

**As Introduced**

**128th General Assembly  
Regular Session  
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**S. B. No. 67**

**Senator Faber**

**Cosponsors: Senators Gibbs, Coughlin, Schaffer, Seitz**

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**A B I L L**

To amend sections 2743.191 and 2971.05 and to enact 1  
sections 5122.51, 5122.52, 5122.53, 5122.54, 2  
5122.55, 5122.56, 5122.57, 5122.58, 5122.59, 3  
5122.60, and 5122.61 of the Revised Code to 4  
require that sexually violent predators who are 5  
released from prison be monitored by global 6  
positioning system devices, to require sexually 7  
violent predators to pay the cost of monitoring by 8  
global positioning system devices, and to 9  
authorize the civil commitment of certain sexually 10  
violent predators. 11

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

**Section 1.** That sections 2743.191 and 2971.05 be amended and 12  
sections 5122.51, 5122.52, 5122.53, 5122.54, 5122.55, 5122.56, 13  
5122.57, 5122.58, 5122.59, 5122.60, and 5122.61 of the Revised 14  
Code be enacted to read as follows: 15

**Sec. 2743.191.** (A)(1) There is hereby created in the state 16  
treasury the reparations fund, which shall be used only for the 17  
following purposes: 18

(a) The payment of awards of reparations that are granted by 19

the attorney general;	20
(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;	21 22 23
(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;	24 25
(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;	26 27
(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;	28 29
(f) The costs of investigation and decision-making as certified by the attorney general;	30 31
(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92 of the Revised Code;	32 33 34
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	35 36 37
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	38 39 40
(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;	41 42 43 44 45 46
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA	47 48 49

specimens, and of entering the resulting DNA records regarding 50  
those analyses into the DNA database pursuant to section 109.573 51  
of the Revised Code; 52

(1) The payment of actual costs associated with initiatives 53  
by the attorney general for the apprehension, prosecution, and 54  
accountability of offenders, and the enhancing of services to 55  
crime victims. The amount of payments made pursuant to division 56  
(A)(1)(1) of this section during any given fiscal year shall not 57  
exceed five per cent of the balance of the reparations fund at the 58  
close of the immediately previous fiscal year; 59

~~(m) The costs of administering the adult parole authority's 60  
supervision pursuant to division (E) of section 2971.05 of the 61  
Revised Code of sexually violent predators who are sentenced to a 62  
prison term pursuant to division (A)(3) of section 2971.03 of the 63  
Revised Code and of offenders who are sentenced to a prison term 64  
pursuant to division (B)(1)(a), (b), or (c), (B)(2)(a), (b), or 65  
(c), or (B)(3)(a), (b), (c), or (d) of that section;~~ 66

~~(n) The costs of installation and monitoring of an electronic 67  
monitoring device used in the monitoring of a respondent pursuant 68  
to an electronic monitoring order issued by a court under division 69  
(E)(1)(b) of section 2903.214 of the Revised Code if the court 70  
determines that the respondent is indigent or in the monitoring of 71  
an offender pursuant to an electronic monitoring order issued 72  
under division (B)(5) of section 2919.27 of the Revised Code if 73  
the court determines that the offender is indigent. 74~~

(2) All costs paid pursuant to section 2743.70 of the Revised 75  
Code, the portions of license reinstatement fees mandated by 76  
division (F)(2)(b) of section 4511.191 of the Revised Code to be 77  
credited to the fund, the portions of the proceeds of the sale of 78  
a forfeited vehicle specified in division (C)(2) of section 79  
4503.234 of the Revised Code, payments collected by the department 80  
of rehabilitation and correction from prisoners who voluntarily 81

participate in an approved work and training program pursuant to 82  
division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and 83  
all moneys collected by the state pursuant to its right of 84  
subrogation provided in section 2743.72 of the Revised Code shall 85  
be deposited in the fund. 86

(B) In making an award of reparations, the attorney general 87  
shall render the award against the state. The award shall be 88  
accomplished only through the following procedure, and the 89  
following procedure may be enforced by writ of mandamus directed 90  
to the appropriate official: 91

(1) The attorney general shall provide for payment of the 92  
claimant or providers in the amount of the award only if the 93  
amount of the award is fifty dollars or more. 94

(2) The expense shall be charged against all available 95  
unencumbered moneys in the fund. 96

(3) If sufficient unencumbered moneys do not exist in the 97  
fund, the attorney general shall make application for payment of 98  
the award out of the emergency purposes account or any other 99  
appropriation for emergencies or contingencies, and payment out of 100  
this account or other appropriation shall be authorized if there 101  
are sufficient moneys greater than the sum total of then pending 102  
emergency purposes account requests or requests for releases from 103  
the other appropriations. 104

(4) If sufficient moneys do not exist in the account or any 105  
other appropriation for emergencies or contingencies to pay the 106  
award, the attorney general shall request the general assembly to 107  
make an appropriation sufficient to pay the award, and no payment 108  
shall be made until the appropriation has been made. The attorney 109  
general shall make this appropriation request during the current 110  
biennium and during each succeeding biennium until a sufficient 111  
appropriation is made. If, prior to the time that an appropriation 112

is made by the general assembly pursuant to this division, the 113  
fund has sufficient unencumbered funds to pay the award or part of 114  
the award, the available funds shall be used to pay the award or 115  
part of the award, and the appropriation request shall be amended 116  
to request only sufficient funds to pay that part of the award 117  
that is unpaid. 118

(C) The attorney general shall not make payment on a decision 119  
or order granting an award until all appeals have been determined 120  
and all rights to appeal exhausted, except as otherwise provided 121  
in this section. If any party to a claim for an award of 122  
reparations appeals from only a portion of an award, and a 123  
remaining portion provides for the payment of money by the state, 124  
that part of the award calling for the payment of money by the 125  
state and not a subject of the appeal shall be processed for 126  
payment as described in this section. 127

(D) The attorney general shall prepare itemized bills for the 128  
costs of printing and distributing the pamphlet the attorney 129  
general prepares pursuant to section 109.42 of the Revised Code. 130  
The itemized bills shall set forth the name and address of the 131  
persons owed the amounts set forth in them. 132

