

## CHAPTER 130: GENERAL PROVISIONS

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#### **Statutory reference:**

*Mayor's Court generally, see R.C. Chapter 1905*  
*Municipal Court generally, see R.C. Chapter 1901*  
*Trials, Magistrate Courts, see R.C. Chapter 2938*

#### **§ 130.01 APPLICATION OF TITLE XIII.**

(A) Title XIII of this code of ordinances embodies and prescribes penalties for offenses against the municipality not classifiable in previous titles and chapters. The word "misdemeanors", as used in this Title, is not exhaustive and does not imply that offenses found elsewhere in this code of ordinances are not also misdemeanors and punishable as such.

(B) Each act or omission for which a fine, imprisonment, or both is provided under this Title or elsewhere in this code, or each act or omission which is declared a violation of this code, is unlawful and is hereby made a misdemeanor. Upon conviction, the penalty or penalties so provided shall be imposed by the court.

#### **§ 130.02 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CONTRABAND.** Any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. The term includes but is not limited to all of the following:

(1) Any controlled substance, as defined in R.C. § 3719.01, or any device or paraphernalia related thereto;

(2) Any unlawful gambling device or paraphernalia;

(3) Any dangerous ordinance or obscene material.

**DANGEROUS OFFENDER.** A person who has committed an offense, whose history, character and condition reveal a substantial risk that he or she will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences.

**DEADLY FORCE.** Any force that carries a substantial risk that it will proximately result in the death of any person.

**FORCE.** Any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing.

**LAW ENFORCEMENT OFFICER.** Any of the following:

(1) A Sheriff, deputy sheriff, constable, police officer of a township or joint police district, Marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under R.C. § 3735.31(D) or state highway patrol trooper.

(2) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of such statutory duty and authority.

(3) The Mayor, in a capacity as chief conservator of the peace within the municipality.

(4) A member of an auxiliary police force organized by the county, township, or municipal law enforcement authorities, within the scope of the member's appointment or commission.

(5) A person lawfully called pursuant to R.C. § 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called.

(6) A person appointed by a Mayor pursuant to R.C. § 737.01 as a special patrolling officer during a riot or emergency, for the purposes and during the time when the person is appointed.

(7) A member of the organized militia of this state or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence.

(8) A prosecuting attorney, assistant prosecuting attorney, secret service officer, or municipal prosecutor.

(9) A veterans' home police officer appointed under R.C. § 5907.02.

(10) A member of a police force employed by a regional transit authority under R.C. § 306.35(Y).

(11) A special police officer employed by a port authority under R.C. § 4582.04 or 4582.28.

(12) The House of Representatives Sergeant at Arms if the House of Representatives Sergeant at Arms has arrest authority pursuant to R.C. § 101.311(E)(1) and an Assistant House of Representatives Sergeant at Arms.

(13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in 14 C.F.R. § 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the Transportation Security Administration of the United States Department of Transportation as provided in 49 C.F.R. parts 1542 and 1544, as amended.

**NOT GUILTY BY REASON OF INSANITY.** A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in R.C. § 2901.05, that at the time of the commission of the offense, he or she did not know, as a result of a severe mental disease or defect, the wrongfulness of his or her acts.

**OFFENSE OF VIOLENCE.**

(1) A violation of R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15,

2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, division (A)(1), (A)(2) or (A)(3) of R.C. § 2911.12, or of division (B)(1), (B)(2), (B)(3) or (B)(4) of R.C. § 2919.22, or felonious sexual penetration in violation of former R.C. § 2907.12;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States, substantially equivalent to any section, division or offense listed in division (1) of this definition;

(3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or of the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (1), (2), or (3) of this definition.

**PERSON.**

(1) (a) Subject to division (2) of this definition, as used in any section contained in Title XIII of this code that sets forth a criminal offense, the term includes all of the following:

1. An individual, corporation, business trust, estate, trust, partnership and association.
2. An unborn human who is viable.

(b) As used in any section contained in Title XIII of this code that does not set forth a criminal offense, the term includes an individual, corporation, business trust, estate, partnership and association.

(c) As used in division (1)(a)2. of this definition, "unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth. "Viable" means the stage of development of a human fetus at which there is a realistic probability of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.

(2) Notwithstanding division (1)(a) of this definition, in no case shall the portion of the definition of the term "person" that is set forth in division (1)(a)2. of this definition be applied or construed in any section contained in Title XIII of this code that sets forth a criminal offense in any of the following manners:

(a) Except as otherwise provided in division (2)(a) of this definition, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the

pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of R.C. § 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21 or 2903.22, or any substantially equivalent municipal ordinance, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence but that does violate R.C. § 2919.12, 2919.13(B), 2919.151, 2919.17 or 2919.18, or any substantially equivalent municipal ordinance, may be punished as a violation of such section, as applicable. Consent is sufficient under this division if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with R.C. § 2919.12.

(b) In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:

1. Her delivery of a stillborn baby;
2. Her causing, in any other manner, the death *in utero* of a viable, unborn human that she is carrying;
3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness, or other psychological illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.

**PHYSICAL HARM TO PERSONS.** Any injury, illness, or other physiological impairment, regardless of its gravity or duration.

**PHYSICAL HARM TO PROPERTY.** Any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. The term does not include wear and tear occasioned by normal use.

**PRIVILEGE.** An immunity, license, or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office, or relationship, or growing out of necessity.

### **PROPERTY.**

(1) Any property, real or personal, tangible or intangible, and any interest or license in that property. The term includes but is not limited to cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human-readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright or patent. "Financial instruments associated with computers" include but are not limited to checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.

(2) As used in this definition, "trade secret" has the same meaning as in R.C. § 1333.61, and "telecommunications service" and "information service" have the same meanings as in R.C. § 2913.01.

(3) As used in this definition and in the definition of "contraband" in this section, "cable television service," "computer," "computer network," "computer software," "computer system," "data," and "telecommunications device" have the same meanings as in R.C. § 2913.01.

**REPEAT OFFENDER.** A person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he or she will commit another offense. It is prima facie evidence that a person is a repeat offender if any of the following applies:

(1) Having been convicted of one or more offenses of violence, as defined in R.C. § 2901.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent offense of violence;

(2) Having been convicted of one or more sexually oriented offenses, as defined in R.C. § 2950.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent sexually oriented offense;

(3) Having been convicted of one or more theft offenses, as defined in R.C. § 2913.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent theft offense;

(4) Having been convicted of one or more felony drug abuse offenses, as defined in R.C. § 2925.01, and having been imprisoned pursuant to sentence for one or more of those offenses, he or she commits a subsequent felony drug abuse offense;

(5) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense;

(6) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses, or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he or she commits a subsequent offense.

**RISK.** A significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.

**SCHOOL.** Has the same meaning as in R.C. § 2925.01.

**SCHOOL ACTIVITY.** Any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under R.C. Chapter 3314; a governing board of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under R.C. § 3301.07.

**SCHOOL BUILDING.** Has the same meaning as in R.C. § 2925.01.

**SCHOOL BUS.** Has the same meaning as in R.C. § 4511.01.

**SCHOOL PREMISES.** Has the same meaning as in R.C. § 2925.01.

**SCHOOL SAFETY ZONE.** Consists of a school, school building, school premises, school activity, and school bus.

**SERIOUS PHYSICAL HARM TO PERSONS.** Any of the following:

(1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;

(2) Any physical harm that carries a substantial risk of death;

(3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;

(4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;

(5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.

**SERIOUS PHYSICAL HARM TO PROPERTY.** Any physical harm to property that does either of the following:

(1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort, or money to repair or replace;

(2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use or enjoyment for an extended period of time.

**SUBSTANTIAL RISK.** A strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.  
(R.C. §§ 2901.01, 2935.36(E)) (Rev. 2012)

### § 130.03 CLASSIFICATION OF OFFENSES.

As used in this Title:

(A) Offenses include misdemeanors of the first, second, third, and fourth degree, minor misdemeanors, and offenses not specifically classified.

(B) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.

(C) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.

(D) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:

(1) For an offense committed prior to January 1, 2004, a fine not exceeding \$100;

(2) For an offense committed on or after January 1, 2004, a fine not exceeding \$150, community service under R.C. § 2929.27(D), or a financial sanction other than a fine under R.C. § 2929.28.  
(R.C. § 2901.02) (Rev. 2012)

### § 130.04 COMMON LAW OFFENSES ABROGATED.

(A) No conduct constitutes a criminal offense against the municipality unless it is defined as an offense in this code.

