

Manual on the Ohio Legal System for Rape Crisis Center Advocates Volume I



Ohio Alliance to End Sexual Violence

Original Publication Date: September 26, 2017
Original Publication Supported by the Following Grant:
2017-VOCA-43551932

Updates Published July 1, 2020
Location: Cleveland, Ohio

Author: Camille M Crary, J.D, M.Ed.

Contributing Authors:
Volume I, Chapter II – Medical Advocacy: Eileen Carroll, J.D.
2017-VOCA-43551932
Volume I, Chapter III.F.II: In Son Loving, J.D.
2020-VOCA-132920668
Volume I, Chapter III-K: Becca Getson, J.D.
2020-VOCA-132920668

Acknowledgements

This manual would not have been possible without the time and energy devoted by the following volunteers, who graciously provided drafting, editing, proof reading, and cite checking:

William Canterbury, J.D.

Eileen Carroll, J.D.

Abbey Chappell

Emil Gravelle, J.D.

Sarah Crawford

Isaac Bleich

Melissa Obodzinski

Cover art by Nicole Getson

Disclaimer

This manual is a source of information only. It does not constitute legal advice in any manner. It should not under any circumstances be used a substitute for legal representation. OAESV assembled this manual for the sole purpose of helping advocates learn about legal proceedings so that they can better support survivors throughout their involvement with the courts.

OAESV strongly discourages the use of this manual for any other purpose, and cautions that advocates must adhere to all laws prohibiting the unauthorized practice of law.

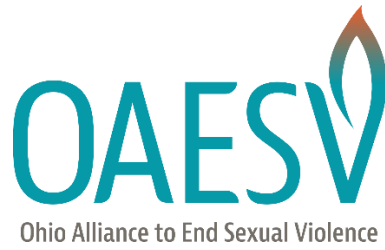
Citation System - Use the Endnotes!

This manual employs an endnote system of citation, meaning that support for any assertion in this text is provided with the corresponding endnote at the end of the manual. If you come across a legal standard, timeline, or rule that does not seem correct to you, first check the endnote for clarification. If you still have questions, please reach out to OAESV – we are happy to help!

Publication Date & Resulting Accuracy of Laws

Disclaimer: This manual was originally published on September 26, 2017. It was updated on **July 1, 2020**. This manual will not reflect statutory, constitutional, or other legal changes after that date.

Divider Page & Tab
Chapter I



Chapter I: Preface, Glossary, Table of Contents

I-A Preface

I. Purpose

The Ohio Alliance to End Sexual Violence (OAESV) produced the original Ohio Sexual Assault Legal Advocacy Manual in September 2017, primarily as a resource for sexual assault legal advocates employed by rape crisis centers and sexual assault agencies across the state of Ohio. OAESV published the Revised Edition in July 2020. The purpose of this manual is to provide a proper foundation for comprehending the general legal system as it relates to the needs of sexual assault survivors. Accordingly, Volumes I and II collectively describe an array of legal areas, including the criminal justice system, the civil justice system, survivor rights and medical examination procedures, family law and custody proceedings, immigration law, human trafficking law, and Title IX and educational proceedings. Though this resource is designed specifically to bolster the services advocates provide to survivors, OAESV understands that it may be a valuable educational tool for other purposes and encourages non-advocate consumers of this material to reach out to OAESV with questions on how to best adapt it to other types of learning opportunities.

II. Organization

This manual is organized into five chapters: (1) Preface; (2) Medical Advocacy; (3) the Criminal System; (4) Special Topics; (5) Civil Litigation; and (6) Other Civil Systems; (7) Administrative Remedies. Chapters 2-5 provide examples and explanations of laws and administrative guidelines that determine which parties will investigate claims and decide issues of guilt or civil liability, impact the location of hearings or trials, provide payment for and access to post-assault procedures, and impact survivors' experiences with the legal system in other ways. Each chapter begins with a general description of the content involved and proceeds with sections containing detailed descriptions of the laws governing that area. Each section closes with a section titled, "Advocate Take Away." The "Advocate Take Away" sections provide guidance on the proper use of the legal information provided within.

III. Limitations

This manual does not in any way address the specific circumstances of any particular survivor. It does not constitute legal advice in any way. Legal advocates should take most **extreme** care to use this information appropriately. Specifically, advocates must never dispense legal advice to a survivor, and should seek the input of a licensed attorney if any part of a survivor's criminal or civil case is unclear.

Glossary of Terms

The terms listed below will commonly appear in the text without clarification and are defined here for your convenience. Because one may use an array of terms to describe the persons, legal constructs, and behaviors involved in the sexual violence context, OAESV chose terminology it found most prevalent within the sexual assault advocacy field at the time this manual was produced. The selection of these terms is not intended to diminish identifying terminology any individual survivor assigns to their experiences, nor does it seek to endorse any specific labeling method.

- **Survivor:** an individual who has survived an act of sexual violence
- **Perpetrator:** an individual who commits an act of sexual violence against a survivor (In this manual, the term “perpetrator” does not indicate the actor was charged or convicted. It is important to remember that the criminal system will refer to this person as an “alleged perpetrator/offender” or defendant, depending on whether charges have been filed.)
- **Acquittal:** a certification of innocence – i.e. a finding of not guilty in a criminal trial
- **Advocate/Legal Advocate:** a community-based rape crisis program employee; a non-lawyer who supports the survivor and acts on their behalf; Advocates provide legal information but cannot give legal advice¹.
- **Appeal:** after a trial, the losing party may ask the appellate court or, when applicable, the court of last resort to review the case for legal errors
- **Arraignment:** when a criminal system defendant comes before the court to respond to the accusation contained in the indictment and enter a plea. Depending on the jurisdiction, the court may also set bail at this time.
- **Bailiff:** this person relays messages, provides security, and keeps order in the courtroom.
- **Bench Trial:** a case heard and decided by a judge; no jury is present
- **Bond:** a sum of money determined by the court to secure the perpetrator’s participation in the criminal process
- **Brady Evidence:** material evidence favorable to the defendant and relevant to the prosecution’s case – prosecutors must turn all of this over to the defense and failure to do so is grounds for reversal.
- **Case-In-Chief:** the portion of a trial when the party that carries the burden of proof presents its evidence. In a criminal case, the prosecutor presents the case-in-chief, and the defendant responds through rebuttal. In a civil case, the plaintiff presents the case-in-chief, and the civil defendant responds through rebuttal.
- **Civil Complaint:** the document that initiates a civil lawsuit, which must be filed before the statute of limitations lapses on a civil claim
- **Clerk of Courts:** an elected officer charged with overseeing administrative management of the court as a whole
- **Confidentiality:** an ethical principle and internal requirement that forbids rape crisis center employees (and most other regulated or licensed professionals who serve survivors) from divulging the contents of communications with survivors absent informed consent from the survivor or court order

- **Court of Last Resort:** the last court that reviews a case for legal error; in Ohio this is the Ohio Supreme Court; in the federal system this is the United States Supreme Court
- **Damages:** a construct of civil courts: (1) the harm a civil plaintiff must demonstrate they suffered as a result of the act of sexual violence; (2) the monetary award used to “compensate” the survivor or make them whole if the perpetrator is found liable
- **Decision Maker:** (1) the party that hears evidence in a legal proceeding and makes the final decision; this is typically a judge, magistrate, or jury; (2) the party that hears evidence in an administrative proceeding, for example, a Title IX campus hearing
- **Defense Attorney:** a private attorney hired to represent the defendant (in a civil or criminal trial) or a public defender assigned to represent a defendant (in a criminal trial)
- **Discovery:** the period of a civil or criminal trial during which parties must exchange all information that will be presented at trial (or is reasonably likely to lead to the discovery of relevant information)
- **Docket:** the court’s official record of a case, including hearing dates, filings, and party information – common pleas court dockets are available online
- **Duty of Care:** the standard of attention and caution the public expects the average “reasonable” person to exercise in a given situation
- **Enhancement:** most states have criminal statutes that enhance or increase a standard punishment if an offender was previously convicted of another crime or if other circumstances apply
- **Exculpatory Evidence:** in a criminal case, evidence that is favorable to the defendant. This evidence could prove a defendant is innocent or could justify the defendant’s actions. The 1963 Supreme Court case, *Brady v. Maryland*, 373 U.S. 83 (1963), requires a prosecutor in possession of exculpatory evidence to disclose that evidence to the criminal defendant and their attorney(s).
- **Expert Witness:** a witness who may appear in court and testify because of their special knowledge or experience with a particular subject area. The expert is permitted to give their opinion about a disputed or unclear fact because of their specialized knowledge, skill, experience, or education.ⁱⁱ
- **Felony:** acts the criminal system classifies as more serious than misdemeanors, including aggravated murder, rape, and human trafficking.
- **Grand Jury:** a group of 12 citizens, paneled for a period of time, who review evidence in possible felony cases and vote to determine if there is probable cause sufficient to allow the prosecution to indict the accused; In Ohio, a unanimous grand jury vote must precede indictment.
- **Impeach:** attacking the credibility of a witness in criminal or civil court, thereby calling into question the reliability of their testimony
- **Inchoate Crimes:** actions or activities that fall short of a completed criminal act; attempt, conspiracy, and complicity
- **Intervention in Lieu of Conviction:** offenders charged with certain lower-level criminal offenses, who are either drug or alcohol addicted, suffer from a diagnosed mental illness,

have an intellectual disability, or are victims of human trafficking, may be eligible to receive court-supervised treatment instead of a conviction and sentence.ⁱⁱⁱ

- **Judge:**
 - **In the Ohio Court System (common pleas and municipal courts):** an elected court official (usually a former lawyer) who hears evidence and determines liability in bench trials);
 - **In the Federal Court System:** an appointed court official (usually a former lawyer) who hears evidence and determines liability in bench trials
- **Judicial Release:** a form of early release that certain convicted persons may be eligible for. If granted, any time remaining on a convicted person's sentence becomes suspended while they serve 1 to 5 years of community control. If those years are served successfully, no further time must be served, either under local or state supervision. If the terms of community control are violated, the court can re-impose the suspended portion of the sentence.^{iv}
- **Jury/Jury Trials:** a body of citizens (in state court) that hear the evidence and determine liability and damages in specified trials; typically, where a defendant invokes their right to a jury trial
- **Liability:** in civil trials, where guilt and innocence are not measured, a defendant is found either liable or not liable for civil harm; if found liable, a defendant must pay the survivor civil damages
- **Magistrate:** a judicial or administrative official with jurisdiction over minor misdemeanor and other criminal matters, preliminary examinations, protection orders, and other matters as specified by county
- **Misdemeanor:** less serious than felonies, ranging from littering to simple assault. Penalties for misdemeanors range from payment of court costs to six months in jail and/or a \$1,000 fine per offense.^v
- **Lay Witness:** a witness who testifies based on their perceptions and/or personal knowledge
- **Ohio Revised Code:** the compilation of all Ohio statutes, divided into provisions, titles, chapters and sections
- **Ohio Rules of Appellate Procedure:** Rules issued by the State Supreme Court that govern legal practice in both civil and criminal appeals, including filing deadlines and other important standards that may impact a survivor's case
- **Ohio Rules of Civil Procedure:** Rules issued by the State Supreme Court that govern legal practice in civil matters, including filing deadlines and other important standards that may impact a survivor's case from the initiation of a lawsuit through final appeal
- **Ohio Rules of Criminal Procedure:** Rules issued by the State Supreme Court that govern legal practice in criminal matters, including filing deadlines and other important standards that may impact a survivor's case from investigation through final appeal
- **Ohio Rules of Evidence:** Rules that govern the admission of evidence in both civil and criminal cases
- **Patient:** a person under the care of an Ohio medical facility – when a survivor receives treatment or a SAFE exam, they will be referred to as a patient by medical personnel

- **Plea:** an accused person's reply to a criminal charge. The Ohio Revised Code sets forth five possible pleas: (1) guilty; (2) not guilty; (3) a former judgment of conviction or acquittal of the offense; (4) once in jeopardy; (5) not guilty by reason of insanity; and (6) no contest.^{vi}
- **Plea Bargain:** A deal achieved between the prosecution and defense, leading the defendant to plead guilty to lesser charges in exchange for the prosecutor not having to risk acquittal. Plea bargains are structured around available evidence, and in ideal situations, survivor input.
- **Peace Officer:** a term used in the Ohio Revised Code to denote status as a law enforcement official
- **Post-Release Control:** A period of supervision following release from prison. The Ohio Revised Code mandates post-release control for some offenses. The Parole Board has discretion to impose post-release control for other offenses.^{vii} The Ohio Revised Code mandates the following post-release control periods: (1) persons convicted of felonies of the first degree or sex offenses must serve a five-year post-release term; (2) persons convicted of a felony of the second degree must serve a three-year post-release control term; and (3) persons convicted of a violent felony of the third degree that is not a felony sex offense must serve a three-year post-release term.^{viii}
- **Privilege:** A shield that prevents certain professionals from having to testify to or otherwise divulge the contents of communications with survivors – communications between rape crisis center advocates and survivors in Ohio **are not** protected by privilege.
- **Probable Cause:** Facts that lead a reasonable person to believe that an individual actually committed an offense. Probable is the standard for arrest and charges.
- **Prosecutor:** the attorney that represents the state, files criminal charges in state court, and pursues the case on behalf of the state (not the victim)
- **Rape Crisis Center:** an agency whose main purpose is to provide support services to survivors of sexual violence and their family members according to standards of practice
- **Reasonable Person:** a construct developed to illustrate how a “typical person, with ordinary prudence would act in certain circumstances.”^{ix} The jury must measure the actions of a civil defendant against the expected behaviors of a “reasonable person” with the same knowledge, information, or experience as the defendant in the circumstances at issue.
- **Remand:** After considering a case, an appellate court can reverse the decision of a lower court. The appellate court will issue a written decision that sends the case back to be reconsidered by the lower court.
- **Restitution:** a construct of criminal law; payment made by a perpetrator for financial damage done to the survivor
- **Section/Statute:** a statute is another name for an individual law; in Ohio, statutes are also known as “sections” of the Ohio Revised Code
- **Sentence:** the penalty imposed on a person who has been convicted of a crime
- **Settlement:** an agreement that is meant to resolve a dispute in civil court
- **Sex Offender Registry:** The Ohio Revised Code requires the attorney general to maintain a sex offender registry that includes specific information about individuals who were convicted of or pleaded guilty to a sexually oriented offense or a child-victim oriented offense or who

have been adjudicated a delinquent child for committing a sexually oriented or child-victim offense.^x Information contained in this registry is publicly available.

- **Sexual Assault Agency:** an agency that provides services to survivors of sexual violence and their families; this could be a rape crisis center or another type of agency
- **Sexual Assault Response Team (SART):** a coalition of partners serving sexual assault victims. These coalitions generally include victim advocates, law enforcement officers, forensic medical examiners, forensic scientists, and prosecutors.^{xi}
- **Sexual Assault Forensic Exam (SAFE):** a medical examination during which evidence of the sexual assault is collected by a medical professional^{xii}
- **Sexual Assault Nurse Examiner (SANE):** “[R]egistered nurses who have completed specialized education and clinical preparation in the medical forensic care of the patient who has experienced sexual assault or abuse.”^{xiii}
- **Statute of Limitations:** the period of time in which a survivor or prosecutor can bring forth a civil case or criminal charges after the act was committed
- **Subpoena:** a document that orders its recipient to appear as a witness in court.
- **Tort:** a wrongful act which results in physical, psychological, emotional, or financial harm to another
- **Verdict:** a jury decision on a disputed criminal or civil issue
- **Victim:** a person harmed by a violation of the Ohio Revised Code – in the criminal system, players typically refer to “survivors” as “victims”
- **Victim Impact Statement:** A confidential statement identifying the victim of a criminal offense and the impact that victim suffered as a result of the offense. Although these statements are confidential, copies of the statement may be provided to the defendant, the defendant’s counsel, and the prosecuting attorney.^{xiv}
- **Violation:** a violation occurs when a person commits an act that is prohibited by statute
- **Voir Dire:** The jury selection process, in which a larger pool of potential jurors answer standardized questions to disclose potential bias, and each party has the opportunity to challenge the use of individual potential juror

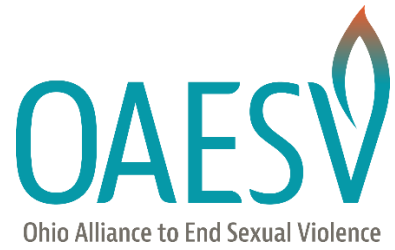
I-C

Table of Contents

Volume I	
I.	Chapter I
▪	I-A Preface.....8
▪	I-B Glossary of Terms.....9
▪	I-C Table of Contents.....14
II.	Chapter II: Medical Advocacy.....18
III.	Chapter III
▪	I-A The Advocate’s Role in the Criminal Justice System.....36
▪	I-B A Brief Introduction to the Criminal Justice System.....39
▪	I-C Jurisdiction & Structure: Federal & State Courts.....42
▪	III-D Sources of Law.....47
▪	III-E Criminal versus Civil Law.....54
▪	III-F Felonies & Misdemeanors.....59
▪	III-G Criminal Statute of Limitations.....65
▪	III-H Reading & Understanding Statutes.....69
▪	III-I(i) Common Components of Ohio Statutes.....74
▪	III-I(ii) Inchoate Crimes.....79
▪	III-I(iii) Ohio Sex Offenses & Related Statutes.....80
▪	III-J Procedure.....134
▪	III-K Crime Victim Rights.....137
▪	III-L Protection Orders.....151
▪	III-M Reporting Sex Offenses.....161
▪	III-N The Criminal Investigation.....167
▪	III-O From the Criminal Investigation to Trial.....172
▪	III-P Privilege versus Confidentiality.....187
▪	III-Q Local Rules & the Docket.....191
▪	III-R Trial.....200
▪	III-S Sentencing.....212
▪	III-T Appeal.....224
▪	III-U Sex Offender Registration Laws.....226
IV.	Appendices
▪	A – Guide to State & Territory Coalitions244
▪	B – Ohio Local Programs.....252

Divider Page & Tab

Chapter II



Chapter II: Medical Advocacy

II Medical Advocacy

I. Introduction

Every Ohio hospital that provides emergency services is required to have staff trained to examine sex crime victims on call twenty-four hours per day.^{xv}

Therefore, upon learning that a patient indicated they are a survivor of a recent sexual assault, the hospital staff should immediately begin implementing the hospital's sexual assault response protocol. Since 2002, the Ohio Sexual Assault Task Force has recommended that hospitals, law enforcement, local prosecutors and community organizations including

rape crisis centers collaborate to develop a local Sexual Assault Community Protocol and establish a Community Sexual Assault Response Team (SART). These local protocols and teams establish how multiple community agencies will work together to respond to sexual assaults. If no community protocol or local SART exists, law requires the hospital to follow the Sexual Assault Examination Protocol established by the Ohio Department of Health. Failure to do so serves as forfeiture of payment from the state for providing the required exam.^{xvi}

This chapter will discuss what advocates should expect when a survivor presents to a compliant hospital and initiates the protocol. This discussion will differentiate between legally mandated services and best practices, so that advocates do not promise services not required by law. In addition, this chapter will highlight how advocates from community organizations can work with local law enforcement agencies and medical providers to develop a Sexual Assault Community Protocol that includes medical advocacy.

A Note on Language:

When a survivor presents to a medical care provider, that provider will refer to the survivor as a "patient." This is standard terminology when providing medical care and does not indicate a value judgement about the survivor or the survivor's statements.

II. Requirement versus Best Practice

This chapter will frequently refer to "Requirements" and "Best Practices."

Requirement	Best Practice
A legal mandate stemming from the Ohio Constitution, Ohio Revised Code, Federal Grant Regulations or Law, or an applicable Administrative Code or Administrative Guideline	A data-driven practice recommended by a specialized agency
Enforcement mechanisms vary – most notably taking the form of forfeiture for reimbursement from the state for conducting SAFE exams.	Medical providers should make every attempt to engage in Best Practices, but are not legally required to do so.

III. Medical Forensic Examinations

A medical forensic examination provides, in the aftermath of sexual violence, medical care for survivors and a regulated process for collection of evidence that may be later used in a criminal prosecution. Ohio Revised Code Section 2907.29 establishes minimum requirements for medical forensic exams within the state, and authorizes the Director of Health to establish corresponding procedures.^{xvii} The result is the Ohio Protocol for the Treatment of Adults and Older Adolescent Sexual Assault Patient, which refers to a medical forensic examination as a Sexual Assault Forensic Exam (SAFE). An Ohio SAFE provides an alleged sexual assault patient at a hospital or emergency medical facility medical evaluation, treatment, and care in response to acute injury, trauma, and/or the safety needs of the patient and to gather physical evidence for a possible prosecution.^{xviii} Ohio law requires that, upon presenting at a hospital for a SAFE exam, a victim be informed of available testing and services for Sexually Transmitted Infections (STIs), pregnancy, and other medical and psychiatric needs.^{xix}

a. Where can a Survivor Receive a SAFE exam?

Requirement: Any hospital or medical clinic that provides emergency medical services

Best Practice: A hospital with a Sexual Assault Forensic Examiner (SAFE) program is recommended.^{xx} SAFE programs have physicians, nurse practitioners and nurses that are specially trained in working with patients impacted by violence, such as a rape. If a survivor arrives at a hospital without a SAFE program, the survivor may request to be transferred to a facility in the community that has a SAFE program (if the survivor decides not to transfer, the facility where they originally presented is legally required to perform the exam). Upon this request, the hospital without the SAFE program is legally required to provide an appropriate screening examination to the survivor to determine if any emergency medical condition exists that must be stabilized before the survivor can leave the emergency department.^{xxi} If a survivor decides to transfer to a facility with a SAFE program, the survivor **may be billed** from the first hospital for the screening and any care that is provided. The survivor might also incur charges for the cost of the transfer.

b. Who can request a Forensic Evidence Collection Exam?

Survivors of a range of sexual offenses may request a medical forensic evidence collection exam, also called a Sexual Assault Forensic Exam (SAFE). The process is most frequently used if the sexual offense aligns with violations defined by Ohio Rev. Code §§ 2907.02 to 2907.06, namely rape, sexual battery, unlawful sexual contact with a minor, gross sexual imposition, or sexual imposition. Any peace officer or prosecutor can request a SAFE exam with the consent of the victim.^{xxii}

c. When does an Exam Occur?

Best Practice: Priority medical/forensic treatment and care is provided regardless of when the assault occurred. Evidence is collected up to 96 hours (four days)^{xxiii} after an assault occurs for adult survivors, and 72 hours (3 days)^{xxiv} for pediatric cases, sometimes later if warranted by the circumstances of the individual patient.

d. Who conducts a Forensic Evidence Collection Exam?

Requirement: A physician, physician assistant, clinical nurse specialist, certified nurse practitioner, or certified nurse-midwife.^{xxv}

Advocate Tip!

Timing of Forensic Exam – Evidence is always collected if the SAFE exam occurs within 96 hours (4 days) of a sexual assault for adult survivors, and 72 hours (3 days) after a sexual assault for juvenile survivors. Evidence may be collected more than 96/72 hours after an attack on a case-by-case basis (i.e. patient has been sedentary, the patient is unable to provide accurate timeline due to being unconscious or having a cognitive disability, or the evidence may corroborate chronic injury or excessive force).

Best Practice: A Physician, Nurse Practitioner or Sexual Assault Nurse Examiner (SANE) with specialized education, training and experience in the evaluation and treatment of sexual assault patients.^{xxvi} This best practice aligns with the National Protocol for Sexual Assault and Medical Forensic Examinations.^{xxvii}

e. What is the Advocate's Role?

Requirement: Provide support and education to the survivor about their rights and local resources.

Best Practice: Ensure that priority medical/forensic care is provided to the survivor with sensitivity, in a culturally appropriate and respectful manner, regardless of when the sexual assault occurred. The type of care received will start the process of healing. In communities with both community-based and prosecutor/law enforcement-based victim advocates, it is best practice that the community-based advocate respond at the hospital and make appropriate referrals to the prosecutor or law enforcement advocate if/when the survivor is engaged with the legal system. Each advocate's role and guidelines about how the separate organizations work together should be clearly defined in the Community Sexual Assault Response Team Protocol if locally adopted.^{xxviii} Confidential patient record information should not be shared with the advocate unless it is done so by the patient, thus avoiding any medical records confidentiality issues.^{xxix}

f. When does an Advocate get called to support a Survivor?

Best Practice: The hospital or medical facility, responding health care provider, or SART coordinator shall immediately call a trained advocate from the local rape crisis center or victim/witness services to the hospital to meet with the patient. It is the responsibility of the hospital to identify the appropriate local advocacy center. If the hospital/clinic does not have local advocacy resources, then staff should call in the hospital's social work personnel to work with the patient. The patient may also designate a friend, family member, someone from a place of worship or someone from their community as a designated support person.^{xxx} At any time throughout the treatment and evidence collection process, the patient should be asked if they would like to decline further interaction with the advocate and/or request that the advocate or the patient's designated support person leave the room for any portion of the evidence collection process.

g. Who is Required to Report to Law Enforcement?

1. **The Hospital MUST Report:** The hospital must inform the patient that, as a medical

provider, it is legally required to notify law enforcement that care was provided to a patient that

Advocate Tip!

Make sure to explain to the survivor that even if they are not ready to report to law enforcement at the time of the exam, the hospital can submit an anonymous kit. Explain that evidence in sexual assault cases must be collected quickly, so the best way to preserve their option to report later is to have the SAFE exam performed within 96 hours after the assault.

reported being sexually assaulted. The hospital will report the date, time and general location of the crime to law enforcement, but should not provide identifying information about the survivor unless the survivor wishes to be identified to law enforcement.^{xxxix}

2. **A Survivor MAY Report:** Survivors in Ohio have three reporting options: (1) report to law enforcement; (2) do not speak to law enforcement but allow the hospital to provide identifying

information; or (3) have an anonymous SAFE kit collected without identifiable information. A survivor who chooses the last two options can “convert” a report to law enforcement at any time.

Reporting Options ^{xxxii}		
Survivor Action	What Happens	Provider Action
Survivor Does Not Report and Does Not Consent to Forensic Exam	No Forensic Exam. Provider is required to medically examine before discharge.	Provider reports the date, time and general location of the crime but does not provide any identifying information about the survivor to law enforcement.
Survivor Reports to Law Enforcement and Consents to Forensic Exam	Forensic Exam	SAFE Kit is provided to law enforcement under SAFE Protocol, law enforcement interviews survivor and proceeds with criminal investigation.
Survivor Does Not Report but Consents to Forensic Exam and to Provide Identifying Information to Law Enforcement	Forensic Exam	SAFE Kit is provided to law enforcement under SAFE Protocol including survivor’s identifying information. Survivor can choose to later report to law enforcement.
Survivor Does Not Report and Does Not Consent to Provide Identifying Information to Law Enforcement but Consents to Forensic Exam	Anonymous Forensic Exam	SAFE Kit is provided to law enforcement under SAFE Protocol with Anonymous ID number. Survivor is provided with ID number and can choose to later report to Law Enforcement.

IV. What to Expect in a Medical Exam & Evidence Collection: The Ohio Department of Health Protocol

a. Intake and Triage^{xxxiii}

- Priority treatment for private room assignment and waiting area for family, support person and law enforcement interviews
- Seen by hospital personnel within 15 minutes or as soon thereafter as possible
- Complete hospital registration quickly and in private if possible

- Respond to acute injury, trauma care, and safety needs before evidence collection
- Instruct patient about preserving evidence that may be present until forensic evaluation and evidence collection is complete
- Collect urine specimens immediately if there is indication of drug-facilitated sexual assault
- Maintain hospital policy for sexual assault patients, contact protocol coordinator or SANE provider, if available, inform patient of community SANE provider if available, address emergent medical needs if patient requests transfer to SANE provider
- Assess any safety concerns, needs for immediate medical or mental health interventions, and ensure emotional support is offered to patient, family and friends

b. **Informed Consent**^{xxxiv}

- Verbal and written consent is required prior to conducting medical evaluation, medical treatment, and evidence collection.
- Verbal and written consent is also required prior to releasing patient information and forensic evidence to law enforcement.
- Informed consent should be an ongoing education process throughout the exam.
- Patient should be provided “Information You Should Know as a Survivor of Sexual Assault” handout from SAFE Kit.^{xxxv}
- Patient should be informed, according to Ohio law, of available services for sexually transmitted infections, pregnancy and other medical and psychiatric care.
- The Consent to Examination, Consent to Release of Information, and Consent to Anonymous SAFE Kit Forms are also included in the SAFE Kit.^{xxxvi}
- Procedures should be explained to the patient throughout the exam to ensure full understanding of what is being done and why, and of the continued right to withdraw consent.
- If the patient expresses resistance to the procedure, the provider should immediately discontinue that portion of the exam and consider going back if the patient agrees.
- If the patient declines evidence collection, even after being informed of Anonymous SAFE Kit option, the patient should be informed of available services for possible pregnancy, exposure to HIV and other STIs, and other medical concerns. The patient should be informed that financial responsibility for this examination is the patient’s and that if they are uninsured a referral can be made for services at an appropriate facility for follow-up care.
- **Anonymous Kit consent:** Patient should be informed of option to complete evidence collection without providing any identifying information to law enforcement by completing an Anonymous SAFE Kit. If this option is chosen, a kit with a unique identifying number will be delivered to law enforcement and secured for the required time to allow the patient to decide whether or not to later report to law enforcement. The patient should be informed of the unique identifying number, the retention time specified in the local protocol, and that any photographs taken during the exam will not be provided to law enforcement but

retained in the medical record until the patient provides permission to law enforcement to obtain any photos.

c. **Medical History/Abuse History Assessment**^{xxxvii}

- Patient's Medical History is documented on Sample Forms from ODH Sexual Assault Protocol or Hospital Triage forms and includes patient's personal and demographic information and documents the physical exam conducted by medical provider. This is for hospital records only and is not placed in the SAFE Kit.
- The Patient Assault/Abuse History Form included in the SAFE Kit is completed in duplicate. The original is retained in the patient's medical record, the copy goes to the forensic lab with the completed SAFE Kit. This form includes details of the assault such as date, time and location, details about the assailant(s) if known, type of penetration (if applicable), places on the body that had any oral contact, date and time of exam, whether patient changed clothes, bathed, urinated, brushed teeth, etc. since the assault, and other information about the assault including the patient's narrative.
- Assessment of Intimate Partner Violence (IPV) Screening may be used to determine if the patient or the patient's family will benefit from resources to support patients of IPV. IPV screening questions should be asked privately, away from a potential abuser or anyone who may reveal the patient's answers to an abuser.

d. **Evidence Collection**^{xxxviii}

- The medical provider will cut 10-15 head hairs from various areas of the patient's head.
- The medical provider will collect four oral swabs from the patient, regardless of the assault history, and make smears on the pre-labeled slides.
- The provider will collect one oral swab from the patient for a DNA Reference Standard.
- The provider will scrape or swab under the patient's fingernails. If a fingernail is broken, the provider will cut off the broken end of the nail and collect it.
- The provider will collect the underwear worn to the exam from the patient; if no underwear, the item worn next to the body will be collected.
- The provider will collect jeans or pants and other clothing worn during or immediately after the assault in separate bags.
- The provider will collect any dried stains, such as saliva or semen, from the patient's body; the provider may use an alternate light source to locate possible stains.
- The provider will swab and photograph any bite marks.
- The provider will collect pubic hair combings and any stray hairs from the genital area.
- The provider will cut 10-15 hairs from various areas of the pubic region, if present.
- The provider will collect four anal or perianal swabs regardless of assault history.
- If applicable, the provider will collect four vaginal swabs regardless of assault history. If a tampon is present, the provider will collect it. If cunnilingus may have occurred or the assailant may have used saliva as a lubricant, the provider will swab the external vaginal area as well as the internal swabs.