(E) As used in this section, "DNA analysis" and "DNA 133  
specimen" have the same meanings as in section 109.573 of the 134  
Revised Code. 135

**Sec. 2971.05.** (A)(1) After control over an offender's service 136  
of a prison term imposed pursuant to division (A)(3), (B)(1)(a), 137  
(b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or 138  
(d) of section 2971.03 of the Revised Code has been transferred 139  
pursuant to section 2971.04 of the Revised Code to the court, the 140  
court shall schedule, within thirty days of any of the following, 141  
a hearing on whether to modify in accordance with division (C) of 142  
this section the requirement that the offender serve the entire 143

prison term in a state correctional institution or to terminate 144  
the prison term in accordance with division (D) of this section: 145

146

(a) Control over the offender's service of a prison term is 147  
transferred pursuant to section 2971.04 of the Revised Code to the 148  
court, and no hearing to modify the requirement has been held; 149

(b) Two years elapse after the most recent prior hearing held 150  
pursuant to division (A)(1) or (2) of this section; 151

(c) The prosecuting attorney, the department of 152  
rehabilitation and correction, or the adult parole authority 153  
requests the hearing, and recommends that the requirement be 154  
modified or that the offender's prison term be terminated. 155

(2) After control over the offender's service of a prison 156  
term has been transferred pursuant to section 2971.04 of the 157  
Revised Code to the court, the court, within thirty days of either 158  
of the following, shall conduct a hearing on whether to modify in 159  
accordance with division (C) of this section the requirement that 160  
the offender serve the entire prison term in a state correctional 161  
institution, whether to continue, revise, or revoke an existing 162  
modification of that requirement, or whether to terminate the term 163  
in accordance with division (D) of this section: 164

(a) The requirement that the offender serve the entire prison 165  
term in a state correctional institution has been modified, and 166  
the offender is taken into custody for any reason. 167

(b) The department of rehabilitation and correction or the 168  
prosecuting attorney notifies the court pursuant to section 169  
2971.06 of the Revised Code regarding a known or suspected 170  
violation of a term or condition of the modification or a belief 171  
that there is a substantial likelihood that the offender has 172  
committed or is about to commit a sexually violent offense. 173

(3) After control over the offender's service of a prison 174

term has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court, in any of the following circumstances, may conduct a hearing within thirty days to determine whether to modify in accordance with division (C) of this section the requirement that the offender serve the entire prison term in a state correctional institution, whether to continue, revise, or revoke an existing modification of that requirement, or whether to terminate the sentence in accordance with division (D) of this section:

(a) The offender requests the hearing;

(b) Upon the court's own motion;

(c) One or more examiners who have conducted a psychological examination and assessment of the offender file a statement that states that there no longer is a likelihood that the offender will engage in the future in a sexually violent offense.

(B)(1) Before a court holds a hearing pursuant to division (A) of this section, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender, the prosecuting attorney, the department of rehabilitation and correction, and the adult parole authority and shall request the department to prepare pursuant to section 5120.61 of the Revised Code an update of the most recent risk assessment and report relative to the offender. The offender has the right to be present at any hearing held under this section. At the hearing, the offender and the prosecuting attorney may make a statement and present evidence as to whether the requirement that the offender serve the entire prison term in a state correctional institution should or should not be modified, whether the existing modification of the requirement should be continued, revised, or revoked, and whether the prison term should or should not be terminated.

(2) At a hearing held pursuant to division (A) of this section, the court may and, if the hearing is held pursuant to division (A)(1)(a), (1)(b), or (3)(c) of this section, shall determine by clear and convincing evidence whether the offender is unlikely to commit a sexually violent offense in the future.

(3) At the conclusion of the hearing held pursuant to division (A) of this section, the court may order that the requirement that the offender serve the entire prison term in a state correctional institution be continued, that the requirement be modified pursuant to division (C) of this section, that an existing modification be continued, revised, or revoked pursuant to division (C) of this section, or that the prison term be terminated pursuant to division (D) of this section.

(C)(1) If, at the conclusion of a hearing held pursuant to division (A) of this section, the court determines by clear and convincing evidence that the offender will not represent a substantial risk of physical harm to others, the court may modify the requirement that the offender serve the entire prison term imposed under division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code in a state correctional institution in a manner that the court considers appropriate. If the court modifies the requirement for an offender whose prison term was imposed pursuant to division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code, the court shall order the adult parole authority to supervise the offender and shall require that the authority's supervision of the offender be pursuant to division (E) of this section. ~~If the court modifies the requirement for an offender whose prison term was imposed pursuant to division (B)(1)(a), (b), or (c), (2)(a), (b), or (c), or (3)(a), (b), (c), or (d) of section 2971.03 of the Revised Code, the court shall order the~~

~~adult parole authority to supervise the offender and may require 238  
that the authority's supervision of the offender be pursuant to 239  
division (E) of this section. 240~~

(2) The modification of the requirement does not terminate 241  
the prison term but serves only to suspend the requirement that 242  
the offender serve the entire term in a state correctional 243  
institution. The prison term shall remain in effect for the 244  
offender's entire life unless the court terminates the prison term 245  
pursuant to division (D) of this section. The offender shall 246  
remain under the jurisdiction of the court for the offender's 247  
entire life unless the court so terminates the prison term. The 248  
modification of the requirement does not terminate the 249  
classification of the offender, as described in division (F) of 250  
section 2971.03 of the Revised Code, as a sexual predator for 251  
purposes of Chapter 2950. of the Revised Code, and the offender is 252  
subject to supervision, ~~including supervision~~ under division (E) 253  
of this section ~~if the court required the supervision of the~~ 254  
~~offender to be pursuant to that division. 255~~

(3) If the court revokes the modification under 256  
consideration, the court shall order that the offender be returned 257  
to the custody of the department of rehabilitation and correction 258  
to continue serving the prison term to which the modification 259  
applied, and section 2971.06 of the Revised Code applies regarding 260  
the offender. 261