(B) An offense is defined when one or more sections of this code state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.

(C) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree. (R.C. § 2901.03)

### § 130.05 RULES OF CONSTRUCTION.

(A) Except as otherwise provided in division (C) or (D) of this section, sections of this code defining offenses or penalties shall be strictly construed against the municipality and liberally construed in favor of the accused.

(B) Rules of criminal procedure and sections of this code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy, and sure administration of justice.

(C) Any provision of a section of this code that refers to a previous conviction of or plea of guilty to a violation of a section of this code, the Ohio Revised Code or a division of a section of this code or the Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this municipality, state, another state, or the United States or under an existing or former municipal ordinance.

(D) Any provision of this code that refers to a section, or to a division of a section, of this code that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this state, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense.

(R.C. § 2901.04) (Rev. 2005)

### § 130.06 LIMITATION OF CRIMINAL PROSECUTIONS.

(A) (1) Except as provided in division (A)(2) or (A)(3) of this section or as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

(a) For a felony, six years;

(b) For a misdemeanor other than a minor misdemeanor, two years;

(c) For a minor misdemeanor, six months.

(2) There is no period of limitation for the prosecution of a violation of R.C. § 2903.01 or R.C. § 2903.02.

(3) Except as otherwise provided in divisions (B) through (H) of this section, a prosecution of any of the following offenses shall be barred unless it is commenced within 20 years after the offense is committed:

(a) A violation of R.C. § 2903.03, 2903.04, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2907.21, 2909.02, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, or 2917.02, a violation of R.C. § 2903.11 or 2903.12 if the victim is a peace officer, a violation of R.C. § 2903.13 that is a felony, or a violation of former R.C. § 2907.12.

(b) A conspiracy to commit, attempt to commit, or complicity in committing a violation set forth in division (A)(3)(a) of this section.

(B) (1) Except as otherwise provided in division (B)(2) of this section, if the period of limitation provided in division (A)(1) or (A)(3) of this section has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of fiduciary duty within one year after discovery of the offense either by an aggrieved person or by the aggrieved person's legal representative who is not a party to the offense.

(2) If the period of limitation provided in division (A)(1) or (A)(3) of this section has expired, prosecution for a violation of R.C. § 2913.49 shall be commenced within five years after discovery of the offense either by an aggrieved person or the aggrieved person's legal representative who is not a party to the offense.

(C) (1) If the period of limitation provided in division (A)(1) or (A)(3) of this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

(a) For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;

(b) For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this division:

**OFFENSE IS DIRECTLY RELATED TO THE MISCONDUCT IN OFFICE OF A PUBLIC SERVANT.** The phrase includes but is not limited to a violation of R.C. § 101.71, 101.91, 121.61 or 2921.13, 102.03(F) or (H), 2921.02(A), 2921.43(A) or (B), or 3517.13(F) or (G), that is directly related to an offense involving misconduct in office of a public servant, or a violation of any municipal ordinance substantially equivalent to those Ohio Revised Code sections listed in this division (C)(2).

**PUBLIC SERVANT.** Has the same meaning as in R.C. § 2921.01.

(D) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(E) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation, or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation, or other process unless reasonable diligence is exercised to execute the same.

(F) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(G) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused departed this municipality or conceals the accused's identity or whereabouts is prima facie evidence of the accused's purpose to avoid prosecution.

(H) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this state, even though the indictment, information, or process that commenced the prosecution is quashed or the proceedings on the indictment, information, or process are set aside or reversed on appeal.

(I) The period of limitation for a violation of this Title XIII or Title XXIX of the Ohio Revised Code that involves a physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of a child under 18 years of age or of a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age shall not begin to run until either of the following occurs:

(1) The victim of the offense reaches the age of majority.

(2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

(J) As used in this section, **PEACE OFFICER** has the same meaning as in R.C. § 2935.01.  
(R.C. § 2901.13) (Rev. 2009)

**Statutory reference:**

*Limitation for income tax violations, see R.C. § 718.12*

**§ 130.07 REQUIREMENTS FOR CRIMINAL LIABILITY; VOLUNTARY INTOXICATION.**

(A) Except as provided in division (B) of this section, a person is not guilty of an offense unless both of the following apply:

(1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;

(2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the section defining the offense.

(B) When the section defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. When the section neither specifies culpability nor plainly indicates a purpose to impose strict liability, recklessness is sufficient culpability to commit the offense.

(C) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(D) As used in this section:

**CULPABILITY.** Means purpose, knowledge, recklessness, or negligence, as defined in R.C. § 2901.22.

**INTOXICATION.** Includes but is not limited to intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

**INVOLUNTARY ACTS.** Means reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition are involuntary acts.

**POSSESSION.** Means a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

(R.C. § 2901.21) (Rev. 2001)

**§ 130.08 CULPABLE MENTAL STATES.**

(A) A person acts purposely when it is his or her specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain

nature, regardless of what the offender intends to accomplish thereby, it is his or her specific intention to engage in conduct of that nature.

(B) A person acts knowingly, regardless of his or her purpose, when he or she is aware that his or her conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he or she is aware that such circumstances probably exist.

(C) A person acts recklessly when, with heedless indifference to the consequences, he or she perversely disregards a known risk that his or her conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he or she perversely disregards a known risk that such circumstances are likely to exist.

(D) A person acts negligently when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that his or her conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, he or she fails to perceive or avoid a risk that such circumstances may exist.

(E) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge, or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element. (R.C. § 2901.22)

#### **§ 130.09 ORGANIZATIONAL CRIMINAL LIABILITY.**

(A) An organization may be convicted of an offense under any of the following circumstances:

(1) The offense is a minor misdemeanor committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, such provisions shall apply.

(2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent, or employee of the organization acting in its behalf and within the scope of his or her office or employment, except that if the section defining the offense designates the officers, agents, or employees for whose conduct the organization is

accountable or the circumstances under which it is accountable, such provisions shall apply.

(3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.

(4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated, or performed by the board of directors, trustees, partners, or by a high managerial officer, agent, or employee acting in behalf of the organization and within the scope of his or her office or employment.

(B) When strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(C) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent, or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(D) As used in this section, **ORGANIZATION** means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated association, estate, trust, or other commercial or legal entity. The term does not include an entity organized as or by a governmental agency for the execution of a governmental program. (R.C. § 2901.23)

#### **§ 130.10 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.**

(A) An officer, agent, or employee of an organization, as defined in R.C. § 2901.23, may be prosecuted for an offense committed by such organization, if he or she acts with the kind of culpability required for the commission of the offense, and any of the following apply:

(1) In the name of the organization or in its behalf, he or she engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he or she has direct responsibility;

(2) He or she has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(B) When a person is convicted of an offense by reason of this section, he or she is subject to the same penalty as if he or she had acted in his or her own behalf. (R.C. § 2901.24) (Rev. 1999)

**§ 130.11 ATTEMPT.**

(A) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(B) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(C) No person who is convicted of committing a specific offense, of complicity in the commission of an offense, or of conspiracy to commit an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(D) It is an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(E) (1) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit aggravated murder, murder, or an offense for which the maximum penalty is imprisonment for life is a felony of the first degree, to be prosecuted under appropriate state law. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other offense is an offense of the next lesser degree than the offense attempted. In the case of an attempt to commit an offense other than a violation of R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony, and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. In the case of an attempt to commit a violation of any provision of R.C. Chapter 3734, other than R.C. § 3734.18, that relates to hazardous wastes, an attempt is a felony to be prosecuted under appropriate state law. An attempt to commit a minor misdemeanor, or to engage in conspiracy, is not an offense under this section.

(2) In addition to any other sanctions imposed pursuant to division (E)(1) of this section for an attempt to commit aggravated murder or murder in violation of division (A) of this section, if the offender used a motor vehicle as the means to attempt to commit the offense, the court shall impose upon the offender a class two suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license,

or nonresident operating privilege as specified in R.C. § 4510.02(A)(2).

(3) If a person is convicted of or pleads guilty to attempted rape and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1418, 2941.1419, or 2941.1420, the offender shall be sentenced to a prison term or term of life imprisonment pursuant to R.C. § 2971.03.

