of, a controlled substance;	736
(6) A scale or balance for weighing or measuring a	737
controlled substance;	738
(7) A diluent or adulterant, such as quinine	739
hydrochloride, mannitol, mannite, dextrose, or lactose, for	740
cutting a controlled substance;	741
(8) A separation gin or sifter for removing twigs and	742
seeds from, or otherwise cleaning or refining, marihuana;	743
(9) A blender, bowl, container, spoon, or mixing device	744
for compounding a controlled substance;	745
(10) A capsule, balloon, envelope, or container for	746
packaging small quantities of a controlled substance;	747
(11) A container or device for storing or concealing a	748

controlled substance;	749
(12) A hypodermic syringe, needle, or instrument for	750
parenterally injecting a controlled substance into the human	751
body;	752
(13) An object, instrument, or device for ingesting,	753
inhaling, or otherwise introducing into the human body,	754
marihuana, cocaine, hashish, or hashish oil, such as a metal,	755
wooden, acrylic, glass, stone, plastic, or ceramic pipe, with or	756
without a screen, permanent screen, hashish head, or punctured	757
metal bowl; water pipe; carburetion tube or device; smoking or	758
carburetion mask; roach clip or similar object used to hold	759
burning material, such as a marihuana cigarette, that has become	760
too small or too short to be held in the hand; miniature cocaine	761
spoon, or cocaine vial; chamber pipe; carburetor pipe; electric	762
pipe; air driver pipe; chillum; bong; or ice pipe or chiller.	763
(B) In determining if any equipment, product, or material	764
is drug paraphernalia, a court or law enforcement officer shall	765
consider, in addition to other relevant factors, the following:	766
(1) Any statement by the owner, or by anyone in control,	767
of the equipment, product, or material, concerning its use;	768
(2) The proximity in time or space of the equipment,	769
product, or material, or of the act relating to the equipment,	770
product, or material, to a violation of any provision of this	771
chapter;	772
(3) The proximity of the equipment, product, or material	773
to any controlled substance;	774
(4) The existence of any residue of a controlled substance	775
on the equipment, product, or material;	776

- (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product, or material, to deliver it to any person whom the owner or person in control of the equipment, product, or material knows intends to use the object to facilitate a violation of any provision of this chapter. A finding that the owner, or anyone in control, of the equipment, product, or material, is not guilty of a violation of any other provision of this chapter does not prevent a finding that the equipment, product, or material was intended or designed by the offender for use as drug paraphernalia.
- (6) Any oral or written instruction provided with the equipment, product, or material concerning its use;
- (7) Any descriptive material accompanying the equipment, product, or material and explaining or depicting its use;
- (8) National or local advertising concerning the use of the equipment, product, or material;
- (9) The manner and circumstances in which the equipment, product, or material is displayed for sale;
- (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product, or material to the total sales of the business enterprise;
- (11) The existence and scope of legitimate uses of the equipment, product, or material in the community;
- (12) Expert testimony concerning the use of the equipment, product, or material.
- (C) (1) Subject to ~~division~~ divisions (D) (2) and (3) of this section, no person shall knowingly use, or possess with

purpose to use, drug paraphernalia. 805

(2) No person shall knowingly sell, or possess or 806  
manufacture with purpose to sell, drug paraphernalia, if the 807  
person knows or reasonably should know that the equipment, 808  
product, or material will be used as drug paraphernalia. 809

(3) No person shall place an advertisement in any 810  
newspaper, magazine, handbill, or other publication that is 811  
published and printed and circulates primarily within this 812  
state, if the person knows that the purpose of the advertisement 813  
is to promote the illegal sale in this state of the equipment, 814  
product, or material that the offender intended or designed for 815  
use as drug paraphernalia. 816

(D) (1) This section does not apply to manufacturers, 817  
licensed health professionals authorized to prescribe drugs, 818  
pharmacists, owners of pharmacies, and other persons whose 819  
conduct is in accordance with Chapters 3719., 4715., 4723., 820  
4729., 4730., 4731., and 4741. of the Revised Code. This section 821  
shall not be construed to prohibit the possession or use of a 822  
hypodermic as authorized by section 3719.172 of the Revised 823  
Code. 824

(2) Division (C) (1) of this section does not apply to a 825  
person's use, or possession with purpose to use, any drug 826  
paraphernalia that is equipment, a product, or material of any 827  
kind that is used by the person, intended by the person for use, 828  
or designed for use in storing, containing, concealing, 829  
injecting, ingesting, inhaling, or otherwise introducing into 830  
the human body marihuana. 831

(3) Division (B) (2) of section 2925.11 of the Revised Code 832  
applies with respect to a violation of division (C) (1) of this 833

section when a person seeks or obtains medical assistance for 834  
another person who is experiencing a drug overdose, a person 835  
experiences a drug overdose and seeks medical assistance for 836  
that overdose, or a person is the subject of another person 837  
seeking or obtaining medical assistance for that overdose. 838

(E) Notwithstanding Chapter 2981. of the Revised Code, any 839  
drug paraphernalia that was used, possessed, sold, or 840  
manufactured in a violation of this section shall be seized, 841  
after a conviction for that violation shall be forfeited, and 842  
upon forfeiture shall be disposed of pursuant to division (B) of 843  
section 2981.12 of the Revised Code. 844