(D)(1) If, at the conclusion of a hearing held pursuant to 262  
division (A) of this section, the court determines by clear and 263  
convincing evidence that the offender is unlikely to commit a 264  
sexually violent offense in the future, the court may terminate 265  
the offender's prison term imposed under division (A)(3), 266  
(B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), or (B)(3)(a), (b), 267  
(c), or (d) of section 2971.03 of the Revised Code, subject to the 268  
offender satisfactorily completing the period of conditional 269

release required by this division and, ~~if applicable,~~ compliance 270  
with division (E) of this section. If the court terminates the 271  
prison term, the court shall place the offender on conditional 272  
release for five years, require the offender to comply with 273  
division (E) of this section, notify the adult parole authority of 274  
its determination and of the termination of the prison term, and 275  
order the adult parole authority to supervise the offender during 276  
the five-year period of conditional release ~~or, if division (E)~~ 277  
~~applies to the offender, and~~ to supervise the offender pursuant to 278  
~~and for the period of time specified in that division. If the~~ 279  
~~court terminates the prison term for an offender whose prison term~~ 280  
~~was imposed pursuant to division (A)(3) of section 2971.03 of the~~ 281  
~~Revised Code, the court shall require that the authority's~~ 282  
~~supervision of the offender be pursuant to division (E) of this~~ 283  
~~section. If the court terminates the prison term for an offender~~ 284  
~~whose prison term was imposed pursuant to division (B)(1)(a), (b),~~ 285  
~~or (c), (2)(a), (b), or (c), or (3)(a), (b), (c), or (d) of~~ 286  
~~section 2971.03 of the Revised Code, the court may require that~~ 287  
~~the authority's supervision of the offender be pursuant to~~ 288  
division (E) of this section. Upon receipt of a notice from a 289  
court pursuant to this division, the adult parole authority shall 290  
supervise the offender who is the subject of the notice during the 291  
five-year period of conditional release, periodically notify the 292  
court of the offender's activities during that five-year period of 293  
conditional release, and file with the court no later than thirty 294  
days prior to the expiration of the five-year period of 295  
conditional release a written recommendation as to whether the 296  
termination of the offender's prison term should be finalized, 297  
whether the period of conditional release should be extended, or 298  
whether another type of action authorized pursuant to this chapter 299  
should be taken. 300

(2) Upon receipt of a recommendation of the adult parole 301  
authority filed pursuant to division (D)(1) of this section, the 302

court shall hold a hearing to determine whether to finalize the 303  
termination of the offender's prison term, to extend the period of 304  
conditional release, or to take another type of action authorized 305  
pursuant to this chapter. The court shall hold the hearing no 306  
later than the date on which the five-year period of conditional 307  
release terminates and shall provide notice of the date, time, 308  
place, and purpose of the hearing to the offender and to the 309  
prosecuting attorney. At the hearing, the offender, the 310  
prosecuting attorney, and the adult parole authority employee who 311  
supervised the offender during the period of conditional release 312  
may make a statement and present evidence. 313

If the court determines at the hearing to extend an 314  
offender's period of conditional release, it may do so for 315  
additional periods of one year in the same manner as the original 316  
period of conditional release, and, except as otherwise described 317  
in this division, all procedures and requirements that applied to 318  
the original period of conditional release apply to the additional 319  
period of extended conditional release unless the court modifies a 320  
procedure or requirement. If an offender's period of conditional 321  
release is extended as described in this division, all references 322  
to a five-year period of conditional release that are contained in 323  
division (D)(1) of this section shall be construed, in applying 324  
the provisions of that division to the extension, as being 325  
references to the one-year period of the extension of the 326  
conditional release. 327

If the court determines at the hearing to take another type 328  
of action authorized pursuant to this chapter, it may do so in the 329  
same manner as if the action had been taken at any other stage of 330  
the proceedings under this chapter. As used in this division, 331  
"another type of action" includes the revocation of the 332  
conditional release and the return of the offender to a state 333  
correctional institution to continue to serve the prison term. 334

If the court determines at the hearing to finalize the 335  
termination of the offender's prison term, it shall notify the 336  
department of rehabilitation and correction, the department shall 337  
enter into its records a final release and issue to the offender a 338  
certificate of final release, and the prison term thereafter shall 339  
be considered completed and terminated in every way. 340

(3) The termination of an offender's prison term pursuant to 341  
division (D)(1) or (2) of this section does not affect the 342  
classification of the offender, as described in division (F) of 343  
section 2971.03 of the Revised Code, as a tier III sex 344  
offender/child-victim offender for purposes of Chapter 2950. of 345  
the Revised Code, does not terminate the adult parole authority's 346  
supervision of the offender, and, ~~if the court had required the~~ 347  
~~supervision of the offender to be pursuant to division (E) of this~~ 348  
~~section,~~ does not terminate the supervision of the offender with 349  
an active global positioning system device, pursuant to ~~that~~ 350  
division (E) of this section. 351

(E) If a prison term imposed upon an offender pursuant to 352  
division (A)(3), (B)(1)(a), (b), or (c), (B)(2)(a), (b), or (c), 353  
or (B)(3)(a), (b), (c), or (d) of section 2971.03 of the Revised 354  
Code is modified as provided in division (C) of this section or 355  
terminated as provided in division (D) of this section, the adult 356  
parole authority shall supervise the offender with an active 357  
global positioning system device during any time period in which 358  
the offender is not incarcerated in a state correctional 359  
institution. ~~If a prison term imposed upon an offender pursuant to~~ 360  
~~division (B)(1)(a), (b), or (c), (2)(a), (b), or (c), or (3)(a),~~ 361  
~~(b), (c), or (d) of section 2971.03 of the Revised Code is~~ 362  
~~modified as provided in division (C) of this section or terminated~~ 363  
~~as provided in division (D) of this section, and if the court~~ 364  
~~requires that the adult parole authority's supervision of the~~ 365  
~~offender be pursuant to this division, the authority shall~~ 366