(F) As used in this section:

**DRUG ABUSE OFFENSE.** Has the same meaning as in R.C. § 2925.01.

**MOTOR VEHICLE.** Has the same meaning as in R.C. § 4501.01.  
(R.C. § 2923.02) (Rev. 2008)

**Statutory reference:**

*Conspiracy, see R.C. § 2923.01*

*Solid and hazardous wastes, see R.C. Chapter 3734*

**§ 130.12 COMPLICITY.**

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

(1) Solicit or procure another to commit the offense;

(2) Aid or abet another in committing the offense;

(3) Conspire with another to commit the offense in violation of R.C. § 2923.01;

(4) Cause an innocent or irresponsible person to commit the offense.

(B) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(C) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of R.C. § 2923.02 or a substantially equivalent municipal ordinance.

(D) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court shall charge the jury in accordance with R.C. § 2923.03(D).

(E) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his or her complicity, under

circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

(F) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he or she were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

(R.C. § 2923.03) (Rev. 1999)

*Statutory reference:*

*Conspiracy, see R.C. § 2923.01*

### § 130.13 PRESUMPTION OF INNOCENCE; PROOF OF OFFENSE; AFFIRMATIVE DEFENSE.

(A) Every person accused of an offense is presumed innocent until proven guilty beyond a reasonable doubt, and the burden of proof for all elements of the offense is upon the prosecution. The burden of going forward with the evidence of an affirmative defense, and the burden of proof by a preponderance of the evidence, for an affirmative defense, is upon the accused.

(B) (1) Subject to division (B)(2) of this section, a person is presumed to have acted in self defense or defense of another when using defensive force that is intended or likely to cause death or great bodily harm to another if the person against whom the defensive force is used is in the process of unlawfully and without privilege to do so entering, or has unlawfully and without privilege to do so entered, the residence or vehicle occupied by the person using the defensive force.

(2) (a) The presumption set forth in division (B)(1) of this section does not apply if the person against whom the defensive force is used has a right to be in, or is a lawful resident of, the residence or vehicle.

(b) The presumption set forth in division (B)(1) of this section does not apply if the person who uses the defensive force uses it while in a residence or vehicle and the person is unlawfully, and without privilege to be, in that residence or vehicle.

(3) The presumption set forth in division (B)(1) of this section is a rebuttable presumption and may be rebutted by a preponderance of the evidence.

(C) As part of its charge to the jury in a criminal case, the court shall read the definitions of "reasonable doubt" and "proof beyond a reasonable doubt", contained in division (D) of this section.

(D) As used in this section:

**AFFIRMATIVE DEFENSE.** An affirmative defense is either of the following:

(a) A defense expressly designated as affirmative;

(b) A defense involving an excuse or justification peculiarly within the knowledge of the accused, on which the accused can fairly be required to adduce supporting evidence.

**DWELLING.** Means a building or conveyance of any kind that has a roof over it and that is designed to be occupied by people lodging in the building or conveyance at night, regardless of whether the building or conveyance is temporary or permanent or is mobile or immobile. As used in this division, a building or conveyance includes but is not limited to an attached porch, and a building or conveyance with a roof over it includes but is not limited to a tent.

**PROOF BEYOND A REASONABLE DOUBT.** Proof of such character that an ordinary person would be willing to rely and act upon it in the most important of the person's own affairs.

**REASONABLE DOUBT.** Reasonable doubt is present when the jurors, after they have carefully considered and compared all the evidence, cannot say they are firmly convinced of the truth of the charge. It is a doubt based on reasonable and common sense. The term is not mere possible doubt, because everything relating to human affairs or depending on moral evidence is open to some possible or imaginary doubt.

**RESIDENCE.** Means a dwelling in which a person resides either temporarily or permanently or is visiting as a guest.

**VEHICLE.** Means a conveyance of any kind, whether or not motorized, that is designed to transport people or property.  
(R.C. § 2901.05) (Rev. 2009)

### § 130.14 BATTERED WOMAN SYNDROME.

(A) The municipality hereby declares that it recognizes both of the following, in relation to the "battered woman syndrome": that the syndrome currently is a matter of commonly accepted scientific knowledge, and that the subject matter and details of the syndrome are not within the general understanding or experience of a person who is a member of the general populace and are not within the field of common knowledge.

(B) If a person is charged with an offense involving the use of force against another and the person, as a defense to the offense charged, raises the affirmative defense of self defense, the person may introduce expert testimony of the "battered woman syndrome" and expert testimony that the person suffered from that syndrome as evidence to establish the requisite belief of an imminent danger of death or great bodily harm that is necessary, as an element of the affirmative defense, to justify the person's use of force in question. The introduction of any expert testimony under this division shall be in accordance with the Ohio Rules of Evidence.  
(R.C. § 2901.06)

### § 130.15 DELINQUENCY ADJUDICATIONS DEEMED CONVICTIONS.

(A) If a person is alleged to have committed an offense and if the person previously has been adjudicated a delinquent child or juvenile traffic offender for a violation of a law or ordinance, except as provided in division (B) of this section, the adjudication as a delinquent child or as a juvenile traffic offender is a conviction for a violation of the law for purposes of determining the offense with which the person should be charged and, if the person is convicted of or pleads guilty to an offense, the sentence to be imposed upon the person relative to the conviction or guilty plea.

(B) A previous adjudication of a person as a delinquent child or juvenile traffic offender for a violation of a law or ordinance is not a conviction for a violation of the law or ordinance for purposes of determining whether the person is a repeat violent offender, as defined in R.C. § 2929.01, or whether the person should be sentenced as a repeat violent offender under R.C. § 2929.14(B)(2) and R.C. § 2941.149.

(R.C. § 2901.08) (Rev. 2012)

### § 130.16 CRIMINAL LAW JURISDICTION.

(A) A person is subject to criminal prosecution and punishment in this municipality if any of the following occur:

(1) The person commits an offense under the laws of this municipality, any element of which takes place in this municipality;

(2) While in this municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this municipality and the other jurisdiction, or, while in this municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this municipality and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this division, the person is subject to criminal prosecution and punishment in this municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction;

(3) While out of this municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this municipality;

(4) While out of this municipality, the person omits to perform a legal duty imposed by the laws of this

municipality, which omission affects a legitimate interest of the municipality in protecting, governing or regulating any person, property, thing, transaction, or activity in this municipality;

(5) While out of this municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this municipality;

(6) While out of this municipality, the person unlawfully takes or entices another person and subsequently brings the other person into this municipality;

(7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image or other telecommunication to be disseminated or transmitted into this municipality in violation of the law of this state or municipality.

(B) In homicide, the element referred to in division (A)(1) of this section includes the act that causes death, the physical contact that causes death, the death itself, or any other element that is set forth in the offense in question. If any part of the body of a homicide victim is found in this municipality, the death is presumed to have occurred within this municipality.

(C) (1) This municipality includes the land and water within its boundaries and the air space above that land and water, with respect to which this municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this municipality for purposes of this section.

(2) The courts of common pleas of Adams, Athens, Belmont, Brown, Clermont, Columbiana, Gallia, Hamilton, Jefferson, Lawrence, Meigs, Monroe, Scioto, and Washington counties have jurisdiction beyond the north or northwest shore of the Ohio River extending to the opposite shore line, between the extended boundary lines of any adjacent counties or adjacent state. Each of those courts of common pleas has concurrent jurisdiction on the Ohio River with any adjacent court of common pleas that borders on that river and with any court of Kentucky or of West Virginia that borders on the Ohio River and that has jurisdiction on the Ohio River under the law of Kentucky or the law of West Virginia, whichever is applicable, or under federal law.

(D) When an offense is committed under the laws of this municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this municipality for purposes of this section.

(E) When a person is subject to criminal prosecution and punishment in this municipality for an offense committed or completed outside this municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this municipality.

(F) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(G) This section shall be liberally construed, consistent with constitutional limitations, to allow this municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this municipality.

(H) For purposes of division (A)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(I) As used in this section, *COMPUTER*, *COMPUTER SYSTEM*, *COMPUTER NETWORK*, *INFORMATION SERVICE*, *TELECOMMUNICATION*, *TELECOMMUNICATIONS DEVICE*, *TELECOMMUNICATIONS SERVICE*, *DATA* and *WRITING* have the same meanings as in R.C. § 2913.01.