(F) (1) Whoever violates division (C) (1) of this section is 845  
guilty of illegal use or possession of drug paraphernalia, a 846  
misdemeanor of the fourth degree. 847

(2) Except as provided in division (F) (3) of this section, 848  
whoever violates division (C) (2) of this section is guilty of 849  
dealing in drug paraphernalia, a misdemeanor of the second 850  
degree. 851

(3) Whoever violates division (C) (2) of this section by 852  
selling drug paraphernalia to a juvenile is guilty of selling 853  
drug paraphernalia to juveniles, a misdemeanor of the first 854  
degree. 855

(4) Whoever violates division (C) (3) of this section is 856  
guilty of illegal advertising of drug paraphernalia, a 857  
misdemeanor of the second degree. 858

(G) (1) In addition to any other sanction imposed upon an 859  
offender for a violation of this section, the court may suspend 860  
for not more than five years the offender's driver's or 861  
commercial driver's license or permit. However, if the offender 862

pleaded guilty to or was convicted of a violation of section 863  
4511.19 of the Revised Code or a substantially similar municipal 864  
ordinance or the law of another state or the United States 865  
arising out of the same set of circumstances as the violation, 866  
the court shall suspend the offender's driver's or commercial 867  
driver's license or permit for not more than five years. If the 868  
offender is a professionally licensed person, in addition to any 869  
other sanction imposed for a violation of this section, the 870  
court immediately shall comply with section 2925.38 of the 871  
Revised Code. 872

(2) Any offender who received a mandatory suspension of 873  
the offender's driver's or commercial driver's license or permit 874  
under this section prior to ~~the effective date of this amendment~~ 875  
September 13, 2016, may file a motion with the sentencing court 876  
requesting the termination of the suspension. However, an 877  
offender who pleaded guilty to or was convicted of a violation 878  
of section 4511.19 of the Revised Code or a substantially 879  
similar municipal ordinance or law of another state or the 880  
United States that arose out of the same set of circumstances as 881  
the violation for which the offender's license or permit was 882  
suspended under this section shall not file such a motion. 883

Upon the filing of a motion under division (G)(2) of this 884  
section, the sentencing court, in its discretion, may terminate 885  
the suspension. 886

**Sec. 2925.141.** (A) As used in this section, "drug 887  
paraphernalia" has the same meaning as in section 2925.14 of the 888  
Revised Code. 889

(B) In determining if any equipment, product, or material 890  
is drug paraphernalia, a court or law enforcement officer shall 891  
consider, in addition to other relevant factors, all factors 892

identified in division (B) of section 2925.14 of the Revised Code. 893  
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(C) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body marihuana. 895  
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(D) This section does not apply to any person identified in division (D) (1) of section 2925.14 of the Revised Code, and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by section 3719.172 of the Revised Code. 901  
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(E) (1) Division (E) of section 2925.14 of the Revised Code applies with respect to any drug paraphernalia that was used or possessed in violation of this section. 906  
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(2) Division (B) (2) of section 2925.11 of the Revised Code applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose. 909  
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(F) Whoever violates division (C) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor. 916  
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(G) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or 919  
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commercial driver's license or permit. However, if the offender 922  
pleaded guilty to or was convicted of a violation of section 923  
4511.19 of the Revised Code or a substantially similar municipal 924  
ordinance or the law of another state or the United States 925  
arising out of the same set of circumstances as the violation, 926  
the court shall suspend the offender's driver's or commercial 927  
driver's license or permit for not more than five years. If the 928  
offender is a professionally licensed person, in addition to any 929  
other sanction imposed for a violation of this section, the 930  
court immediately shall comply with section 2925.38 of the 931  
Revised Code. 932

(2) Any offender who received a mandatory suspension of 933  
the offender's driver's or commercial driver's license or permit 934  
under this section prior to ~~the effective date of this amendment~~ 935  
September 13, 2016, may file a motion with the sentencing court 936  
requesting the termination of the suspension. However, an 937  
offender who pleaded guilty to or was convicted of a violation 938  
of section 4511.19 of the Revised Code or a substantially 939  
similar municipal ordinance or law of another state or the 940  
United States that arose out of the same set of circumstances as 941  
the violation for which the offender's license or permit was 942  
suspended under this section shall not file such a motion. 943

Upon the filing of a motion under division (G) (2) of this 944  
section, the sentencing court, in its discretion, may terminate 945  
the suspension. 946

**Section 2.** That existing sections 2925.11, 2925.12, 947  
2925.14, and 2925.141 of the Revised Code are hereby repealed. 948

**Section 3.** Section 2925.11 of the Revised Code is 949  
presented in this act as a composite of the section as amended 950  
by Am. Sub. S.B. 1, Am. Sub. S.B. 201, and Sub. S.B. 229, all of 951

the 132nd General Assembly. The General Assembly, applying the	952
principle stated in division (B) of section 1.52 of the Revised	953
Code that amendments are to be harmonized if reasonably capable	954
of simultaneous operation, finds that the composite is the	955
resulting version of the section in effect prior to the	956
effective date of the section as presented in this act.	957