~~supervise the offender with an active global positioning system~~ 367  
~~device during any time period in which the offender is not~~ 368  
~~incarcerated in a state correctional institution.~~ If the adult 369  
parole authority is required to supervise the offender with an 370  
active global positioning system device as described in this 371  
division, unless the court removes the offender's classification 372  
as a sexually violent predator regarding an offender whose prison 373  
term was imposed under division (A)(3) of section 2971.03 of the 374  
Revised Code or terminates the requirement that supervision of the 375  
offender be pursuant to this division regarding an offender whose 376  
prison term was imposed under division (B)(1)(a), (b), or (c), 377  
(2)(a), (b), or (c), or (3)(a), (b), (c), or (d) of section 378  
2971.03 of the Revised Code, the offender is subject to 379  
supervision with an active global positioning system pursuant to 380  
this division for the offender's entire life. The offender shall 381  
pay the costs of administering the supervision of offenders with 382  
an the active global positioning system device pursuant to this 383  
division shall be paid out of funds from the reparations fund, 384  
created pursuant to section 2743.191 of the Revised Code 385  
supervision. The authority may waive payment of all or part of the 386  
costs of the supervision upon a showing by the offender that the 387  
offender is unable to pay all or part of those cost. This division 388  
shall only apply to a sexually violent predator sentenced pursuant 389  
to division (A)(3) of section 2971.03 of the Revised Code who is 390  
released from the custody of the department of rehabilitation and 391  
correction on or after September 29, 2005, or an offender 392  
sentenced pursuant to division (B)(1) or (2) of section 2971.03 of 393  
the Revised Code on or after January 2, 2007. 394

Sec. 5122.51. As used in sections 5122.51 to 5122.61 of the 395  
Revised Code: 396

(A) "Likely to engage in repeat acts of sexual violence" 397  
means that the degree of the person's propensity to commit acts of 398

sexual violence poses a menace to the health and safety of others. 399

(B) "Mental abnormality" means a congenital or acquired 400  
condition affecting the emotional or volitional capacity that 401  
predisposes the person to commit a sexually violent act in a 402  
degree constituting the person a menace to the health and safety 403  
of others. 404

(C) "Post-release control" has the same meaning as in section 405  
2967.01 of the Revised Code. 406

(D) "Sexual motivation," "sexually violent offense," and 407  
"sexually violent predator specification" have the same meanings 408  
as in section 2971.01 of the Revised Code. 409

(E) "Sexually violent predator" means any person to whom both 410  
of the following apply: 411

(1) The person has been convicted of or pleaded guilty to a 412  
sexually violent offense and to a sexually violent predator 413  
specification, has been charged with a sexually violent offense 414  
and a sexually violent predator specification and adjudicated 415  
incompetent to stand trial on the charge, or has been charged with 416  
a sexually violent offense and a sexually violent predator 417  
specification and found not guilty by reason of insanity of the 418  
offense. 419

(2) The person suffers from a mental abnormality or 420  
personality disorder that makes the person likely to engage in 421  
repeat acts of sexual violence. 422

**Sec. 5122.52.** (A)(1) The department of rehabilitation and 423  
correction shall send the notice described in division (B) of this 424  
section to the prosecuting attorney and to the multidisciplinary 425  
team established in division (D) of this section at least ninety 426  
days prior to the scheduled release from imprisonment of the 427  
person who is the subject of the notice if the person's term of 428

imprisonment was imposed for a sexually violent offense and a 429  
sexually violent predator specification and the person meets the 430  
criteria of a sexually violent predator. 431

(2) The prosecuting attorney promptly after the adjudication 432  
shall send the notice described in division (B) of this section to 433  
the multidisciplinary team established in division (D) of this 434  
section if the person who is the subject of the notice was charged 435  
with a sexually violent offense and a sexually violent predator 436  
specification and the person was adjudicated incompetent to stand 437  
trial on the charge of the offense and the specification or was 438  
found not guilty by reason of insanity of the offense and the 439  
specification. 440

(B) The notice sent pursuant to division (A) of this section 441  
shall contain all of the following with respect to the person who 442  
is the subject of the notice: 443

(1) The person's name, identifying factors, anticipated 444  
future residence, and offense history; 445

(2) The date on which the person is scheduled to be released 446  
or the date on which the person is adjudicated incompetent to 447  
stand trial or found not guilty by reason of insanity; 448

(3) Documentation of institutional adjustment of the person 449  
if the person is institutionalized and of any treatment the person 450  
has received. 451

(C) The department of rehabilitation and correction, its 452  
employees and officials, the members of the multidisciplinary team 453  
established pursuant to division (D) of this section, and any 454  
individual contracting, appointed, or volunteering to perform 455  
services under this section shall be immune from civil liability 456  
in damages for any injury, death, or loss allegedly caused by any 457  
actions or omissions made in good faith under this section. 458

(D) The director of rehabilitation and correction shall 459

establish a multidisciplinary team that may include individuals 460  
from other state agencies. The team shall determine whether a 461  
person described in a notice the team receives pursuant to 462  
division (A) of this section is a sexually violent predator and 463  
shall review available records of the person. Within thirty days 464  
of receiving a notice as described in division (A) of this 465  
section, the team shall determine whether or not the person who is 466  
the subject of the notice is a sexually violent predator. The team 467  
shall notify the prosecuting attorney of its determination. 468

(E) The prosecuting attorney may file a petition for civil 469  
commitment of a person pursuant to sections 5122.51 to 5122.61 of 470  
the Revised Code in the general division of the court of common 471  
pleas of the county in which the person was convicted of or 472  
pleaded guilty to the offense and specification for which the 473  
person is serving a prison term, was adjudicated incompetent to 474  
stand trial, or was found not guilty by reason of insanity. The 475  
prosecuting attorney may file the petition for the commitment of a 476  
person described in division (A) of this section irrespective of 477  
whether the multidisciplinary team has determined that the person 478  
is a sexually violent predator. If the prosecuting attorney elects 479  
to file a petition for civil commitment, the prosecuting attorney 480  
shall file the petition within seventy-five days of the date the 481  
prosecuting attorney received or sent the written notice with 482  
respect to the person pursuant to division (A)(1) or (2) of this 483  
section. The petition shall allege that the person is a sexually 484  
violent predator and state sufficient facts to support that 485  
allegation. 486