- If applicable, the provider will collect four penile swabs.
- For children: alternate cultures for STIs may be indicated. In prepubescent cases, a speculum examination is **almost never** indicated and the Child Protocol should be consulted.
- The provider will document injuries on the Assault History form and the anatomical outlines provided. The provider should take photographs to assist patient recall and document injuries but the photographs are not placed in the SAFE Kit. Photos should remain with the medical record.

e. Evidence Integrity

Maintaining chain of custody of the evidence is as important as collecting the proper evidence. The custody of evidence collected in the SAFE Kit, including any clothing or other collected items, must be accounted for from the time it is collected until it is admitted into evidence at trial. Complete documentation of custody is essential and must include the signature of everyone who has possession of the evidence from the health care provider who collects it to the individual who brings it into the courtroom at trial. Two signatures on the chain of evidence document are required for any transfer, one from the person who releases the evidence and the second from the person who receives the evidence.^{xxxix}

f. Medical Considerations and Testing

Requirement: Additional treatment and testing should be discussed and recommended based on a survivor's individual needs, although Ohio Law requires discussing the availability of certain services with sexual assault survivors.

Best Practice: If any indicator of drug impairment exists, the medical provider should conduct a Suspected Drug Facilitated Rape Toxicology Exam, obtaining a urine and blood specimen for testing as soon as possible. The provider should follow the Drug Facilitated Sexual Assault Protocol.^{xi} The sooner the specimen is obtained after an assault, the greater the chance of detecting any drugs that may have been administered to facilitate the assault. Ideally, the survivor should not urinate until forensic evidence has been collected.^{xli}

Requirement: The medical provider must offer prophylactic treatment for STIs at the time of the exam. All survivors must be offered information about the risks of STIs, what to do if symptoms occur after the exam, the availability of free and low-cost testing and treatment in the community, and be made aware of the benefits and consequences of taking prophylactics against STIs in order to make their own informed decisions about treatment.^{xlii}

Best Practice: When using the Adult Sexual Assault Exam Protocol, testing for STIs is not recommended.^{xliii}

Requirement: The medical provider must discuss with the survivor their concerns about the risk of contracting HIV, and provide information about risks, symptoms and the need for examination if symptoms arise. The provider must also discuss HIV testing, the difference between anonymous and confidential testing, and provide local referrals for testing and counseling.^{xliv}

Requirement: The medical provider must discuss and offer all legal options for possible pregnancy, including emergency contraception with all survivors of child-bearing age who have not had a hysterectomy or permanent sterilization. Information should be provided about medications that can

help prevent pregnancy as well as the risks. Emergency prophylactic treatment **can** be started up to 120 hours after the assault, but **should** be started within 72 hours for the best chance of working. Medical providers should inform survivors about the effects that some medications have on the effectiveness of emergency contraception and determine if the survivor is taking such medications. If the survivor wants emergency contraception and the health care provider is precluded from providing it, a referral to another physician, health care institution or agency must be provided to the survivor and available within 72 hours after the assault.^{xlv}

g. Post Examination Information

- Medical Discharge and Follow Up – Medical providers should ensure all medical and mental health issues related to the assault have been addressed and instruct the survivor on the importance of medical follow up. Provide survivor with the After-Care Instructions Handout and note all treatment received, referrals and medications to be taken on the handout. Make a referral available for emergency contraception within 72 hours if the facility cannot provide this on site. Provide a verbal explanation of the After-Care instructions and allow the survivor an opportunity to explore acute concerns.
- Medical providers should also provide the survivor with the “Follow Up Services Handout” and assist Anonymous Reporting survivors with the procedure for reporting to law enforcement including their unique SAFE Kit number and the expiration date for retention of their Kit. Follow-up information for support services such as the local rape crisis center should also be provided.
- Hospital Advocate/Support Person Follow Up – Help patient plan for safety and well-being upon discharge. Address any transportation, emergency shelter or alternative housing needs. Provide information about eligibility for protection orders. Discuss options and develop a safety plan.
- Explain advocacy and counseling services available in the community. If law enforcement is involved, explain the investigation process.

V. What happens to the Sexual Assault Forensic Evidence (SAFE) Kit After the Exam?

After the forensic exam is completed and evidence is collected, the SAFE kit is picked up by law enforcement and submitted to the crime lab for testing.

Requirement: Any law enforcement agency, prosecutor's office, court, public hospital, crime laboratory, or other governmental or public entity or individual within this state that is charged with the collection, storage, or retrieval of biological evidence shall secure the evidence for a period of thirty years if the offense or act remains unsolved.^{xlvi} Ohio law also requires that all newly collected SAFE kits be submitted to a crime lab within 30 days after law enforcement determines a crime has been committed.

Best Practice: The process for collection, storage and retrieval of Anonymous SAFE kits is not specifically provided in the statute. The Ohio Department of Health Protocol requires retention of Anonymous SAFE kits for at least 60 days, but allows communities to establish longer retention times for Anonymous Kits if provided for in a Community Protocol. A contingency plan for the handling

of kits whose proper jurisdiction is unknown or is outside of the county should also be included in the Community SART protocol.^{xlvi}

VI. How is an Anonymous Kit Processed?

Evidence is collected in accordance with the ODH Protocol for Adult Sexual Assault Patients except that the identity of the survivor is not documented on any specimens or paperwork provided in the SAFE Kit. A unique identification number is created and used in place of the survivor's name on all specimens and paperwork such as: survivor's birth date plus the last four digits of the medical record. (e.g., May 23, 1963 and the last 4 numbers of the medical record 1234 – 052319631234). Hospitals and facilities may create their own system for identifying Anonymous SAFE Kits. Upon discharge, the hospital will provide the survivor with the Anonymous SAFE Kit's unique identification number and that number is recorded on the Anonymous SAFE Kit consent form to be stored with the medical record. This identification number is recorded on the after-care information handouts. Additionally, the anonymous survivor is informed about the retention time for Anonymous SAFE Kits. If and when an anonymous survivor decides to report to law enforcement, the survivor will provide their unique identification number to law enforcement so the evidence in the anonymous SAFE kit may then be associated with the reporting victim. At this time, an investigation of the crime, including the examination of the evidence, may commence.^{xlvi}

VII. Who Pays for an Exam?

Requirement: The hospital or emergency facility is not permitted to bill or charge directly or indirectly to the survivor or survivor's insurer for the costs of the forensic evidence collection examination conducted for the purpose of gathering physical evidence for a possible prosecution or for the costs of antibiotics provided to treat or prevent a possible sexually transmitted infection.^{xlvi}

Best Practice: Let the survivor know they can expect to be billed for any other medications, tests or procedures that are provided separate from the forensic exam and evidence collection. If the survivor chooses to not have evidence collected, they will be billed for all the care they receive during the visit. If the survivor does not have medical coverage the hospital can assist in applying for medical coverage. The hospital may also be able to work with the survivor in having the charges covered. Additionally, these and other costs may be eligible for reimbursement through the Victims of Crime Compensation Program. There are eligibility requirements for this program, such as making a report to the police. Alternatively, the hospital may refer the survivor to another health care provider or clinic for follow-up care at a free or reduced cost.¹

VIII. How to Get a Copy of Medical Records

Requirement: Upon proper written request, the hospital or clinic that administered a SAFE exam must provide the survivor, their chosen representative, or other authorized party with a copy of all or part of their medical record, at no cost. The health care provider must follow the survivor's instructions to hold the record for pick-up or send the record to a specified address. The health care provider must also allow a survivor to examine their medical record during regular business hours. If the hospital or clinic fails to fulfill the survivor's request, the survivor may bring a civil action to enforce their right to access the record.^{li}

IX. Right to STI/HIV Testing Under the Ohio Revised Code

Survivors have a right to request that any person who is charged with sexual assault be tested for possible STIs and/or HIV. The arresting law enforcement agency or the court shall cause the accused to submit to one or more appropriate tests to determine if the accused has an STI.^{lii} Only the court can cause the accused to submit to one or more appropriate tests to determine the accused's HIV status.^{liii} The court is required to provide the survivor with the results of the HIV test as soon as practicable. The results of any follow-up test conducted also shall be provided as soon as practicable to the survivor.^{liv}

X. Consent to the Forensic Exam

Survivors have the right to decline any portion of the Forensic (SAFE) Exam at any point during the process.

XI. Advocating for Minors

a. **Consent** – A minor may consent to a medical forensic examination and consent of the parent, parents or guardian of the minor is not required.^{lv} If an unwilling minor is presented for a sexual assault exam by a parent or guardian, the exam should not be conducted unless the minor agrees to: submit to the exam without necessity of restraints or sedation; and after discussion with the health care provider who will be conducting the exam. If the parent or guardian presents a court order for a forceful examination, the hospital should consult legal counsel.^{lvi}

b. **Parental Notification – Requirement:** Ohio law requires the hospital or medical clinic to give written notice to the parent, parents or guardian of the minor that a Forensic Evidence Collection Exam has taken place.^{lvii}

- **Best Practice:** In cases where the reported perpetrator is not the parent or guardian, providers should encourage a minor to notify their parent or guardian at the time of the hospital visit, if appropriate, and advise the minor of the hospital's requirement to send a treatment notification letter and the approximate date it will be mailed.^{lviii}

c. **Child Protocol or Adult SANE Protocol** –The Adult Protocol can be used with a survivor age 16 and over with no cognitive disabilities. For the minor survivor age 16 and 17 years old without cognitive disabilities, the health care professional will evaluate survivor history to determine if the assault occurred more than 96 hours prior to the exam. If the assault occurred more than 96 hours before, then the Adult Protocol cannot be used and the genital exams must be performed by an approved physician, advance practice nurse or registered nurse who is an expert in child sexual abuse. Parents or legal guardians accompanying minor survivors have the right to choose either adult or pediatric facilities for exams or treatment.^{lix}

- **Best Practice:** It is recommended that any survivor age 15 and younger should be treated according to the Pediatric Sexual Abuse Protocol and in a pediatric facility.^{lx}

d. **Reporting Requirements in Cases of Child Sexual Abuse** – When a minor is examined at the request of the county Department of Jobs and Family Services (JFS), it shall be the responsibility and discretion of that department to notify the parents/guardians who are the alleged perpetrators that an examination was requested. When the suspected abuser is the parent or guardian, hospital staff should

follow directions of local law enforcement or child protective services regarding the required treatment notification letter.

- **Requirement:** The hospital is obligated under Ohio law to report alleged or suspected sexual abuse of a minor whether or not the survivor or their family chooses to speak with law enforcement.^{lxi}
- **Best practice:** Medical personnel should inform the minor survivor they are legally mandated to report sexual abuse of a minor to law enforcement and/or JFS.^{lxii}

e. **NOTE:** Advocates should be aware that a minor indicating sexual assault might trigger additional hospital protocols, such as a Child Protection Team, and involve additional parties outside of the Adult Sexual Assault Response Team.

XII. Advocating for Language Access or Other Accommodations

a. **Requirement:** The hospital is required to provide a sign language or other language interpreter to a survivor with language access needs.^{lxiii} The hospital must request an interpreter be present, with prior notification to the survivor to ensure communication access during medical services, law enforcement, prosecutor, and advocacy services in the emergency department. The survivor has the right to not utilize any sign language or foreign language interpreter and place a new request for an alternate interpreter due to genuine concerns in their translating ability or conflict of interest. The hospital should honor the survivor's request by making necessary arrangements to contact the interpreting agency to secure another interpreter. It may take up to an hour before another interpreter arrives at the emergency department. The survivor has a right at all times to determine who they would like present, including the interpreter during all stages of the medical and law enforcement interviewing process.^{lxiv}

b. **Best Practice:** For communication access, either the hospital or SART coordinator should immediately request a sign language or foreign language interpreter if the survivor utilizes American Sign Language or any other native language from their country of origin. The health care professional should respectfully inform the survivor that a request has been made for interpretative services. If the survivor chooses not to have an interpreter, the health personnel and law enforcement should repeat the offer to call an interpreter periodically throughout the medical examination and law enforcement interviewing process. The survivor has a right to decline usage of a professional interpreter during medical services, law enforcement, prosecutor, and advocacy services in the emergency department. To ensure communication access, confer with the survivor as to the best communication method. Family or friends should not be used to provide interpretative services. Only a certified interpreter with extensive training and professional certification should facilitate communication between the survivor and multi-disciplinary team in the hospital.^{lxv}

Advocate Tip!

If you think a survivor may need an interpreter or another accommodation, ask the survivor before seeking out the accommodation. This permits the survivor to retain autonomy, and avoids any unintentional breaches of confidentiality.

It is important to directly inquire of any need for adaptive technology for survivors with sensory, cognitive, developmental, or mental disability to ensure barrier-free access to medical services, law enforcement, prosecutor, and advocacy services in the emergency department in compliance with the Americans with Disabilities Act.^{lxvi}

c. **Best Practice:** Survivors under 21 years of age with cognitive disabilities should be examined at a pediatric facility; however parents and legal guardians accompanying the survivors have the right to choose either pediatric or adult facility for exam or treatment.^{lxvii}

d. **Discussion and Documentation of Disability During the SAFE Exam** - In collecting survivor demographic information, any documentation on classification of disability, whether observed or self-reported, needs to be discussed and clarified with the survivor in a respectful manner with appropriate usage of Persons First Language. The survivor has the right to choose to self-disclose and reinforce preferred self-identification in regards to their intellectual, emotional, mental, and physical status.^{lxviii}

XIII. Medical Advocacy & Community SART Protocols

a. Generally

In order to provide a consistent quality response to survivors of sexual assault, the Ohio Sexual Assault Task Force recommends developing a local Community Sexual Assault Response Protocol and establishing a Community Sexual Assault Response Team (SART) comprised of members of the multiple community agencies and organizations involved in responding to survivors of sexual assault. The Community Protocol should be developed by a committee that includes representatives from hospitals and emergency medical facilities, law enforcement agencies, local prosecutors' offices, rape crisis agencies, mental health service providers and other community organizations where a survivor might first report a sexual assault. The Community Protocol should be reviewed by a diverse group of people that represent the community.^{lxxix} The Community Protocol will help define the role of each agency and the relationship between all the agencies involved in the response to a sexual assault. The protocol will define what agency or agencies will be responsible for providing Medical Advocacy services which include the accompaniment of survivors to the forensic rape examination or other medical procedures necessitated by the sexual assault and the provision of education to the survivor regarding how the health care system operates.^{lxxx} The protocol will also specify when and how local hospitals will contact the agency providing medical advocacy services when a survivor presents to the hospital indicating a sexual assault.^{lxxxi}

b. Who to Contact Regarding Hospital SART Protocol or other Hospital Issues?

Each facility must designate at least one licensed medical professional who is a full-time employee as a "Protocol Coordinator".^{lxxxii} This person has sufficient training on the Ohio Protocol for Sexual Assault Forensic and Medical Examinations to assume responsibility for:

1. Acting as an official representative and facility liaison in communicating and working collaboratively with the Ohio Attorney General's Office, Ohio Department of Health, and other local, state, and community organizations.
2. Acting as an official representative and facility liaison with the Ohio Attorney General's Office for filling out and responding to questions regarding the SAFE reimbursement form.
3. Acting as an official representative who is familiar with all submitted sexual assault cases.
4. Monitoring facility services to improve the quality of survivor care and to assure that the services used to conduct the Ohio Protocol for Sexual Assault Forensic and Medical Examinations are provided in a safe and efficient manner.
5. Maintaining quantitative and qualitative case review of staff conducting the sexual assault and medical examinations that includes survivor and local SART feedback.
6. Assuring that staff conducting the sexual assault and medical examinations are trained on the protocol and are keeping within federal and state laws, rules, regulations, policies and procedures.
7. Ensuring law enforcement has received the Sexual Assault Evidence Collection Kit.

If no Community Protocol exists, the agency providing medical advocacy should identify the SAFE Coordinator at each hospital and medical facility in the community that provides SAFE exams. The medical advocates should be provided with the hospital or medical facility's protocol for responding to sexual assaults. The advocacy agency should consider working with the SAFE Coordinators and

other community agencies to develop a Community SART and Community Protocol. A sample hospital SART protocol is included below for reference.

XIV. Model SART: Health Care Provider Initiates SART Activation – Emergency Department (ED)^{lxxiii}

The ED receives the call for a medico-legal examination from law enforcement, advocacy agency or EMS; OR the survivor presents to the ED and reports sexual assault. The ED then:

1. Follows the scripted questions to obtain information, including time elapsed since the assault, age of survivor and willingness to consent to the medico-legal examination.
2. Reports the case to law enforcement if the victim did not do so prior to presenting at ED, in a manner specified by specific hospital policy.
3. Consults the on-call forensic examiner when there is a question regarding the examination.
4. Provides an interpreter if the survivor is non-English speaking, or is Deaf or hard of hearing.
5. Contacts the advocate from either local Rape Crisis Center or Victim/Witness Services at local Prosecutor's office; if no advocate is available contact hospital Social Worker to provide support to survivor during forensic exam.
6. Contacts the forensic examiner, providing critical information such as: Victim name, law enforcement agency notified, contact information, survivor age and language spoken, arrangements for an interpreter, site for exam, survivor special needs, advocacy contacted, estimated time of arrival and number of survivors, per hospital policy.
7. Advises the forensic examiner to conduct the examination in the ED if the survivor is in need of immediate medical care and is not able to be transferred to nearest facility with a SAFE program.
8. Provides feedback to the forensic examiners as warranted.
9. If survivor is pre-pubertal or a victim of chronic child sexual abuse, refer to the pediatric protocol.
10. Reads communication from forensic examiner to keep informed of changes to the SART protocol.
11. Maintains required certifications and trainings.

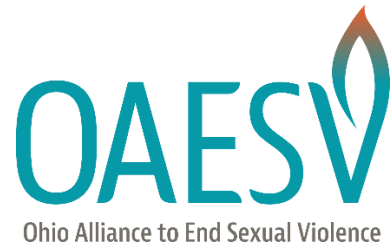
This process may vary if the survivor reports to law enforcement first, and law enforcement reaches out to the Forensic Examiner directly.

If the survivor does not want to report the sexual assault to law enforcement, either the forensic examiner or other ED personnel should still follow the Ohio Protocol for Sexual Assault Forensic and Medical Examination guidelines with regard to:

1. Emergency contraception.
2. Prophylactic treatment for STIs.
3. Evidence collection as required by the Ohio Protocol for Sexual Assault Forensic and Medical Examination.

Divider Page & Tab

Chapter III



Chapter III: The Criminal System

Subsection Divider Page & Tab
III-A

III-A

The Advocate's Role in the Criminal System

I. Survivor Advocacy Generally

When a survivor approaches a rape crisis center, the most valuable resource that center can offer is an advocate. Advocates empower survivors to seek healing, specific legal outcomes, and resources. Overall, advocates provide a span of services, including the following:

- Information, resources, and referrals
- Safety planning
- Accompaniment to SAFE exams and other medical appointments
- Accompaniment to law enforcement meetings, hearings, trial, and meetings with the prosecution
- Assistance pursuing legal representation for civil matters related to the assault
- Locating resources for mental health care
- Assistance applying for crime victim compensation
- Help navigating reporting processes at academic institutions

Unlike counselors, doctors, nurses, or attorneys, advocates do not confine their services to one specific role. In part, because the above-listed professionals must see numerous clients, spend significant time on record keeping, and provide recommendations or treatment based on strict licensure requirements. The role of the advocate is not to provide the same services to survivors and other members of the public, but to focus on a holistic approach to survivor empowerment and healing, based on the survivor's stated wishes. This means that an advocate has to balance learning about new systems as needed, advocating for survivor-desired outcomes, and respecting the bounds of diagnoses and legal decisions made by licensed service providers. Depending on the survivor's goals, this process can be easy to achieve or incredibly challenging.

II. Within the Legal System Specifically

The legal system is confusing for survivors in part because no member of the general public anticipates being involved in the legal system. Therefore, outside of the legal or law enforcement professions, most people have little reason to and do not delve into a meaningful overview of a survivor's place in the criminal justice process. Once a survivor becomes involved in the legal system, the process will impact them in numerous ways. The trauma resulting from their sexual assault may make it difficult for survivors to engage in a meaningful way, and confusion about the legal system can cause significant physical and emotional consequences. Conversely, survivors may find involvement in the legal system empowering.

The criminal process involves numerous professionals with their own ethical and legal obligations, including law enforcement officers, prosecutors, and judges – none of whom represent the survivor. Even when these persons engage with survivors with compassion and empathy, they are still bound to uphold a system built around avoiding wrongful convictions. Specifically, their role involves upholding the federal and state constitutions, engaging in a manner that neutrally evaluates facts, follows defendants' rights protocols, and allows for objective investigative techniques and evaluation. For example, prosecutors can only bring forth cases if they feel there is sufficient evidence to form probable cause. This is a strict burden, and therefore a prosecutor cannot bring charges they feel do

not have evidentiary support, even if they believe everything the survivor reported. As such, no official involved directly in the criminal system has the ability to do exactly what the survivor wants solely for that purpose.

Because no professional within the system is purely there to support the survivor, a community-based advocate plays a hugely important role. Primarily, a legal advocate provides information, safety planning, and emotional support to survivors from the moment they report a crime until all appeals are exhausted, or at any point in between. Legal advocates can also provide support during civil or administrative proceedings. This support takes many forms, but the basis for effective advocacy is awareness and understanding. An advocate that understands the legal system can provide an explanation of victim rights, illustrate timelines for notifications, help the survivor locate hearing locations, explain terminology if legal professionals use terms of art, and otherwise help survivors prepare. This knowledge will reduce potential trauma through predictability and support.

III. What Legal Advocacy Is NOT

Legal advocates do not practice law or give legal advice in any way. This would amount to unauthorized practice of law, which could have serious consequences for the survivor, advocate, and rape crisis center. If a survivor asks for advice on matters that involve the legal system, remind that survivor that you are not permitted to give advice and direct them to a licensed attorney.

IV. How this Manual Helps

This manual provides in-depth descriptions of substantive and procedural law. It is meant to provide an introduction to legal advocacy to be used at the beginning of an advocate's career. In addition, it is organized in a manner that provides quick reference to topics involved in any particular case. For example, if a survivor wants to know the statute of limitations for a specific crime, you can first reference III-G *Statutes of Limitations* for a general overview, then reference the specific statute in III-I(iii) for more specific information.

Ultimately, knowledge is power. The more knowledge the advocate has, the more information the survivor receives, and the faster the survivor can get answers from justice system representatives.

Subsection Divider Page & Tab
III-B

III-B

A Brief Introduction to the Criminal System

In the United States, the term “criminal system” refers to multiple and diverse agencies and procedures established to criminalize undesirable and antisocial behaviors, investigate allegations of these behaviors, and penalize individuals found guilty of engaging in such behaviors. There is no one uniform criminal system. Instead, many individual systems exist, which generally share similar operations. Each individual system operates pursuant to rules developed by the jurisdiction in charge.^{lxxiv} In the United States, these jurisdictions include city governments, county governments, the federal government, tribal governments, and military branches.

For the purposes of sexual violence advocacy, the State and Federal systems are the most important. State systems deal with violations of the state’s constitution, criminal laws, and regulations. Sex crimes are almost exclusively dealt with by state courts, handling those that take place entirely within the state’s borders. The federal system handles violations of the federal constitution, statutes, and regulations. Federal systems handle sex crimes that take place on federal property or in multiple states. It is important to note that the location where the crime occurs typically determines which laws apply. For that reason, it is important to look out for possible involvement of tribal or military courts.

When a survivor engages with the criminal system, that survivor will encounter numerous players throughout three major phases. The list below outlines a very basic framework, each piece of which is described in greater detail in the following subchapters.

1. **Reporting & Investigation**

- a. **Law Enforcement**: Officers take reports of crimes, may conduct investigations, arrest alleged perpetrators, conduct follow-up investigations, and occasionally testify during trial.
- b. **Medical Staff**: Specified members of the hospital staff, ideally trained as SANE nurses, collect forensic evidence. This is commonly known in the advocacy field as a SAFE exam.

2. **Grand Jury**

Before an Ohio prosecutor can proceed with trial on a felony matter, a grand jury must evaluate evidence and vote to determine if there is probable cause that a crime occurred. Grand juries do not evaluate misdemeanor charges.

3. **Prosecution/Appeal**

- a. **Prosecutors**: Prosecutors are lawyers that represent the state or federal government. Prosecutors receive evidence from law enforcement and determine whether to pursue a case or drop charges against the perpetrator. They present the state’s witnesses and evidence in court. Prosecutors also negotiate with defense attorneys on the state’s behalf. Though prosecutors build cases against perpetrators, they do not represent survivors. Prosecutors thus have great discretion over the handling of a case, whether or not the survivor agrees with their strategies or decisions.
- b. **Defense Attorneys**: Defense attorneys represent the accused. They may be hired by the accused or appointed by the court.

- c. **Trial Courts:** Courts are administrated by judges. Judges are responsible for making sure trial procedures are followed. Judges make decisions about bail, bonds, and release before trial, accept or reject plea agreements, and sentence persons convicted by jury.
 - d. **Appellate Courts:** Courts in one of Ohio's twelve appellate districts are administered by appellate judges, who review post-conviction claims of procedural error or misconduct.
4. **Sentencing & Penalty:**
- a. **Probation/Corrections** departments oversee post-sentencing penalties, including jail, prison, community service, probation, or parole. In certain jurisdictions, corrections officers prepare pre-sentencing reports to help judges in their sentencing determinations. Corrections officers are sometimes mandated to notify survivors of changes in the convicted person's status.

Subsection Divider Page & Tab
III-C

III-C

Jurisdiction & Structure: Federal & State Courts

This section describes the United States and Ohio court systems as they relate to criminal cases. For information on courts as they relate to civil matters, please see Volume II.

I. Jurisdiction

Pursuant to the United States Constitution, the federal government and individual state governments each operate their own court systems. Federal courts and state courts have different jurisdiction. Jurisdiction is the court's power to hear and rule on cases and issue orders. Thus, matters of jurisdiction govern which court will hear a case against a criminal defendant and which court grants search and arrest warrants to the relevant police department.

In the criminal justice system, federal courts may generally hear cases involving federal law. Federal courts may also sometimes handle sex crime cases if a violation of one state's law took place outside of that state's borders, or if separate components of one violation of a state's criminal code took place across multiple states. Similarly, state courts have jurisdiction in cases involving violations of state law.

When a violation of federal law occurs, the federal court in the state where the offense took place has jurisdiction to hear the case. When the state has multiple federal courts, the court in the district in which the offense occurred has the power to hear the case. When a violation of state law occurs, the location of the crime similarly dictates which individual state court has jurisdiction over the case.

II. Structure

A. Federal

The United States Constitution created the Supreme Court and granted the legislative branch the power to create lower courts.^{lxxv} The current federal court system includes the United States Supreme Court, 13 courts of appeal, and 94 districts.^{lxxvi} In the federal system, district courts are the trial-level courts. District court decisions may be reviewed by the geographically appropriate court of appeal. Appellate decisions may be reviewed by the United States Supreme Court.

Ohio has two federal district courts:

1. The United States District Court for the Northern District of Ohio, with seats located in Cleveland, Akron, Youngstown, and Toledo.^{lxxvii}
2. The United States District Court for the Southern District of Ohio, with seats located in Cincinnati, Columbus, and Dayton.^{lxxviii}

Appeals from these district court judgments are made to the United States Court of Appeals for the Sixth Circuit. The Sixth Circuit Court of Appeals has jurisdiction over cases from district courts in Michigan, Ohio, Kentucky and Tennessee, and hears its cases in Cincinnati, Ohio. Any further appeal could be heard by the court of last resort, the United States Supreme Court, in Washington, D.C. The United States Supreme Court has discretionary review and takes a limited number of cases per year. Thus, for most federal cases in Ohio, the Sixth Circuit Court of Appeals is the last court of review.

B. State

The Ohio Constitution created the Supreme Court of Ohio, Courts of Appeal, and Courts of Common Pleas.^{lxxxix} The Ohio Constitution authorized creation of other courts as necessary.^{lxxx} In Ohio, trials are heard in the appropriate court of common pleas. Appeal of a common pleas decision may be reviewed in a Court of Appeal. The Supreme Court of Ohio is the court of last resort.

a. Trial-Level Courts

In Ohio, criminal trials are heard in either a municipal court or a court of common pleas. The trial-level court hears testimony and arguments, reviews evidence, and issues a ruling. If the losing party believes the decision was erroneous, it may appeal to an Ohio Court of Appeal. In the criminal context, a defendant may appeal a conviction. The state, however, may not appeal an acquittal.

i. Courts of Common Pleas

There is one court of common pleas in each of Ohio's 88 counties. Courts of common pleas have jurisdiction over all felony cases. The state legislature has the authority to divide common pleas courts into separate divisions. Thus, some county common pleas courts have separate general, domestic relations, and juvenile divisions.^{lxxxi}

ii. Municipal & County Courts

Municipal and county courts are created at the discretion of the general assembly.^{lxxxii} Jurisdiction is essentially the same, and designation as a municipal or county court depends merely on the geographic boundaries and population served. Municipal and county courts have jurisdiction over preliminary criminal hearings, as well as traffic and non-traffic misdemeanors.^{lxxxiii}

iii. For Reference: Courts of Claims

The court of claims has exclusive jurisdiction over all civil actions against the state permitted by waiver of immunity.^{lxxxiv}

b. Appellate Courts

Appeals from courts of common pleas, municipal courts, and county courts are heard by an Ohio court of appeal.^{lxxxv} Ohio is split into twelve appellate districts, each one reviewing decisions from trial courts within its borders.^{lxxxvi} Each appellate case is reviewed by a three-judge panel.^{lxxxvii} An appellate court's review is generally limited, primarily to evaluate the trial court decision to ensure it has a reasonable factual basis and that the law was applied appropriately. Appellate decisions that change the law or are particularly important are published. When a case is published, it is binding on all lower courts within that appellate district and is known as "precedent." Precedent is only controlling on lower courts within that appellate district. For example, if the Eighth District Court of Appeals publishes an opinion, the Cuyahoga County Court of Common Pleas, which is located in the Eighth District, must apply that precedent to all of its future relevant cases. However, the Franklin County Court of Common Pleas does not have to apply this precedent because it is located in the Tenth District. After the Court of Appeals decides a case, an unsatisfied party may ask the Supreme Court of Ohio to review the case.

c. Court of Last Resort: Supreme Court of Ohio

The Ohio Supreme Court reviews decisions of the twelve appellate districts. It is the court of last resort in Ohio. The Supreme Court of Ohio has seven total justices, including a chief justice.^{lxxxviii} It sits in Columbus. The Supreme Court must hear certain types of cases and exercises discretionary

review over others, meaning that it is not required to hear all cases appealed from the Courts of Appeals.^{lxxxix} If the Supreme Court accepts the case for review, parties will submit briefs and present oral arguments. When the Supreme Court publishes a decision, it becomes binding precedent for future Supreme Court decisions and decisions for all courts of appeals and trial-level courts in Ohio.

d. Judges

In Ohio, judges for all levels are nominated in partisan primaries and thereafter elected in nonpartisan elections.^{xc}

III. Jurisdiction & Structure Example

Felonious assault is committed in Columbus, Franklin County, Ohio.