(R.C. § 2901.11) (Rev. 2006)

*Statutory reference:*

*State criminal law jurisdiction, see R.C. § 2901.11*

### § 130.17 DISPOSITION OF UNCLAIMED OR FORFEITED PROPERTY HELD BY POLICE DEPARTMENT.

(A) *Safekeeping of property in custody.*

(1) (a) Any property that has been lost, abandoned, stolen, seized pursuant to a search warrant, or otherwise lawfully seized or forfeited and that is in the custody of the Police Department shall be kept safely by the Police Department, pending the time it no longer is needed as evidence or for another lawful purpose, and shall be disposed of pursuant to this section or R.C. §§ 2981.12 and 2981.13.

(b) This section does not apply to the custody and disposal of any of the following:

1. Vehicles subject to forfeiture under R.C. Title 45, except as provided in division (B)(1)(f) of this section;

2. Abandoned junk motor vehicles or other property of negligible value;

3. Property held by a department of rehabilitation and correction institution that is unclaimed, that does not have an identified owner, that the owner agrees to dispose of, or that is identified by the department as having little value;

4. Animals taken, and devices used in unlawfully taking animals, under R.C. § 1531.20;

5. Controlled substances sold by a peace officer in the performance of the officer's official duties under R.C. § 3719.141;

6. Property recovered by a township law enforcement agency under R.C. §§ 505.105 to 505.109;

7. Property held and disposed of under an ordinance of the municipality or under R.C. §§ 737.29 to 737.33, except that if the municipality has received notice of a citizens' reward program as provided in division (B)(5) of this section and disposes of property under an ordinance shall pay 25% of any moneys acquired from any sale or auction to the citizens' reward program.

(2) (a) The Police Department shall adopt and comply with a written internal control policy that does all of the following:

1. Provides for keeping detailed records as to the amount of property acquired by the Police Department and the date property was acquired;

2. Provides for keeping detailed records of the disposition of the property, which shall include but not be limited to both of the following:

a. The manner in which it was disposed, the date of disposition, detailed financial records concerning any property sold, and the name of any person who received the property. The record shall not identify or enable identification of the individual officer who seized any item of property.

b. The general types of expenditures made with amounts that are gained from the sale of the property and that are retained by the agency, including the specific amount expended on each general type of expenditure, except that the policy shall not provide for or permit the identification of any specific expenditure that is made in an ongoing investigation.

3. Complies with R.C. § 2981.13 if the Police Department has a Law Enforcement Trust Fund or similar fund created under that section.

(b) If the Police Department, during any calendar year, has any seized or forfeited property covered by this section in its custody, including amounts distributed under R.C. § 2981.13 to its Law Enforcement Trust Fund or a similar fund created for the State Highway Patrol, Department of Public Safety, or State Board of Pharmacy,

the Police Department shall prepare a report covering the calendar year that cumulates all of the information contained in all of the public records kept by the Police Department pursuant to this section for that calendar year. The Police Department shall send a copy of the cumulative report to the Attorney General not later than the first day of March in the calendar year following the calendar year covered by the report.

(c) The records kept under the internal control policy shall be open to public inspection during the Police Department's regular business hours. The policy adopted under this section and each report received by the Attorney General is a public record open for inspection under R.C. § 149.43.

(3) The Police Department, with custody of property to be disposed of under this section or R.C. §§ 2981.12 or 2981.13, shall make a reasonable effort to locate persons entitled to possession of the property, to notify them of when and where it may be claimed, and to return the property to them at the earliest possible time. In the absence of evidence identifying persons entitled to possession, it is sufficient notice to advertise in a newspaper of general circulation in the county and to briefly describe the nature of the property in custody and inviting persons to view and establish their right to it.

(4) As used in this section:

**CITIZENS' REWARD PROGRAM.** Has the same meaning as in R.C. § 9.92.

**LAW ENFORCEMENT AGENCY.** Includes correctional institutions.

**TOWNSHIP LAW ENFORCEMENT AGENCY.** Means an organized police department of a township, a township police district, a joint police district, or the office of a township constable.  
(R.C. § 2981.11) (Rev. 2012)

(B) *Disposition of unclaimed or forfeited property.*

(1) Unclaimed or forfeited property in the custody of the Police Department, other than property described in division (A)(1)(b) of this section, shall be disposed of by order of any court of record that has territorial jurisdiction over the municipality, as follows:

(a) Drugs shall be disposed of pursuant to R.C. § 3719.11 or placed in the custody of the Secretary of the Treasury of the United States for disposal or use for medical or scientific purposes under applicable federal law.

(b) Firearms and dangerous ordnance suitable for police work may be given to a law enforcement agency for that purpose. Firearms suitable for sporting use or as museum pieces or collectors' items may be sold at public auction pursuant to division (B)(2) of this section. The Police Department may sell other firearms and

dangerous ordnance to a federally licensed firearms dealer in a manner that the court considers proper. The Police Department shall destroy any firearms or dangerous ordnance not given to a law enforcement agency or sold or shall send them to the Bureau of Criminal Identification and Investigation for destruction by the Bureau.

(c) Obscene materials shall be destroyed.

(d) Beer, intoxicating liquor, or alcohol seized from a person who does not hold a permit issued under R.C. Chapters 4301 and 4303 or otherwise forfeited to the state for an offense under R.C. § 4301.45 or R.C. § 4301.53 shall be sold by the Division of Liquor Control if the Division determines that it is fit for sale or shall be placed in the custody of the Investigations Unit in the Ohio Department of Public Safety and be used for training relating to law enforcement activities. The Ohio Department of Public Safety, with the assistance of the Division of Liquor Control, shall adopt rules in accordance with R.C. Chapter 119 to provide for the distribution to state or local law enforcement agencies upon their request. If any tax imposed under R.C. Title 43 has not been paid in relation to the beer, intoxicating liquor, or alcohol, any moneys acquired from the sale shall first be used to pay the tax. All other money collected under this division (B)(1)(d) shall be paid into the State Treasury. Any beer, intoxicating liquor, or alcohol that the Division determines to be unfit for sale shall be destroyed.

(e) Money received by an inmate of a correctional institution from an unauthorized source or in an unauthorized manner shall be returned to the sender, if known, or deposited in the Inmates' Industrial and Entertainment Fund of the institution if the sender is not known.

(f) 1. Any mobile instrumentality forfeited under R.C. Chapter 2981 may be given to the law enforcement agency that initially seized the mobile instrumentality for use in performing its duties, if the agency wants the mobile instrumentality. The agency shall take the mobile instrumentality subject to any security interest or lien on the mobile instrumentality.

2. Vehicles and vehicle parts forfeited under R.C. §§ 4549.61 to 4549.63 may be given to a law enforcement agency for use in performing its duties. Those parts may be incorporated into any other official vehicle. Parts that do not bear vehicle identification numbers or derivatives of them may be sold or disposed of as provided by rules of the Director of Public Safety. Parts from which a vehicle identification number or derivative of it has been removed, defaced, covered, altered, or destroyed and that are not suitable for police work or incorporation into an official vehicle shall be destroyed and sold as junk or scrap.

(g) Computers, computer networks, computer systems, and computer software suitable for police work may be given to a law enforcement agency for that

purpose or disposed of under division (B)(2) of this section.

(2) Unclaimed or forfeited property that is not described in division (B)(1) of this section or division (A)(1)(b) of this section, with court approval, may be used by the law enforcement agency in possession of it. If it is not used by the agency, it may be sold without appraisal at a public auction to the highest bidder for cash or disposed of in another manner that the court considers proper.

(3) Except as provided in divisions (B)(1) and (B)(5) of this section and after compliance with division (B)(4) of this section when applicable, any moneys acquired from the sale of property disposed of pursuant to this section shall be placed in the General Revenue Fund of the state, or the General Fund of the municipality.

(4) If the property was in the possession of the Police Department in relation to a delinquent child proceeding in a juvenile court, 10% of any moneys acquired from the sale of property disposed of under this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the Department of Alcohol and Drug Addiction Services under R.C. § 3793.06. A juvenile court shall not specify a program, except as provided in this division, unless the program is in the same county as the court or in a contiguous county. If no certified program is located in any of those counties, the juvenile court may specify a certified program anywhere in Ohio. The remaining 90% of the proceeds or cash shall be applied as provided in division (B)(3) of this section.