(F) A petition filed pursuant to division (E) of this section 487  
shall be assigned to the judge who tried the case in which the 488  
person was convicted or pleaded guilty, was adjudicated 489  
incompetent to stand trial, or was found not guilty by reason of 490  
insanity, or the judge's successor in office. 491

Sec. 5122.53. (A) Upon the filing of a petition pursuant to 492  
division (E) of section 5122.52 of the Revised Code, the court 493  
shall determine whether probable cause exists to believe that the 494  
person named in the petition is a sexually violent predator. If 495  
the court determines probable cause exists to believe that the 496  
person is a sexually violent predator, the court shall direct the 497  
sheriff to take the person into custody. 498

(B) Within seventy-two hours after a person who is an alleged 499  
sexually violent predator is taken into custody pursuant to 500  
division (A) of this section, the court shall provide the alleged 501  
sexually violent predator with notice of, and an opportunity to 502  
appear in person at, a hearing to contest probable cause as to 503  
whether the person is a sexually violent predator. At this 504  
hearing, the court shall verify the alleged sexually violent 505  
predator's identity and again determine whether probable cause 506  
exists to believe that the person is a sexually violent predator. 507  
The prosecuting attorney may rely upon the petition and supplement 508  
the petition with additional evidence. 509

(C) At the probable cause hearing held pursuant to division 510  
(B) of this section, the alleged sexually violent predator shall 511  
have the following rights in addition to the rights described in 512  
division (B) of this section: 513

(1) The right to be represented by counsel; 514

(2) The right to present evidence on the alleged sexually 515  
violent predator's behalf; 516

(3) The right to cross-examine witnesses who testify against 517  
the alleged sexually violent predator; 518

(4) The right to view and copy all petitions and reports in 519  
the court file. 520

(D) If the court determines at a probable cause hearing held 521

pursuant to division (B) of this section that probable cause does 522  
not exist that a person who is an alleged sexually violent 523  
predator is a sexually violent predator, the court shall order the 524  
person to be released or, if the person was serving a prison or 525  
jail term when taken into custody by the sheriff pursuant to 526  
division (A) of this section, returned to the facility in which 527  
the person was incarcerated. 528

If the court determines at a probable cause hearing held 529  
pursuant to division (B) of this section that probable cause 530  
exists that a person who is an alleged sexually violent predator 531  
is a sexually violent predator, the court shall direct that the 532  
person be transferred to an appropriate secure facility, 533  
including, but not limited to, a county jail, for an evaluation as 534  
to whether the person is a sexually violent predator. The 535  
evaluation of the alleged sexually violent predator shall be 536  
conducted by a qualified professional person designated by the 537  
court. When the alleged sexually violent predator wishes to be 538  
examined by a qualified expert or professional person of the 539  
alleged sexually violent predator's choice in addition to the 540  
person designated by the court, the examiner shall be permitted to 541  
have reasonable access to the person for the purpose of the 542  
examination, as well as to all relevant medical and psychological 543  
records and reports of the person. If the court determines that 544  
the services are necessary and the expert or professional person's 545  
requested compensation for the services provided is reasonable, 546  
the court shall assist the alleged sexually violent predator in 547  
obtaining an expert or professional person to perform an 548  
examination or participate in the trial on the alleged sexually 549  
violent predator's behalf. The court shall approve payment for the 550  
services provided by the expert or professional person upon the 551  
filing of a certified claim for compensation supported by a 552  
written statement specifying the time expended, services rendered, 553  
expenses incurred on behalf of the alleged sexually violent 554

predator, and compensation received in the same case or for the 555  
same services from any other source. 556

Sec. 5122.54. (A) Within sixty days after finding at a 557  
probable cause hearing held pursuant to division (B) of section 558  
5122.53 of the Revised Code that probable cause exists that a 559  
person who is an alleged sexually violent predator is a sexually 560  
violent predator, the court shall conduct a trial to determine 561  
whether the person who was the subject of the probable cause 562  
hearing is a sexually violent predator. The trial shall be to the 563  
court and not to a jury. If a continuance will not substantially 564  
prejudice the alleged sexually violent predator, the court may 565  
grant a continuance upon request of either party and a showing of 566  
good cause, or by the court on its own motion in the due 567  
administration of justice. At all stages of the proceedings under 568  
this section, the alleged sexually violent predator is entitled to 569  
the assistance of counsel, and if the alleged sexually violent 570  
predator is indigent, the court shall appoint counsel to assist 571  
the alleged sexually violent predator. 572

(B)(1) If the person who is the subject of the trial 573  
conducted pursuant to division (A) of this section was charged 574  
with a sexually violent offense and a sexually violent predator 575  
specification and was adjudicated incompetent to stand trial for 576  
that offense and the specification, the court shall hear evidence 577  
and determine whether the person did commit the acts charged prior 578  
to hearing evidence and determining whether the person is a 579  
sexually violent predator. The hearing on this issue shall comply 580  
with all the procedures specified in division (A) of this section. 581  
In addition, the rules of evidence applicable in criminal cases 582  
and all constitutional rights available to criminal defendants at 583  
criminal trials, other than the right not to be tried while 584  
incompetent and the right to a jury trial, apply to the hearing 585  
held pursuant to division (B)(1) of this section. 586

(2) After the hearing held pursuant to division (B)(1) of this section, the court shall enter an order containing the following specific findings: 587  
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(a) Whether, by clear and convincing evidence, the person committed the act or acts charged; 590  
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(b) The extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf; 592  
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(c) The extent to which the evidence could be reconstructed without the assistance of the person; 596  
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(d) The strength of the prosecution's case. 598

(3) If the court finds, by clear and convincing evidence, that the person did commit the acts charged, the court may proceed to hold the trial pursuant to division (A) of this section. The order that the court enters pursuant to division (B)(2) of this section is a final order that may be appealed. 599  
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(C)(1) At the trial held pursuant to division (A) of this section, the court shall determine by clear and convincing evidence whether the person who is the subject of the trial has been convicted of or pleaded guilty to a sexually violent offense and a sexually violent predator specification, has been charged with a sexually violent offense and a sexually violent predator specification and adjudicated incompetent to stand trial on the charge of the offense and the specification, or has been charged with a sexually violent offense and a sexually violent predator specification and found not guilty by reason of insanity of the offense and the specification and whether the person suffers from a mental abnormality or personality disorder that makes the person likely to engage in repeat acts of sexual violence. The determination is a final order that may be appealed. 604  
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(2) At the conclusion of the trial, the court shall do one of 618  
the following: 619