Trial Level: Franklin County Court of Common Pleas has jurisdiction because the crime is a felony taking place within the borders of Franklin County.

Appeal: If defendant is convicted, they may appeal to the Tenth District Court of Appeals. If defendant is acquitted, no appeal may be filed.^{xcj}

Court of Last Resort: After the Tenth District issues its opinion, the defendant may seek appeal with the Ohio Supreme Court. The Ohio Supreme Court is not obligated to review the case.

IV. Ohio State Courts of Appeals

Court of Appeals	Counties Served/ County Common Pleas Courts Within	Seat
First District ^{xcii}	Hamilton	230 East Ninth St. 12 th Floor Cincinnati, Ohio 45202 Phone: 513.946.3500
Second District ^{xciii}	Champaign, Clark, Darke, Greene, Miami and Montgomery	41 N. Perry, P.O. Box 972 Dayton, Ohio 45422 Phone: 937.225.4464
Third District ^{xciv}	Allen, Auglaize, Crawford, Defiance, Hancock, Hardin, Henry, Logan, Marion, Mercer, Paulding, Putnam, Seneca, Shelby, Union, Van Wert and Wyandot	204 N. Main Street Lima, Ohio 45801 Ph.: 419.223.1861
Fourth District ^{xcv}	Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Meigs, Pickaway, Pike, Ross, Scioto, Vinton, and Washington	P.O. Box 790 Circleville, Ohio 43113 Ph.: 740.420.5110
Fifth District ^{xcvi}	Ashland, Coshocton, Delaware, Fairfield, Guernsey, Holmes, Knox, Licking, Morgan, Morrow, Muskingum,	110 Central Plaza S. #320 Canton, Ohio 44702-14111 Ph.: 330.451.7765

	Perry, Richland, Stark and Tuscarawas	
Sixth District ^{xcvii}	Erie, Fulton, Huron, Lucas, Ottawa, Sandusky, Williams, and Wood	One Constitution Avenue Toledo, Ohio 43604 Ph.: 419.213.4755
Seventh District ^{xcviii}	Belmont, Carroll, Columbiana, Harrison, Jefferson, Mahoning, Monroe and Noble	131 West Federal Street Youngstown, Ohio 44503 Ph.: 330.740.2180
Eighth District ^{xcix}	Cuyahoga	Cuyahoga County Courthouse 1 Lakeside Avenue #202 Cleveland, Ohio 44113-1085 Ph.: 216.443.6350
Ninth District ^c	Lorain, Medina, Summit and Wayne	121 South Main Street, #200 Akron, Ohio 44308-1602 Ph.: 330.643.2250
Tenth District ^{ci}	Franklin	373 South High Street 24th Floor Columbus, Ohio 43215-4578 Ph.: 614.525.3580
Eleventh District ^{cii}	Ashtabula, Geauga, Lake, Portage and Trumbull	111 High Street, NE. Warren, Ohio 44481 Ph.: 330.675.2650
Twelfth District ^{ciii}	Brown, Butler, Clermont, Clinton, Fayette, Madison, Preble and Warren	1001 Reinartz Blvd. Middletown, Ohio 45042-1901 Ph.: 513.425.6609

Subsection Divider Page & Tab
III-D

III-D

Sources of Law

This section describes the sources of law underlying charging, sentencing, and verdict decisions. It includes a description of and citation to the most relevant state and federal constitutions, statutory codes, administrative codes and regulations, case law, attorney general opinions, and precedent.

I. State v. Federal Court

As noted in Section III-C, the federal government and each state government operate their own independent court systems. Similarly, each government produces and maintains its own independent sources of law. When federal and state laws conflict, federal law controls. This means that no individual state is allowed to maintain a law that deprives a citizen of a federally-guaranteed right, status, or privilege. However, if the federal government has not passed a law regulating a specific matter, states are free to regulate in any constitutionally permissible manner they wish.

II. Sources of Federal Law

a. Constitution^{civ}

The United States Constitution is the foremost law controlling rights of and restrictions on citizens. This document grants powers to the federal government, outlining the powers of the judicial, legislative, and executive branches. Additionally, it grants citizens fundamental rights, including the freedom of speech, religion, and the right to bear arms, as well as protections, including prohibitions against unreasonable search and seizure, ex post facto laws, bills of attainder, and the deprivation of liberty or property without due process of the law. No federal statute may contradict the provisions of the Constitution, and no state constitution or statute may contradict the rights granted by the federal Constitution. Questions about whether a federal or state law contradicts the United States Constitution may be presented to the judicial branch only after the law is passed. In these decisions, the court reviews the law and considers whether it is “constitutional.”

Provisions of the United States Constitution will become relevant in a variety of matters if a sexual assault survivor pursues a criminal case, seeks to terminate parental rights of a child conceived as a result of the sexual assault, or seeks other civil relief. Notably, however, the Constitution will largely serve to protect the perpetrator. For example, after a survivor submits a criminal report, the receiving law enforcement agency must respect the suspect’s constitutional protections. This will impact when and if the suspect is required to give a statement, when and if law enforcement is permitted to search the scene of the crime or the suspect’s property or person, when and if law enforcement is permitted to make an arrest, whether the suspect may be charged with the crime, and certain trial proceedings. The following chart provides a basic reference for relevant provisions of the federal Constitution. Each provision will be explained as it applies in sequence in Chapter III, Section J, *Procedure: The Criminal Justice Process*; Chapter V, Section B, *Parental Rights*; and Chapter IV: *Civil Remedies*.

Federal Constitutional Provisions Impacting Criminal Investigations & Parental Rights

Section:	Protections:
Article I, Section 9 ^{cv}	<ul style="list-style-type: none"> Prohibits Bills of Attainder (a newly enacted law declaring a person or group in violation of the law without a trial or equivalent due process) Prohibits Ex Post Facto Laws (a law that changes the legal consequences of an action that took place before the law was passed)
Article III, Section 2 ^{cv}	<ul style="list-style-type: none"> Provides for the Right to Trial by Jury
Fourth Amendment ^{cvii}	<ul style="list-style-type: none"> Prohibits Unreasonable Searches and Seizures Requires Probable Cause for a Search Warrant
Fifth Amendment ^{cviii}	<ul style="list-style-type: none"> Requires Grand Jury Indictments Requires Due Process of Law (example: trial before imprisonment) Prohibits Forced Self-Incrimination (example: right to remain silent)
Sixth Amendment ^{cix}	<ul style="list-style-type: none"> Provides Right to Speedy & Public Trial Provides Right to Confront Hostile Witnesses Provides Right to Be Informed of Criminal Charges Provides Right to Assistance of Counsel
Eighth Amendment ^{cx}	<ul style="list-style-type: none"> Prohibits Excessive Bail & Fines Prohibits Cruel & Unusual Punishment

b. Statutes^{cx}

Federal statutes are laws enacted by the federal legislature. These laws may not contradict the United States Constitution. If a state law contradicts a federal statute, the federal statute controls.

c. Regulations^{cxii}

Certain federal legislation grants administrative agencies authority to produce their own rules and procedure, which are published in the Code of Federal Regulations (C.F.R.). The C.F.R. is generally a relevant source in cases involving administrative law, such as employment and social security cases.

d. Case Law

When the legislature passes a law, the law may be presented for interpretation in a court case. When this happens, the sitting court must resolve any ambiguous or undefined statutory language, or any ambiguity in how the law must be applied to certain factual situations. If the court of last resort, here the United States Supreme Court, publishes an opinion interpreting a law, future Supreme Court and all lower court decisions must follow this interpretation until the United States Supreme Court overturns it, or the legislature passes a law specifically overturning that interpretation. If an intermediate court, here a United States Court of Appeals, publishes an interpretation, that court and all lower district courts must follow the interpretation until the Court of Appeals or the United States Supreme Court overturns it, or the legislature passes a law specifically overturning that interpretation.

It is important to note that not all pieces of a court opinion are controlling on future interpretations of a law. Some statements in a judicial opinion are known as “dicta.” “Dicta” are persuasive on future cases, but not binding. The “holding” is the only binding portion of the case. A holding is analogous to a conclusion or final answer, and is often signaled by language such as “we hold that ...” For more guidance on reading and understanding case law, see Chapter III, Section H(ii).

III. Sources of State Law

a. Constitution^{cxiii}

The current Ohio Constitution articulates the dominant laws of Ohio. Like the federal document, the Ohio Constitution creates a legislative, executive, and judicial branch. Also like the federal version, the Ohio Constitution grants citizens fundamental rights and protections. For example, the document grants freedoms of speech, free assembly, and education. It also grants Ohio citizens the right to a grand jury indictment for certain crimes, the right to counsel, and the right to notification of criminal charges, among others.

Unlike its federal counterpart, the Ohio Constitution contains a victim’s rights provision:

(A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

(1) to be treated with fairness and respect for the victim's safety, dignity and privacy; (2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings; (3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated; (4) to reasonable protection from the accused or any person acting on behalf of the accused; (5) upon request, to reasonable notice of any release or escape of the accused; (6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused; (7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim; (8) to proceedings free from unreasonable delay and a prompt conclusion of the case; (9) upon request, to confer with the attorney for the government; and (10) to be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

(D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.^{cxiv}

As noted above, this provision does not strip a criminal suspect of any right granted in the federal or state constitution, nor does it provide the survivor with a private right of action for abuses of the constitutional right to fair treatment and respect.

Provisions of the Ohio Constitution arise in sexual assault cases when the survivor pursues a criminal case, seeks to terminate the perpetrator's parental rights, or seeks other civil litigation against the perpetrator. Similar to the impact of the federal Constitution, the Ohio Constitution will largely serve to protect the perpetrator. For example, when the survivor submits a criminal report, law enforcement must follow Ohio Constitutional directives when investigating the crime. This will impact law enforcement decisions relating to suspect interviewing, obtaining warrants and conducting searches, assessing probable cause in charging decisions, and certain trial aspects.

The following table provides a basic reference for relevant provisions of the Ohio Constitution.

Section:	Protections:
Article I, Section 5 ^{cxv}	<ul style="list-style-type: none"> Provides for the Right to Trial by Jury
Article I, Section 9 ^{cxvi}	<ul style="list-style-type: none"> Prohibits Excessive Bail & Fines Prohibits Cruel & Unusual Punishment
Article I, Section 10 ^{cxvii}	<ul style="list-style-type: none"> Requires Grand Jury Indictments Provides Right to Assistance of Counsel Provides Right to Be Informed of Criminal Charges Provides Right to Examine Witnesses In-Person Prohibits Double Jeopardy Prohibits Compulsory Self-Incrimination
Article I, Section 10a ^{cxviii}	<ul style="list-style-type: none"> Grants Rights of Fairness, Dignity, Respect, Notice, Information, Access, Protection, and a Meaningful Role in the Criminal Justice Process to Victims of Crime.
Article I, Section 14 ^{cxix}	<ul style="list-style-type: none"> Prohibits Unreasonable Searches & Seizures Requires Probable Cause for a Search Warrant

Article I, Section 16 ^{cxx}	<ul style="list-style-type: none"> • Provides for Due Process
--------------------------------------	--

b. **Statutes**^{cxxi}

State criminal statutes are the specific laws passed by state lawmakers to criminalize certain behaviors. In Ohio, the state legislature drafts, debates, and passes laws for the governor’s signature. Once passed and signed, these laws are published in the Ohio Revised Code. The Ohio Revised Code is divided into 63 “Titles,” each governing a specific subject matter.^{cxxii} Information on how to read and understand a statute in the Ohio Revised Code is located in Chapter III, Section H, Reading and Understanding Statutes.

Generally, federal laws supersede any conflicting state laws. Additionally, a state statute may not contradict either the federal Constitution or the Ohio Constitution. Questions of whether a state statute violates either constitution are presented to the appropriate court to determine “constitutionality.” Federal statutes do not deal directly with physical crimes against the person. For that reason, Ohio statutes govern if the sexual assault occurred in Ohio and a survivor likely will not have to deal with questions of possible federal supremacy.

As state law governs sex crimes, survivors will inevitably interact with the Ohio Revised Code (O.R.C.) O.R.C. Title XXIX (29) lists criminal offenses, and sex offenses are listed in Chapter 2907.

c. **Regulations**^{cxxiii}

Specific Ohio laws grant administrative agencies authority to produce their own rules and regulations, which are published in the Ohio Administrative Code. The Ohio Administrative Code contains provisions regulating both the protocol for a post-sexual assault examination and evidence collection procedure and the procedure the medical facility or healthcare provider should use for applying for reimbursement for the cost of the examination and evidence collection procedure.^{cxxiv}

d. **Case Law**

New or ambiguous state laws may be presented to a state or federal court for interpretation. When this happens, the sitting court must resolve ambiguous or undefined statutory language, or any ambiguity in how the law must be applied to a certain set of facts. If the Ohio Supreme Court publishes an opinion interpreting a law, all lower Ohio courts are bound by that interpretation until the Ohio Supreme Court overturns it, or the Ohio legislature passes a law specifically overturning that interpretation. Courts in other states are not bound by this decision. Similarly, decisions from other states are not binding in Ohio, and are only persuasive to Ohio judges. If an Ohio Court of Appeals publishes an interpretation, all trial courts within its district borders are required to follow that interpretation until the Court of Appeals or Ohio Supreme Court overturns it. Other Ohio courts of appeals or trial courts in other districts are not bound by the interpretation. As in federal cases, it is important to note that only the holding of a state court case is controlling on future interpretations of the law. Holdings decide an issue in the case and are generally indicated by the wording, “we hold.” Other portions of the case, called “dicta,” are only persuasive. Dicta is typically judicial discussion or editorialized statements that relate to the subject matter of a case, but do not address an issue up for decision. Lawyers sometimes use dicta to support their arguments, as courts may view dicta as persuasive because a justice or judge took the time to memorialize it in a published opinion.

e. **Local Rules**

Every state and federal court is granted the authority to promulgate its own procedural rules. These rules address matters of the court, including deadlines, page limits, font requirements, required brief and motion sections, appearance and behavior standards in court, and other important requirements. Failure to adhere to these rules can lead to significant penalties, including the loss of the opportunity

to be heard in court. For that reason, it is critical for parties representing themselves to review local rules for the individual hearing court at every step of the case. For an example, see the local rules for the United States District Court for the Northern District of Ohio: <http://www.ohnd.uscourts.gov/home/rules-and-orders/local-criminal-rules/>. Generally, local rules are contained on a court's website. If the location is not clear, call the clerk of court for direction.

Subsection Divider Page & Tab
III-E

III- E

Criminal versus Civil Cases

Because terminology, standards, proceedings, and other mechanisms sometimes overlap, it is important for advocates and survivors to understand the ways in which criminal proceedings differ from civil cases. As an introductory matter, criminal and civil cases can be brought at the same time or different times. One does not bar the other. If you have questions about sequencing strategies, please consult an attorney licensed in Ohio.

I. Criminal Cases

Criminal cases focus on punishing defendants for violating criminal codes designed to discourage anti-social conduct. Statutes prohibiting these anti-social behaviors are codified and enforced by varying agencies. Statutes and sentencing guidelines regulate penalties and are designed to protect citizens from further crime, punish the defendant, and rehabilitate the defendant.^{cxv}

In a criminal case, the survivor of the criminal conduct is not a party and cannot bring their own case. Instead, the state investigates the crime through law enforcement agencies and brings a criminal suit through a prosecutor. The prosecutor serves as the state's attorney and makes all charging, plea, and trial strategy decisions. Though a survivor is guaranteed certain rights, described in more detail in Section III-K, *Crime Victim's Rights*, a survivor may not impede a criminal investigation or control any aspect of the prosecution.

Because criminal cases involve the defendant's potential loss of constitutional rights and protections, the state has the highest burden of proof. This burden is called "Beyond a Reasonable Doubt" (BRD), and requires the state to convince a reasonable juror that there is not even a shadow of a doubt that the defendant committed the offense. This burden of proof is extremely difficult to meet, especially in cases where physical proof is limited.

II. Civil Cases

Civil cases provide private citizens the opportunity to bring a suit (i.e. "sue" another party) on their own behalf. Civil actions address non-criminal harm caused by one citizen against another. A civil case

Who is the Reasonable Person?

The civil legal landscape is littered with the term "reasonable person." In relation to sexual violence cases specifically, this term comes into play in tort cases. In tort, the "reasonable person" is a construct developed to illustrate how a "typical person, with ordinary prudence would act in certain circumstances." The jury must measure the actions of a civil defendant against the expected behaviors of a "reasonable person" with the same knowledge, information, or experience as the defendant in the circumstances at issue. FindLaw, *Standards of Care & the Reasonable Person* (2013), available at <http://injury.findlaw.com/accident-injury-.law/standards-of-care-and-the-reasonable-person.html>.

does not require a criminal conviction, or any act that could be construed as violating the law. Instead, a civil case requires an alleged violation of a duty of care.^{cxvii} A "duty of care" is commonly explained as the standard of attention and caution the public expects the average "reasonable" person to exercise in a given situation. For example, a teacher's "duty of care" provides that a teacher should not act in a manner that would foreseeably lead students to injury, either by

direct action or omission.^{cxxvii} Fulfilling this “duty of care” would include designing lessons involving only age-appropriate materials (i.e. not allowing preschoolers to use adult scissors), taking field trips only with the ratio of chaperones needed for the age group (i.e. not taking 2nd grade students to the zoo with one chaperone to 15 students), and maintaining adequate supervision of students during recess periods (i.e. going outside with the students unless other assigned employees take that role, keeping students on school grounds in a playground designed to give them room to exercise but remain in the visibility of chaperones). These duties are often created by the common law (court opinions), and are later codified in non-criminal statutes. State and federal court systems have separate systems and procedures for handling civil cases. As such, most judges hear both types of cases.

Instead of resulting in punishment and/or rehabilitation for the perpetrator, such as imprisonment or intervention in lieu of conviction, the goal of a civil lawsuit is to compensate the plaintiff for harm suffered. Though injunctions and cease and desist orders may be issued, monetary compensation is generally the only remedy available. Monetary awards are supposed to mirror the actual harm suffered, meaning that jurors are tasked with analyzing medically-documented physical harm and other forms of suffering and producing an amount of money they feel reflects that suffering. Sometimes, punitive damages are also awarded with the intent of deterring future harm. Punitive damages can be high, but the Supreme Court has cautioned that when punitive damages are too substantial, they likely violate the defendants’ rights. Specifically, the Court stated “few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process.”^{cxxviii} The table below illustrates the difference between a single-digit and double-digit ratio.

Single-Digit Ratio	Double-Digit Ratio
<ul style="list-style-type: none"> • Compensatory Damage Award: \$20,000.00 • Punitive Damage Award: \$60,000.00 • Total Award: \$80,000.00 • Ratio: 3/1 (\$20,000 x 3 = \$60,000) 	<ul style="list-style-type: none"> • Compensatory Damage Award: \$20,000.00 • Punitive Damage Award: \$300,000.00 • Total Award: \$320,000.00 • Ratio: 15/1 (\$20,000 x 15 = \$300,000)
Triple-Digit Ratio	
<ul style="list-style-type: none"> • Compensatory Damage Award: \$20,000.00 • Punitive Damage Award: \$4,000,000.00 • Total Award: \$4,020,000.00 • Ratio: 200/1 (\$20,000 x 200 = \$4,000,000) 	

The Ohio Revised Code further caps the amount of punitive damages that may be awarded in a civil case. If the perpetrator is a small employer or an individual,

the court shall not enter the judgment for punitive or exemplary damages in excess of the lesser of two times the amount of the compensatory damages awarded to the plaintiff from the defendant or ten percent of the employer’s or individual’s net worth when the tort was committed up to a maximum of three hundred fifty thousand dollars

. . . .^{cxxix}

This means an individual perpetrator will not have to pay more than two times the amount of the other damages awarded in the case or 10% of their net worth, whichever is the smaller amount. Because civil cases do not deal with constitutional rights or freedoms, the burden of proof is lower than in criminal cases. The party bringing suit, the plaintiff, must prove that the defendant violated the specified duty by a Preponderance of the Evidence (PPE). This level requires only that a reasonable juror find it more likely than not that the alleged violation occurred. Some cases, particularly those

involving family law, use the Clear and Convincing Evidence (CCE) standard, which falls between the BRD and PPE burdens, and requires that a reasonable juror find it substantially more likely than not that an alleged violation occurred.

In civil cases, a sexual assault is called a tort. Torts include assault, battery, and intentional infliction of emotional distress, among others. For a more detailed discussion of tort remedies, see Volume II. Tort remedies provide a potential remedy for survivors whose perpetrators were not convicted, or for those that wish compensation for their harm in addition to a successful conviction. Unlike a criminal case, a plaintiff steers the lawsuit and can choose if and when to settle with the defendant, and may drop the case at any time after filing the complaint. However, survivors seeking to drop a case should carefully review their attorney fee agreement before doing so, to avoid any possible related costs. Please note that torts for sexual battery carry an extremely short statute of limitations, and survivors wishing to pursue civil litigation should not wait until the conclusion of the criminal matter to explore this option. For more information on civil statutes of limitations, see Chapter IV.

	Criminal	Civil
Purpose	To penalize violations of criminal laws, to rehabilitate the defendant, to discourage further criminal activity by the defendant or others, and to protect citizens.	To settle disputes between private citizens and compensate plaintiffs for property or individual damage. Damage includes both physical and psychological harm.
Parties	* There is no plaintiff in a criminal case, but the prosecutor brings the case against the defendant. Defendant: The person accused of violating the law	Plaintiff: The private party alleging harm. Defendant: The private party accused of violating a duty of care and causing said harm.
Counsel	* The state is represented by the prosecutor. The prosecutor only represents the interests of the state, not the wishes or interests of the individual crime victim. Defendant: Defendants are able to represent themselves pro se (without an attorney), but are also entitled to the assistance of counsel. Defendants that meet certain poverty criteria are provided an attorney paid for by the state.	Plaintiff: The plaintiff hires representation for their interests or may appear pro se. Defendant: The defendant may appear pro se or hire representation for their interests.
Sources of Law	Legislatures draft statutes and ordinances based on desired behaviors. Anti-social behaviors are codified into specific violations. In Ohio, statutes are found in the Ohio Revised Code.	Laws have developed in civil court to enforce standard duties of care that citizens have to one another. In addition, civil cases involve administrative questions like employment discrimination allegations and social security decision appeals.

		These laws appear in statute form or administrative codes, but generally are first developed in common law (case law based on precedent).
Penalties	A defendant may be imprisoned, placed on probation or extended supervision, or monitored by device. They may also be required to pay a fine or restitution. Because these penalties may involve the deprivation of constitutionally guaranteed rights and freedoms, the standard of proof is higher than that in a civil court.	Defendants may be required to cease certain activities, or more commonly, pay monetary damages to the plaintiff. The amount of monetary damages is designed by the jury to “make the plaintiff whole.” Punitive damages may also be awarded in some cases dealing with especially egregious conduct. These damages are meant to punish the perpetrator.
Burden of Proof	“Beyond a Reasonable Doubt”: This burden is on the state and means that a reasonable juror must not have a shadow of a doubt that the state has proved its case. This burden is extremely high, and is designed to protect the constitutional rights of the accused.	<p>“Preponderance of the Evidence”: The plaintiff must prove that the allegations are more likely than not true;</p> <p>OR</p> <p>“Clear & Convincing Evidence”: This burden lies in between BRD and PPE, and is thus considered a medium level of proof.</p>

Subsection Divider Page & Tab
III-F

III-F

Felonies & Misdemeanors

Ohio crimes are classified by severity into two categories: felonies and misdemeanors.^{cxxx} Advocates and survivors should familiarize themselves with these categories early in the reporting process, as classification as a felony or misdemeanor impacts sentencing and the perpetrator's ability to later have criminal records sealed or expunged.

Sometimes, a criminal statute provides sentencing guidelines for the specific crime prohibited within. Generally, however, sentences are guided by the crime's classification. The charts below outline Ohio misdemeanors and felonies by class, specifying the lengths of confinement and fines associated with each class. Fines are permissible in addition to confinement or as an individual penalty without confinement.

Two important distinctions are the length and location of possible incarceration. A felony conviction or plea can lead to a state prison sentence, a misdemeanor conviction or plea can lead to a county jail sentence. Misdemeanor jail sentences may not exceed one year. Felony prison sentences may exceed one year. Note that judges have the discretion to select whatever length of incarceration or fine amount they deem appropriate within the range allowed by statute. Judicial discretion in sentencing is discussed more thoroughly in Chapter 3, Section T.

I. Sentencing

Misdemeanors

Category	Maximum Length of Confinement	Maximum Fine	Examples
First-Degree Misdemeanor ^{cxxxi}	180 Days in Jail	\$1,000	2903.211 Menacing by Stalking ^{cxxxii} 2905.05 Criminal child enticement ^{cxxxiii}
Second-Degree Misdemeanor ^{cxxxiv}	90 Days in Jail	\$750	2921.31 Obstructing Official Business ^{cxxxv}
Third-Degree Misdemeanor ^{cxxxvi}	60 Days in Jail	\$500	2907.06 Sexual Imposition ^{cxxxvii}
Fourth-Degree Misdemeanor ^{cxxxviii}	30 Days in Jail	\$250	2907.09 Public Indecency ^{cxxxix}
Minor Misdemeanor ^{cxl}	No Jail Sentence	\$150	2917.11 Disorderly Conduct ^{cxli}

Felonies

Category	Possible Length of Confinement	Maximum Fine	Examples
Unclassified Felony	Specific to crime: 15 Years in Prison to Death ^{cxlii}	Not Specified	2903.01 Aggravated Murder 2903.02 Murder
First-Degree Felony ^{cxliii}	3 to 11 Years in Prison	\$20,000	2907.02 Rape 2905.01 Kidnapping ^{cxliv} 2905.32 Trafficking in Persons

Second-Degree Felony ^{cxlv}	2 to 8 Years in Prison	\$15,000	2903.11 Felonious Assault ^{cxlvi} 2905.02 Abduction with sexual motivation ^{cxlvii}
Third-Degree Felony ^{cxlviii}	9 Months to 5 Years in Prison	\$10,000	2905.02 Abduction ^{cxlix} 2907.03 Sexual Battery ^{cl}
Fourth-Degree Felony ^{cli}	6 to 18 Months in Prison	\$5,000	2907.04 Unlawful sexual contact with a minor ^{clii} 2907.05 Gross and sexual imposition ^{cliii}
Fifth-Degree Felony ^{cliv}	6 Months to 1 Year in Prison	\$2,500	2911.13 Breaking and Entering

II. Sealing & Expungement

In Ohio, persons can apply to have record of certain violations sealed or expunged. Once the record is sealed, it is as if it never happened. This means that record of certain offenses will not be visible to the general public, judges making sentencing decisions, or employers screening job applicants. Once an applicant's record is sealed, the applicant does not have to disclose their conviction or arrest when applying for most jobs. But, the Ohio Bureau of Criminal Identification and Investigation (BCI) maintains a record of all sealed criminal records. Further, it is important to remember that any private entity that previously obtained knowledge of the record may still display that record online or in other formats.

Sealing versus Expungement

After a not guilty finding, dismissal, no bill checklist, or final discharge^{clv}, an applicant can request to have their record **sealed**.^{clvi} When a record is sealed, it is removed and no longer available to the public. Accordingly, members of the general public and potential employers will have no access and thus no indication that the crime occurred when making hiring or other decisions. However, the physical and electronic records still exist.

With **expungement**, the crime record is completely destroyed, deleted and erased from all public records so that it is “permanently irretrievable.”^{clvii} In Ohio, complete expungement is available for juvenile records.^{clviii}

Though the terms “seal” and “expunge” are used interchangeably, adult records are not actually eligible for expungement. Instead, they are sealed and courts retain access to the sealed records.

Sealing	Expungement
The crime record is removed from public record. Members of the general public and potential employers will have no access and	The crime record is completely destroyed and removed and/ or deleted from all public records. This is only available for juvenile records in Ohio.

thus no indication that the crime occurred when making hiring or other decisions. Note: The act of court sealing does not remove the record from private entities or persons.	Note: The act of court sealing does not remove the record from private entities or persons.
--	---

Waiting Period

If the applicant was found not guilty or charges are dismissed, the applicant can immediately apply for sealing.^{clx} However, if the applicant plead guilty or was convicted, they must adhere to a waiting period.^{clx} The waiting period varies depending on the type of conviction and the number of convictions.^{clxi}

Persons with one felony plea/conviction may apply to have that record sealed three years after the case's final discharge. Persons with two felonies may apply to have their record sealed four years after the later case's final discharge. Persons with three, four, or five felony pleas/convictions must wait five years from the last case's final discharge to apply.^{clxii}

Eligibility

Eligibility depends on the number of felony and misdemeanors on the applicant's record. In Ohio, there are two distinct types of eligibility. First, to be eligible, the applicant must not have more than five felonies, as long as they are fourth- or fifth-degree felonies.^{clxiii} In addition, an applicant can have an unlimited number of misdemeanors expunged.^{clxiv} Second, an applicant can also be eligible if the applicant does not have more than one felony conviction, not more than two misdemeanor convictions, or not more than one felony conviction and one misdemeanor.^{clxv}

Felony and misdemeanor convictions from other states count in an applicant's total.^{clxvi} Minor misdemeanors never count toward this total. Certain offenses will never be sealed.^{clxvii}

Eligibility Method A^{clxviii}

- Applicant has never been convicted of/plead guilty to an offense of violence
- Applicant has never been convicted/plead guilty to of a 1st, 2nd, or 3rd degree felony
- Applicant has never been convicted of/plead guilty to a "sex offense"
- Applicant has never been convicted of/plead guilty to an "offense of violence"
- Applicant CAN have any number of misdemeanors pleas/convictions and still be eligible under this method

Eligibility Method B

- 2 Felonies = Ineligible
- 1 Felony + 1 Misdemeanor = Eligible
- 1 Felony + 2 or More Misdemeanors = Ineligible
- 3 or More Misdemeanors = Ineligible
- 2 Misdemeanors = Eligible
- Any number of Minor Misdemeanors = Eligible

What Records can be Expunged?