(5) (a) If the Board of County Commissioners recognizes a citizens' reward program under R.C. § 9.92, the Board shall notify the Police Department of the recognition by filing a copy of its resolution conferring that recognition with the Police Department. When the Board recognizes a citizens' reward program and the county includes a part, but not all, of the territory of the municipality, the Board shall so notify the Police Department of the recognition of the citizens' reward program only if the county contains the highest percentage of the municipality's population.

(b) Upon being so notified, the Police Department shall pay 25% of any forfeited proceeds or cash derived from each sale of property disposed of pursuant to this section to the citizens' reward program for use exclusively to pay rewards. No part of the funds may be used to pay expenses associated with the program. If a citizens' reward program that operates in more than one county or in another state in addition to this state receives funds under this section, the funds shall be used to pay rewards only for tips and information to law enforcement agencies concerning offenses committed in the county from which the funds were received.

(6) Any property forfeited under R.C. Chapter 2981 not be used to pay any fine imposed upon a person who is convicted of or pleads guilty to an underlying

criminal offense or a different offense arising out of the same facts and circumstances.

(R.C. § 2981.12) (Rev. 2012)

(C) *Disposition of contraband, proceeds, or instrumentalities.* Except as otherwise provided in R.C. § 2981.13, property ordered forfeited as contraband, proceeds, or an instrumentality pursuant to R.C. Chapter 2981 shall be disposed of, used, or sold pursuant to division (B) of this section or R.C. § 2981.12. If the property is to be sold under division (B) of this section or R.C. § 2981.12, the prosecutor shall cause notice of the proposed sale to be given in accordance with law.

(R.C. § 2981.13(A)) (Rev. 2008)

*Statutory reference:*

*Forfeiture of property generally, see R.C. Chapter 2981*

### § 130.18 IMPOSING SENTENCE FOR MISDEMEANOR.

(A) (1) Unless a mandatory jail term is required to be imposed by R.C. § 1547.99(G), 4510.14(B), or 4511.19(G), or any other provision of the Ohio Revised Code, or any municipal ordinance, a court that imposes a sentence under this chapter upon an offender for a misdemeanor or minor misdemeanor has discretion to determine the most effective way to achieve the purposes and principles of sentencing set forth in § 130.99(B).

(2) Unless a specific sanction is required to be imposed or is precluded from being imposed by the section setting forth an offense or the penalty for an offense or by any provision of § 130.99 or 133.99 of this code or R.C. §§ 2929.23 through 2929.28, a court that imposes a sentence upon an offender for a misdemeanor may impose on the offender any sanction or combination of sanctions under § 130.99(C) through (G). The court shall not impose a sentence that imposes an unnecessary burden on local government resources.

(B) (1) In determining the appropriate sentence for a misdemeanor, the court shall consider all of the following factors:

(a) The nature and circumstances of the offense or offenses;

(b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;

(c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;

(d) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;

(e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (B)(1)(c) of this section.

(2) In determining the appropriate sentence for a misdemeanor, in addition to complying with division (B)(1) of this section, the court may consider any other factors that are relevant to achieving the purposes and principles of sentencing set forth in § 130.99(B).

(C) Before imposing a jail term as a sentence for a misdemeanor, a court shall consider the appropriateness of imposing a community control sanction or a combination of community control sanctions under § 130.99(D), (E), (F), and (G). A court may impose the longest jail term authorized under § 130.99(C) only upon offenders who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future crime.

(D) (1) A sentencing court shall consider any relevant oral or written statement made by the victim, the defendant, the defense attorney, or the prosecuting authority regarding sentencing for a misdemeanor. This division does not create any rights to notice other than those rights authorized by R.C. Chapter 2930.

(2) At the time of sentencing for a misdemeanor or as soon as possible after sentencing, the court shall notify the victim of the offense of the victim's right to file an application for an award of reparations pursuant to R.C. §§ 2743.51 through 2743.72.  
(R.C. § 2929.22) (Rev. 2005)

### § 130.19 MULTIPLE SENTENCES.

(A) Except as provided in division (B) of this section, R.C. § 2929.14(E), or R.C. § 2971.03(D) or (E), a prison term, jail term, or sentence of imprisonment shall be served concurrently with any other prison term, jail term, or sentence of imprisonment imposed by a court of this municipality, this state, another state, or the United States. Except as provided in division (B)(2) of this section, a jail term or sentence of imprisonment for misdemeanor shall be served concurrently with a prison term or sentence of imprisonment for felony served in a state or federal correctional institution.

(B) (1) A jail term or sentence of imprisonment for a misdemeanor shall be served consecutively to any other prison term, jail term, or sentence of imprisonment when

the trial court specifies that it is to be served consecutively or when it is imposed for a misdemeanor violation of R.C. § 2907.322, 2921.34 or 2923.131. When consecutive sentences are imposed for misdemeanors under this division, the term to be served is the aggregate of the consecutive terms imposed, except that the aggregate term to be served shall not exceed 18 months.

(2) A jail term or sentence of imprisonment imposed for a misdemeanor violation of R.C. § 4510.11, 4510.14, 4510.16, 4510.21, or 4511.19, or a substantially equivalent municipal ordinance, shall be served consecutively to a prison term that is imposed for a felony violation of R.C. § 2903.06, 2903.07, 2903.08 or 4511.19 or a felony violation of R.C. § 2903.04 involving the operation of a motor vehicle by the offender and that is served in a state correctional institution when the trial court specifies that it is to be served consecutively. When consecutive jail terms or sentences of imprisonment and prison terms are imposed for one or more misdemeanors and one or more felonies under this division, the term to be served is the aggregate of the consecutive terms imposed, and the offender shall serve all terms imposed for a felony before serving any term imposed for a misdemeanor.  
(R.C. § 2929.41) (Rev. 2004)

### § 130.20 APPREHENSION, DETENTION, OR ARREST OF PERSON ON BOND.

(A) No person, other than a law enforcement officer, shall apprehend, detain, or arrest a principal on bond, wherever issued, unless that person meets all of the following criteria:

(1) The person is any of the following:

(a) Qualified, licensed, and appointed as a surety bail bond agent under R.C. §§ 3905.83 through 3905.95;

(b) Licensed as a surety bail bond agent by the state where the bond was written;

(c) Licensed as a private investigator under R.C. Chapter 4749;

(d) Licensed as a private investigator by the state where the bond was written;

(e) An off-duty peace officer, as defined in R.C. § 2921.51.

(2) The person, prior to apprehending, detaining, or arresting the principal, has entered into a written contract with the surety or with a licensed surety bail bond agent appointed by the surety, which contract sets forth the name of the principal who is to be apprehended, detained, or arrested. For purposes of this division (A)(2), *SURETY* has the same meaning as in R.C. § 3905.83.

(3) The person, prior to apprehending, detaining, or arresting the principal, has notified the local law enforcement agency having jurisdiction over the area in which such activities will be performed and has provided any form or identification or other information requested by the law enforcement agency.

(B) No person shall represent the person's self to be a bail enforcement agent or bounty hunter, or claim any similar title, in this municipality.

(C) Whoever violates this section is guilty of illegal bail bond agent practices.

(1) A violation of division (A) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of division (A) of this section, or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law.

(2) A violation of division (B) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of division (B) of this section, or any substantially equivalent state law or municipal ordinance, a felony to be prosecuted under appropriate state law.  
(R.C. § 2927.27) (Rev. 2001)

#### § 130.21 SELF DEFENSE: LIMITATIONS ON DUTY TO RETREAT PRIOR TO USING FORCE.

(A) As used in this section, *RESIDENCE* and *VEHICLE* have the same meanings as in R.C. § 2901.05.