(a) If the court determines that the alleged sexually violent 620  
predator has been convicted of or pleaded guilty to a sexually 621  
violent offense and a sexually violent predator specification, has 622  
been charged with a sexually violent offense and a sexually 623  
violent predator specification and adjudicated incompetent to 624  
stand trial on the charge of the offense and the specification, or 625  
has been charged with a sexually violent offense and a sexually 626  
violent predator specification and found not guilty by reason of 627  
insanity of the offense and the specification and that the person 628  
suffers from a mental abnormality or personality disorder that 629  
makes the person likely to engage in repeat acts of sexual 630  
violence, the court shall adjudicate the person a sexually violent 631  
predator. If the sexually violent predator is serving a prison 632  
term, the court shall commit the sexually violent predator to the 633  
custody of the director of rehabilitation and correction for the 634  
completion of the prison term and, upon the completion of the 635  
prison term, civilly commit the sexually violent predator to the 636  
custody of the director of mental health for control, care, and 637  
treatment in a secure facility, subject to placement in the 638  
transitional release program or the conditional release program 639  
pursuant to sections 5122.55 to 5122.58 of the Revised Code. If 640  
the sexually violent predator is not serving a prison term, the 641  
court shall civilly commit the sexually violent predator to the 642  
custody of the director of mental health for control, care, and 643  
treatment in a secure facility, subject to placement in the 644  
transitional release program or the conditional release program 645  
pursuant to sections 5122.55 to 5122.58 of the Revised Code. Any 646  
person who is civilly committed pursuant to this division or 647  
pursuant to any other provision in sections 5122.51 to 5122.61 of 648  
the Revised Code shall not voluntarily admit the person or be 649  
voluntarily admitted to a hospital or institution pursuant to 650

section 5122.02, 5122.15, 5123.69, or 5123.76 of the Revised Code. 651  
All other provisions of Chapter 5122. of the Revised Code 652  
regarding hospitalization shall apply to a person so committed to 653  
the extent they are not in conflict with sections 5122.51 to 654  
5122.61 of the Revised Code. A commitment under sections 5122.51 655  
to 5122.61 of the Revised Code shall not be terminated and the 656  
conditions of the commitment shall not be changed except by order 657  
of the trial court pursuant to sections 5122.51 to 5122.61 of the 658  
Revised Code. 659

(b) If the court does not determine that the alleged sexually 660  
violent predator has been convicted of or pleaded guilty to a 661  
sexually violent offense and a sexually violent predator 662  
specification, has been charged with a sexually violent offense 663  
and a sexually violent predator specification and adjudicated 664  
incompetent to stand trial on the charge of the offense and the 665  
specification, or has been charged with a sexually violent offense 666  
and a sexually violent predator specification and found not guilty 667  
by reason of insanity of the offense and the specification and 668  
that the person suffers from a mental abnormality or personality 669  
disorder that makes the alleged sexually violent predator likely 670  
to engage in repeat acts of sexual violence and if the alleged 671  
sexually violent predator is serving a prison term, the court 672  
shall commit the alleged sexually violent predator to the custody 673  
of the director of rehabilitation and correction for the 674  
completion of the prison term. 675

(c) If the court does not determine that the alleged sexually 676  
violent predator has been convicted of or pleaded guilty to a 677  
sexually violent offense and a sexually violent predator 678  
specification, has been charged with a sexually violent offense 679  
and a sexually violent predator specification and adjudicated 680  
incompetent to stand trial on the charge of the offense and the 681  
specification, or has been charged with a sexually violent offense 682

and a sexually violent predator specification and found not guilty 683  
by reason of insanity of the offense and the specification and 684  
that the person suffers from a mental abnormality or personality 685  
disorder that makes the person likely to engage in repeat acts of 686  
sexual violence and if the alleged sexually violent predator is 687  
not serving a prison term, the court shall release the alleged 688  
sexually violent predator. 689

Sec. 5122.55. (A)(1) Each person civilly committed to the 690  
department of mental health pursuant to section 5122.54 of the 691  
Revised Code shall have an examination of the person's mental 692  
condition one year after the person is committed. Thereafter, the 693  
department shall examine the person every three years. The person 694  
may retain or, if the person is indigent and so requests, the 695  
court may appoint a qualified expert or professional person to 696  
examine the person, and the expert or professional person shall 697  
have access to all medical records concerning the person, all 698  
records concerning prior examinations of the person, and records 699  
of the offense that are relevant to an evaluation of the person. 700  
The department shall provide the report of the examination to the 701  
court that committed the person pursuant to section 5122.54 of the 702  
Revised Code. 703

(2) The court shall conduct a hearing on the continued 704  
commitment of the committed person one year after the person is 705  
first committed. Thereafter, the court shall conduct a hearing on 706  
the continued commitment of the committed person every three 707  
years. 708

(B) If, at any time, the department of mental health 709  
determines that a committed person's mental abnormality or 710  
personality disorder has so changed that the person is not likely 711  
to commit predatory acts of sexual violence if placed in 712  
transitional release or conditional release or finally discharged, 713

the department shall send written notice of this determination to 714  
the court and to the local forensic center. The local forensic 715  
center shall evaluate the committed person and, within thirty days 716  
after its receipt of the written notice, shall submit to the court 717  
and the department a written report of the evaluation. The court 718  
shall provide a copy of the department's written notice and of the 719  
local forensic center's written report to the prosecutor and to 720  
the committed person. If the forensic center disagrees with the 721  
determination of the department, it shall inform the department 722  
and the court of its decision and the reasons for the decision. 723  
The department, after consideration of the forensic center's 724  
decision, shall either withdraw its determination that the 725  
committed person's mental abnormality or personality disorder has 726  
so changed that the person is not likely to commit predatory acts 727  
of sexual violence if released or discharged or authorize the 728  
person to petition the court for transitional release, conditional 729  
release, or final discharge. If the forensic center agrees with 730  
the determination of the department, it shall inform the 731  
department and the court of its decision and the reasons for the 732  
decision. The department, then, shall authorize the person to 733  
petition the court for transitional release, conditional release, 734  
or final discharge. The petition shall be served upon the court 735  
and the prosecuting attorney. The court, upon receipt of the 736  
petition for transitional release, conditional release, or final 737  
discharge, shall schedule a hearing to be held within thirty days 738  
of the filing of the petition. 739