If the applicant meets the above listed requirements, the record of ANY offense can be sealed EXCEPT the following:

- Convictions/Guilty Pleas with a mandatory prison term
- 1st or 2nd degree felonies
- Traffic Offenses
- 2903.01 Aggravated murder, 2903.02 Murder, 2903.03 Voluntary manslaughter, 2903.04 Involuntary manslaughter, 2903.11 Felonious assault, 2903.12 Aggravated assault, 2903.13 Assault, 2903.15 Permitting child abuse, 2903.21 Aggravated menacing, 2903.211 Menacing by stalking, 2905.01 Kidnapping, 2905.02 Abduction, 2905.11 Extortion, 2905.32 Trafficking in persons, 2909.02 Aggravated arson, 2909.03 Arson, 2911.01 Aggravated robbery, 2911.02 Robbery, 2911.11 Aggravated burglary, 2911.12 Burglary, 2919.22(B)(1)-(4) Endangering children, 2921.03 Intimidation, 2921.04 Intimidation of attorney, victim or witness in criminal case or delinquent child action proceeding
- Felony classifications or 1st degree misdemeanor classifications of the following: 2903.22 Menacing, 2903.34 Patient abuse or neglect, 2909.24 Terrorism, 2919.25 Domestic violence
- Felony classifications of 2903.13 Assault, 2917.01 Inciting to violence, 2917.03 Riot, 2917.31 Inducing Panic
- 2907.02 Rape, 2907.03 Sexual battery, 2907.04 Unlawful sexual conduct with a minor, 2907.05 Gross sexual imposition, 2907.06 Sexual Imposition, 2907.07 Importuning, 2907.321 Pandering obscenity involving a minor, 2907.322 Pandering sexually oriented matter involving a minor, 2907.323 Illegal use of a minor in nudity-oriented material or performance
- The following if the victim was under the age of 18: 2907.08 Voyeurism, 2907.09 Public indecency, 2907.21 Compelling prostitution, 2907.22 Promoting prostitution, 2907.23 Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another, 2907.31 Disseminating matter harmful to juveniles, 2907.311 Disseminating matter harmful to juveniles, 2907.32 Pandering obscenity, 2907.33 Deception to obtain matter harmful to juveniles

What is the difference?

Since the legislature changed sealing laws to add Eligibility Method A, sealing and expungement rules are increasingly difficult to navigate. If you are asking yourself, “Why is there a Method B?” or “Is there any difference?”, you are not alone. Generally, Method A is an option for persons who have multiple records but no offenses of violence. Method B is available for persons who have a record of a 2nd, 3rd, or 4th degree misdemeanor Offense of Violence (most Offenses of Violence are felonies or 1st degree misdemeanors), but have overall less total convictions or guilty pleas on their record. Ultimately, expungement and sealing questions are very complicated and a survivor seeking advice for themselves or to better understand sealing proceedings involving their case should contact an attorney.

Considerations

- The Ohio legislature is considering a possible amendment to the statute. Senate Bill 160 would, if passed, amend sections 2923.125, 2953.32, 2953.321, 2953.33, 2953.35, and 2953.52 and enact section 2953.39 of the Revised Code to make all convictions sealable for first time offenders, *with exceptions*. However, it proposes significant waiting periods for applicants. In addition, it will eliminate the waiting period for sealing after a no bill checklist.
- The state (prosecutor) has the option to object to an applicant's request to seal a record.^{clxix} If this occurs, the court must weigh the interests of the person in having the records sealed against the legitimate needs of the government to maintain the records.
- The fee to file for the sealing of a record is not set forth in the Ohio Revised Code. Therefore, some clerks may charge a fee to file a motion to seal a record. In many instances the fee may be waived by motion or request.
- Each court has its own set of rules for filing an application to seal or expunge a record.

III. Impact on Location of Trial

As noted in Chapter III-C, *State & Federal Courts*, individual courts only have jurisdiction (the power to hear a case) over certain cases^{clxx}. Municipal courts preside over misdemeanor and municipal ordinance violation cases. Common pleas courts preside over felony cases. The specific court will generally be determined by the location of the crime.

Example: Perpetrator commits a violation of 2905.05 – Criminal Child Enticement in Cleveland, Cuyahoga County, Ohio. ORC 2905.05 is a misdemeanor. The case is tried in the Cleveland Municipal Court.

Example: Perpetrator commits a violation of 2907.03 – Sexual Battery in Cleveland, Cuyahoga County, Ohio. ORC 2907.03 is a felony. The case is tried in the Cuyahoga County Court of Common Pleas.

	Municipal Courts	Common Pleas Courts
Jurisdiction Over	<ul style="list-style-type: none">• Misdemeanors committed within the court's jurisdiction• Violations of municipal ordinances• Preliminary hearings in felony cases^{clxxi}	<ul style="list-style-type: none">• Felonies committed within the court's jurisdiction^{clxxii}

Advocate Tip!

Every state has its own unique court system and crime classification system. If you are involved in a matter governed by another state's laws or are using this as a general reference, please reach out to the legislative reference agency or sexual assault agency/rape crisis center in the relevant state.

Subsection Divider Page & Tab
III-G

III-G

Criminal Statutes of Limitations

A statute of limitations (“SOL”) is the period of time during which the prosecution may bring a case against an alleged perpetrator.^{clxxiii} The SOL typically starts to run when the crime occurs, ending at a time specified by state law. Once the SOL has ended, the prosecution is barred from bringing a case against the perpetrator. SOLs are used to prevent fraudulent or very old claims after evidence has been lost or destroyed and victims and other material witnesses have died, lost their memories, or otherwise become unavailable. SOLs are also used to promote speedy and efficient resolution of criminal matters.

When discussing SOLs, attorneys and judges often use the words “lapse,” and “toll.”

- **Lapse** = the SOL has ended and the prosecution is barred from bringing a case.
- **Toll** = the SOL has paused.

Advocate Tip!

It may help to explain that the SOL operates like a timer. The timer starts counting down when the crime occurs. If something tolls the SOL, the timer pauses. When the tolling stops, the timer resumes counting down so that the prosecution has the total amount of time allowed by statute

Ohio’s criminal SOLs are set forth in O.R.C. 2901.13, *Statutes of limitations for criminal offenses*. This statute proscribes standard SOLs for most crimes by felony or misdemeanor classification, setting forth a six (6) year SOL for felonies^{clxxiv}, a six (6) month SOL for minor misdemeanors^{clxxv}, and a two (2) year SOL for non-minor misdemeanors^{clxxvi}. O.R.C. 2901.13 then assigns longer SOLs to a number of specific crimes, most involving death, terrorism, or acts of sexual violence.

I. When does the SOL generally begin to run?

In Ohio, a criminal SOL begins running the moment the crime occurs. If any element of the crime is part of a continuing or repetitive act, the SOL does not begin to run until the final continuing or repetitive act occurs.^{clxxvii}

Example: Survivor is raped on July 15, 1995. The SOL for O.R.C. 2907.02, Rape, is 20 years. The SOL timer begins running on July 15, 1995 and ends on July 15, 2015.

Example: In order to commit fraud, a perpetrator stole data and misrepresented his identity to obtain monthly Social Security benefits on July 15, 1995. He repeated his crime once per month until May 15, 2000. The SOL timer begins running on May 15, 2000.

II. What if the survivor was a child when the crime occurred?

Special SOLs apply to crimes against persons under the age of eighteen (18) and developmentally or physically disabled persons under the age of twenty-one (21). When the survivor was a minor at the time the crime occurred, the SOL timer begins to run:

- when the survivor reaches the age of majority; OR
- a public children’s services agency in the county where the survivor resides or the crime occurred is notified that the crime is known, suspected, or believed to have occurred; OR
- a peace officer in the county where the survivor resides or the crime occurred is notified that the crime is known, suspected or believed to have occurred.^{clxxviii}

For the purposes of 2901.13, “age of majority” means eighteen (18) or twenty-one (21) if the person has certain developmental or physical disabilities.^{clxxix} “Peace officer” means, in the basic sense, a law enforcement official. The Ohio Revised Code provides a substantial list of positions classified as peace officers in O.R.C. 2935.01(B).

When determining if an SOL has lapsed, questions may arise about whether persons told of the abuse qualified as peace officers. Questions may also arise about whether the minor understood that they had the option to report but chose not to. These issues are complex, and a survivor seeking clarification relating to their case should speak with a licensed attorney as soon as possible.

III. Once it starts running, does the SOL ever pause?

In some cases, the behavior of the perpetrator pauses the SOL. Attorneys and courts call this “tolling.” Tolling an SOL is comparable to stopping a timer. In Ohio, criminal SOLs toll in the following circumstances:

- The perpetrator purposely avoids prosecution by leaving the state or concealing their identity in a manner that makes it impossible to bring a case against them.^{clxxx}

Example: Perpetrator rapes an adult survivor on July 1, 2010. Suspecting the survivor will report the crime, the perpetrator flees Ohio to avoid prosecution on July 1, 2012. They are discovered and return to Ohio on July 1, 2015. The SOL for rape is 20 years. The SOL ran from July 1, 2010 to July 1, 2012, a total of 2 years. Starting July 1, 2012, the statute tolls until they return on July 1, 2015. If the perpetrator had never fled, the SOL timer would run out on July 1, 2030. However, because the perpetrator fled for three years, those three years do not count against the SOL. The new SOL timer runs out on July 1, 2033.

Advocate Tip!

SOL tolling is extremely complicated. Survivors should not give up on reporting because they believe the SOL has run. Similarly, they should not delay reporting under a possibly mistaken belief that they have more time. If a survivor wishes to report, encourage them to speak to an attorney about SOL issues or report directly law enforcement as soon as they decide to proceed.

NOTE: Action taken by the survivor cannot toll the SOL.

IV. What legal action must the Prosecutor take before the SOL lapses?

As mentioned above, the SOL is the period of time during which a prosecutor may bring, or commence, a case against the perpetrator. O.R.C. 2901.13 specifically states:

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.

This effectively means that the prosecutor must lawfully notify the perpetrator of the case against them through a lawful arrest, the issuance of a valid warrant, or the issuance of an indictment before the SOL runs. A case does not have to be fully tried before the SOL runs out; it merely needs to be initiated through the above means.

V. Crime-Specific Statutes of Limitations

Note that the following SOLS also apply to an attempt to commit, a conspiracy to commit, or complicity in committing any of the below-listed criminal acts.

Unless O.R.C. 2901.13^{elxxxi} assigns a specific SOL:

Felonies	6 Years
Misdemeanors	2 Years
Minor Misdemeanors	6 Months

Crime-specific SOLS assigned by O.R.C. 2901.13:

Kidnapping, 2905.01	20 Years
Trafficking in Persons, 2905.32	20 Years
Rape, 2907.02	25 Years (or 5 Years After DNA Identifies Perpetrator)
Sexual Battery, 2907.03	25 Years (or 5 Years After DNA Identifies Perpetrator)
Unlawful Sexual Conduct with a Minor, 2907.04	20 Years
Gross Sexual Imposition, 2907.05	20 Years
Compelling Prostitution, 2907.21	20 Years

Subsection Divider Page & Tab
III-H

III-H

Reading & Understanding Statutes

Statutes can be intimidating to the untrained eye. The following tips are meant to reduce confusion and provide information about the layout and contents of the Ohio Revised Code.^{clxxxii} Information about specific ORC sections follows in Chapter III, Section I – *Substance: Ohio Sex Offense Laws*. This subchapter is not meant to serve as legal advice. If a statute impacts a case involving a survivor with whom you’re working, you should encourage the survivor to seek guidance from a licensed attorney.

I. Code Organization

The Ohio Revised Code (ORC) is organized into sixty-three (63) titles. Each title is comprised of chapters. Each chapter contains sections, which we commonly call statutes.

- I. Title
 - A. Chapter
 - 1. Section

Sex crimes are contained in Title 29, Chapter 2907:

- II. Title XXIX Crimes – Procedure
 - A. Chapter 2901 General Provisions
 - B. Chapter 2903 Homicide and Assault
 - C. Chapter 2905 Kidnapping and Extortion
 - D. Chapter 2907 Sex Offenses
 - 1. Section 2907.01 Sex offenses general definitions.
 - 2. Section 2907.02 Rape.
- (Title 29 continues through Chapter 2981; Chapter 2907 continues through Section 2907.42.)

II. Chapter Organization

Chapters begin with a definitions section. Though some individual sections provide their own definitions, any term not defined within a specific statute will use the definitions provided in the first section. For example, Chapter 2907 – Sex Crimes begins with Section 2907.01 – Sex Offenses General Definitions. After the definition section, chapters contain a series of sections prohibiting various crimes that fall under that category. These sections are listed in order of the crime’s perceived severity, starting with the most serious crimes and ending with the least serious crimes. Throughout this sequence, the chapter will note the presence of a former section and list the date it was repealed.

- I. Chapter 2907: Sex Offenses
 - E. 2907.01 Sex offenses general definitions.
 - F. 2907.02 Rape.
 - G. 2907.03 Sexual battery.

(Chapter 2907 continues through Section 2907.42.)

III. Section Organization

Sections start with the statute number and title. It is then followed by sections and subsections. For Example:

I. Statute Number & Title

H. Section (A)

1. Subsection (1)

a) Part (a)

Bottom: Effective & Amendment Dates.

2907.02 Rape. [Significant Portions Cut for Structural Example]

(A)

(1) No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when any of the following applies:

(a) For the purpose of preventing resistance, the offender substantially impairs the other person's judgment or control by administering any drug, intoxicant, or controlled substance to the other person surreptitiously or by force, threat of force, or deception.

(b) The other person is less than thirteen years of age, whether or not the offender knows the age of the other person.

(c) The other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person's ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age.

(2) No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force.

(B) Whoever violates this section is guilty of rape, a felony of the first degree. If the offender under division (A)(1)(a) of this section substantially impairs the other person's judgment or control by administering any controlled substance described in section [Remainder Omitted for Example]

...

Effective Date: 06-13-2002; 01-02-2007; 2007 SB10 01-01-2008

IV. How to Read a Statute

Statutes are not self-contained. Each relies on many other parts of the code, and it is important to think of each statute as one piece of a comprehensive system. The following sequence of activities will help you review your statute of interest. While you are learning, it is best to follow them in the order presented.

1. **FIRST READ:** Read through the section (statute) without stopping, so that you are aware of the framework.



2. **TAKE A STEP BACK FOR CONTEXT:** Each chapter has its own table of contents. Review this table to get an idea of where your statute of interest falls in order of criminal severity, what other sections your statute of interest may refer to, and get greater insight into the chapter's goals.



3. **REVIEW THE CHAPTER DEFINITIONS:** Every chapter contains a section defining terms for the entire chapter. It is critical to read this chapter thoroughly, reviewing every definition. Take notes while doing this – a chapter may impose a very narrow definition for a commonly-used term. Not knowing the proper usage can cause mistakes about the content of a statute.



4. **SECOND READ:** This time, stop along the way and pay very close attention to the following components:
 - Determine if a section has its own definitions. Some sections define their own terms, due to inapplicability to the chapter as a whole, later amendments not impacting the definitions section, or other reasons. Make sure to double check against the definitions section for context. If different, use the definition provided in the section itself.
 - The presence of the following words, as they strongly impact or change the meaning of a statute:
 - **MAY, SHALL, MUST:** explains whether the section grants discretion or mandates action.
 - **AND, OR:** if at the end of a list, these words will indicate whether all elements of the list are included/required or only one element is needed/required.
 - **IF, UNLESS, ONLY, UP TO, UNDER, OVER, MORE THAN, LESS THAN:** explains exceptions related to timing, amounts, or another section-specific topic.
 - Note words that you do not know or understand. Look for a definition or, if you cannot find one, look the word up in a general dictionary and try to understand the word in context. If you are unsure, you may contact the Ohio Legislative Reference Service Commission.



- Read through any cross-referenced statute fully. If the reference is to an entire chapter, read through the headings and definitions section – you do not need to read the entire chapter, just make sure you are comfortable with the context and how it applies to your statute of interest.



5. THIRD READ: Read the chapter from start to finish one more time.

V. Sources

- The Supreme Court of Ohio, *Legal Information Series: Ohio Legal Research*, https://www.supremecourt.ohio.gov/Publications/lib_series/9.pdf.
- Texas Legislative Counsel for the 84th Legislature, *Reading Statutes & Bills*, <http://www.tlc.state.tx.us/pubslegref/readingabill.pdf>.

Subsection Divider Page & Tab
III-I

III-I(i)

Substantive Law Part One – Common Components of Ohio Statutes

“Substantive law” refers to the laws that prohibit behaviors and the penalties assigned to violations. Later on, Chapter III, Section J will unpack procedural laws – those that regulate how violations are investigated, tried, and enforced. In examining Ohio’s substantive laws, this section highlights four important items to look for in every statute: (1) the prohibited actions; (2) the culpability requirement; (3) general and affirmative defenses; and (4) sentencing specifications. It is important to know about these components, as they are heavily involved in law enforcement requests for evidence and prosecutorial decision making regarding lesser included offenses and plea deals.

I. Mens Rea & Actus Reus

Each criminal statute is divided into elements. Elements relate either to “mens rea” or “actus reus.” Mens rea (mens ray-uh) refers to the intent to commit a criminal act. Actus reus (act-us ray-us) refers to the commission of a criminal act itself. Almost every crime requires both mens rea and actus reus, more simply, there is no crime without a guilty act and a guilty mind.



a. Actus Reus – “Guilty Act”

A crime does not occur in Ohio unless the perpetrator commits either a voluntary act or an omission to perform a duty they are capable of performing.

b. Mens Rea – “Guilty Mind”

To qualify as a crime, almost every act or omission must be done purposefully, knowingly, recklessly, or negligently. If the crime is classified as a strict liability crime, the act alone establishes mens rea. Generally, the mental state is mentioned in the statute. The chart below lists the five Ohio mental states involved in criminal statutes.^{clxxxiii} Prosecutors or defense attorneys may also refer to a statute’s named mental state as the intent requirement or culpability requirement.

Purposefully clxxxiv	<ul style="list-style-type: none">It is the perpetrator’s specific intention to cause a certain result. Example: Murder, Theft OffensesORIt is the perpetrator’s specific intention to perform an unlawful act, regardless of the desired final result. Examples: Battery, Rape
Knowingly clxxxv	<ul style="list-style-type: none">A perpetrator acts knowing that a prohibited result will probably occurORA perpetrator acts knowing that their conduct will probably be of a prohibited nature.• Knowledge = 1) awareness that circumstances probably exist, 2) subjective belief that result will occur or conduct is prohibited and fails to inquire about the prohibition OR purposefully avoids learning about such prohibition.

Recklessly clxxxvi	<ul style="list-style-type: none"> • A perpetrator, with heedless indifference to the consequences, disregards 1) a substantial and unjustifiable risk that their conduct is likely to cause a certain result or is likely to be of a certain nature OR 2) a substantial and unjustifiable risk that such circumstances are likely to exist.
Negligently clxxxvii	<ul style="list-style-type: none"> • A perpetrator fails to perceive or avoid a risk that 1) the person's conduct may cause a certain result or may be of a certain nature OR 2) certain circumstances may exist. • The failure to perceive or avoid risk must stem from a failure to take due care or follow general societal safety or decency customs.
Strict Liability clxxxviii	<ul style="list-style-type: none"> • No specific intent is required. A violation of a strict liability crime speaks for itself.
Defaults clxxxix	<p>Every statute enacted after March 23, 2015 is required to proscribe a mental state. For statutes enacted before that date that do not name a mental state, the following principles apply:</p> <ul style="list-style-type: none"> • If the crime appears to be a strict liability crime, strict liability applies. • If the crime does not appear to be strict liability crime, recklessness applies.

II. Affirmative Defenses

General Failure-of-Proof Defenses: A prosecutor is constitutionally mandated to prove all elements of a criminal offense beyond a reasonable doubt. Generally, a prosecutor brings forth evidence to establish all elements, and a perpetrator defends their case by presenting evidence that disproves one or more of those elements. For example, if a perpetrator is charged with (B) of 2907.05 Gross sexual imposition, the prosecution must prove beyond a reasonable doubt that the perpetrator knowingly touched the genitalia of a person younger than 12 with an intent to [abuse or humiliate] the survivor.^{cxc} The perpetrator could attempt to disprove the element that they intended to [abuse or humiliate] the survivor by presenting evidence that they were merely helping the child into a clean outfit at the parent's instruction. After the perpetrator presents such evidence, the prosecution must prove beyond a reasonable doubt that the perpetrator's evidence fails to call reasonable doubt to the prosecution's case. This type of defense **IS NOT** provided for in O.R.C. statutes, and will generally not appear in the Chapter III, Section I(c) statutory tables.

Affirmative Defenses: In the criminal context, affirmative defenses are generally considered to be those uniquely within a perpetrator/defendant's scope of knowledge. Unlike a general failure-of-proof defense, the legislature drafts affirmative defenses directly into statutes. Also unlike a general defense, which relies on the state failing to prove every element, a perpetrator has the burden of alleging an affirmative defense and proving each element of the defense beyond a reasonable doubt.

For example, ORC 2907.19 – Commercial Sexual Exploitation of a Minor makes it a crime to obtain advertising space for the display of an advertisement for sexual activity for hire, if that advertisement contains the image of a minor. ORC 2907.19 provides that “it is an affirmative defense that” the perpetrator made a reasonable bona fide effort before purchasing the advertisement space to ascertain the age of the victim by requesting a driver's license . . . government issued identification, provided that the defendant kept a copy or other proof of the identification and can produce such record as

evidence.^{cxi} Therefore, a perpetrator may pursue this affirmative defense by alleging and proving that they asked the survivor for a driver's license, the license stated that the survivor was over the age of 18, and the perpetrator made a copy and produces that copy as evidence.

The term "burden" calls into question the desirability of bringing forth an affirmative defense. However, defense attorneys make frequent use of affirmative defenses. Instead of picturing an affirmative defense as an added laborious effort, think of it as an additional opportunity. In practice, an affirmative defense functions as a way for a defendant to bring forth another fact to be proven. When the perpetrator brings this forward, the prosecution must disprove it. If the prosecution cannot, the claim against the perpetrator must be dismissed. In addition, it helps to remember that defense attorneys are bound by the Ohio Rules of Professional Conduct, which require zealous advocacy on behalf of their clients. Therefore, when an affirmative defense is statutorily offered and is a factual reality in the perpetrator's case, the defense attorney must raise it to comply with their ethical responsibilities.

III. Sentencing Variations & Specifications

Variations Generally: When you review statutes, you will quickly observe that more severe subsections carry more severe penalties. For example, section (A)(1) of 2907.05 Gross Sexual Imposition prohibits a perpetrator from using forcible compulsion to cause an adult survivor to have

sexual contact and carries a sentencing recommendation of 6-18 months in prison. Section (A)(4) prohibits the same behavior against a survivor less than 13 years old and carries a sentencing recommendation of 9 months-5 years in prison.

Advocate Tip!

Specifications are tied to specific statutes.

Therefore, prosecutors are limited in their ability to tack on specifications that may seem applicable.

circumstances that accompany the charged crime and have the capacity to increase the criminal penalty. **Specifications are not separate statutes and DO NOT stand on their own.** A specification only becomes relevant if a perpetrator is convicted of or pleads guilty to the crime charged. After that happens, the judge or jury will determine whether a perpetrator is also guilty of the specification. A perpetrator is given the option to plead guilty to the specification.

The impact of specifications and sentencing will be expanded upon in greater detail in Chapter III, Sections S & T. Sentencing can be a highly complex and controversial area of law, and it is not your duty to master the related complexities before working with a survivor. Instead, you should be aware of the relevant specifications and the statutes they relate to, as they may come up in conversations with prosecutors or during charging and sentencing proceedings. The table below catalogues relevant specifications and highlights the statutes to which they apply.

Statutory Specifications: In addition, you will notice that many statutes refer to "specifications." Specifications are a notation in the indictment, charging papers, or complaint that indicate certain statutorily-described

Advocate Tip!

In certain cases, the defendant has the statutory right to request that the judge determine guilt on the specification, even if a jury tried them on the crime charged. Make sure to ask the prosecutor or a licensed attorney about this before trial.

Specification	Attaches to charged violations of:	Charges that, in violating the charged statute, the perpetrator:
2941.147 Sexual Motivation Specification ^{cxcii}	<ul style="list-style-type: none"> • 2903.01 Aggravated Murder • 2903.02 Murder • 2903.11 Felonious Assault • 2905.01 Kidnapping 	<ul style="list-style-type: none"> • Committed the crime with a sexual motivation
2941.148 Sexually Violent Predator Specification ^{cxci}	<ul style="list-style-type: none"> • 2907.02 Rape • 2907.03 Sexual Battery • 2907.05 Gross Sexual Imposition • 2903.02 Murder 	<ul style="list-style-type: none"> • Committed a violent sex offense and is likely to engage in one or more sexually violent offenses in the future
2941.1418 Rape – Offender Age Specification ^{cxci}	<ul style="list-style-type: none"> • Attempt to commit 2907.02 Rape 	<ul style="list-style-type: none"> • Was 16 or older at the time of the offense and would have committed a violation of 2907.02(A)(1)(b) if the perpetrator had completed the offense as planned
2941.1419 Rape – Victim Age Specification	<ul style="list-style-type: none"> • Attempt to commit 2907.02 Rape 	<p>Would have been guilty of rape in violation of 2907.02(A)(1)(b) if the perpetrator had completed the offense as planned AND:</p> <ul style="list-style-type: none"> • the victim was under ten years of age^{cxci}; OR • the offender attempted to commit rape by purposely compelling the victim to submit by force or threat of force, and the offender was 16 or older at the time of the commission of the offense^{cxci}
2941.1420 Rape – Previous Conviction or Serious Physical Harm Specification	<ul style="list-style-type: none"> • Attempt to commit 2907.02 Rape 	<p>Would have been guilty of rape in violation of 2907.02(A)(1)(b) if the perpetrator had completed the offense as planned AND:</p> <ul style="list-style-type: none"> • has been convicted of or pleaded guilty to one of the following: (1) attempted rape with a 2941.1418 or .1419 specification, (2) attempted rape under circumstances similar to 2941.1419 or .1420, (3) a violation of a substantially similar former Ohio law or law of another jurisdiction, (4) violating 2907.02(A)(1)(b)^{cxci}; <p>OR</p>

		either during or immediately after the attempted violation of 2907.02, caused the survivor serious physical harm ^{excvi}
2941.1421 School Proximity Specification ^{excix}	<ul style="list-style-type: none"> • 2907.22 Promoting Prostitution • 2907.23 Enticement or Solicitation to Patronize a Prostitute; Procurement of Prostitute for Another • 2907.24 Soliciting • 2907.241 Loitering to Engage in Solicitation 	Committed the violation in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises
2941.1422 Mandatory Prison Term – Furtherance of Human Trafficking ^{cc}	<ul style="list-style-type: none"> • 2905.01 Kidnapping • 2905.02 Abduction • 2907.21 Compelling Prostitution • 2907.22 Promoting Prostitution • 2907.323 Illegal use of minor in nudity-oriented material or performance 	Knowingly committed the offense in the furtherance of human trafficking

IV. Advocate Take Away

Mental states, affirmative defenses, and enhancements are all important considerations in the sentencing process. In particular, statutory mental states involve complicated questions of proof, and a prosecutor may choose to charge a perpetrator with a crime requiring a less culpable mental state. It is important to be aware of and understand these mental states to the best of your ability, but you do not have to master how they apply to each and every set of facts. If you have questions about the mechanics of mental state requirements relating to specific cases, speak to the assigned prosecutor or a licensed attorney that specializes in criminal law.

III-I(ii)

Substance Part 2 – Inchoate Crimes: Attempt, Complicity, & Conspiracy

I. Introduction

In Ohio, attempted crimes are charged as the completed crime. As such, you will not see separate statutes for attempted crimes. Prosecutors and defense attorneys often refer to incomplete crimes as “inchoate crimes.” Ohio has three inchoate crimes, each of which requires that the perpetrator acted with a specific desire, objective, or knowledge to accomplish the underlying statutory offense:

- Attempt
- Complicity
- Conspiracy

Note that each inchoate crime requires that the perpetrator acted with a specific desire, objective, or knowledge to accomplish the underlying statutory offense. A perpetrator cannot be convicted of attempt if they have been convicted of a specific offense, complicity, or conspiracy.^{cci} Similarly, a perpetrator cannot be convicted of conspiracy if they have been convicted of committing, attempting to commit, or complicity in the commission or attempt of the underlying offense.^{ccii}

II. Attempt

O.R.C. 2923.02 Attempt to commit an offense

Elements	<p>A. Perpetrator, purposely or knowingly, and when purpose or knowledge is sufficient blame for the commission of an offense, engages in conduct that, if successful, would constitute or result in the offense.</p> <p>B. It is not a defense that, in retrospect, commission of the goal offense was either factually or legally impossible, if the offense could have been committed if the circumstances had been as the perpetrator believed.</p> <p>C. No perpetrator 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.</p>
Affirmative Defenses	The actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.
Classifications	<ul style="list-style-type: none"> • Attempt to commit aggravated murder, murder, or other offense that carries a maximum sentence of life imprisonment: 1st degree felony • Attempt to commit an O.R.C. 1st degree felony: 2nd degree felony • Attempt to commit an O.R.C. 2nd degree felony: 3rd degree felony • Attempt to commit an O.R.C. 3rd degree felony: 4th degree felony • Attempt to commit an O.R.C. 4th degree felony: 5th degree felony • Attempt to commit an O.R.C. 5th degree felony: 1st degree misdemeanor

	<ul style="list-style-type: none"> • Attempt to commit an O.R.C. 1st degree misdemeanor: 2nd degree misdemeanor • Attempt to commit an O.R.C. 2nd degree misdemeanor: 3rd degree misdemeanor • Attempt to commit an O.R.C. 3rd degree misdemeanor: 4th degree misdemeanor • Attempt to commit an O.R.C. 4th degree misdemeanor: Minor misdemeanor
Sex Offense Sentencing Notation	If a person is convicted of or pleads guilty to attempted rape and also is convicted of or pleads guilty to 2941.1418 Rape – offender age specification, 2941.1419 Rape – victim age specification, or 2941.1420 Rape – previous conviction or serious physical harm specification, the offender shall be sentenced to a prison term or term of life imprisonment.

III. Complicity

O.R.C. 2923.03 Complicity

Elements	<p>A. Perpetrator, acting with the kind of blame required for the commission of an offense, does any of the following:</p> <ul style="list-style-type: none"> • 1. Solicits or procures another to commit the offense; OR • 2. Aids or abets another in committing the offense; OR • 3. Conspires with another to commit the offense in violation of section 2923.01; OR • 4. Causes an innocent or irresponsible person to commit the offense <p>B. It is not a defense that no person with whom the perpetrator was in complicity has been convicted as a principal offender.</p> <p>C. No perpetrator shall be convicted of complicity under this section unless an offense is actually committed, but a perpetrator may be convicted of complicity in an attempt to commit an offense in violation of section 2923.02 Attempt.</p>
Affirmative Defense	Prior to commission of or attempt to commit the offense, the perpetrator terminated their complicity, under circumstances manifesting a complete and voluntary renunciation of their criminal purpose.
Charging & Sentencing Guidelines	Perpetrator must be prosecuted and punished as if they were a principal offender, and the charge may be stated in the terms of complicity or in the terms of the principal offense.