(B) For purposes of any section of this code that sets forth a criminal offense, a person who lawfully is in that person's residence has no duty to retreat before using force in self defense, defense of another, or defense of that person's residence, and a person who lawfully is an occupant of that person's vehicle or who lawfully is an occupant in a vehicle owned by an immediate family member of the person has no duty to retreat before using force in self defense or defense of another.  
(R.C. § 2901.09) (Rev. 2009)

#### § 130.99 PENALTY FOR TITLE XIII.

(A) *Generally*. Except where otherwise specifically classified within the body of the section of a chapter of this title, a violation of such section shall be deemed a misdemeanor punishable upon conviction by a fine of not more than \$500, imprisonment of not more than six months, or both.  
(R.C. § 715.67)

#### (B) *Considerations in misdemeanor sentencing.*

(1) A court that sentences an offender for a misdemeanor or minor misdemeanor violation of any provision of the Ohio Revised Code, or of any municipal ordinance that is substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code, shall be guided by the overriding purposes of misdemeanor sentencing. The overriding purposes of misdemeanor sentencing are to protect the public from future crime by the offender and others and to punish the offender. To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender's behavior, rehabilitating the offender, and making restitution to the victim of the offense, the public, or the victim and the public.

(2) A sentence imposed for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall be reasonably calculated to achieve the two overriding purposes of misdemeanor sentencing set forth in division (B)(1) of this section, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar offenses committed by similar offenders.

(3) A court that imposes a sentence upon an offender for a misdemeanor or minor misdemeanor violation of an Ohio Revised Code provision or for a violation of a municipal ordinance that is subject to division (B)(1) of this section shall not base the sentence upon the race, ethnic background, gender, or religion of the offender.

(4) Divisions (B)(1) and (B)(2) of this section shall not apply to any offense that is disposed of by a traffic violations bureau of any court pursuant to Traffic Rule 13 and shall not apply to any violation of any provision of the Ohio Revised Code that is a minor misdemeanor and that is disposed of without a court appearance. Divisions (B)(1) through (B)(3) of this section do not affect any penalties established by the municipality for a violation of its ordinances that are not substantially equivalent to a misdemeanor or minor misdemeanor violation of a provision of the Ohio Revised Code.  
(R.C. § 2929.21) (Rev. 2005)

#### (C) *Misdemeanor jail terms.*

(1) Except as provided in § 130.18 or 133.99 of this code or R.C. § 2929.22 or 2929.23 or division (C)(5) or (C)(6) of this section and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this chapter, the court shall impose a definite jail term that shall be one of the following:

(a) For a misdemeanor of the first degree, not more than 180 days;

(b) For a misdemeanor of the second degree, not more than 90 days;

(c) For a misdemeanor of the third degree, not more than 60 days;

(d) For a misdemeanor of the fourth degree, not more than 30 days.

(2) (a) A court that sentences an offender to a jail term under division (C) of this section may permit the offender to serve the sentence in intermittent confinement or may authorize a limited release of the offender as provided in division (E)(2) of this section. The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.

(b) 1. If a prosecutor, as defined in R.C. § 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.

2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.

(3) If a court sentences an offender to a jail term under division (C) of this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to R.C. § 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.

(4) If a person sentenced to a jail term pursuant to division (C) of this section, the court may impose as part of the sentence pursuant to R.C. § 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to R.C. § 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and R.C. § 2929.37, both of the following apply:

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

1. If the person is presented with an itemized bill pursuant to R.C. § 2929.37 for payment of the

costs of confinement, the person is required to pay the bill in accordance with that section.

2. If the person does not dispute the bill described in division (C)(4)(a)1. of this section and does not pay the bill by the times specified in R.C. § 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.

(b) The sentence automatically includes any certificate of judgment issued as described in division (C)(4)(a)2. of this section.

(5) If an offender who is convicted of or pleads guilty to a violation of R.C. § 4511.19(B), or any substantially equivalent municipal ordinance, also is convicted of or also pleads guilty to a specification of the type described in R.C. § 2941.1414 and if the court imposes a jail term on the offender for the underlying offense, the court shall impose upon the offender an additional definite jail term of not more than six months. The additional jail term shall not be reduced pursuant to any provision of the Ohio Revised Code. The offender shall serve the additional jail term consecutively to and prior to the jail term imposed for the underlying offense and consecutively to any other mandatory term imposed in relation to the offense.

(6) (a) If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and to a specification of the type described in R.C. § 2941.1421 and if the court imposes a jail term on the offender for the misdemeanor violation, the court may impose upon the offender an additional definite jail term as follows:

1. Subject to division (C)(6)(a)2. of this section, an additional definite jail term of not more than 60 days;

2. If the offender previously has been convicted of or pleaded guilty to one or more misdemeanor or felony violations of R.C. § 2907.22, 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and also was convicted of or pleaded guilty to a specification of the type described in R.C. § 2941.1421 regarding one or more of those violations, an additional definite jail term of not more than 120 days.

(b) In lieu of imposing an additional definite jail term under division (C)(6)(a) of this section, the court may directly impose on the offender a sanction that requires the offender to wear a real-time processing, continual tracking electronic monitoring device during the period of time specified by the court. The period of time specified by the court shall equal the duration of an additional jail term that the court could have imposed upon the offender under division (C)(6)(a) of this section. A sanction imposed under this division shall commence on the

date specified by the court, provided that the sanction shall not commence until after the offender has served the jail term imposed for the misdemeanor violation of R.C. § 2907.23, 2907.24, 2907.241, or 2907.25, or any substantially equivalent municipal ordinance, and any residential sanction imposed for the violation under division (E) of this section or R.C. § 2929.26. A sanction imposed under this division shall be considered to be a community control sanction for purposes of division (D) or this section or R.C. § 2929.25, and all provisions of this code and the Ohio Revised Code that pertain to community control sanctions shall apply to a sanction imposed under this division, except to the extent that they would by their nature be clearly inapplicable. The offender shall pay all costs associated with a sanction imposed under this division, including the cost of the use of the monitoring device.

(7) If an offender is convicted of or pleads guilty to a misdemeanor violation of R.C. § 2903.13 and also is convicted of or pleads guilty to a specification of the type described in R.C. § 2941.1423 that charges that the victim of the violation was a woman whom the offender knew was pregnant at the time of the violation, the court shall impose on the offender a mandatory jail term that is a definite term of at least 30 days.

(8) If a court sentences an offender to a jail term under this division (C), the sentencing court retains jurisdiction over the offender and the jail term. Upon motion of either party or upon the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may substitute one or more community control sanctions under division (E) or (F) of this section for any jail days that are not mandatory jail days.  
(R.C. § 2929.24) (Rev. 2012)

(D) *Misdemeanor community control sanctions.*

(1) (a) Except as provided in §§ 130.18 and 133.99 of this code or R.C. §§ 2929.22 and 2929.23 or when a jail term is required by law, in sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may do either of the following:

1. Directly impose a sentence that consists of one or more community control sanctions authorized by divisions (E), (F), or (G) of this section. The court may impose any other conditions of release under a community control sanction that the court considers appropriate. If the court imposes a jail term upon the offender, the court may impose any community control sanction or combination of community control sanctions in addition to the jail term.

2. Impose a jail term under division (C) of this section from the range of jail terms authorized under that division for the offense, suspend all or a portion of the jail term imposed, and place the offender under a community control sanction or combination of community

control sanctions authorized under divisions (E), (F), or (G) of this section.

(b) The duration of all community control sanctions imposed upon an offender and in effect for an offender at any time shall not exceed five years.

(c) At sentencing, if a court directly imposes a community control sanction or combination of community control sanctions pursuant to division (D)(1)(a)1. of this section, the court shall state the duration of the community control sanctions imposed and shall notify the offender that if any of the conditions of the community control sanctions are violated the court may do any of the following:

1. Impose a longer time under the same community control sanction if the total time under all of the offender's community control sanctions does not exceed the five-year limit specified in division (D)(1)(b) of this section;

2. Impose a more restrictive community control sanction under division (E), (F), or (G) of this section, but the court is not required to impose any particular sanction or sanctions;

3. Impose a definite jail term from the range of jail terms authorized for the offense under division (C) of this section.

(2) If a court sentences an offender to any community control sanction or combination of community control sanctions pursuant to division (D)(1)(a)1. of this section, the sentencing court retains jurisdiction over the offender and the period of community control for the duration of the period of community control. Upon the motion of either party or on the court's own motion, the court, in the court's sole discretion and as the circumstances warrant, may modify the community control sanctions or conditions of release previously imposed, substitute a community control sanction or condition of release for another community control sanction or condition of release previously imposed, or impose an additional community control sanction or condition of release.