(C) A person civilly committed pursuant to sections 5122.51 740  
to 5122.61 of the Revised Code, at any time, may file with the 741  
committing court a petition for transitional release, conditional 742  
release, or final discharge. If the department of mental health 743  
supports the petition, the court shall hold a hearing on the 744  
petition. If the department of mental health does not support the 745  
petition, the court is not required to hold a hearing on the 746

petition unless, after consideration of the petition and other 747  
relevant information, the court determines that there has been a 748  
significant change in the condition of the committed person that 749  
would warrant a change of status. 750

(D) At a hearing held pursuant to division (A), (B), or (C) 751  
of this section, division (A) of section 5122.57 of the Revised 752  
Code, or division (B) of section 5122.58 of the Revised Code, all 753  
of the following apply: 754

(1) The committed person is entitled to be present and is 755  
entitled to the benefit of all constitutional protections that 756  
were afforded the person at the initial commitment proceeding. 757

(2) The prosecuting attorney shall represent the state. 758

(3) Both parties shall have a right to have the committed 759  
person evaluated by experts chosen by the state. The committed 760  
person shall also have the right to have experts or professional 761  
persons evaluate the person on the person's behalf, and the court 762  
shall appoint an expert if the person is indigent and requests an 763  
appointment. 764

(4) The state has the burden of proving by clear and 765  
convincing evidence that the committed person's mental abnormality 766  
or personality disorder remains and that the person is not safe to 767  
be placed in the transitional release program, conditional release 768  
program, or final discharge, whichever is applicable, and that, if 769  
the person is transitionally released, conditionally released, or 770  
finally discharged, the person is likely to engage in acts of 771  
sexual violence. 772

(5) At the conclusion of the hearing, the court shall do one 773  
of the following: 774

(a) In a hearing held regarding a petition to be placed in 775  
the transitional release program, if the court determines by clear 776  
and convincing evidence that the person's mental abnormality or 777

personality disorder remains and that the person is unsafe to be 778  
placed in transitional release, the court shall order the person 779  
to remain in custody of the director of mental health for control, 780  
care, and treatment in a secure facility. 781

(b) In a hearing held regarding a petition to be placed in 782  
the transitional release program, if the court does not find by 783  
clear and convincing evidence that the committed person's mental 784  
abnormality or personality disorder remains and that the person is 785  
unsafe to be placed in the transitional release program, the 786  
department of mental health shall transfer the person to the 787  
transitional release program. 788

(c) In a hearing held regarding a petition to be placed in 789  
the conditional release program, if the court determines by clear 790  
and convincing evidence that the person's mental abnormality or 791  
personality disorder remains and that the person is unsafe to be 792  
placed in conditional release, the court shall order the person to 793  
remain in the custody of the director of mental health for 794  
control, care, and treatment in either the transitional release 795  
program or a secure facility. 796

(d) In a hearing held regarding a petition to be placed in 797  
the conditional release program, if the court does not find by 798  
clear and convincing evidence that the committed person's mental 799  
abnormality or personality disorder remains and that the person is 800  
unsafe to be placed in the conditional release program, the 801  
department of mental health shall transfer the person to the 802  
conditional release program. 803

(e) In a hearing held regarding a petition for final 804  
discharge, if the court determines by clear and convincing 805  
evidence that the person's mental abnormality or personality 806  
disorder remains and that the person is unsafe for final 807  
discharge, the court shall order the person to remain in the 808  
custody of the director of mental health for control, care, and 809

treatment in the transitional release program, the conditional 810  
release program, or a secure facility. 811

(f) In a hearing held regarding a petition for final 812  
discharge, if the court does not find by clear and convincing 813  
evidence that the committed person's mental abnormality or 814  
personality disorder remains and that the person is unsafe for 815  
final discharge, the court shall order the person finally 816  
discharged. The final discharge of a person does not prevent the 817  
person from being prosecuted for any criminal acts that the person 818  
is alleged to have committed or from being subject in the future 819  
to a subsequent commitment under sections 5122.51 to 5122.61 of 820  
the Revised Code. 821

**Sec. 5122.56.** (A) The department of mental health shall 822  
develop and operate a program of transitional release for sexually 823  
violent predators civilly committed to the custody of the director 824  
of mental health for control, care, and treatment. The department 825  
may contract for services to be provided in the transitional 826  
release program. During any period a person is in transitional 827  
release, that person shall comply with any rules or regulations 828  
the department may establish for this program and every directive 829  
of the treatment staff of the transitional release program. 830

(B) At any time during which the person is in the 831  
transitional release program and the treatment staff determines 832  
that the person has violated any rule, regulation, or directive 833  
associated with the transitional release program, the treatment 834  
staff may remove the person from the transitional release program 835  
and return the person to the secure commitment facility, or may 836  
request the court to issue an emergency ex parte order directing 837  
any law enforcement officer to take the person into custody and 838  
return the person to the secure commitment facility. The treatment 839  
staff may make the request orally, in person, or by telephone, but 840

the oral request shall be followed in written or facsimile form 841  
delivered to the court not later than five o'clock p.m. of the 842  
first day the court is open for the transaction of business after 843  
the oral request was made. 844

(C) Upon a person being returned to the secure commitment 845  
facility from the transitional release program, the department of 846  
mental health shall give notice of the return to the court. The 847  
court shall schedule the matter for a hearing within ten business 848  
days of the receipt of notice of the person's having been returned 849  
to the secure commitment facility and cause notice to be given to 850  
the prosecuting attorney, the person, and the department. The 851  
prosecuting attorney has the burden of proof to show probable 852  
cause that the person violated any conditions of transitional 853  
release. The hearing shall be to the court. At the conclusion of 854  
the hearing, the court shall issue an order returning the person 855  
to the secure commitment facility or to the transitional release 856  
program and may order any other further conditions with which the 857  
person must comply if the person is returned to the transitional 858  
release program. 859