IV. Conspiracy

O.R.C. 2923.01 Conspiracy

Elements	A. Perpetrator, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction, compelling
----------	---

	<p>prostitution, promoting prostitution, or trafficking in persons [non-2907, 2905, or 2903 offenses omitted] does either of the following:</p> <ul style="list-style-type: none"> • 1. plans or aids in planning the commission of any of the specified offenses; OR • 2. agrees with another person/s that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses <p>B. No perpetrator shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, after the accused joined the conspiracy.</p> <p>C. If the perpetrator knows or has reasonable cause to believe that co-conspirator also has/is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person</p> <p>D. It is not a defense that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.</p> <p>E. A conspiracy terminates when the goal offense is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed. [Additional sections not related to Chapters 2907, 2905, & 2905 omitted]</p>
Affirmative Defenses	<p>After conspiring to commit an offense, the perpetrator thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.</p> <p>After conspiring to commit an offense, the perpetrator abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.</p>
Classifications	<ul style="list-style-type: none"> • Attempt to commit aggravated murder, murder, or other offense that carries a maximum sentence of life imprisonment: 1st degree felony • Attempt to commit an O.R.C. 1st degree felony: 2nd degree felony • Attempt to commit an O.R.C. 2nd degree felony: 3rd degree felony • Attempt to commit an O.R.C. 3rd degree felony: 4th degree felony • Attempt to commit an O.R.C. 4th degree felony: 5th degree felony • Attempt to commit an O.R.C. 5th degree felony: 1st degree misdemeanor

V. Advocate Take Away

Under the Ohio inchoate crime system, the terms “attempt,” “conspiracy,” and “complicity” appear in numerous statutes, especially relating to specifications. Remember to cross-reference O.R.C. 2923.01-.03 and/or speak to the relevant prosecutor or a licensed attorney for clarification before speaking to a survivor about attempt, conspiracy, or complicity charges.

III-I(iii)

Substance Part 3: Ohio Sex Offenses & Related Statutes

Ohio sex crimes are catalogued in Ohio Revised Code (O.R.C.) Chapter 2907 – Sex Offenses. Throughout the criminal investigation, pre-trial charging, and plea negotiation processes, criminal justice officials may bring up a number of different statutes. It is important to understand the differences in each statute’s elements, affirmative defenses, and sentencing parameters. The crimes listed in the tables below represent the statutes advocates in Ohio are most likely to encounter. This chapter starts with Chapter 2907 Sex Offenses, continues with selected statutes from Chapter 2905 Kidnapping & Extortion, and finishes with selected statutes from Chapter 2903 Homicide & Assault. This chapter begins with a table of definitions published in O.R.C. 2901.01 General definitions and 2907.01 Sex offense general definitions. Unless specified in an individual statute’s table, these definitions cross over between chapters and apply to all below-described statutes.

Disclaimer: This revised manual was published on July 1, 2020. Ohio laws are subject to change at any time, and it is critical that you check the Ohio Revised Code for changes made after this manual’s last update. You can quickly find out when the last changes were made to a statute by looking on the very bottom of the statute’s individual page on the Ohio Revised Code site, <http://codes.ohio.gov/orc/>. After reviewing the ORC, you may also contact OAESV to inquire about electronic updates, fact sheets, or other additional information.

Advocate Reminder!

As an advocate, you have a narrow role with regard to statutes: providing information. Remember to review the Advocacy Application section at the end of this section for strategies on how to best use knowledge of O.R.C. sections to support survivors.

I. Section Tables & How to Use Them

The tables below give a general explanation of each statute. The statutory structures are modified, and some of the wording has been **changed** to more clearly express the general goals of each statute. Therefore, it is **important to review each statute as it appears** in the Ohio Revised Code before speaking with a survivor, law enforcement official, or prosecutor. You can access a current version of the Ohio Revised Code, free of charge at <http://codes.ohio.gov/orc/>.

Each statute is divided in the following manner. If a section/statute does not have section-specific definitions, affirmative defenses or applicable specifications, those rows will not appear in the table:

Elements	The facts a prosecutor must prove beyond a reasonable doubt
Affirmative Defenses	A defense to the crime that a perpetrator/defense attorney is responsible for proving beyond a reasonable doubt
Applicable Specifications	Specifications are notations in the indictment, charging papers, or complaint, indicating certain statutory circumstances. If the perpetrator pleads guilty to or is convicted of a violation of a given statute, the jury or court will next decide whether the perpetrator was guilty of the specification. This frequently modifies the sentence, most often imposing mandatory prison or jail terms
Section-Specific Definitions	Terms defined in the section/statute that are either not included in 2901.01 or 2907.01, or are slightly amended as they relate to the relevant statute
Classifications	The felony or misdemeanor assigned to the behaviors prohibited in the statute
Sex Offender Classification	The sex offender/child-victim offender status conferred to a perpetrator who is convicted of or pleads guilty to the behaviors prohibited in the statute
SOL	The statute of limitations

Sentencing Guidelines	The penalties recommended for the violation either by specific mention in the statute or reference in related statutes – sentencing guidelines are only recommendations, unless denoted by the word “mandatory”
-----------------------	---

Note on differing penalties for the same offense degree: Law makers sometimes create individualized penalties for factors they feel make a behavior more or less egregious. For example, if the survivor is very young or the perpetrator used especially dangerous substances to incapacitate the survivor, the statute may direct a judge to impose a mandatory prison term of a specified length. While statutes change the penalty, they do not always change the felony or misdemeanor classification. This gets confusing when, for example, one statute classifies two actions as 3rd degree felonies but gives those actions two separate penalties. The table below seeks to clarify the difference in penalties in the following manner:

Sentencing Guidelines: [classification] (factors distinguishing this action’s penalty): {penalty}

Example – two 3rd degree felony penalties within one statute:

Sentencing Guidelines: 3rd degree felony (survivor 12 or younger): **mandatory 2-5 year prison term**

Sentencing Guidelines: 3rd degree felony (chemical incapacitation): **mandatory 3-5 year prison term**

II. Table of Contents for Ohio Sex Offenses & Related Statutes	
Page 82	Definitions for Chapters 2907, 2905, & 2903
Page 84	Table of Contents for Chapter 2907
Page 85	O.R.C. 2907.02-2907.09 Non-Commercial Sex Offenses
Page 94	O.R.C. 2907.19-2907.25 Commercial Sex Offenses
Page 105	O.R.C. 2907.31-2907.34 Obscene Material Sex Offenses
Page 112	O.R.C. 2907.38-2907.40 Adult Entertainment Venue Sex Offenses
Page 115	Table of Contents for Chapter 2905
Page 117	Selected Chapter 2905 Offenses: Trafficking in Persons, Kidnapping, Abduction, Unlawful Restraint, Criminal Child Enticement
Page 121	Table of Contents for Chapter 2903
Page 122	O.R.C. 2903.01-2903.05 Offenses Resulting in Victim’s Death
Page 124	O.R.C. 2903.11-2903.14 Assault Offenses
Page 128	O.R.C. 2903.15 Permitting Child Abuse
Page 129	O.R.C. 2903.21-2903.22 & 2903.22 Stalking Offenses
Page 132	Advocate Take Away

III. Definitions

The following terms appear in Section 2901.01 General provisions and Section 2907.01 Sex offenses

Advocate Tip!

Statutory definitions do not always align with general-use definitions. Therefore, it is very important to review a statute for words defined in 2907.01, like “serious bodily harm,” “minor,” “juvenile,” & “obscene,” and check the 2907.01 & 2901.01 meaning before explaining a statute.

general definitions, and are listed here for clarity. Unless a specific section specifies otherwise, the definitions below apply to all sections in Chapter 2907, Chapter 2905, and Chapter 2903.^{cciii} Remember that O.R.C. definitions are also subject to legislative update, so it is important to review the effective date and text of 2907.01 and 2901.01 for possible changes. Finally, make sure to review and compare both the 2907.01 definitions and specifically assigned section definitions before explaining a statute to a survivor.

Sexual Conduct	vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse
Sexual Contact	any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person
Sexual Activity	sexual conduct or sexual contact, or both
Sexual Excitement	condition of human male or female genitals when in a state of sexual stimulation or arousal
Spouse	a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply: <ul style="list-style-type: none"> • When the parties have entered into a written separation agreement authorized by section 3103.06 of the Revised Code; • During the pendency of an action between the parties for annulment, divorce, dissolution of marriage, or legal separation; • In the case of an action for legal separation, after the effective date of the judgment for legal separation.
Juvenile	an unmarried person under the age of eighteen
Minor	a person under the age of eighteen
Material	any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape, or similar data storage device.
Harmful to Juveniles	quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado-masochistic abuse in any form to which all of the following apply: <ul style="list-style-type: none"> • The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.

	<ul style="list-style-type: none"> • The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles. • The material or performance, when considered as a whole, lacks serious literary, artistic, political, and scientific value for juveniles.
Obscene	<p>when considered as a whole, and judged with reference to ordinary adults or, if it is designed for sexual deviates or other especially susceptible group, judged with reference to that group, any material or performance is "obscene" if any of the following apply:</p> <ul style="list-style-type: none"> • Its dominant appeal is to prurient interest; • Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement, or nudity in a way that tends to represent human beings as mere objects of sexual appetite; • Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty, or brutality; • Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way that inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral, or artistic purpose; • It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty, or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such an interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral, or artistic purpose.
Force	<p>[Pulled from Chapter 2901 – General Provisions]</p> <p>any violence, compulsion, or constraint physically exerted by any means upon or against a person or thing</p>
Physical Harm to Persons	<p>[Pulled from Chapter 2901 – General Provisions]</p> <p>any injury, illness, or other physiological impairment, regardless of its gravity or duration</p>
Serious Physical Harm To Persons	<p>[Pulled from Chapter 2901 – General Provisions]</p> <ul style="list-style-type: none"> • any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment; • any physical harm that carries a substantial risk of death; • any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity; • any physical harm that involves some permanent disfigurement or that involves some temporary, serious disfigurement; • 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.
Violent Offense	<p>[Pulled from Chapter 2901 – General Provisions]</p>

	A violation of section 2903.01 Aggravated murder, 2903.02 Murder, 2903.03, Voluntary Manslaughter 2903.04 Involuntary manslaughter, 2903.11 Felonious assault, 2903.12 Aggravated assault, 2903.13 Assault, 2903.15 Permitting child abuse, 2903.21 Aggravated menacing, 2903.211 Menacing by stalking, 2903.22 Menacing, 2905.01 Kidnapping, 2905.02 Abduction, 2905.11 Extortion, 2905.32 Trafficking in humans, 2907.02 Rape, 2907.03 Sexual battery, 2907.05 Gross sexual imposition, [<i>sections from Chapter 2909 Arson and related offenses, 2911 Burglary, robbery, trespass, & safecracking, 2917 Offenses against the public peace, 2919 Offenses against the family, & 2921 Offenses against justice & public administration omitted</i>] or felonious sexual penetration in violation of former section 2907.12 of the Revised Code
Violent Sex Offense	[Pulled from Section 2971.01] An attempt to commit, complicity to commit, or violation of section 2907.02 Rape, 2907.03 Sexual Battery, or division (A)(4) or (B) of section 2907.05 Gross Sexual Imposition, a felony violation of a substantially similar former Ohio law, a felony violation of a substantially similar law of another state or the United States.
Sexually Violent Offense	[Pulled from Section 2971.01] A Violent Sex Offense or a specified homicide, kidnapping, or assault committed with a sexual motivation

IV. Chapter 2907 Sex Offenses Table of Contents

O.R.C. Chapter 2907
(Repealed Sections Omitted)
(Bolded Sections Described Within)

- 2907.01 Sex offenses general definitions
- **2907.02 Rape**
- **2907.03 Sexual battery**
- **2907.04 Unlawful sexual conduct with a minor**
- **2907.05 Gross sexual imposition**
- **2907.06 Sexual imposition**
- **2907.07 Importuning**
- **2907.08 Voyeurism**
- **2907.09 Public indecency**
- 2907.10 Preliminary polygraph test of a sex offense victim
- 2907. 11 Suppression of names of victim and offender and details of the alleged offense
- 2907.15 Withholding moneys needed for restitution to crime victims from state retirement funds
- 2907.17 Notice of indictment of mental health professional sent to regulatory or licensing board or agency
- 2907.171 Prosecutor's failure to give notice
- 2907.18 Notice of conviction of mental health professional sent to regulatory or licensing board or agency
- **2907.19 Commercial sexual exploitation of a minor**

- 2907.21 Compelling prostitution
- 2907.22 Promoting prostitution
- 2907.23 Enticement or solicitation to patronize a prostitute, procurement of a prostitute for another
- 2907.24 Soliciting - after positive HIV test - driver's license suspension
- 2907.241 Loitering to engage in solicitation – solicitation after positive HIV test
- 2907.25 Prostitution - after positive HIV test
- 2907.26 Rules of evidence in brothel and prostitution cases
- 2907.27 Testing and treatment for venereal diseases and HIV
- 2907.28 Payment for medical examination and test of any victim or accused
- 2907.29 Hospital emergency services for victims of sexual offenses
- 2907.30 Interview of victim by crises intervention trained officer
- 2907.31 Disseminating matter harmful to juveniles
- 2907.311 Displaying matter harmful to juveniles
- 2907.321 Pandering obscenity involving a minor or impaired person
- 2907.322 Pandering sexually oriented matter involving a minor or impaired person
- 2907.323 Illegal use of minor or impaired person in nudity-oriented material or performance
- 2907.33 Deception to obtain matter harmful to juveniles
- 2907.34 Compelling acceptance of objectionable materials
- 2907.35 Presumptions in obscenity cases
- 2907.37 Injunction – nuisance
- 2907.38 Permitting unlawful operation of viewing booths depicting sexual conduct
- 2907.39 Permitting juvenile on premises of adult entertainment establishment – use of false information to gain entry
- 2907.40 Illegally operating sexually oriented business
- 2907.41 Person charged with subsequent sexual offense - setting of bail

V. Chapter 2907 Sex Offenses

a. Non-Commercial Offenses

O.R.C. 2907.02 Rape

Elements	<p>A.</p> <p>1. Perpetrator engages in sexual conduct with another person that is either not married to the perpetrator or is married but separated from the perpetrator, AND</p> <ul style="list-style-type: none"> • a. perpetrator substantially impairs that person to prevent resistance by administering drugs, intoxicants or controlled substances to the person, by force, threat of force, or deception; OR • b. the person is younger than 13-years-old at the time of the rape; OR
----------	---

	<ul style="list-style-type: none"> • c. the person's ability to resist or consent was impaired due to mental or physical condition or advanced age, and the perpetrator was aware of this. <p>OR</p> <p>2. Perpetrator engages in sexual conduct with another person and uses force or threat of force to compel that person to participate.</p>
Applicable Specifications	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.02 Rape or, where applicable, an attempt to commit 2907.02 Rape, the court or jury will decide whether the perpetrator is also guilty of the specification. If he is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.148 Sexually Violent Predator Specification: perpetrator committed a violent sex offense and is likely to engage in one or more sexually violent offenses in the future</p> <p>2941.1418 Rape - offender age specification: perpetrator attempted but did not complete the offense, was sixteen years of age or older at the time of the commission of the offense and, had the perpetrator completed the rape that was attempted, they would have been guilty of a violation of division (A)(1)(b) of 2907.02 Rape</p> <p>2941.1419 Rape - victim age specification: perpetrator attempted but did not complete the offense, was sixteen years of age or older at the time of the commission of the offense, the survivor was under 10 years old at the time of the offense, and perpetrator used force or threat of force in their attempt to compel the survivor to participate in sexual activity, and had the perpetrator completed the rape that was attempted they would have been guilty of a violation of division (A)(1)(b) of 2907.02 Rape</p> <p>2941.1420 Rape – previous conviction or serious physical harm specification: perpetrator attempted but did not complete the offense, and had they completed the rape that was attempted, they would have been guilty of rape in violation of division (A)(1)(b) of section 2907.02 of the Revised Code, and any of the following apply: (1) perpetrator has prior conviction or guilty plea to attempted rape with a 2941.1418 or .1419 specification, attempted rape under circumstances similar to a 2941.1419 or .1420 specification, a substantially similar law in another jurisdiction; (2) perpetrator has prior conviction or guilty plea to violating 2907.02(A)(1)(b) Rape or similar law in other jurisdiction; (3) perpetrator caused survivor serious physical harm during or immediately after the attempt</p>
Classification	1 st Degree Felony
Sex Offender Classification	Tier III sex offender/child-victim offender: any violation of 2907.02 Rape
SOL	<p>CAUTION: The SOL for Rape in Ohio has changed several times since the early 1990s. Please check with a licensed attorney to determine the SOL applicable to your survivor/client's case.</p> <ul style="list-style-type: none"> • Generally: 25 years • If the crime's DNA record is determined to match the DNA record of an identifiable person after the SOL lapses: 5 years from the date the match is determined

	<ul style="list-style-type: none"> If the crime’s DNA record is determined to match the DNA record of an identifiable person before the SOL lapses: the original SOL or 5 years from the date the match is determined, whichever is longer
Sentencing Guidelines	<ul style="list-style-type: none"> Generally: 3-11 years in prison Perpetrator violates (A)(1)(a) using one of the dangerous controlled substances listed in 3719.01: mandatory prison term of 5-11 years in prison Perpetrator violates (A)(1)(b) and was younger than 16, survivor was over the age of 10, perpetrator had no prior similar convictions, and perpetrator caused no serious physical injury: 5-11 years in prison Survivor was younger than 13, perpetrator used force: Life in prison Perpetrator caused serious physical injury to survivor, had a prior similar conviction in any jurisdiction, or survivor was under the age of 10 + Sexually Violent Predator Specification: Life in prison without possibility of parole. <p>Attempt Specifications:</p> <ul style="list-style-type: none"> 2941.1418 Rape – offender age specification: mandatory prison term of 5-25 years in prison 2941.1419 Rape – victim age specification (victim is younger than 10): mandatory prison term of 10 years to life in prison 2941.1420 Rape – previous conviction or serious physical harm specification: mandatory prison term of 15 years to life in prison

O.R.C. 2907.03 Sexual battery

Elements	<p>Perpetrator engages in sexual conduct with another AND</p> <ul style="list-style-type: none"> knowingly coerces that person to submit by any means that would prevent resistance by a person of ordinary ability; OR knows that that person’s ability to appraise the nature of or control their own conduct is substantially impaired; OR knows that that person submitted to the sexual conduct because they are unaware that the act is being committed; OR knows that that person submits because they mistakenly identify the perpetrator as their spouse; OR that person is incarcerated, hospitalized or institutionalized, and the perpetrator has supervisory or disciplinary authority over that person; OR perpetrator has a specified type of authority over that person (e.g. offender is a parent/guardian, has institutional authority, is a teacher, cleric, coach, instructor, etc.; for a full listing, please see http://codes.ohio.gov/orc/2907.03)
Section-Specific Definitions	<p>For relevant cases, definitions of “cleric,” “detention facility,” “institution of higher learning,” and “peace officer” are thoroughly provided in 2907.03(C), http://codes.ohio.gov/orc/2907.03.</p>

Classification	<ul style="list-style-type: none"> • 3rd degree felony • 2nd degree felony if survivor is younger than 13 at time of crime
Sex Offender Classification	Tier III sex offender/child-victim offender: any violation of 2907.03 Sexual battery
SOL	<p>CAUTION: The SOL for Sexual Battery in Ohio has changed several times since the early 1990s. Please check with a licensed attorney to determine the SOL applicable to your survivor/client's case.</p> <ul style="list-style-type: none"> • Generally: 25 years • If the crime's DNA record is determined to match the DNA record of an identifiable person after the SOL lapses: 5 years from the date the match is determined • If the crime's DNA record is determined to match the DNA record of an identifiable person before the SOL lapses: the original SOL or 5 years from the date the match is determined, whichever is longer
Sentencing Guidelines	<ul style="list-style-type: none"> • 3rd degree felony (Survivor is 13 or older): 12, 18, 24, 30, 36, 42, 48, 54, or 60 months • 2nd degree felony (Survivor is younger than 13): mandatory 2-8 years in prison

O.R.C. 2907.04 Unlawful sexual conduct with a minor

Elements	Perpetrator who is 18 years old or older engages in sexual conduct with someone who is 13, 14, or 15 years old, when the offender knows that person is younger than 16 or is reckless in that regard.
Classifications	<ul style="list-style-type: none"> • 4th degree felony, generally • 3rd degree felony if perpetrator is 10 or more years older than the survivor • 2nd degree felony if perpetrator was previously convicted of this offense, sexual battery, or rape • 1st degree misdemeanor if perpetrator is less than 4 years older than the survivor
Sex Offender Classifications	<p>Tier I sex offender/child-victim offender: a violation of 2907.04 when the perpetrator is less than four years older than the survivor and the survivor did not consent to the sexual conduct, and the perpetrator has not previously been convicted of or plead guilty to a violation of 2907.02, 2907.03, or 2907.04</p> <p>Tier II sex offender/child-victim offender: a violation of 2907.04 when the perpetrator is at least four years older than the survivor, or when the perpetrator is less than four years older than the survivor and the perpetrator has previously been convicted of or plead guilty to a violation of 2907.02, 2907.03, or 2907.04</p>
SOL	20 years
Sentencing Guidelines	<ul style="list-style-type: none"> • 2nd degree felony (prior conviction of this offense, sexual battery, or rape): 2-8 years in prison • 3rd degree felony (perpetrator is 10 or more years older than survivor): 9 months – 5 years in prison • 4th degree felony (generally): 6-18 months in prison • 1st degree misdemeanor (perpetrator is less than 4 years older than survivor): 30 days in jail

O.R.C. 2907.05 Gross sexual imposition

Elements	<p>A. Perpetrator has, causes another to have, or causes two or more other persons to have sexual contact when:</p> <ol style="list-style-type: none"> 1. perpetrator purposely uses force to compel sexual contact; OR 2. to reduce resistance, perpetrator causes incapacity through force or threat of force; OR 3. perpetrator obtained survivor's consent to administer intoxicating or otherwise impairing drug for purpose of medical or dental examination or treatment and knew that the drug incapacitated the survivor; OR 4. one or more of the survivors is younger than 13; OR 5. the survivor could not consent due to mental or physical condition, advanced age, or substantial impairment, and perpetrator knows of or has reason to believe the impairment exists. <p>OR</p> <p>B. Perpetrator knowingly touches, not through clothing, the genitalia of a person younger than 12, whether or not the offender knows the age of that person, AND the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.</p>
Classifications	<p>A:</p> <ul style="list-style-type: none"> • 4th degree felony • 3rd degree felony if one of the survivors is younger than 13 • 3rd degree felony if perpetrator uses a controlled substance prohibited by O.R.C. 3719.01 (narcotics-opiates, narcotics-opium derivatives, hallucinogenic combinations, depressants, stimulants, among others), by force, threat of force, or deception, to substantially impair the survivor. <p>B:</p> <ul style="list-style-type: none"> • 3rd degree felony
Sex Offender Classifications	<p>Tier I sex offender/child-victim offender: A violation of 2907.05 (A)(1), (2), (3), or (5) Gross sexual imposition</p> <p>Tier II sex offender/child-victim offender: A violation of 2907.05 (A)(4) Gross sexual imposition</p> <p>Tier III sex offender/child-victim offender: A violation of 2907.05 (B) Gross sexual imposition</p>
SOL	20 years
Sentencing Guidelines	<p>A:</p> <ul style="list-style-type: none"> • 4th degree felony (generally): 6-18 months in prison • 3rd degree felony (perpetrator used prohibited controlled substance by force, threat of force, or deception to substantially impair survivor): 1 - 5 years in prison • 3rd degree felony (survivor is younger than 13): presumed mandatory prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months <p>B:</p>

	<ul style="list-style-type: none"> 3rd degree felony (survivor is less than 12 years old, perpetrator touches survivor's genitals with intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire): presumed mandatory prison term of 12-60 months
--	---

O.R.C. 2907.06 Sexual imposition

Elements	<p>A. Perpetrator has, causes another to have, or causes two or more other persons to have sexual contact AND</p> <ul style="list-style-type: none"> 1. knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard; OR 2. knows that the other person's mental abilities are substantially impaired; OR 3. knows that the other person submits because they are not aware of the sexual contact; OR 4. the other person, or one of the other persons is 13, 14, or 15 years old, and the offender is at least 18 years old <i>and</i> is at least 4 or more years older than the survivor; OR 5. the perpetrator is a mental health professional and the other person is a patient/client, to whom the perpetrator falsely represented that the sexual contact was necessary for mental health treatment purposes.
Classifications	<ul style="list-style-type: none"> 3rd degree misdemeanor 1st degree misdemeanor if perpetrator has previously been convicted of rape, sexual battery, unlawful sexual conduct with a minor, or gross sexual imposition
Sex Offender Classification	Tier I sex offender/child-victim offender: Any violation of 2907.06 Sexual imposition
SOL	2 Years
Sentencing Guidelines	<ul style="list-style-type: none"> 3rd degree misdemeanor: 60 days in jail 1st degree misdemeanor (perpetrator was previously convicted of rape, sexual battery, unlawful sexual conduct with a minor, or gross sexual imposition): 180 days in jail 1st degree misdemeanor (if perpetrator was previously convicted or pleaded guilty to three or more violations of sexual imposition, gross sexual imposition, rape, sexual battery, or unlawful sexual conduct with a minor): 180 days – 1 year

ORC 2907.07 Importuning

Elements	<p>A. Perpetrator solicits a survivor younger than 13 years old to engage in sexual activity with the perpetrator, whether or not offender knows the survivor is younger than 13 years old.</p> <p>OR</p> <p>B. Perpetrator who is either (1) at least 18 years old or (2) 4 or more years older than the survivor solicits a survivor to engage in sexual activity with the perpetrator AND</p> <ul style="list-style-type: none"> the survivor is 13, 14, or 15 years old, whether or not the perpetrator knows the survivor's age; OR
----------	--

	<ul style="list-style-type: none"> the survivor is 16 or 17 years old AND a survivor of 2905.32 Trafficking in persons; and the perpetrator knows the survivor's age or is reckless in that regard <p>OR</p> <p>C. Perpetrator who is at least 18 years old uses a telecommunications device (as defined in 2913.01) to solicit a survivor to engage in sexual activity with the perpetrator AND</p> <ul style="list-style-type: none"> the survivor is younger than 13 years old and the perpetrator knows their age or is reckless in that regard; OR the survivor is a law enforcement officer posing as a person younger than 13 years old, AND the perpetrator believes the officer is less than 13 years old or is reckless in that regard <p>OR</p> <p>D. Perpetrator who is at least 18 years old uses a telecommunications device (as defined in 2913.01) to engage the survivor in sexual activity with the perpetrator AND</p> <ul style="list-style-type: none"> the survivor is 13, 14, or 15 years old, the perpetrator knows their age or is reckless in that regard, AND the perpetrator is 4 or more years older than the survivor; OR the survivor is a law enforcement officer posing as a person 13, 14, or 15 years old AND the perpetrator believes the law enforcement officer is 13, 14, or 15 years old or is reckless in that regard, AND the perpetrator is 4 or more years older than the age he believes the officer to be
Section-Specific Definitions	Telecommunications Device: any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
Classifications	<p>A or C:</p> <ul style="list-style-type: none"> 3rd degree felony, generally 2nd degree felony if perpetrator was previously convicted of a child-victim oriented offense or a sexually oriented offense <p>B or D:</p> <ul style="list-style-type: none"> 5th degree felony, generally 4th degree felony if perpetrator was previously convicted of a child-victim oriented offense or a sexually oriented offense
Sex Offender Classification	Tier I sex offender/child-victim offender: Any violation of 2907.07 Importuning
SOL	6 years
Sentencing Guidelines	<p>A or C:</p> <ul style="list-style-type: none"> 3rd degree felony (generally): presumed prison term of 9 months to 5 years 2th degree felony (if perpetrator was previously convicted of a child-victim oriented offense or a sexually oriented offense): mandatory prison term of 2-8 years <p>B or D:</p>

	<ul style="list-style-type: none"> • 5th degree felony (generally): presumed prison term of 6 months to 1 year • 4th degree felony (if perpetrator was previously convicted of a child-victim oriented offense or a sexually oriented offense): mandatory prison term of 12-18 months
--	---

O.R.C. 2907.08 Voyeurism

Elements	<p>A. Perpetrator, for the purpose of self-sexual arousal or gratification, commits trespass or otherwise secretly invades a survivor's privacy to spy or eavesdrop on the survivor;</p> <p>B. Perpetrator, for the purpose of self-sexual arousal or gratification, commits trespass or otherwise secretly invades a survivor's privacy to videotape, film, photograph, or otherwise record the survivor in a state of nudity;</p> <p>C. Perpetrator, for the purpose of self-sexual arousal or gratification, commits trespass or otherwise secretly invades a survivor's privacy to (1) eavesdrop or spy on a minor survivor or (2) videotape, film, photograph, or otherwise record a minor survivor in a state of nudity; or</p> <p>D. Perpetrator, for the purpose of viewing a survivor's undergarments or naked body, secretly videotapes, films, photographs, or otherwise records a survivor under or through the survivor's worn clothing.</p>
Classifications	<ul style="list-style-type: none"> • A: 3rd degree misdemeanor • B: 2nd degree misdemeanor • C: 5th degree felony • D: 1st degree misdemeanor
Sex Offender Classification	Tier I sex offender/child-victim offender: Any violation of 2907.08 Voyeurism
SOL	<ul style="list-style-type: none"> • A, B, & D (misdemeanors): 2 years • C (felony): 6 years
Sentencing Guidelines	<ul style="list-style-type: none"> • A: 3rd degree misdemeanor: 60 days in jail • 2nd degree misdemeanor: 90 days in jail • 5th degree felony: 6-12 months in prison • 1st degree misdemeanor: 180 days in jail

O.R.C. 2907.09 Public indecency

Elements	<p>A. When it is likely that another person will see and be offended by the perpetrator's behavior, the perpetrator recklessly</p> <ul style="list-style-type: none"> • 1. Exposes their private parts; OR • 2. Engages in sexual conduct or masturbation; OR • 3. Engages in what would appear to be sexual conduct or masturbation to an ordinary observer <p>OR</p>
----------	--

	<p>B. When it is likely that a minor will see and be offended by a perpetrator's behavior, the perpetrator knowingly</p> <ul style="list-style-type: none"> • 1. Engages in masturbation; OR • 2. Engages in sexual conduct; OR • 3. Engages in conduct that would appear to be sexual conduct or masturbation to an ordinary observer; OR • 4. Exposes private parts with the purpose of (1) personal sexual arousal or gratification OR (2) to lure the minor into sexual activity.
Classifications	<p>A(1):</p> <ul style="list-style-type: none"> • 4th degree misdemeanor, generally • 3rd degree misdemeanor if perpetrator has prior 2907.09 Public indecency conviction/plea • 2nd degree misdemeanor if any person likely to view and be offended by the conduct was a minor • 2nd degree misdemeanor if perpetrator has two or more prior 2907.09 convictions/pleas • 1st degree misdemeanor if perpetrator has two prior 2907.09 convictions/pleas AND any person likely to view and be offended by the conduct was a minor • 1st degree misdemeanor if perpetrator has three or more prior 2907.09 convictions/pleas • 5th degree felony if perpetrator has three or more prior 2907.09 convictions/pleas AND any person likely to view and be offended by the conduct was a minor <p>A(2) & A(3):</p> <ul style="list-style-type: none"> • 3rd degree misdemeanor, generally • 2nd degree misdemeanor if perpetrator has prior 2907.09 conviction or plea • 1st degree if perpetrator has prior 2907.09 conviction or plea AND any person likely to view and be offended by the conduct was a minor • 1st degree misdemeanor if perpetrator has two or more prior 2907.09 convictions or pleas • 5th degree felony if perpetrator has two or more prior 2907.09 convictions or pleas AND any person likely to view and be offended by the conduct was a minor <p>B1, B2, & B3:</p> <ul style="list-style-type: none"> • 2nd degree misdemeanor, generally • 1st degree misdemeanor if perpetrator has prior 2907.09 conviction/plea • 5th degree felony if perpetrator has two or more prior 2907.09 convictions/pleas <p>B4:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor, generally • 5th degree felony if perpetrator has any prior 2907.09 convictions/pleas
Sex Offender Classifications	<p>Tier I sex offender/child-victim offender:</p> <ul style="list-style-type: none"> • A violation of 2907.09(B)(4) if the perpetrator is less than ten years older than the survivor OR the perpetrator is ten or more years older than the survivor and the perpetrator has not

	<p>previously been convicted of or plead guilty to any violation of 2907.09 (at the court's discretion)</p> <ul style="list-style-type: none"> • A violation of 2907.09(B)(4) if the perpetrator is ten or more years older than the survivor and has previously been convicted of or plead guilty to any violation of 2907.09
SOL	<ul style="list-style-type: none"> • 2 years for misdemeanor violations • 6 years for felony violations
Sentencing Guidelines	<p>2907.09 Public indecency follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 5th degree felony: 6-12 months in prison • 1st degree misdemeanor: 180 days in jail • 2nd degree misdemeanor: 90 days in jail • 3rd degree misdemeanor: 60 days in jail • 4th degree misdemeanor: 30 days in jail

b. Commercial Sex Offenses

Survivors involved in the sex trade may face unique challenges when reporting the crimes against them.^{cciv} The following tables explain statutes that prohibit perpetrators from soliciting prostitution, but also those that may implicate survivors if they report a sexual assault that happened before, during, or after a violation of an O.R.C. 2907 section.