(3) (a) If a court sentences an offender to any community control sanction or combination of community control sanctions authorized under division (E), (F), or (G) of this section, the court shall place the offender under the general control and supervision of the court or of a department of probation in the jurisdiction that serves the court for purposes of reporting to the court a violation of any of the conditions of the sanctions imposed. If the offender resides in another jurisdiction and a department of probation has been established to serve the municipal court or county court in that jurisdiction, the sentencing court may request the municipal court or the county court to receive the offender into the general control and supervision of that department of probation for purposes of reporting to the

sentencing court a violation of any of the conditions of the sanctions imposed. The sentencing court retains jurisdiction over any offender whom it sentences for the duration of the sanction or sanctions imposed.

(b) The sentencing court shall require as a condition of any community control sanction that the offender abide by the law and not leave the state without the permission of the court or the offender's probation officer. In the interests of doing justice, rehabilitating the offender, and ensuring the offender's good behavior, the court may impose additional requirements on the offender. The offender's compliance with the additional requirements also shall be a condition of the community control sanction imposed upon the offender.

(4) (a) If the court imposing sentence upon an offender sentences the offender to any community control sanction or combination of community control sanctions authorized under division (E), (F), or (G) of this section, and the offender violates any of the conditions of the sanctions, the public or private person or entity that supervises or administers the program or activity that comprises the sanction shall report the violation directly to the sentencing court or to the department of probation or probation officer with general control and supervision over the offender. If the public or private person or entity reports the violation to the department of probation or probation officer, the department or officer shall report the violation to the sentencing court.

(b) If an offender violates any condition of a community control sanction, the sentencing court may impose upon the violator one or more of the following penalties:

1. A longer time under the same community control sanction if the total time under all of the community control sanctions imposed on the violator does not exceed the five-year limit specified in division (D)(1)(b) of this section;

2. A more restrictive community control sanction;

3. A combination of community control sanctions, including a jail term.

(c) If the court imposes a jail term upon a violator pursuant to division (D)(4)(b) of this section, the total time spent in jail for the misdemeanor offense and the violation of a condition of the community control sanction shall not exceed the maximum jail term available for the offense for which the sanction that was violated was imposed. The court may reduce the longer period of time that the violator is required to spend under the longer sanction or the more restrictive sanction imposed under division (D)(4)(b) of this section by all or part of the time the violator successfully spent under the sanction that was initially imposed.

(5) Except as otherwise provided in this division, if an offender, for a significant period of time, fulfills the conditions of a community control sanction imposed pursuant to division (E), (F), or (G) of this section in an exemplary manner, the court may reduce the period of time under the community control sanction or impose a less restrictive community control sanction. Fulfilling the conditions of a community control sanction does not relieve the offender of a duty to make restitution under division (G) of this section.

(R.C. § 2929.25) (Rev. 2012)

(E) *Community residential sanction.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any community residential sanction or combination of community residential sanctions under this division (E). Community residential sanctions include but are not limited to the following:

(a) A term of up to 180 days in a halfway house or a term in a halfway house not to exceed the longest jail term available for the offense, whichever is shorter, if the political subdivision that would have responsibility for paying the costs of confining the offender in a jail has entered into a contract with the halfway house for use of the facility for misdemeanor offenders;

(b) A term of up to 180 days in an alternative residential facility or a term in an alternative residential facility not to exceed the longest jail term available for the offense, whichever is shorter. The court may specify the level of security in the alternative residential facility that is needed for the offender.

(c) If the offender is an eligible offender, as defined in R.C. § 307.932, a term of up to 60 days in a community alternative sentencing center or district community alternative sentencing center established and operated in accordance with that section, in the circumstances specified in that section, with one of the conditions of the sanction being that the offender complete in the center the entire term imposed.

(2) A sentence to a community residential sanction under division (E)(1)(c) of this section shall be in accordance with R.C. § 307.932. In all other cases, the court that sentences an offender to a community residential sanction under this division (E) may do either or both of the following:

(a) Permit the offender to serve the offender's sentence in intermittent confinement, overnight, on weekends or at any other time or times that will allow the offender to continue at the offender's occupation or care for the offender's family;

(b) Authorize the offender to be released so that the offender may seek or maintain employment, receive education or training, receive treatment, perform community service, or otherwise fulfill an obligation imposed by law or by the court. A release pursuant to this division shall be only for the duration of time that is needed to fulfill the purpose of the release and for travel that reasonably is necessary to fulfill the purposes of release.

(3) The court may order that a reasonable portion of the income earned by the offender upon a release pursuant to division (E)(2) of this section be applied to any financial sanction imposed under division (G) of this section.

(4) No court shall sentence any person to a prison term for a misdemeanor or to a jail term for a minor misdemeanor.

(5) If a court sentences a person who has been convicted of or pleaded guilty to a misdemeanor to a community residential sanction as described in division (E)(1) of this section, at the time of reception and at other times the person in charge of the operation of the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction determines to be appropriate, the person in charge of the operation of the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place at which the offender will serve the residential sanction may cause a convicted offender in the halfway house, alternative residential facility, community alternative sentencing center, district community alternative sentencing center, or other place who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

(6) The municipality may enter into a contract with a halfway house for use of the halfway house to house misdemeanor offenders under a sanction imposed under division (E)(1)(a) of this section.  
(R.C. § 2929.26) (Rev. 2012)

(F) *Nonresidential sanction where jail term is not mandatory.*

(1) Except when a mandatory jail term is required by law, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, may impose upon the offender any nonresidential sanction or

combination of nonresidential sanctions authorized under this division. Nonresidential sanctions include but are not limited to the following:

(a) A term of day reporting;

(b) A term of house arrest with electronic monitoring or continuous alcohol monitoring or both electronic monitoring and continuous alcohol monitoring, a term of electronic monitoring or continuous alcohol monitoring without house arrest, or a term of house arrest without electronic monitoring or continuous alcohol monitoring;

(c) A term of community service of up to 500 hours for misdemeanor of the first degree or 200 hours for a misdemeanor of the second, third, or fourth degree;

(d) A term in a drug treatment program with a level of security for the offender as determined necessary by the court;

(e) A term of intensive probation supervision;

(f) A term of basic probation supervision;

(g) A term of monitored time;

(h) A term of drug and alcohol use monitoring, including random drug testing;

(i) A curfew term;

(j) A requirement that the offender obtain employment;

(k) A requirement that the offender obtain education or training;

(l) Provided the court obtains the prior approval of the victim, a requirement that the offender participate in victim-offender mediation;

(m) If authorized by law, suspension of the offender's privilege to operate a motor vehicle, immobilization or forfeiture of the offender's motor vehicle, a requirement that the offender obtain a valid motor vehicle operator's license, or any other related sanction;

(n) A requirement that the offender obtain counseling if the offense is a violation of R.C. § 2919.25 or a substantially equivalent municipal ordinance or a violation of R.C. § 2903.13 or a substantially equivalent municipal ordinance involving a person who was a family or household member at the time of the violation, if the offender committed the offense in the vicinity of one or more children who are not victims of the offense, and if the offender or the victim of the offense is a parent, guardian, custodian, or person in loco parentis of one or more of those children.

This division does not limit the court in requiring that the offender obtain counseling for any offense or in any circumstance not specified in this division.

(2) If the court imposes a term of community service pursuant to division (F)(1)(c) of this section, the offender may request that the court modify the sentence to authorize the offender to make a reasonable contribution, as determined by the court, to the general fund of the county, municipality, or other local entity that provides funding to the court. The court may grant the request if the offender demonstrates a change in circumstances from the date the court imposes the sentence or that the modification would otherwise be in the interests of justice. If the court grants the request, the offender shall make a reasonable contribution to the court, and the clerk of the court shall deposit that contribution into the general fund of the county, municipality, or other local entity that provides funding to the court. If more than one entity provides funding to the court, the clerk shall deposit a percentage of the reasonable contribution equal to the percentage of funding the entity provides to the court in that entity's general fund.

(3) In addition to the sanctions authorized under division (F)(1) of this section, the court imposing a sentence for a misdemeanor, other than a minor misdemeanor, upon an offender who is not required to serve a mandatory jail term may impose any other sanction that is intended to discourage the offender or other persons from committing a similar offense if the sanction is reasonably related to the overriding purposes and principles of misdemeanor sentencing.