**Sec. 5122.57.** (A) During any period a person is in the 860  
transitional release program, the treatment staff shall examine 861  
the committed person at least annually, and at any other time 862  
deemed appropriate by the treatment staff to determine if the 863  
person's mental abnormality or personality disorder has so changed 864  
so as to warrant the person being considered for the conditional 865  
release program. The treatment staff shall send written notice of 866  
this determination to the court and to the local forensic center. 867  
The local forensic center shall evaluate the committed person and, 868  
within thirty days after its receipt of the written notice, shall 869  
submit to the court and the treatment staff a written report of 870  
the evaluation. The court shall provide a copy of the treatment 871  
staff's written notice and of the local forensic center's written 872

report to the prosecutor and to the committed person. If the court 873  
determines that probable cause exists to believe that the person's 874  
mental abnormality or personality disorder has so changed that the 875  
person is safe to be placed in conditional release, the court 876  
shall then set a hearing on the issue. The hearing shall be held 877  
as described in division (C) of section 5122.55 of the Revised 878  
Code. Subsequent to either a court review or a hearing, the court 879  
shall issue an appropriate order with findings of fact. The order 880  
of the court shall be provided to the prosecuting attorney, the 881  
person and the department of mental health. 882

(B) If, after the hearing, the court is convinced by clear 883  
and convincing evidence that the person is not appropriate for 884  
conditional release, the court shall order that the person remain 885  
either in secure commitment or in transitional release. Otherwise, 886  
the court shall order that the person be placed on conditional 887  
release. 888

**Sec. 5122.58.** (A)(1) If a court determines by clear and 889  
convincing evidence that a committed person should be placed on 890  
conditional release, the court, based upon recommendation of the 891  
treatment staff, shall establish a plan of treatment that the 892  
person shall be ordered to follow. 893

(2) The plan of treatment may include, but is not limited to, 894  
the following: 895

(a) Provisions as to where the person shall reside and with 896  
whom; 897

(b) Taking prescribed medication; 898

(c) Attending individual and group counseling; 899

(d) Maintaining employment; 900

(e) Having no contact with children; 901

(f) Not frequenting facilities, locations, events, or other 902

areas in which children are likely to be present and not engaging 903  
in activities in which contact with children is likely. 904

(3) Upon a showing by the person that the person accepts the 905  
plan of treatment and is prepared to follow it, the court shall 906  
release the person from the transitional release program. 907

(B)(1) At any time during the person's conditional release, 908  
if the professional person designated by the court in the 909  
treatment plan to monitor the person's compliance with the plan 910  
determines that the person has violated any material condition of 911  
that plan, that professional person may request the court to issue 912  
an emergency ex parte order directing any law enforcement officer 913  
to take the person into custody and return the person to the 914  
secure commitment facility. The professional person may make the 915  
request orally, in person, or by telephone, but the oral request 916  
shall be followed in written or facsimile form delivered to the 917  
court not later than five o'clock p.m. of the first day the court 918  
is open for the transaction of business after the oral request was 919  
made. 920

(2) Upon the person being returned to the secure commitment 921  
facility from conditional release, the director of the department 922  
of mental health shall give notice to the court. The court shall 923  
schedule the matter for a hearing within ten business days of 924  
receipt of notice of the person's having been returned to the 925  
secure commitment facility and shall cause notice to be given to 926  
the prosecuting attorney, the person, and the director. The 927  
prosecuting attorney has the burden of proof to show probable 928  
cause that the person violated any conditions of conditional 929  
release. The hearing shall be to the court. 930

(3) At the conclusion of the hearing, the court shall issue 931  
an order that does one of the following: 932

(a) Returns the person to the secure commitment facility; 933

(b) Returns the person to the transitional release program; 934

(c) Returns the person to conditional release. 935

The court may order the person to comply with further 936  
conditions if the person is returned to either the transitional 937  
release program or to conditional release. 938

**Sec. 5122.59.** (A) The department of mental health shall be 939  
responsible for all costs relating to the evaluation and treatment 940  
of persons committed to the department's custody under sections 941  
5122.51 to 5122.61 of the Revised Code. The department may obtain 942  
reimbursement for the cost of that evaluation and treatment. The 943  
department may contract with the department of rehabilitation and 944  
correction for the housing needs of persons committed to the 945  
department of mental health's custody under sections 5122.51 to 946  
5122.61 of the Revised Code. 947

(B) Except for a person who is in the transitional release 948  
program or the conditional release program, the department of 949  
mental health shall place any person committed to the department's 950  
custody under sections 5122.51 to 5122.61 of the Revised Code in a 951  
forensic unit until the department determines that the person does 952  
not present a danger to others if transferred to a less secure 953  
facility. 954

**Sec. 5122.60.** In addition to any other information required 955  
to be released pursuant to sections 5122.51 to 5122.61 of the 956  
Revised Code, prior to the release of a person civilly committed 957  
to the department of mental health pursuant to section 5122.54 of 958  
the Revised Code, the department of mental health shall give 959  
written notice of the placement or release of the person to any 960  
victim of the person's activities or crime who is alive and whose 961  
address is known to the department. The department's failure to 962  
notify a victim as required by this division is not a reason for 963

postponement of the release of a person. Nothing in this section 964  
creates a cause of action against the state or an employee of the 965  
state who is acting within the scope of the employee's employment 966  
and who fails to notify a victim as required by this section. 967

**Sec. 5122.61.** In order to protect the public, relevant 968  
information and records that are otherwise confidential or 969  
privileged shall be released to the agency with jurisdiction or 970  
the prosecuting attorney for the purpose of meeting the notice 971  
requirement provided in section 5122.60 of the Revised Code and 972  
determining whether a person is or continues to be a sexually 973  
violent predator. 974

**Section 2.** That existing sections 2743.191 and 2971.05 of the 975  
Revised Code are hereby repealed. 976