O.R.C. 2907.19 Commercial sexual exploitation of a minor

Elements	<p>Perpetrator knowingly purchases or obtains advertising space for an advertisement for sexual activity for hire that includes a depiction of a minor.</p> <p>AND</p> <p>It is not a defense the offender did not know the age of the survivor, relied on an oral or written representation of the age of the survivor, or relied on the survivor's apparent age.</p>
Affirmative Defense	<p>Before purchasing space for the advertisement, the perpetrator made a reasonable bona fide attempt to learn the age of the survivor depicted in the advertisement, specifically by requiring the survivor to produce a driver's license, marriage license, birth certificate, or other government or school-issued document.</p>
Section-Specific Definitions	<ul style="list-style-type: none"> • Advertisement for sexual activity for hire/advertisement: any advertisement or offer in electronic or print media that includes an explicit or implicit offer for sexual activity for hire to occur in this state • Depiction: any photograph, film, videotape, visual material, or printed material • Person: includes an individual, corporation, business trust, estate, trust, partnership, and association
Classifications	3 rd degree felony
SOL	6 years

Sentencing Guidelines	2907.19 Commercial sexual exploitation of a minor follows the general Ohio sentencing guidelines: <ul style="list-style-type: none"> 3rd degree felony: 9 months - 5 years in prison
-----------------------	---

O.R.C. 2907.21 Compelling prostitution

Elements	<p>A. Perpetrator</p> <ul style="list-style-type: none"> 1. Compels another to engage in sexual activity for hire; OR 2. Induces, procures, encourages, solicits, or facilitates (a) a minor to engage in sexual activity for hire, whether or not the perpetrator knows the minor's age or (b) a person the perpetrator believes to be a minor to engage in sexual activity for hire, whether or not the person is a minor; OR 3. Pays or agrees to pay (a) a minor, directly or through the minor's agent, to engage in sexual activity, whether or not the perpetrator knows the minor's age or (b) pays or agrees to pay a person the perpetrator believes to be a minor, directly or through the person's agent, to engage in sexual activity, whether or not the person is a minor; OR 4. pays, pursuant to a prior agreement, (a) a minor, either directly or through the minor's agent, for prior sexual activity with the minor, whether or not the offender knows the minor's age or (b) a person the perpetrator believes to be a minor, either directly or through the person's agent, for prior sexual activity with the person, whether or not that person is a minor; OR 5. is the parent, guardian, custodian, or person having either custody, control or legal parental responsibilities of (a) a minor, and allows that minor to engage in sexual activity for hire or (b) a survivor the perpetrator believes to be a minor, and allows that survivor to engage in sexual activity for hire, whether or not the survivor is actually a minor.
Applicable Specifications	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.21 Compelling prostitution, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If the perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1422 Furtherance of Human Trafficking: perpetrator violated any subsection of 2907.21 in furtherance of trafficking humans</p>
Statute-Specific Definitions	<ul style="list-style-type: none"> Compel: does not require that the compulsion be openly displayed or physically exerted. The element "compel" has been established if the state proves that the survivor's will was overcome by force, fear, duress, or intimidation Restitution: includes the costs of housing, counseling, and medical and legal assistance incurred by the survivor as a direct result of the offense and the greater of (1) the gross income or value to the perpetrator of the victim's labor or services or (2) the value of the survivor's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act of 1938, 52 Stat. 1060, 20 U.S.C. 207, and state labor laws
Classifications	<p>A(1):</p> <ul style="list-style-type: none"> 3rd degree felony, generally

	<ul style="list-style-type: none"> • 2nd degree felony if the survivor is 16 or 17 years old • 1st degree felony if the survivor is 15 years old or younger <p>A(2)-(5):</p> <ul style="list-style-type: none"> • 3rd degree felony, generally
Sex Offender Classification	Tier II sex offender/child-victim offender: any violation of 2907.21 Compelling prostitution
SOL	20 years
Sentencing Guidelines	<p>A(1):</p> <ul style="list-style-type: none"> • 3rd degree felony (generally): 9 months - 5 years in prison • 2nd degree felony (if survivor is 16 or 17 years old): 2-8 years in prison • 1st degree felony (if survivor is 15 years old or younger): 3-11 years in prison <p>A(2)-(5):</p> <ul style="list-style-type: none"> • 3rd degree felony (generally): 9 months - 5 years <p>Violations + 2941.1422 Furtherance of Human Trafficking Specification:</p> <p>A(1):</p> <p>3rd degree felony (generally): mandatory prison term of 3-5 years & restitution</p> <p>2nd degree felony (if survivor is 16 or 17 years old): mandatory prison term of 3-8 years & restitution</p> <p>1st degree felony (if survivor is 15 years old or younger): mandatory prison term of 5-11 years & restitution</p> <p>A(2)-(5):</p> <p>3rd degree felony (generally): mandatory prison term of 3-5 years & restitution</p>

O.R.C. 2907.22 Promoting prostitution

Elements	<p>Perpetrator knowingly:</p> <ul style="list-style-type: none"> • establishes, maintains, operates, manages, supervises, controls, or has a financial interest in a brothel or any other enterprise that facilitates sexual activity for hire; OR • supervises, manages, or controls the activities of a prostitute in engaging in sexual activity for hire; OR • transports or causes a survivor to be transported in order to facilitate the survivor's engagement in sexual activity for hire; OR • induces or procures a survivor to engage in sexual activity for hire for the purpose of violating or facilitating a violation of 2907.22
Applicable Specifications	As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.22 Promoting prostitution,

	<p>the court or jury will decide whether the perpetrator is also guilty of the specification/s. If the perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1422 Furtherance of Human Trafficking: perpetrator violated any subsection of 2907.21 in furtherance of trafficking humans</p> <p>2941.1421 School proximity specification for certain sex offenses: perpetrator committed the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises</p> <p>2941.141, 2941.144, 2941.145 Firearm Specifications: perpetrator had a firearm on or about their person or under their control while committing the offense; perpetrator had an automatic firearm or a firearm equipped with a firearm muffler or suppressor on or about the perpetrator's person or under their control while committing the offense; perpetrator had a firearm on or about their person or under their control while committing the offense and displayed, brandished, or otherwise indicated that the perpetrator possessed the firearm or used it to facilitate the offense.</p>
Classifications	<ul style="list-style-type: none"> • 4th degree felony, generally • 3rd degree, if survivor is a minor, whether or not the perpetrator knows the age of the minor • 3rd degree, if perpetrator has been convicted of or pleaded guilty to a violation of this section or any substantially similar violation of a law in another state or the United States • 3rd degree, if perpetrator also is convicted of or pleads guilty to a violation of 2925.03 • 3rd degree, if perpetrator is also convicted of or pleads guilty to a Firearm Specification • 2nd degree, if perpetrator has been convicted of or pleads guilty to two or more violations of this section or any substantially similar law
Sex Offender Classification	Tier I sex offender/child-victim offender: any violation of 2907.22 Promoting prostitution
SOL	6 years
Sentencing Guidelines	<ul style="list-style-type: none"> • 4th degree felony (generally): 6-18 months in prison • 4th degree felony + Furtherance of Human Trafficking Specification: mandatory sentence of 6-18 months in prison & restitution • 4th degree felony + School Proximity Specification: 6-18 months in prison + 1-6 months of additional prison time OR tracking device sanction for 1-6 months after original prison term ends • 4th degree felony + School Proximity Specification + perpetrator has prior conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution: 6-18 months in prison + 1-12 months of additional prison time OR tracking device sanction for 1-12 months after the original prison term ends

	<ul style="list-style-type: none"> • 3rd degree felony (generally): 9-36 months • 3rd degree felony + 2941.141 Firearm Specification: 9-36 months in prison + 1 year of additional prison time (additional time may be added if perpetrator has previously been convicted or plead guilty to a firearm specification) • 3rd degree felony + 2941.144 Firearm Specification: 9-36 months in prison + 6 years of additional prison time (additional time may be added if perpetrator has previously been convicted or plead guilty to a firearm specification) • 3rd degree felony + 2941.145 Firearm Specification: 9-36 months in prison + 3 years of additional prison time (additional time may be added if perpetrator has previously been convicted or plead guilty to a firearm specification) • 3rd degree felony (survivor is a minor): 9 months - 5 years in prison • 3rd degree felony (survivor is a minor) + Human Trafficking Specification: mandatory sentence of 3 years in prison & restitution • 3rd degree felony (survivor is a minor) + School Proximity Specification: 9 months - 5 years in prison + 1-6 months additional prison time OR tracking device sanction for 1-6 months after original term ends • 3rd degree felony (survivor is a minor) + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution: 9 months - 5 years in prison + 1-12 months of additional prison time OR tracking device sanction for 1-12 months after the original prison term ends • 2nd degree felony (convicted/pleads guilty to two or more violations): 2-8 years in prison
--	---

O.R.C. 2907.23 Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another

Elements	<p>A. Perpetrator knowingly and for gain</p> <ul style="list-style-type: none"> • 1. entices or solicits another to patronize a prostitute or brothel; OR • 2. secures a prostitute for another person to patronize, or upon request by another person, takes or directs that person to any place for the purpose of patronizing a prostitute <p>OR</p> <p>B. Perpetrator that has authority or responsibility over a premises knowingly permits the premises to be used for sexual activity for hire</p>
Applicable Specifications	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.23 Enticement or solicitation to patronize a prostitute; procurement of a prostitute for another, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If the perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1421 School proximity specification for certain sex offenses: perpetrator committed the offense in a school safety zone or within five hundred feet of any school building or the boundaries</p>

	of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises
Classifications	<p>A:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor, generally <p>A(2):</p> <ul style="list-style-type: none"> • 1st degree misdemeanor, generally • 4th degree felony, if the person solicited for prostitution is under the age of 16 at the time of the violation, whether or not the perpetrator knows the age of the minor • 5th degree felony, if the person solicited for prostitution is 16 or 17 years old at the time of the violation <p>B:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor, generally • 4th degree felony, if the person solicited for prostitution on the premises is under the age of 16 at the time of the violation, whether or not the perpetrator knows the age of the minor • 5th degree felony, if the person solicited for prostitution is 16 or 17 years old at the time of the violation
SOL	<ul style="list-style-type: none"> • A & B (generally): 2 years • B (if person solicited for prostitution is 17 years old or younger at the time of the crime): 6 years
Sentencing Guidelines	<p>4th Degree Felony:</p> <ul style="list-style-type: none"> • 4th degree felony: 6-18 months in prison • 4th degree felony + School Proximity Specification: 6-18 months in prison + 1-6 months additional prison time OR tracking device sanction for 1-6 months after original term ends • 4th degree felony + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 6-12 months in prison + 1-12 months additional prison time or tracking device sanction for 1-12 months after original term ends <p>5th Degree Felony:</p> <ul style="list-style-type: none"> • 5th degree felony: 6-12 months in prison • 5th degree felony + School Proximity Specification: 6-12 months in prison + 1-6 months additional prison time or tracking device sanction for 1-6 months after original prison term • 5th degree felony + School Proximity Sanction + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 6-12 months in prison + 1-12 months additional prison time or tracking device sanction for 1-12 months after original prison term ends

See, O.R.C. 2929.14(H) & 2929.24(F)	<p>1st Degree Misdemeanor:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor: 180 days in jail • 1st degree misdemeanor + School Proximity Specification: 180 days in jail + up to 60 days additional jail time or tracking device sanction for up to 60 days after original jail term • 1st degree misdemeanor + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 180 days in jail + up to 120 days of additional jail time or tracking device sanction for up to 120 days after original jail term
-------------------------------------	--

O.R.C. 2907.24 Soliciting – after a positive HIV test – driver’s license suspension

Elements	<p>A. Perpetrator</p> <ol style="list-style-type: none"> 1. solicits an adult to engage with the perpetrator in sexual activity for hire; 2. solicits a 16 or 17 year old person to engage in sexual activity for hire, and the offender knows the minor’s age or is reckless in that regard; or 3. solicits for sexual activity for hire (a) a person less than 15 years old or younger to engage, whether or not the perpetrator knows the other person’s age OR (b) a developmentally disabled person that the offender knows or has reasonable cause to believe is a developmentally disabled person. <p>OR</p> <p>B. Perpetrator knows that they has tested positive as a carrier of HIV or AIDS, and solicits another to engage with the perpetrator in sexual activity for hire.</p>
Applicable Specification	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.24 Soliciting, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If the perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1421 School proximity specification for certain sex offenses: perpetrator committed the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises</p>
Definitions	<ul style="list-style-type: none"> • Developmentally Disabled Person: a person whose ability to resist or consent to an act is substantially impaired because of a mental or physical condition or because of advanced age. • Sexual Activity for Hire: an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.

Classifications	<ul style="list-style-type: none"> • A(1): 3rd degree misdemeanor • A(2): 5th degree felony • A(3): 3rd degree felony • (B): 3rd degree felony
Sex Offender Classification	Tier II sex offender/child-victim offender: a violation of 2907.24 (A)(3) Soliciting - after a positive HIV test – driver's license suspension
SOL	<ul style="list-style-type: none"> • A(1): 2 years • A(2)-(3) & B: 6 years
Sentencing Guidelines	<p>2nd Degree Felony:</p> <ul style="list-style-type: none"> • 2nd degree felony: 2-8 years in prison • 2nd degree felony + School Proximity Specification: 2-8 years in prison + 1-6 months additional prison time or tracking device sanction for 1-6 months after original term ends • 2nd degree felony + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 2-8 years in prison + 1-12 months of additional prison time or tracking device sanction for 1-6 months after original prison term <p>3rd Degree Felony:</p> <ul style="list-style-type: none"> • 3rd degree felony: 9 months - 5 years in prison • 3rd degree felony + School Proximity Specification: 9 months - 5 years in prison + 1-6 months additional prison time or tracking device sanction for 1-6 months after original term ends • 3rd degree felony + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 9 months - 5 years in prison + 1-12 months of additional prison time or tracking device sanction for 1-6 months after original prison term <p>5th Degree Felony:</p> <ul style="list-style-type: none"> • 5th degree felony: 6-12 months in prison • 5th degree felony: 6-12 months in prison + 1-6 months additional prison time or tracking device sanction for 1-6 months after original term ends • 5th degree felony + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 1-6 months in prison + 1-12 months of additional prison time or tracking device sanction for 1-6 months after original prison term

See, O.R.C.
2929.14(H) &
2929.24(F)

	<p>3rd Degree Misdemeanor:</p> <ul style="list-style-type: none"> • 3rd degree misdemeanor: 60 days in jail • 3rd degree misdemeanor + School Proximity Specification: 60 days in jail + up to 60 additional days in jail or tracking device sanction for up to 60 days after original jail term • 3rd degree misdemeanor + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 180 days in jail + up to 120 days of additional jail time or tracking device sanction for up to 120 days after original jail term <p>Possible Additional Driving Privilege Suspension or Community Service: If the perpetrator uses a car, is in a car, or is on a car in the furtherance of solicitation, a court MAY issue a class six suspension of the perpetrator's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, OR may issue community service in lieu of a class six driving suspension.</p>
--	---

O.R.C. 2907.241 Loitering to Engage in Prostitution – solicitation after a positive HIV test

Elements	<p>A. Perpetrator, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place</p> <ul style="list-style-type: none"> • 1. beckons to, stops, or attempts to stop another; OR • 2. engages or attempts to engage another in conversation; OR • 3. stops or attempts to stop a moving vehicle or approaches a stationary vehicle; OR • 4. while driving or riding in a vehicle, stops, attempts to stop, beckons to, attempts to beckon to, or entices another to approach or enter the vehicle; OR • 5. interferes with the free passage of another. <p>OR</p> <p>B. Perpetrator knows that they has tested positive as a carrier for HIV or AIDS and engages in the behaviors prohibited by Section A.</p>
Applicable Specification	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.241 Loitering to engage in prostitution, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1421 School proximity specification for certain sex offenses: perpetrator committed the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises</p>

Statute-Specific Definitions	<ul style="list-style-type: none"> • Public Place: a street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot, or transportation facility, a doorway or entrance to a building that fronts one of the above-listed places, or any other place open to the public. • Sexual Activity for Hire: an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person. • Vehicle: everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.
Classifications	<ul style="list-style-type: none"> • A: 3rd degree misdemeanor • B: 5th degree felony
SOL	<ul style="list-style-type: none"> • A: 2 years • B: 6 years
Sentencing Guidelines <i>See, O.R.C. 2929.14(H) & 2929.24(F)</i>	<p>A: 3rd Degree Misdemeanor:</p> <ul style="list-style-type: none"> • 3rd degree misdemeanor: 60 days in jail • 3rd degree misdemeanor + School Proximity Specification: 60 days in jail + up to 60 additional days in jail or tracking device sanction for up to 60 days after original jail term • 3rd degree misdemeanor + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 60 days in jail + up to 120 days of additional jail time or tracking device sanction for up to 120 days after original jail term <p>B: 5th Degree Felony:</p> <ul style="list-style-type: none"> • 5th degree felony: 6-12 months in prison • 5th degree felony + School Proximity Specification: 6-12 months in prison + 1-6 months additional prison or tracking device sanction for up to 60 days after original prison term • 5th degree felony + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 6-12 months in prison + 1-12 months of additional prison time or tracking device sanction for 1-12 months after original prison term

O.R.C. 2907.25 Prostitution – after positive HIV test

Elements	<p>A. Perpetrator engages in sexual activity for hire</p> <p>OR</p> <p>B. Perpetrator has knowledge that they has tested positive as a carrier of HIV or AIDS and, notwithstanding that knowledge, engages in sexual activity for hire.</p>
Applicable Specification	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2907.25 Prostitution, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If they are found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1421 School proximity specification for certain sex offenses: perpetrator committed the offense in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises, regardless of whether the offender knows the offense is being committed in a school safety zone or within five hundred feet of any school building or the boundaries of any school premises</p>
Statute-Specific Definition	<p>Sexual Activity for Hire: an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.</p>
Classifications	<ul style="list-style-type: none"> • A: 3rd degree misdemeanor • B: 3rd degree felony
SOL	<ul style="list-style-type: none"> • A: 2 years • B: 6 years
Sentencing Guidelines	<p>A: 3rd Degree Felony:</p> <ul style="list-style-type: none"> • 3rd degree felony: 9 months - 5 years in prison • 3rd degree felony + School Proximity Specification: 9 months - 5 years in prison + 1-6 months additional prison time or tracking device sanction for 1-6 months after original prison term • 3rd degree felony + School Proximity Specification +perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 9 months - 5 years in prison + 1-12 months of additional prison time or tracking device sanction for 1-12 months after original prison term <p>B: 3rd Degree Misdemeanor:</p> <ul style="list-style-type: none"> • 3rd degree misdemeanor: 60 days in jail • 3rd degree misdemeanor + School Proximity Specification: 60 days in jail + up to 60 days of additional jail time or tracking device sanction for up to 60 days after original jail term

	<ul style="list-style-type: none"> • 3rd degree misdemeanor + School Proximity Specification + perpetrator has conviction or guilty plea to 2907.22 Promoting prostitution, .24 Soliciting, .241 Loitering to engage in prostitution, or .25 Prostitution with a School Proximity Specification: 60 days in jail + up to 120 days of additional jail time or tracking device sanction for up to 120 days after original jail term
--	--

c. Obscene Material Sex Offenses

2907.31 Disseminating material harmful to juveniles

Elements	<p>A. Perpetrator, with knowledge of the material's character or content, recklessly:</p> <ul style="list-style-type: none"> • 1. directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents to one or more juvenile persons or one or more law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles; OR • 2. directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present to one or more juveniles or one or more law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles; OR • 3. while in the physical proximity of a juvenile or law enforcement officer posing as a juvenile, allows any juvenile or officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles. <p>OR</p> <p>B. Perpetrator, who knows or has reason to believe that the person/s receiving the information is/are juvenile/s, offers or agrees to or directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents material or a performance prohibited in (A) to one or more juveniles or one or more law enforcement officers posing as juveniles by means of an electronic method of remotely transmitting information. (This does not apply to mass distribution if the person transmitting the information if the person has inadequate information to know or have reason to believe that a particular recipient is a juvenile, or if the method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information).</p>
Affirmative Defenses	<p>If material or performance is harmful but not obscene:</p> <ul style="list-style-type: none"> • 1. Defendant is the parent, guardian, or spouse of the juvenile survivor. • 2. At the time of the conduct in question, the juvenile survivor was accompanied by their parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile. • 3. The juvenile survivor presented a draft card, driver's license, birth record, marriage license or other official or apparently official document purporting to show the juvenile was at least 18 years old or married, and the perpetrator did not have reasonable cause to believe that the juvenile was under 18 and unmarried. <p>If material or performance is obscene or harmful:</p> <ul style="list-style-type: none"> • 1. The perpetrator is a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge, or other proper person, and presented the material or performance for a bona fide medical, scientific, educational, governmental, judicial, or other proper purpose.

Classifications	<ul style="list-style-type: none"> • 1st degree misdemeanor, if material or performance is harmful but not obscene • 5th degree felony, if material or performance is obscene • 4th degree felony, if material or performance is obscene and the juvenile is under 13 years of age
SOL	2 years (if the material or performance is harmful but not obscene) 6 years (if material or performance is obscene)
Sentencing Guidelines	2907.31 Disseminating material harmful to juveniles follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> • 1st degree misdemeanor: 180 days in jail • 5th degree felony: 6-12 months in prison • 4th degree felony: 6-18 months in prison

2907.311 Displaying matter harmful to juveniles

Elements	Perpetrator <ul style="list-style-type: none"> • has financial, custodial, or supervisory control over a commercial establishment; AND • displays material harmful to juveniles in said establishment; AND • that material is open and visible to juveniles as part of the invited general public; AND • the perpetrator knows the character/content of the material • (this does not include material placed behind blinder racks, wrapped or covered, placed behind a counter, or otherwise covered or located so that juveniles may not view it).
Classifications	1 st degree misdemeanor <ul style="list-style-type: none"> • Each day during which the offender is in violation of this section constitutes a separate offense
SOL	2 years
Sentencing Guidelines	2907.311 Disseminating matter harmful to juveniles follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> • 1st degree misdemeanor: 180 days in jail

2907.32 Pandering Obscenity

Elements	Perpetrator, knowing the character of the material or performance involved: <ul style="list-style-type: none"> • 1. creates, reproduces, or publishes any obscene material, knowing that the material will be used for commercial exploitation or will be publicly disseminated or displayed, or being reckless in that regard; OR • 2. promotes or advertises any obscene material for delivery, dissemination, or sale; sells, delivers, publicly disseminates, publicly displays, exhibits, presents, rents, or provides obscene material; OR offers or agrees to sell, deliver, publicly disseminate, publicly display, exhibit, present, rent, or provide, any obscene material; OR
----------	--

	<ul style="list-style-type: none"> • 3. creates, directs or produces an obscene performance, knowing that the performance will be used for commercial exploitation or will be publicly presented, or being reckless in that regard; OR • 4. advertises or promotes an obscene performance for presentation, or presents or participates in presenting an obscene performance, when the performance is presented publicly, or privately but admission is charged; OR • 5. buys, procures, processes, or controls any obscene material with purpose to violate division (2) or (4)
Affirmative Defenses	The perpetrator was a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance, and the material or performance involved was disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other purpose.
Classifications	<ul style="list-style-type: none"> • 5th degree felony, generally • 4th degree felony, if the offender has previously been convicted of 2907.32 Pandering obscenity or 2907.31 Displaying matter harmful to juveniles
Sex Offender Classification	Tier I sex offender/child-victim offender: any violation of 2907.32 Pandering obscenity
SOL	6 years
Sentencing Guidelines	2907.32 Pandering obscenity follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> • 5th degree felony (generally): 6-12 months in prison • 4th degree felony (prior 2907.32 or 2907.31 conviction): 6-18 months in prison

2907.321 Pandering Obscenity Involving a Minor or Impaired Person

Elements	<p>Perpetrator, knowing the character of the material or performance involved, and whether or not the perpetrator knows the age of the minor:</p> <ul style="list-style-type: none"> • 1. creates, reproduces, or publishes any obscene material that has a minor or impaired person as one of its participants or portrayed as an observer; OR • 2. promotes or advertises for sale or dissemination any obscene material that has a minor or impaired person as one of its participants or portrayed observers; sells, delivers, disseminates, displays, exhibits, presents, rents or provides obscene material that has a minor as one of its participants or portrayed observers; OR offers or agrees to sell, deliver, disseminate, display, exhibit, present, rent, or provide obscene material that has a minor as one of its participants or portrayed observers; OR • 3. creates, directs, or produces a performance that has a minor or impaired person as one of the participants; OR • 4. advertises or promotes for presentation, presents or participates in presenting an obscene performance that has a minor or impaired person as one of its participants; OR • 5. buys, produces, possesses, or controls any obscene material that has a minor or impaired person as one of its participants; OR
----------	---

	<ul style="list-style-type: none"> 6. brings or causes to be brought into this state any obscene material that has a minor or impaired person as one of its participants or portrayed observers. <p>AND</p> <p>For the purposes of 2907.321, a trier of fact may infer that a person in the material or performance involved is a minor or impaired person if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor or impaired person.</p> <p>AND</p> <p>This section does not apply if the perpetrator was a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, clergyman, prosecutor, judge, or other person having a proper interest in the material or performance, the material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose.</p>
Statute-Specific Definitions	“impaired person” means a person whose ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age, and the offender knows or has reasonable cause to believe that the other person’s ability to resist or consent is substantially impaired because of a mental or physical condition or because of advanced age (definition also applies to 2907.322 and 2907.323)
Classifications	<p>(1), (2), (3), (4), or (6) if involving a minor:</p> <ul style="list-style-type: none"> 2nd degree felony <p>(1), (2), (3), (4), or (6) if involving an impaired person:</p> <ul style="list-style-type: none"> 3rd degree felony <p>(5):</p> <ul style="list-style-type: none"> 4th degree felony, generally 3rd degree felony, if the perpetrator previously has been convicted of or pleaded guilty to a violation of 2907.321, 2907.322, or 2907.323
Sex Offender Classification	Tier II sex offender/child-victim offender: any violation of 2907.321 Pandering obscenity involving a minor or impaired person
SOL	6 years
Sentencing Guidelines	<p>2907.321 Pandering obscenity involving a minor or impaired person follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> 2nd degree felony (1-4 & 6 if involving a minor): 2-8 years in prison 3rd degree felony (1-4 & 6 if involving an impaired person and 5 if the perpetrator has a prior 2907.321, .322, or .323 guilty plea or conviction): 1-5 years in prison 4th degree felony (5 generally): 6-18 months in prison

2907.322 Pandering sexually oriented matter involving a minor or impaired person

Elements	<p>Perpetrator, knowing the character of the performance or material involved, whether or not the perpetrator knows the age of the minor:</p> <ul style="list-style-type: none"> 1. creates, records, photographs, films, develops, reproduces, or publishes any material that shows a minor or impaired person participating or engaging in sexual activity, masturbation, or bestiality; OR
----------	---

	<ul style="list-style-type: none"> • 2. advertises for sale or dissemination, sells, distributes, transports, disseminates, exhibits, or displays any material that shows a minor or impaired person participating or engaging in sexual activity, masturbation, or bestiality; OR • 3. creates, directs, or produces a performance that shows a minor or impaired person participating or engaging in sexual activity, masturbation, or bestiality; OR • 4. advertises for presentation, presents, or participates in presenting a performance that shows a minor or impaired person participating or engaging in sexual activity, masturbation, or bestiality; OR • 5. knowingly solicits, receives, purchases, exchanges, possesses, or controls any material that shows a minor or impaired person participating or engaging in sexual activity, masturbation, or bestiality; OR • 6. brings or causes to be brought into this state any material that shows a minor or impaired person participating or engaging in sexual activity, masturbation, or bestiality; OR • 7. bring, cause to be brought, or finance the bringing of any minor or impaired person into or across this state with the intent that the minor or impaired person engage in sexual activity, masturbation, or bestiality in a performance or for the purpose of producing material containing a visual representation depicting the minor or impaired person engaged in sexual activity, masturbation, or bestiality. <p>AND</p> <p>For the purposes of 2907.322, a trier of fact may infer that a person in the material or performance involved is a minor or impaired person if the material or performance, through its title, text, visual representation, or otherwise, represents or depicts the person as a minor or impaired person.</p> <p>AND</p> <p>This section does not apply if the perpetrator was a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance, the material or performance that is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose.</p>
Classifications	<p>(1)(2)(3)(4) or (6) if involving a minor:</p> <ul style="list-style-type: none"> • 2nd degree felony <p>(1), (2), (3), (4) or (6) if involving an impaired person:</p> <ul style="list-style-type: none"> • 3rd degree felony <p>(5):</p> <ul style="list-style-type: none"> • 4th degree felony, generally • 3rd degree felony, if the offender has a prior 2907.321, 2907.322, or 2907.323 conviction or guilty plea
Sex Offender Classification	Tier II sex offender/child-victim offender: any violation of 2907.322 Pandering sexually oriented matter involving a minor or impaired person
SOL	6 years
Sentencing Guidelines	<p>2907.322 follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 2nd degree felony (1-4 & 6 if involving a minor): 2-8 years in prison

	<ul style="list-style-type: none"> • 3rd degree felony (1-4 & 6 if involving an impaired person): 1-5 years in prison • 3rd degree felony (5 if the perpetrator has a prior 2907.321, .322, or .323 guilty plea or conviction): 1 - 5 years in prison • 4th degree felony (5 generally): 6-18 months in prison
--	--