(4) The court imposing a sentence for a minor misdemeanor may impose a term of community service in lieu of all or part of a fine. The term of community service imposed for a minor misdemeanor shall not exceed 30 hours. After imposing a term of community service, the court may modify the sentence to authorize a reasonable contribution, as determined by the court, to the appropriate general fund as provided in division (F)(2) of this section. (R.C. § 2929.27) (Rev. 2012)

(G) *Financial sanctions.*

(1) In addition to imposing court costs pursuant to R.C. § 2947.23, the court imposing a sentence upon an offender for a misdemeanor, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this division (G). If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include but are not limited to the following:

(a) *Restitution.*

1. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the

offender's crime or any survivor of the victim, in an amount based upon the victim's economic loss. The court may not impose restitution as a sanction pursuant to this division if the offense is a minor misdemeanor or could be disposed of by the Traffic Violations Bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.

2. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.

3. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under R.C. § 3937.18.

4. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than 5% of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.

5. The victim or survivor of the victim may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(b) *Fines.* A fine of the type described in divisions (G)(1)(b)1. and (G)(1)(b)2. of this section payable to the appropriate entity as required by law:

1. A fine in the following amount:

a. For a misdemeanor of the first degree, not more than \$1,000;

b. For a misdemeanor of the second degree, not more than \$750;

c. For a misdemeanor of the third degree, not more than \$500;

d. For a misdemeanor of the fourth degree, not more than \$250;

e. For a minor misdemeanor, not more than \$150.

2. A state fine or cost as defined in R.C. § 2949.111.

(c) *Reimbursement.*

1. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including but not limited to the following:

a. All or part of the costs of implementing any community control sanction, including a supervision fee under R.C. § 2951.021;

b. All or part of the costs of confinement in a jail or other residential facility, including but not limited to a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined;

c. All or part of the cost of purchasing and using an immobilizing or disabling device, including a certified ignition interlock device, or a remote alcohol monitoring device that a court orders an offender to use under R.C. § 4510.13.

2. The amount of reimbursement under division (G)(1)(c)1. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that division. If the court does not order reimbursement under that division, confinement costs may be assessed pursuant to a repayment policy adopted under R.C. § 2929.37. In addition, the offender may be required to pay the fees specified in R.C. § 2929.38 in accordance with that section.

(2) (a) If the court determines a hearing is necessary, the court may hold a hearing to determine whether the offender is able to pay the financial sanction imposed pursuant to this division (G) or court costs or is likely in the future to be able to pay the sanction or costs.

(b) If the court determines that the offender is indigent and unable to pay the financial sanction or court costs, the court shall consider imposing and may impose a term of community service under division (F)(1) of this section in lieu of imposing a financial sanction or court costs. If the court does not determine that the offender is indigent, the court may impose a term of community service under division (F)(1) of this section in lieu of or in

addition to imposing a financial sanction under this division (G) and in addition to imposing court costs. The court may order community service for a minor misdemeanor pursuant to division (F)(4) of this section in lieu of or in addition to imposing a financial sanction under this section and in addition to imposing court costs. If a person fails to pay a financial sanction or court costs, the court may order community service in lieu of the financial sanction or court costs.

(3) (a) The offender shall pay reimbursements imposed upon the offender pursuant to division (G)(1)(c) of this section to pay the costs incurred by a county pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section to the county treasurer. The county treasurer shall deposit the reimbursements in the county's General Fund. The county shall use the amounts deposited in the fund to pay the costs incurred by the county pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section.

(b) The offender shall pay reimbursements imposed upon the offender pursuant to division (G)(1)(c) of this section to pay the costs incurred by a municipal corporation pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section to the treasurer of the municipal corporation. The treasurer shall deposit the reimbursements in the municipal corporation's General Fund. The municipal corporation shall use the amounts deposited in the fund to pay the costs incurred by the municipal corporation pursuant to any sanction imposed under division (E), (F), or (G) of this section or in operating a facility used to confine offenders pursuant to a sanction imposed under division (E) of this section.

(c) The offender shall pay reimbursements imposed pursuant to division (G)(1)(c) of this section for the costs incurred by a private provider pursuant to a sanction imposed under division (E), (F), or (G) of this section to the provider.

(4) (a) Except as otherwise provided in this division (G)(4), a financial sanction imposed under division (G)(1) of this section is a judgment in favor of the state or the political subdivision that operates the court that imposed the financial sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (G)(1)(c)1.a. of this section upon an offender is a judgment in favor of the entity administering the community control sanction, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of reimbursement imposed pursuant to division (G)(1)(c)1.b. of this section upon an offender confined in a jail or other residential facility is a judgment in favor of the entity operating the jail

or other residential facility, and the offender subject to the financial sanction is the judgment debtor. A financial sanction of restitution imposed pursuant to division (G)(1)(a) of this section is an order in favor of the victim of the offender's criminal act that can be collected through a certificate of judgment as described in division (G)(4)(b)1. of this section, through execution as described in division (G)(4)(b)2. of this section or through an order as described in division (G)(4)(b)3. of this section and the offender shall be considered for purposes of the collection as a judgment debtor.

(b) Once a financial sanction is imposed as a judgment or order under this division, the victim, private provider, state, or political subdivision may do any of the following:

1. Obtain from the clerk of the court in which the judgment was entered a certificate of judgment that shall be in the same manner and form as a certificate of judgment issued in a civil action;

2. Obtain execution of the judgment or order through any available procedure, including any of the procedures identified in R.C. § 2929.18(D)(1) and (D)(2) or a substantially equivalent municipal ordinance.

3. Obtain an order for the assignment of wages of the judgment debtor under R.C. § 1321.33 or a substantially equivalent municipal ordinance.

(5) The civil remedies authorized under division (G)(4) of this section for the collection of the financial sanction supplement, but do not preclude, enforcement of the criminal sentence.

(6) Each court imposing a financial sanction upon an offender under this division (G) may designate the clerk of the court or another person to collect the financial sanction. The clerk, or another person authorized by law or the court to collect the financial sanction may do the following:

(a) Enter into contracts with one or more public agencies or private vendors for the collection of amounts due under the sanction. Before entering into a contract for the collection of amounts due from an offender pursuant to any financial sanction imposed pursuant to this division (G), a court shall comply with R.C. §§ 307.86 through 307.92.

(b) Permit payment of all or any portion of the sanction in installments, by financial transaction device if the court is a county court or a municipal court operated by a county, or by any other reasonable method, in any time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. If the court is a county court or a municipal court operated by a county, the acceptance of

payments by any financial transaction device shall be governed by the policy adopted by the board of county commissioners of the county pursuant to R.C. § 301.28. If the court is a municipal court not operated by a county, the clerk may pay any fee associated with processing an electronic transfer out of public money or may charge the fee to the offender.

(c) To defray administrative costs, charge a reasonable fee to an offender who elects a payment plan rather than a lump sum payment of any financial sanction.

(7) No financial sanction imposed under this division (G) shall preclude a victim from bringing a civil action against the offender.  
(R.C. § 2929.28) (Rev. 2012)

(H) *Organizational penalties.*

(1) Regardless of the other penalties provided in this section, an organization convicted of an offense pursuant to § 130.09 shall be fined by the court as follows:

(a) For a misdemeanor of the first degree, not more than \$5,000;

(b) For a misdemeanor of the second degree, not more than \$4,000;

(c) For a misdemeanor of the third degree, not more than \$3,000;

(d) For a misdemeanor of the fourth degree, not more than \$2,000;

(e) For a minor misdemeanor, not more than \$1,000;

(f) For a misdemeanor not specifically classified, not more than \$2,000;

(g) For a minor misdemeanor not specifically classified, not more than \$1,000.

(2) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then such penalty shall be imposed in lieu of the penalty provided in this section.

(3) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(4) This section does not prevent the imposition of available civil sanctions against an organization convicted

of an offense pursuant to § 130.09, either in addition to or in lieu of a fine imposed pursuant to this section.

(R.C. § 2929.31) (Rev. 2004)

***Cross-reference:***

*Sentencing for sexually oriented offenses; sexual predators; registration, see § 133.99*

***Statutory reference:***

*Citation issuance and limitations on arrest for minor misdemeanors, see R.C. § 2935.26*

*Crime Victim's Reparations Fund, see R.C. § 2929.32*

*Habitual sex offender and sexual predator registration, see R.C. Chapter 2950*

*Reimbursement for costs of confinement, see*

*R.C. §§ 2929.36 et seq.*

*Reports to health care licensing boards of criminal offenses, see R.C. § 2929.42*