2907.323 Illegal use of minor in nudity-oriented material or performance

Elements	<p>Perpetrator does any of the following:</p> <ul style="list-style-type: none"> • 1. photographs any minor or impaired person that is not their child or ward in a state of nudity, or creates, directs, produces, or transfers any material or performance that shows the minor or impaired person in a state of nudity, UNLESS (a) the material or performance is, or is intended to be, sold, disseminated, displayed, possessed, controlled, or brought to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance, for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose; AND (b) the minor or impaired person's parent(s), guardian, or custodian consents in writing to the photographing of the minor, to the use of the minor in the material or performance, or to the transfer of the material and to the specific manner in which the material or performance is to be used; OR • 2. Consent to the photographing of the person's child or ward who is a minor or impaired person, or photograph the person's child or ward who is a minor or impaired person, in a state of nudity; consents to the use of their child or ward who is a minor or impaired person in a state of nudity in any material or performance or the use or transfer of a material or performance of that nature, UNLESS the material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge or other person having a proper interest in the material or performance; OR • 3. possesses or views any material or performance that shows a minor or impaired person who is not the person's child or ward in a state of nudity, UNLESS one of the following applies: (a) the material or performance is sold, disseminated, displayed, possessed, controlled, brought or caused to be brought into this state, or presented for a bona fide artistic, medical, scientific, educational, religious, governmental, judicial, or other proper purpose, by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the material or performance; OR (b) the perpetrator knows that the minor's or impaired person's parents, guardian, or custodian has consented in writing to the photographing or use of the minor or impaired person in a state of nudity and to the manner in which the material or performance is used or transferred.
Applicable Specification	2941.1422 Furtherance of Human Trafficking: perpetrator violated either (A)(1) or (2), involving a minor, in furtherance of human trafficking

Classifications	<p>(1) or (2) if involving a minor:</p> <ul style="list-style-type: none"> • 2nd degree felony, generally • 2nd degree felony, if the perpetrator pleads guilty or is convicted of committing 2907.323 in the furtherance of human trafficking, and that charge was included in the indictment, count in the indictment, or charging information pursuant to 2941.1422 <p>(1) or (2) if involving an impaired person:</p> <ul style="list-style-type: none"> • 3rd degree felony <p>(3):</p> <ul style="list-style-type: none"> • 5th degree felony, generally • 4th degree felony, if the offender has a prior 2907.321, 2907.322, or 2907.323 conviction or guilty plea
Sex Offender Classification	<p>Tier I sex offender/child-victim offender: A violation of 2907.323 (A)(3)</p> <p>Tier II sex offender/child-victim offender: A violation of 2907.323 (A)(1) or (2)</p>
SOL	6 years
Sentencing Guidelines	<p>(1) or (2):</p> <ul style="list-style-type: none"> • 2nd degree felony (generally, if involving a minor): 2-8 years in prison • 2nd degree felony (in furtherance of human trafficking and included in indictment, count in the indictment, or charging information pursuant to 2941.1422): mandatory prison term of 3-8 years and restitution including the costs of housing, counseling, and medical and legal assistance incurred by the victim as a direct result of the offense and the greater of (1) the gross income or value to the offender of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the "Federal Fair Labor Standards Act of 1938," 52 Stat. 1060, 20 U.S.C. 207, and state labor laws. • 3rd degree felony (if involving an impaired person): 1-5 years in prison <p>(3):</p> <ul style="list-style-type: none"> • 5th degree felony (generally): 6-12 months in prison • 4th degree felony (if the perpetrator has a prior 2907.321, .322, or .323 guilty plea or conviction): 6-18 months in prison

2907.33 Deception to obtain matter harmful to juveniles

Elements	<p>A. Perpetrator, for the purposes of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles:</p> <ul style="list-style-type: none"> • 1. falsely represents as the juvenile's parent, guardian, or spouse; OR • 2. furnishes the juvenile with any identification or document purporting to show that the juvenile is at least 18 years of age or is married <p>OR</p>
----------	---

	<p>B. Juvenile perpetrator, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles:</p> <ul style="list-style-type: none"> 1. falsely represents as at least 18 years old or is married; OR 2. exhibits any identification or documentation purporting to show age is at least 18 years or status as married
Classifications	<ul style="list-style-type: none"> A: 2nd degree misdemeanor, generally B: juvenile will be adjudged an unruly child and the case will be handled pursuant to Chapter 2151.
SOL	2 years
Sentencing Guidelines	<ul style="list-style-type: none"> 2nd degree misdemeanor: 90 days in jail Unruly child adjudication: possible penalties include community control, community service, driver's license (or any iteration of license or permit) revocation, and commitment to court custody

2907.34 Compelling acceptance of objectionable materials

Elements	<p>A. Perpetrator, as a condition to the sale, allocation, consignment, or delivery of any material or goods of any kind, requires the purchaser or consignee to accept any other material reasonably believed to be obscene, if furnishing such material to a juvenile would be a violation of O.R.C. 2907.31.</p> <p>B. Perpetrator denies or threatens to deny any franchise or imposes or threatens to impose any financial or other penalty upon any purchaser or consignee because that person (1) failed or refused to accept material reasonably believed to be obscene as a condition to the sale, allocation, consignment, or delivery of any other material or goods OR (2) returned any material believed to be obscene that the purchaser or consignee initially accepted.</p>
Classifications	5th degree felony
SOL	6 years
Sentencing Guidelines	<p>2907.34 Compelling acceptance of objectionable materials follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> 5th degree felony: 6-12 months in prison

d. Adult Entertainment Venue Sex Offenses

2907.38 Permitting unlawful operation of viewing booths depicting sexual conduct

Elements	<p>Perpetrator, having custody, control, or supervision of a commercial establishment, and with knowledge of the character of the visual material or performance involved, knowingly permits or offers the use of viewing booths, stalls, or partitioned portions of a room located in the commercial establishment for the purpose of viewing visual materials or performances depicting sexual conduct UNLESS:</p> <p>(1) the inside of each booth, stall, or partitioned room is visible from, and at least one side of each booth, stall, or partitioned room is open to, a continuous and contiguous main aisle or hallway that is open to the public areas of the commercial establishment and is not obscured by any curtain, door, or other covering or enclosure; OR</p> <p>(2) no booth, stall, or partitioned room is designed, constructed, pandered, or allowed to be used for the purpose of encouraging or facilitating nudity or sexual activity on the part of or between</p>
----------	---

	patrons or members of the public, AND no booth, stall, or partitioned room has any aperture, hole, or opening for the purpose of encouraging or facilitating nudity or sexual activity.
Mental States	Knowingly
Affirmative Defenses	(1) The visual materials or performances depicting sexual conduct are disseminated or presented for a bona fide medical, scientific, educational, religious, governmental, judicial, or other proper purpose and by or to a physician, psychologist, sociologist, scientist, teacher, person pursuing bona fide studies or research, librarian, member of the clergy, prosecutor, judge, or other person having a proper interest in the visual materials or performances. (2) The visual materials or performances depicting sexual conduct, taken as a whole, would be found by a reasonable person to have serious literary, artistic, political, or scientific value or are presented or disseminated in good faith for a serious literary, artistic, political, or scientific purpose and are not pandered for their prurient appeal.
Section-Specific Definitions	Commercial Establishment: an entity that is open to the public and to which either of the following applies: (1) it has a substantial or significant portion of its stock in trade of the sale, rental, or viewing of visual materials or performances depicting sexual conduct; (2) it has a principle business purpose the sale, rental, or viewing of visual materials or performances depicting sexual conduct Visual Materials or Performances: films, videos, CD-Rom discs, streaming video, or other motion pictures
Classifications	1 st degree misdemeanor
SOL	2 years
Sentencing Guidelines	2907.38 Permitting unlawful operation of viewing booths depicting sexual conduct follows the general O.R.C. guidelines: <ul style="list-style-type: none"> • 1st degree misdemeanor: 180 days in jail

2907.39 Permitting juvenile on premises of adult entertainment establishment - use of false information to gain entry

Elements	B. Perpetrator knowingly allows any individual under the age of 18 on the premises of an adult entertainment establishment; OR C. Individual under the age of 18 knowingly shows or gives false information concerning their name or age for the purpose of gaining entrance to an adult entertainment establishment.
Affirmative Defenses	An affirmative defense to 2907.39 exists if the defendant proves all of the following by the preponderance of the evidence: <ul style="list-style-type: none"> • The individual gaining entrance to the adult entertainment establishment exhibited to an operator, employee, agent, or independent contractor of the adult entertainment establishment a driver's or commercial driver's license or an identification card issued under sections 4507.50 and 4507.52 of the Revised Code showing that the individual was then at least eighteen years of age; AND • The operator, employee, agent, or independent contractor made a bona fide effort to ascertain the true age of the individual gaining entrance to the adult entertainment establishment by checking the identification presented, at the time of entrance, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; AND

	<ul style="list-style-type: none"> The operator, employee, agent, or independent contractor had reason to believe that the individual gaining entrance to the adult entertainment establishment was at least eighteen years of age. <p>NOTE: In any criminal action in which the affirmative defense described above is raised, the registrar of motor vehicles or the deputy registrar who issued a driver's or commercial driver's license or an identification card under sections 4507.50 and 4507.52 of the Revised Code shall be permitted to submit certified copies of the records, in the registrar's or deputy registrar's possession, of the issuance of the license or identification card in question, in lieu of the testimony of the personnel of the bureau of motor vehicles in the action.</p>
Statute-Specific Definitions	<p>“Adult Arcade,” “Adult Cabaret,” “Adult Entertainment,” “Adult Entertainment Establishment,” “Adult Motion Picture Theater,” “Adult Theater,” “Distinguished or Characterized by their Emphasis Upon,” “Nude or Seminude Model Studio,” “Nudity, Nude, or State of Nudity,” “Regularly Features or Regularly Shown,” “Seminude or State of Seminudity,” “Specified Anatomical Areas,” “Specified Sexual Activity,” “Sexual Encounter Establishment,” and “Adult Bookstore, Adult Novelty Store, or Adult Video Store” are defined in great detail within 2907.39 and can be reviewed free of charge at http://codes.ohio.gov/orc/2907.39.</p>
Classifications	<p>B. 1st degree misdemeanor C. Delinquent act</p>
SOL	2 years
Sentencing Guidelines	<p>2907.39 Permitting juvenile on premises of adult entertainment establishment - use of false information to gain entry follows the general O.R.C. guidelines:</p> <ul style="list-style-type: none"> B. 1st degree misdemeanor: 180 days in jail C. Delinquent act comparable to a 4th degree misdemeanor if committed by an adult

2907.40 Illegally operating a sexually oriented business

Elements	<p>[Section A contains the section-specific definitions listed below, and does not list a specific violation]</p> <p>B. Perpetrator permits their sexually oriented business, which does not hold a liquor permit, to remain open for business between 12:00 midnight and 6:00 a.m. on any day, EXCEPT that a sexually oriented business that holds a liquor permit may remain open until the hour specified in that permit if it does not conduct, offer, or allow sexually oriented entertainment activity in which the performers appear nude.</p> <p>OR</p> <p>C. Perpetrator, who is a patron, knowingly touches any employee while that employee is nude or seminude, OR touches the clothing of any employee while that employee is nude or seminude. This section does not apply if the patron is an immediate member of the employee's family; OR perpetrator, who is an employee who regularly appears nude or seminude on the premises of a sexually oriented business, while on the premises of that sexually oriented business and while nude or seminude, knowingly touches the body or clothing of a patron or another employee or allows a patron or another employee to touch the body or clothing of the employee. This section does not apply if the patron or other employee is an immediate family member of the perpetrator's family.</p>
Statute-Specific Definitions	<p>“Adult Bookstore or Adult Video Store,” “Adult Cabaret,” “Adult Motion Picture Theater,” “Nudity, Nude, or State of Nudity,” “Operator,” “Patron,” “Seminude or State of Seminudity,” “Sexual Device,” “Sexual Device Shop,” “Sexual Encounter Center,” “Sexually Oriented Business,”</p>

	and “Specified Anatomical Areas” are defined in great detail within 2907.40 and can be viewed free of charge at http://codes.ohio.gov/orc/2907.40 .
Classifications	<ul style="list-style-type: none"> • B: 1st degree misdemeanor • C: 1st degree misdemeanor, if the perpetrator touches a patron or employee’s specified anatomical area, or clothing covering said area • 4th degree misdemeanor, if the perpetrator touches an area not deemed a specified anatomical area, or clothing covering said area
SOL	2 years
Sentencing Guidelines	2907.40 Illegally operating a sexually oriented business follows general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> • 1st degree misdemeanor: 180 days in jail • 4th degree misdemeanor: 30 days in jail

VI. Chapter 2905 Kidnapping and Extortion Table of Contents

<p style="text-align: center;">O.R.C. Chapter 2905 (Repealed sections omitted) (Bolded sections described within)</p> <ul style="list-style-type: none"> • 2905.01 Kidnapping • 2905.02 Abduction • 2905.03 Unlawful restraint • 2905.05 Criminal child enticement • 2905.11 Extortion • 2905.12 Coercion • 2905.21 Extortionate extension of credit - criminal usury definitions • 2905.22 Extortionate extension of credit - criminal usury • 2905.23 Probable cause to believe that extension of credit was extortionate • 2905.24 Evidence showing an implicit threat as means of collection • 2905.31 Definitions for sections 2905.31 to 2905.33 • 2905.32 Trafficking in persons • 2905.33 Unlawful conduct with respect to documents 	
--	--

VII. Selected O.R.C. Chapter 2905 Offenses

O.R.C. 2905.32 Trafficking in persons

Elements	A. Perpetrator knowingly attempts to or successfully recruits, lures, entices, isolates, harbors, transports, provides, obtains, or maintains another person if any of the following apply: <ul style="list-style-type: none"> • 1. the perpetrator knows that the other person will be subjected to involuntary servitude or compelled to engage in sexual activity for hire, a sexually oriented, obscene, or nudity
----------	---

	<p>oriented performance, or be a model or participant in the production of obscene, sexually oriented, or nudity oriented material; OR</p> <ul style="list-style-type: none"> • 2. the other person is less than 16 years old or is a person with a developmental disability whom the offender knows or has reasonable cause to believe is a person with a developmental disability, and the perpetrator knows that person will be subjected to involuntary servitude, or attempts to or successfully recruits . . . or maintains the other person specifically to: (1) engage in sexual activity for hire; (2) engage in an obscene, sexually oriented, or nudity oriented performance; or (3) model or participate for hire in the production of obscene, sexually oriented, or nudity oriented material; OR • 3. the other person is 16 or 17 years old, and the perpetrator knows that person will be subjected to involuntary servitude, or the perpetrator attempts to or successfully recruits . . . or maintains that person specifically to: (1) engage in sexual activity for hire; (2) engage in an obscene, sexually oriented, or nudity oriented performance; or (3) model or participate for hire in the production of obscene, sexually oriented, or nudity oriented material, AND that person is incarcerated, hospitalized or institutionalized, and the perpetrator has supervisory or disciplinary authority over that person; OR perpetrator has authority over that person (e.g. offender is a parent/guardian, has institutional authority, is a teacher, cleric, coach, instructor, etc.; for a full listing, please see http://codes.ohio.gov/orc/2907.03)
Statute-Specific Definitions	<p>Compelled: the element "compelled" does not require that the compulsion be openly displayed or physically exerted. The element "compelled" has been established if the state proves that the victim's will was overcome by force, fear, duress, intimidation, or fraud.</p> <p>Developmentally Disabled Person: a person whose ability to resist or consent to an act is substantially impaired because of a mental or physical condition or because of advanced age</p> <p>Involuntary Servitude: being compelled to perform labor or services for another against one's will</p> <p>Material that is obscene, sexually oriented, or nudity oriented /performance that is obscene, sexually oriented, or nudity oriented: any material or performance that is obscene, that shows a person participating or engaging in sexual activity, masturbation, or bestiality, or that shows a person in a state of nudity</p> <p>Sexual Activity for Hire, Performance for Hire, and Model or Participant for Hire: an implicit or explicit agreement to provide sexual activity, engage in an obscene, sexually oriented, or nudity oriented performance, or be a model or participant in the production of obscene, sexually oriented, or nudity oriented material, whichever is applicable, in exchange for anything of value paid to any of the following:</p> <ul style="list-style-type: none"> • the person engaging in such sexual activity, performance, or modeling or participation; OR • any person who attempts to or successfully recruits, lures, entices, isolates, harbors, transports, provides, obtains, or maintains the person; OR • any person associated with any person who attempts to or successfully recruits, lures, entices, isolates, harbors, transports, provides, obtains, or maintains the person
Classification	1st degree felony
Sex Offender Classification	<p>Tier II sex offender/child-victim offender: A violation of 2905.32 Trafficking in person when any of the following applies:</p> <ul style="list-style-type: none"> • A violation of 2905.32(A)(1) and the perpetrator knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, OR knowingly

	<p>attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain another person knowing that the person would be compelled to engage in sexual activity for hire, engage in a performance that was obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that was obscene, sexually oriented, or nudity oriented.</p> <ul style="list-style-type: none"> • A violation of 2905.32(A)(2) and the perpetrator knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, OR knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is less than sixteen years of age or a person with a developmental disability whom the perpetrator knows or has reasonable cause to believe is a person with a developmental disability. • A violation of 2905.32(A)(3) and the perpetrator knowingly recruited, lured, enticed, isolated, harbored, transported, provided, obtained, or maintained, OR knowingly attempted to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain a person who is sixteen or seventeen years of age for any purpose listed in 2905.32 (A)(2)(a) – (c) and the perpetrator is in a position of power or authority over the survivor (as listed in 2907.03(A)(5)-(13)).
SOL	20 years
Sentencing Guidelines	Definite prison term of 10, 11, 12, 13, 14, or 15 years

O.R.C. 2905.01 Kidnapping

Elements	<p>A. Perpetrator uses deception, force, or threat of force to transport a person or prevent that person from leaving at will (if the survivor is under the age of 13 or mentally incompetent, the perpetrator does not have to use deception, force, or threat of force – any means are criminal), for any of the following purposes:</p> <ul style="list-style-type: none"> • 1. to hold for ransom, as a shield, or as a hostage; • 2. to facilitate the commission of a felony or escape after the felony; • 3. to terrorize or inflict serious physical harm on the survivor or another; • 4. to engage in sexual activity with the survivor against the survivor's will; • 5. to obstruct governmental activities or force government action; • 6. to hold for involuntary servitude <p>OR</p> <p>B. Perpetrator uses deception, force, or threat of force to transport a person or prevent that person from leaving at will (if the survivor is under the age of 13 or mentally incompetent, the perpetrator does not have to use deception, force, or threat of force – any means are criminal) WHEN</p> <ul style="list-style-type: none"> • the survivor is an adult and the circumstances create a substantial risk of serious physical harm; OR • the survivor is a minor and the circumstances create a substantial risk of serious physical harm or cause actual physical harm of any variety
----------	--

Applicable Specifications	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2905.01 Kidnapping, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If the perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1422 Furtherance of Human Trafficking: perpetrator violated any subsection of 2905.01 in furtherance of trafficking humans</p> <p>2941.147: Sexual Motivation Specification: perpetrator violated 2905.01 with a purpose to gratify sexual needs or desires of the perpetrator</p>
Statute-Specific Definitions	Involuntary Servitude: being compelled to perform labor or services for another against one's will
Classifications	<ul style="list-style-type: none"> • 1st degree felony, generally • 1st degree felony if survivor was younger than 13 when the crime occurred • 2nd degree felony if the perpetrator violated section (A)(1)-(5) or (B) and released the survivor unharmed in a safe location
Sex Offender Classification	<p>Tier II sex offender/child-victim offender:</p> <ul style="list-style-type: none"> • A violation of 2905.01(A)(1), (2), (3), or (5) when committed with a sexual motivation • A violation of 2905.01(A)(4) when the survivor is eighteen years of age or older <p>Tier III sex offender/child-victim offender:</p> <ul style="list-style-type: none"> • A violation of 2905.01(A)(4) when the survivor is under eighteen years of age • A violation of 2905.01(B) when the survivor is under eighteen years of age and the perpetrator is not a parent of the survivor
SOL	20 years
Sentencing Guidelines	<ul style="list-style-type: none"> • 1st degree felony (survivor is under 13 & was not released unharmed in safe location) + Sexual Motivation Specification: mandatory prison term of 15 years to life in prison • 1st degree felony (survivor is under 13, but was released unharmed in a safe location) + Sexual Motivation Specification: mandatory prison term of 10 years to life in prison • 1st degree felony (perpetrator either violated (A)(6) or violated (A)(1)-(5) or (B) & did not release the survivor unharmed in a safe location): 3-11 years in prison • 1st degree felony + Human Trafficking Specification: 5-11 years in prison • 2nd degree felony (perpetrator violated (A)(1)-(5) or (B), but released survivor unharmed in safe location): 2-8 years in prison • 2nd degree felony + Human Trafficking Specification: 3- 8 years in prison

2905.02 Abduction

Elements	<p>A. Perpetrator knowingly:</p> <ul style="list-style-type: none"> • 1. uses force or threat of force to transport another; OR
----------	---

	<ul style="list-style-type: none"> 2. uses force or threat of force to prevent another person from leaving at will in a manner that creates risk of physical harm to the survivor or places the survivor in fear; OR 3. holds another in involuntary servitude <p>OR</p> <p>B. Perpetrator violates Section (A) with sexual motivation.</p>
Applicable Specifications	<p>As long as the prosecutor includes the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2905.02 Abduction, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If the perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1422 Furtherance of Human Trafficking: perpetrator violated any subsection of 2905.02 in furtherance of trafficking humans</p>
Section-Specific Definitions	<p>Involuntary Servitude: being compelled to perform labor or services for another against one's will</p> <p>Sexual Motivation: a purpose to gratify the sexual needs or desires of the perpetrator</p>
Classifications	<ul style="list-style-type: none"> 2nd degree felony if perpetrator violates (A)(3) 2nd degree felony if perpetrator violates (B) by violating (A)(3) with a sexual motivation 3rd degree felony if perpetrator violates (A)(1) or (A)(2) 3rd degree felony if perpetrator violates (B) by violating (A)(1) or (A)(2) with a sexual motivation
Sex Offender Classification	Tier II sex offender/child-victim offender: A violation of 2905.02(B) Abduction
SOL	6 years
Sentencing Guidelines	<ul style="list-style-type: none"> 2nd degree felony (perpetrator violates (A)(3) or (B) by violating (A)(3) with a sexual motivation): 2-8 years in prison 3rd degree felony (perpetrator violates (A)(1) or (A)(2) or (B) by violating (A)(1) or (A)(2) with a sexual motivation): 9 months - 5 years Either 2nd or 3rd degree felony + Furtherance of Human Trafficking Specification: mandatory prison term of 3-8 years + financial restitution

O.R.C. 2905.03 Unlawful Restraint

Elements	<p>A. Perpetrator knowingly restrains another without privilege to do so</p> <p>OR</p> <p>B. Perpetrator knowingly restrains another without privilege to do so and with sexual motivation</p>
Section-Specific Definitions	Sexual Motivation: a purpose to gratify the sexual needs or desires of the offender
Classification	3 rd degree misdemeanor
Sex Offender Classification	Tier I sex offender/child-victim offender: A violation of 2905.03(B) Unlawful restraint

SOL	2 years
Sentencing Guidelines	2905.03 follows the O.R.C. general sentencing guidelines: <ul style="list-style-type: none"> • 3rd degree misdemeanor: 60 days in jail

O.R.C. 2905.05 Criminal child enticement

Elements	<p>A. Perpetrator knowingly solicits, coaxes, entices, or lures any child less than 14 years old to join that person in a vehicle, vessel, or otherwise, if:</p> <ul style="list-style-type: none"> • the perpetrator does not have permission from the child's parent or guardian; AND • the perpetrator is not a law enforcement officer, medic, firefighter, emergency service provider, or education board employee acting within the scope of their employment <p>OR</p> <p>B. Perpetrator violates Section (A) with sexual motivation</p>
Affirmative Defense	Perpetrator undertook the activity in response to a bona fide emergency situation or with a reasonable belief that it was necessary to preserve the health, safety, or welfare of the child.
Definitions	<p>Sexual Motivation: a purpose to gratify the sexual needs or desires of the offender</p> <p>Vehicle: everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions</p> <p>Vessel: craft, including nondisplacement craft and seaplanes, designed to be used as a means of transportation on water</p>
Classification	<ul style="list-style-type: none"> • 1st degree misdemeanor, generally • 5th degree felony if the survivor was under the age of 17 and the perpetrator has a prior conviction or guilty plea to 2907.02 Rape, 2907.03 Sexual battery, the former Section 2907.12, 2905.01 Kidnapping, or 2905.05 Criminal child enticement
Sex Offender Classification	Tier I sex offender/child-victim offender: A violation of 2905.05(B) Criminal child enticement
SOL	<ul style="list-style-type: none"> • 2 years, generally • 6 years if the survivor was under the age of 17 and the perpetrator has a prior conviction or guilty plea to 2907.02 Rape, 2907.03 Sexual battery, the former Section 2907.12, 2905.01 Kidnapping, or 2905.05 Criminal child enticement
Sentencing Guidelines	<p>2905.05 Criminal child enticement follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor (generally): 180 days in jail • 5th degree felony (survivor was less than 17 years old and perpetrator has prior 2907.02, 2907.03, 2907.12, 2905.01, or 2905.05 conviction or guilty plea): 6-12 months in prison

VIII. Chapter 2903 Table of Contents

O.R.C. 2903

(Repealed sections omitted)
(Bolded sections described within)

- **2903.01 Aggravated murder**
- **2903.02 Murder**
- **2903.03 Voluntary manslaughter**
- **2903.04 Involuntary manslaughter**
- **2903.041 Reckless homicide**
- **2903.05 Negligent homicide**
- 2903.06 Aggravated vehicular homicide - vehicular homicide - vehicular manslaughter
- 2903.08 Aggravated vehicular assault; vehicular assault
- 2903.081 Warning signs in construction zones
- 2903.09 Unlawful termination of another's pregnancy
- 2903.10 Functionally impaired person, caretaker defined
- **2903.11 Felonious assault**
- **2903.12 Aggravated assault**
- **2903.13 Assault**
- **2903.14 Negligent assault**
- **2903.15 Permitting child abuse**
- **2903.16 Failing to provide for a functionally impaired person**
- **2903.21 Aggravated menacing**
- **2903.211 Menacing by stalking**
- 2903.212 Bail for violations of certain protection orders
- 2903.213 Motion for and hearing on protection order
- 2903.214 Petition for protection order in menacing by stalking cases
- 2903.215 Protection orders on behalf of organization
- **2903.22 Menacing**
- **2903.31 Hazing**
- 2903.33 Patient abuse and neglect in care facilities definitions
- 2903.34 Patient abuse or neglect
- 2903.341 Patient endangerment
- 2903.35 Filing false patient abuse or neglect complaints
- 2903.36 Whistleblower protection
- 2903.37 License revocation upon conviction

IX. Select Chapter 2903 Offenses

a. Offenses resulting in death of the victim

O.R.C. 2903.01 Aggravated Murder

Elements	A. With prior calculation and design, perpetrator causes the death of another or the unlawful termination of another's pregnancy. B. Perpetrator purposely causes the death of another or the unlawful termination of another's pregnancy while committing or attempting to commit, or while fleeing immediately after attempting or committing kidnapping, rape , [additional non-related crimes omitted] [additional violations not related to sex offenses omitted].
Applicable Specifications	2941.147 Sexual Motivation Specification: perpetrator violated 2903.01 with a purpose to gratify sexual needs or desires of the perpetrator 2941.148 Sexually Violent Predator Specification: perpetrator committed a violent sex offense or a designated homicide, assault, or kidnapping offense with a sexual motivation specification on or after January 1, 1997, and is likely to commit another sexually violent offense in the future
Classification	Unclassified felony
Sex Offender Classification	Tier III sex offender/child-victim offender: Any violation of 2903.01 Aggravated murder when committed with a sexual motivation
SOL	No statute of limitations
Sentencing Guidelines	<ul style="list-style-type: none"> Generally, Life in prison or death penalty If the perpetrator was less than 18 years old at the time of commission: Life in prison <p><i>See, O.R.C. 2929.01 & 2929.02</i></p>

O.R.C. 2903.02 Murder

Elements	A. Perpetrator purposely causes the death of another or the unlawful termination of another's pregnancy OR B. Perpetrator causes the death of another as a result of his attempt or successful commission of a 1 st or 2 nd degree felony (this does not apply if the offense was not classified as a 1 st or 2 nd degree felony at the time the attempt or commission occurred)
Applicable Specifications	As long as the prosecutor included the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2903.02 Murder, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified: 2941.147 Sexual Motivation Specification: perpetrator violated 2903.02 with a purpose to gratify sexual needs or desires of the perpetrator 2941.148 Sexually Violent Predator Specification: perpetrator committed a violent sex offense or a designated homicide, assault, or kidnapping offense with a sexual motivation specification on or after January 1, 1997, and is likely to commit another sexually violent offense in the future
Classifications	Unclassified felony
Sex Offender Classification	Tier III sex offender/child-victim offender: Any violation of 2903.02 Murder when committed with a sexual motivation
SOL	No statute of limitations

Sentencing Guidelines <i>See, O.R.C. 2929.01 & 2929.02</i>	<ul style="list-style-type: none"> • Generally: indefinite prison term of 15 years to life in prison • Victim was younger than 13 + Sexual Motivation Specification: indefinite prison term of 30 years to life in prison • Sexual Motivation Specification + Sexually Violent Predator Specification: Life in prison without parole
---	--

O.R.C. 2903.03 Voluntary Manslaughter

Elements	<p>A. Perpetrator knowingly causes the death of another or unlawful termination of another's pregnancy, while acting with <u>sudden passion or in a fit of rage</u> that</p> <ul style="list-style-type: none"> • 1. was produced by a serious provocation by the victim; AND • 2. is reasonably sufficient to cause the perpetrator to use deadly force <p>B. Perpetrator violates (A) with a sexual motivation</p>
Statute-Specific Definitions	Sexual Motivation: a purpose to gratify the sexual needs or desires of the offender
Classifications	1 st degree felony
Sex Offender Classification	Tier III sex offender/child-victim offender: A violation of 2903.03 Voluntary Manslaughter when committed with a sexual motivation
SOL	6 years
Sentencing Guidelines	2903.03 Voluntary manslaughter follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> • 1st degree felony: 3-11 years in prison

O.R.C. 2903.04 Involuntary Manslaughter

Elements	<p>A. Perpetrator causes the death of another or the unlawful termination of another's pregnancy as a result of their attempt or successful completion of a felony.</p> <p>B. Perpetrator causes the death of another or the unlawful termination of another's pregnancy as a result of their attempt or successful completion of a misdemeanor, regulatory offense, or minor misdemeanor other than a minor misdemeanor violation of O.R.C. XLV [Motorvehicle & Watercraft Regulations]</p>
Classifications	<ul style="list-style-type: none"> • 1st degree felony • B. 3rd degree felony
Sex Offender Classification	Tier III sex offender/child-victim offender: A violation of 2903.04(A) when the perpetrator committed or attempted to commit the felony that is the basis of the violation with a sexual motivation
SOL	6 years
Sentencing Guidelines	<ul style="list-style-type: none"> • A. Mandatory prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years AND Class I suspension of perpetrator's driving/operating privileges • B. Mandatory prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months AND Class I suspension of perpetrator's driving/operating privileges

O.R.C. 2903.041 Reckless Homicide

Elements	Perpetrator recklessly causes the death of another or the unlawful termination of another's pregnancy
Classification	3 rd degree felony
SOL	6 years
Sentencing Guidelines	2903.041 follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> 3rd degree felony: 9 months - 3 years in prison

O.R.C. 2903.05 Negligent Homicide

Elements	Perpetrator negligently causes the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordnance
Statute-Specific Definitions	<ul style="list-style-type: none"> Dangerous Ordinance: includes any automatic or sawed-off firearm, zip-gun, or ballistic knife; any explosive device or incendiary device; explosives (listed under 2923.11(K)(3), http://codes.ohio.gov/orc/2923.11); weapons or ammunition designed & manufactured for military purposes (2923.11(K)(4)); firearm mufflers or suppressors; and any combination of parts a person intends to use to convert a firearm or device into a dangerous ordnance. Deadly Weapon: any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon
Classification	1 st degree misdemeanor
SOL	2 years
Sentencing Guidelines	2903.05 follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> 1st degree misdemeanor: 180 days in jail

b. Assault and Felonious/Aggravated/Negligent Assault

O.R.C. 2903.11 Felonious Assault

Elements	<p>A. Perpetrator knowingly (1) causes serious physical harm to another or to another's unborn child; (2) causes or attempts to cause physical harm to another or to another's unborn child with a deadly weapon or dangerous ordnance.</p> <p>B. Perpetrator knows that s/he tested positive for HIV or AIDS, and knowingly does any of the following:</p> <ul style="list-style-type: none"> 1. engages in sexual conduct with another person without disclosing the HIV or AIDS test results prior to the sexual conduct; OR 2. engages in sexual conduct with a person the perpetrator knows or has reasonable cause to believe lacks the mental capacity to understand/appreciate the significance of the perpetrator's HIV or AIDS positive test results; OR 3. engages in sexual conduct with a person less than 18 years old who is not the perpetrator's spouse
Applicable Specifications	As long as the prosecutor included the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2903.11 Felonious Assault, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:

	<p>2941.1423 Pregnancy Known to Offender: Survivor was a woman and perpetrator knew she was pregnant at the time s/he committed the offense</p> <p>2941.147 Sexual Motivation Specification: perpetrator violated 2903.11 with a purpose to gratify sexual needs or desires of the perpetrator</p> <p>2941.1426 Permanent Disabling Harm: perpetrator violated 2903.11 and the survivor suffered permanent disabling harm as a result of the offense and the survivor was under ten years of age at the time of the offense, regardless of whether the perpetrator knew the age of the survivor</p>
Statute-Specific Definitions	<ul style="list-style-type: none"> • BCI Investigator: BCI Investigator: an investigator of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officer • Dangerous Ordnance: includes any automatic or sawed-off firearm, zip-gun, or ballistic knife; any explosive device or incendiary device; explosives (listed under 2923.11(K)(3), http://codes.ohio.gov/orc/2923.11); weapons or ammunition designed & manufactured for military purposes (2923.11(K)(4)); firearm mufflers or suppressors; and any combination of parts a person intends to use to convert a firearm or device into a dangerous ordnance. • Deadly Weapon: any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon
Classification	<ul style="list-style-type: none"> • 2nd degree felony, generally • 1st degree felony if perpetrator violates Section A & the survivor is a peace officer or BCI investigator
Sex Offender Classification	Tier III sex offender/child-victim offender: A violation of 2903.11 Felonious assault when the violation was committed with a sexual motivation
SOL	6 years
Sentencing Guidelines	<ul style="list-style-type: none"> • 2nd degree felony (generally): 2-8 years in prison • 1st degree felony (perpetrator violates Section A & the survivor is a peace officer or BCI investigator): 3-11 years in prison • 1st degree felony (perpetrator violates Section A & the survivor is a peace officer or BCI investigator AND the survivor suffered serious physical harm): mandatory prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years • Either 1st degree or 2nd degree felony violation + 2941.1423 Pregnancy Known to the Offender Specification: mandatory definite prison term of 6 months or 3, 4, 5, 6, 7, 8, 9, 10, or 11 years • 2nd degree felony + 2941.1426 Permanent Disabling Harm: 2-8 years + 6 additional years • Either 1st degree or 2nd degree felony violation + 2941.147 Sexual Motivation Specification: mandatory definite prison term of ??? + automatically classifies perpetrator as a tier III sex offender/child-victim offender per 2950

O.R.C. 2903.12 Aggravated Assault

Elements	<p>Perpetrator, while (1) under the influence of sudden passion or (2) in a sudden fit of rage, that is caused by the victim's serious provocation, AND is reasonably sufficient to lead the person to use deadly force:</p> <ul style="list-style-type: none"> 1. knowingly causes serious physical harm to another or to another's unborn child; OR 2. knowingly causes or attempts to cause physical harm to another or to another's unborn child by means of a deadly weapon or deadly ordnance.
Applicable Specifications	<p>As long as the prosecutor included the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2903.12 Aggravated assault, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1423 Pregnancy Known to the Offender: Survivor was a woman and perpetrator knew she was pregnant at the time s/he committed the offense</p>
Statute-Specific Definitions	<ul style="list-style-type: none"> BCI Investigator: an investigator of the bureau of criminal identification and investigation who is commissioned by the superintendent of the bureau as a special agent for the purpose of assisting law enforcement officers or providing emergency assistance to peace officers
Classifications	<ul style="list-style-type: none"> 4th degree felony, generally 3rd degree felony, if survivor is a peace officer or BCI investigator
SOL	6 Years
Sentencing Guidelines	<ul style="list-style-type: none"> 4th degree felony (generally): 6-18 months in prison 4th degree felony (generally) + 2941.1423 Pregnancy Known to the Offender Specification: mandatory definite prison term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months 3rd degree felony (survivor is a peace officer or BCI investigator): 9 months - 3 years in prison 3rd degree felony (survivor is a peace officer or BCI investigator) + 2941.1423 Pregnancy Known to the Offender Specification: mandatory definite prison term of 6, 9, 12, 18, 24, 30, or 36 months

O.R.C. 2903.13 Assault

Elements	<p>A. Perpetrator knowingly causes or attempts to cause physical harm to another person or to another person's unborn child.</p> <p>B. Perpetrator recklessly causes serious physical harm to another person or to another person's unborn child.</p>
Applicable Specifications	<p>As long as the prosecutor included the below specification/s in the indictment, charging papers, or complaint, after the perpetrator pleads guilty to or is convicted of 2903.12 Assault, the court or jury will decide whether the perpetrator is also guilty of the specification/s. If perpetrator is found guilty or pleads guilty to the specification, the penalty will be modified:</p> <p>2941.1423 Pregnancy Known to Offender: Survivor was a woman and perpetrator knew she was pregnant at the time s/he committed the offense.</p>

Statute-Specific Definitions	<p>Please see 2903.13(D)(1), http://codes.ohio.gov/orc/2903.13, for the complete & detailed definitions of the following terms as they relate to 2903.13 Assault:</p> <ul style="list-style-type: none"> Assault or homicide offense committed against hospital personnel, Assault or homicide offense committed against justice system personnel, BCI investigator, Community control sanction, Court official or employee, De-escalation or crisis intervention training, Emergency medical service, Employee of a local correctional facility, Escorted visit, Firefighter, Health maintenance organization, Hospital, Hospital Employee, Judge, Local correctional facility, Magistrate, Prosecutor School teacher or administrator, and Post-release control & transitional control
Classifications	<ul style="list-style-type: none"> 1st degree misdemeanor, generally Caretakers & Functionally Impaired Survivors: 4th degree felony - if the perpetrator is a caretaker & the survivor is a functionally impaired person under the perpetrator's care; 3rd degree felony - if the perpetrator is a caretaker who has previously pled guilty to or been convicted of 2903.13 Assault, 2903.11 Felonious assault, or 2903.16 Failure to provide for a functionally impaired person, & the prior conviction or plea related to the perpetrator as a caregiver for a functionally impaired survivor State correctional institutions & department of youth services institutions: 3rd degree felony - if perpetrator is detained in the facility & the survivor is an employee of the facility, 4th degree felony - if the assault occurs on the grounds but not inside the premises Local correctional institution premises (survivor is a visitor or employee) or grounds (survivor is an employee): 5th degree felony School teacher, administrator, or bus operator survivor assaulted while performing professional duties: 5th degree felony Peace officer, firefighter, BCI investigator, or person performing emergency medical service survivor assaulted while performing professional duties: 4th degree felony Officer of public children's services or private child placing agency survivor assaulted while performing professional duties: 5th degree felony or 4th degree felony - if the perpetrator has previously pled guilty to or been convicted of a similar assault Hospital professional, worker, or security survivor assaulted while performing professional duties (only where hospital has de-escalation or crisis intervention training): 1st degree misdemeanor or 5th degree felony - if the perpetrator has previously pled guilty to or been convicted of at least one assault or homicide offense against hospital personnel Judge, magistrate, prosecutor, or court official or employee survivor assaulted while performing professional duties: 1st degree misdemeanor or 5th degree felony - if the perpetrator has previously pled guilty to or been convicted of at least one assault or homicide against court personnel
SOL	<ul style="list-style-type: none"> 2 years for misdemeanor violations (general violations & against specified hospital employees, if perpetrator has no prior violations) 6 years for felony violations
Sentencing Guidelines	<ul style="list-style-type: none"> 1st degree misdemeanor: 180 days in jail

	<ul style="list-style-type: none"> • 1st degree misdemeanor + 2941.1423 Pregnancy Known to Offender specification: mandatory jail term of at least 30 days • 4th degree felony: 6-18 months in prison • 4th degree felony + 2941.1423 Pregnancy Known to Offender specification: mandatory definite prison term of 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months • 5th degree felony: 6-12 months in prison • 5th degree felony + 2941.1423 Pregnancy Known to Offender specification: mandatory definite prison term of 6, 7, 8, 9, 10, 11, or 12 months
--	---

O.R.C. 2903.14 Negligent Assault

Elements	Perpetrator negligently causes physical harm to another person or another person's unborn child, by means of a deadly weapon or dangerous ordnance.
Statute-Specific Definitions	<ul style="list-style-type: none"> • Dangerous Ordinance: includes any automatic or sawed-off firearm, zip-gun, or ballistic knife; any explosive device or incendiary device; explosives (listed under 2923.11(K)(3), http://codes.ohio.gov/orc/2923.11); weapons or ammunition designed & manufactured for military purposes (2923.11(K)(4)); firearm mufflers or suppressors; and any combination of parts a person intends to use to convert a firearm or device into a dangerous ordnance • Deadly Weapon: any instrument, device, or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried, or used as a weapon
Classification	3 rd degree misdemeanor
SOL	2 years
Sentencing Guidelines	O.R.C. 2903.14 Negligent assault follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none"> • 60 days in jail

c. Permitting Child Abuse

O.R.C. 2903.15 Permitting Child Abuse

Elements	<p>Perpetrator</p> <ul style="list-style-type: none"> • is a parent, guardian, custodian, or person having custody of (1) a child under the age of 18 (2) a mentally or physically handicapped child under the age of 21; AND • permits the child to be abused or tortured, to receive corporal punishment or other physical disciplinary measure, or to be physically restrained in a cruel manner or for a prolonged period; AND • that abuse, torture, corporal punishment/disciplinary measure, or cruel or prolonged physical restraint causes serious physical harm to the child or the child's death.
Affirmative Defenses	Perpetrator did not have readily available a means to prevent the harm to the child or the death of the child and the perpetrator took timely and reasonable steps to summon aid.
Classifications	<ul style="list-style-type: none"> • 1st degree felony, if violation causes child's death

	<ul style="list-style-type: none"> • 3rd degree felony, if violation causes serious physical harm to child
SOL	6 years
Sentencing Guidelines	<p>O.R.C. 2903.15 follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 1st degree felony (violation causes child's death): 3-11 years in prison • 3rd degree felony (violation causes serious physical harm to child): 9 months - 3 years in prison

d. Stalking Offenses

O.R.C. 2903.21 Aggravated Menacing

Elements	<p>Perpetrator knowingly causes survivor to believe that the perpetrator will cause serious physical harm to the survivor, his/her property, his/her unborn child, or a member of his/her immediate family, by any means, including but not limited to:</p> <ul style="list-style-type: none"> • directing words or actions at or identifying the survivor's employer or any association or organization (including government employer) to which the survivor belongs
Classifications	<ul style="list-style-type: none"> • 1st degree misdemeanor, generally • 5th degree felony if survivor is a public children services/private child placing agency employee & the violation relates to the survivor's professional duties • 4th degree felony if the survivor is a public children services/private child placing agency employee & the violation relates to the survivors professional duties + the perpetrator previously was convicted of or pled guilty to an offense of violence against a public children services agency/private child placing agency employee relating to the survivor's professional duties
SOL	<ul style="list-style-type: none"> • 2 years, generally • 6 years if the survivor is a public children services/private child placing agency employee & the violation relates to the survivors professional duties
Sentencing Guidelines	<p>O.R.C. 2903.22 Aggravated menacing follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor (generally): 180 days in jail • 5th degree felony (survivor is a public children's services/ private child placing agency employee & violation related to survivor's professional duties): 6-12 months in prison • 4th degree felony (survivor is a public children's services/ private child placing agency employee & violation related to survivor's professional duties + perpetrator previously was convicted of or plead guilty to an offense against a public children services agency/private child placing agency employee relating to the survivor's professional duties): 6-18 months in prison

O.R.C. 2903.211 Menacing by stalking

Elements	<p>A.</p> <ol style="list-style-type: none"> 1. Perpetrator engages in a pattern of conduct it knows will cause the survivor to believe that the offender will cause the survivor to experience physical harm or mental distress, by any means, including but not limited to directing words or actions at or identifying the
----------	--

	<p>survivor's employer or any association or organization (including government employer) to which the survivor belongs; or</p> <ol style="list-style-type: none"> 2. Perpetrator posts messages to urge or incite another to commit a violation of (A)(1), through the use of any electronic method of remotely transferring information, including but not limited to computers or computer networks, systems, or programs; or 3. Perpetrator violates (A)(1) or (A)(2) with a sexual motivation
Statute-Specific Definitions	<p>Please see 2903.211(D), http://codes.ohio.gov/orc/2903.211, for the full definitions of the following terms as they relate to 2903.211 Menacing by stalking:</p> <ul style="list-style-type: none"> • Pattern of conduct, Mental distress, Emergency medical services person, Emergency facility person, Public official, Computer, Computer network, Computer program, Computer system, and Telecommunications device, Post a message, Third person, Sexual motivation, and Organization.
Classifications	<p>1st degree misdemeanor, generally 4th degree felony if:</p> <ul style="list-style-type: none"> • perpetrator has previously been convicted of or pled guilty to a violation of 2903.211 Menacing by stalking or 2911.11 Aggravated trespassing • perpetrator made a threat of physical harm to the survivor or caused a third party to make a threat of physical harm to the survivor by violating (A)(2) • perpetrator trespassed on the premises of the survivor's home, school, place of employment, or caused a third party to do the same by violating (A)(2) • survivor was a minor • perpetrator had a history of violence toward the survivor or any other person • perpetrator had a deadly weapon on his person or under perpetrator's control while violating (A)(1) or (A)(3) • at the time of the offense, perpetrator was the subject of any protection order, regardless of whether the survivor was the person to be protected • perpetrator caused serious harm to survivor's home premises or personal property located there, or caused a third party to do the same by violating (A)(2) • before the violation, perpetrator was determined to represent a substantial risk of physical harm to others, determined by homicidal or other violent behaviors, then-recent threats placing others in reasonable fear of violent behavior and serious physical harm, or other evidence of dangerousness • survivor was an officer or employee of a public children services agency/private child placing agency and the violation related to their professional duties + the perpetrator had previously been convicted of or pleaded guilty to an offense of violence against a public children services agency/private child placing agency employee, and relating to their professional duties <p>5th degree felony if</p> <ul style="list-style-type: none"> • survivor was an officer or employee of a public children services agency/private child placing agency and the violation related to their professional duties

Sex Offender Classification	Tier I sex offender/child-victim offender: A violation of 2903.211 Menacing by stalking when committed with a sexual motivation
SOL	<ul style="list-style-type: none"> • 2 years, generally • 6 years
Sentencing Guidelines	<p>O.R.C. 2903.211 follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 1st degree misdemeanor (generally): 180 days in jail • 4th degree felony (see above): 6-18 months in prison • 5th degree felony (survivor was an officer or employee of a public children services agency/private placing agency and the violation related to their professional duties): 6-12 months in prison

O.R.C. 2903.22 Menacing

Elements	Perpetrator knowingly causes survivor to believe that the perpetrator will cause physical harm to the survivor or his/her property, the survivor's unborn child, or a member of the survivor's immediate family, by any means including directing words or conduct at or identifying the survivor's employer, or any organization (including government employers) or association to which the survivor belongs
Classifications	<ul style="list-style-type: none"> • 4th degree misdemeanor, generally • 1st degree misdemeanor if the survivor was an employee of a public children services agency/private child placement agency and the violation was related to the survivor's professional duties • 4th degree felony if the survivor was an employee of a public children services agency/private child placement agency and the violation was related to the survivor's professional duties + the perpetrator has previously pleaded guilty to or been convicted of an offense of violence, wherein the survivor was an employee of a public children services agency/private child placement agency and the violation was related to the survivor's duties
SOL	<ul style="list-style-type: none"> • 2 years (4th degree misdemeanor & 1st degree misdemeanor (see above)) • 6 years (4th degree felony (see above))
Sentencing Guidelines	<p>O.R.C. 2903.22 follows the general O.R.C. sentencing guidelines:</p> <ul style="list-style-type: none"> • 4th degree misdemeanor (generally): 30 days in jail • 1st degree misdemeanor (survivor was employee of public children services agency/private child placement agency & violation related to his/her professional duties): 180 days in jail • 4th degree felony (survivor was employee of public children services agency/private child placement agency & violation related to his/her professional duties + perpetrator has prior plea or conviction to a violent offense against the same class of survivor & relating to that survivor's professional duties): 6-18 months in prison

O.R.C. 2903.31 Hazing

Elements	Perpetrator recklessly participates in the hazing of another OR Perpetrator is an administrator, employee, or faculty member of any primary, secondary, or post-secondary school or of any other educational institution, AND recklessly permits the hazing of any person
Statute-Specific Definitions	Hazing: doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person
Classification	4 th degree misdemeanor
SOL	2 years
Sentencing Guidelines	O.R.C. 2903.23 follows the general O.R.C. sentencing guidelines: <ul style="list-style-type: none">• 4th degree misdemeanor: 30 days in jail

X. Advocate Take Away

A working understanding of substantive criminal law is a useful tool in helping survivors navigate each stage of the criminal justice process. In particular, an advocate who knows the statutes relating to the survivor's assault will be better poised to know what to ask a prosecutor and to get the information a survivor needs. However, an advocate is not an attorney, should not predict for the survivor what statutes or potential punishments could apply to their case, and should not take on the task of knowing each and every possible caveat that may arise in a case. Instead, an advocate should focus on supporting individual survivors, by developing a general familiarity with this information that will permit quick reference when questions or concerns arise.

Subsection Divider Page & Tab
III-J

III-J Procedure

I. Introduction

Up to this point, Chapter III has focused on the substantive rights created by Ohio and United States law. The following sections will instead describe the features and procedures of the criminal justice process after a crime has been committed. This will include information on the following topics:

- Ohio Crime Victim Rights
- Civil Protection Orders
- Reporting Sex Offenses
- The Criminal Investigation
- From Investigation to Trial
- Trial
- Sentencing
- Appeal
- Sex Offender Monitoring & Treatment
- Special Issues in the Criminal Process: Working with Child Survivors, Juvenile Offenders & the Juvenile Justice System

II. Language Shift

Because the remainder of this chapter engages with criminal procedures substantially built around the rights of the accused, the following sections will principally use the word “defendant” when referring to the perpetrator before conviction, and will retain use of the word “perpetrator” for situations occurring after conviction. When working within this system, advocates should remember that the system cannot assign guilt until a guilty plea or jury verdict, and members of the prosecution, defense, law enforcement, and the courts may have a negative reaction to use of the term “perpetrator” before conviction, as it assumes fault.

Similarly, players in the criminal system largely refer to survivors as “victims.” This does not indicate that the criminal justice system views the survivor as less empowered, nor does it mean that actors within that system fail to understand the traumatic impact of sex offenses.

III. Crime Survivor/Victim’s Rights versus Defendant’s Rights

Throughout the proceeding chapters, you will likely observe the striking difference between crime survivor’s rights and the rights of defendants^{cv}. Because the United States and Ohio constitutions both seek to avoid wrongful convictions, defendants’ rights are more pronounced and regulated than victims’ rights in the same context. This often presents a challenge for advocates, who work closely with individual victims, have knowledge of a specific crime, and conduct their duties with full belief in the victim’s report about the perpetrator.

Our system is designed, though certainly not fool-proof, to avoid wrongful conviction. To that end, it is imperative that perpetrators receive the best defense possible. Specifically, if a perpetrator receives a robust defense, the jury will be confident that (in cases of acquaintance rape) a crime occurred or (in

stranger rape) that the correct person is being held accountable. Additionally, a proper defense reduces the likelihood of success on appeal.

Some examples of defendants' rights include^{ccvi}:

- The Right to an Attorney at Interrogation
- The Right to Warrant-Based Searches and Seizures
- The Right to Counsel
- The Right to a Speedy Trial
- The Right to Confront the Accuser

In addition, the Ohio and Federal Rules of Evidence heavily regulate the use of evidence in a manner that would harm wrongfully accused defendants.

IV. Illustration

When first learning about the criminal system, it can be useful to put yourself in the shoes of a wrongfully accused person. Imagine you are sitting at home and hear a knock on the door. You open it to find two police officers, who inform you that you are under arrest for violating Ohio's grand theft auto statute. Not only did you not steal a car, you do not know what precisely "grand theft auto" entails. Further, you have never been arrested. You do not know your rights and you do not know what you are supposed to do. You are nervous, and you just got done working an overnight shift as a hospital advocate. You are tired – you do not know if you should start talking to avoid suspicion or stay quiet. You simply have no idea what is going on. Even so, you are on your way to county jail to undergo interrogation.

When you arrive, the police tell you that you do not have to talk to them without an attorney present. However, you do not have an attorney. You figure since you have not done anything wrong, you should just tell them the story of your evening. You tell them you went in for a hospital call at 10:00 P.M., that you had been watching a television show before you received the call, and that your significant other was with you all night. The officers leave the room. They come back several hours later, when you are more exhausted, hungry, thirsty, and frustrated. They say that the hospital reports not calling you until 10:20. They ask why you said you went in at 10:00. They also say that your significant other was not with you all night, but left an hour before the hospital called you. Confused about why these small details matter, and nervous, you continue talking without a lawyer, ultimately giving conflicting testimony that lead the police to believe there is probable cause to continue investigating.

Over time, a case mounts against you, you are charged, and ultimately convicted based on contradictory testimony that draws doubt upon your truthfulness on the stand. You appeal and win, but by this time, you have had to encounter the entire system, have built up a record of charges, spent significant time in prison, and lost your job. In addition, much time has passed, witness memories have faded, and it is too late for the police to locate and investigate the person who actually stole the car.

Situations like this happen every day, and it is critical to remember that certain protections that may infuriate survivors and frustrate advocates are there to prevent the wrong person from being incarcerated or fined for a crime they did not commit.

Subsection Divider Page & Tab
III-K

III-K Crime Victim Rights

I. Introduction

Ohio crime victims have procedural rights afforded the by the Ohio Constitution^{ccvii}, Ohio Revised Code Chapter 2907, and Ohio Revised Code Chapter 2930. Chapter 2930 specifically provides victims of qualifying crimes rights to certain notifications, accommodations, compensation, and protections. Knowing what these rights guarantee, when they arise in the criminal process, and how to advocate for their proper application/administration is arguably among the most important component of the legal advocate's role. Therefore, legal advocates should memorize these statutory provisions and take great care to understand what parties are responsible for implementation and what measures are in place, if any, to ensure compliance.

Important Note on Marsy's Law: Ohio passed Marsy's Law in November 2017. The law took effect on February 5, 2018. The Ohio Constitution has been amended to reflect these rights, but legislation has not yet passed to change Ohio Revised Code sections to reflect these rights. Therefore, you will notice that some statutory rights do not align specifically with Marsy's Law protections.

This chapter will proceed to describe crime victim rights, first explaining those provided by Marsy's Law, then those flowing from Ohio Revised Code Chapter 2930, and finally noting those provided in Ohio Revised Code Chapter 2907.

Advocate Tip!

It is critical that advocates understand the distinction between Marsy's Law and Ohio Revised Code-based rights. Thus, until Marsy's law legislation passes, advocates should continue to reference and revisit Chapter 2930 rights. To help internalize these rights and recognize situations where they are not provided, (1) engage in role playing with more experienced advocates; (2) create your own criminal justice system checklist and include 2930 rights in all stages where they may apply; and/or (3) challenge yourself to draft multiple scenarios in which each right should arise.

Common Name	Legal Source	Defines "Victim" as	Examples
Marsy's Law	Ohio Constitution Article 1 Section 10a	"a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim."	To be treated with fairness and respect for the victim's safety, dignity and privacy
Victim Rights Statute	Ohio Revised Code Chapter 2930	a "victim" means either of the following: (1)A person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution or delinquency	Right to notification of early release hearing

		<p>proceeding and subsequent proceedings to which this chapter makes reference.</p> <p>(2)A person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a violation described in division (A)(3) of this section or a motor vehicle accident that is proximately caused by a violation described in division (A)(4) of this section and who receives medical treatment as described in division (A)(3) or (4) of this section, whichever is applicable.</p>	
Sex-Crime Specific Rights	Ohio Revised Code Chapter 2907		Prohibition on polygraphing a victim as a condition of investigation

II. Marsy's Law

“Marsy’s Law” is a national crime victim rights initiative named for Marsy Nicholas, who was stalked and murdered by her ex-boyfriend in California in 1983. Based on their family’s experience with the California criminal system, the Nicholas family organized a campaign to establish a comprehensive bill of rights for crime victims in that state. Thereafter, the Nicholas family sought Marsy’s Law passage in all 50 states. In November 2017, Ohio became the sixth state to adopt a Marsy’s Law constitutional amendment when voters approved a ballot initiative. Passage of this amendment effectively repealed a section of the Ohio Constitution and replaced it with the current Marsy’s Law. This amendment became effective on February 5, 2018.

Advocate Tip!

As with Chapter 2930, some Marsy’s Law rights automatically attach and others are available upon request. Be sure to identify which rights only attach by formal request, and assist survivors seeking those rights in understanding the local rules for submitting said requests.

a. Marsy’s Law Text

Marsy’s Law amended Article 1, Section 10a of the Ohio Constitution, which currently reads as follows:

§ 10a Rights of victims of crime.

(A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

- (1) to be treated with fairness and respect for the victim’s safety, dignity and privacy;

- (2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;
 - (3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;
 - (4) to reasonable protection from the accused or any person acting on behalf of the accused;
 - (5) upon request, to reasonable notice of any release or escape of the accused;
 - (6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;
 - (7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;
 - (8) to proceedings free from unreasonable delay and a prompt conclusion of the case;
 - (9) upon request, to confer with the attorney for the government; and
 - (10) to be informed, in writing, of all rights enumerated in this section.
- (B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.
 - (C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.
 - (D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.
 - (E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.
 - (F) This section shall take effect ninety days after the election at which it was approved.

b. Victims and Representatives Under Marsy's Law

Marsy's Law defines victim in this section of the Constitution as: "a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission

of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim." Marsy's Law provides that the following individuals may assert the rights therein on the victim's behalf:

- the victim,
- the attorney for the government upon request of the victim, or
- the victim's other lawful representative

If anyone other than the victim seeks to assert Marsy's Law rights, the applicable court may require additional steps to verify that the representative is acting in an approved capacity on the victim's behalf. As, at the time of this manual's publication, Ohio Revised Code provisions have not been amended to incorporate Marsy's Law, no formal steps to certify victim representation have been outlined in Ohio law. Thus, processes vary county by county. For example, a court may require the victim to sign a statement, make a verbal statement, state a request in court, and/or make the request to the judge for the judge to verify.

c. Rights Conferred

Marsy's Law confers rights either automatically or upon request:

1. Rights Automatically Conferred

- §10a(A)(1) Right to be treated with fairness and respect for the victim's safety, dignity and privacy
 - Law enforcement, courts, prosecutors, and others in the criminal and juvenile systems must be fair and respectful. Neither "fair" nor "respectful" is defined in the Law.
 - Law enforcement, courts, prosecutors, and others in the criminal and juvenile systems must be mindful and considerate of the privacy and safety of the victim. This can impact protection orders and victim information. However, as these laws cannot impact the rights of the accused, a victim's personal information may have to be shared if necessary to uphold the rights of the accused.
- §10a(A)(3) Right to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated
 - Victim Impact Statements were law in Ohio prior to Marsy's Law. These statements could be provided at various points in the process, based upon the Ohio Revised Code.
 - Although a victim has a right to be heard, they do not have an obligation to provide information or to speak on an issue, unless there is a court order, such as a subpoena.
 - In order to assert this right, victims must know when the proceedings are scheduled. Victims can request scheduling information as part of Marsy's Law. Prosecutors and courts may need to be notified of the desire to address the court.
- §10a(A)(4) Right to reasonable protection from the accused or any person action on behalf of the accused
 - Stay away or no contact orders may be used in order to protect the victim. Protection orders are separate from criminal and juvenile cases, although law enforcement may consider enforcement of protection orders as part of this right. If there are no threats, harassment, intimidations, or other concerning behavior, the courts may not issue a contact order as it may not be deemed a reasonably necessary.

- §10a(A)(6) Right to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused EXCEPT as authorized by Article I, Section 10 of the Ohio Constitution
 - A victim can decline to provide information and/or meet with various entities unless required by law, such as a subpoena. A victim's private information is further protected by Marsy's Law when taken in conjunction with the victim's privacy protections.
- §10a(A)(7) Right to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim
 - If a defendant is found guilty, the court may order restitution in order to comply with this right. However, the ability for an accused to pay may limit how much and when a victim may receive. Marsy's Law does not explain how §10a interacts with other Ohio Revised Code provisions, and courts have emphasized the confusion. For example, in *State v. Queen*, 2020-Ohio-618 (Ct. App.), the appellate court stated "(t)he language in R.C. 2929.18(A)(1) gives trial courts the option to impose restitution against a criminal defendant as a financial sanction. It is not clear how the language of Marsy's Law, which appears to give a victim the right to restitution, interacts with R.C. 2929.18(A)(1) or R.C. 2929.19(B)(5). In particular, it is not clear how the defendant's statutory right to have his ability to pay considered under R.C. 2929.19(B)(5) interacts with the victim's constitutional right to restitution under Article I, Section 10a(A)(7)."
- §10a(A)(8) Right to proceedings free from unreasonable delay and prompt conclusion of the case
 - R.C. 2930.08 allows for victims to object to delays in prosecution and to have those objections heard.
- §10a(A)(10) Right to be informed in writing of all rights enumerated by Marsy's Law
 - Ohio Revised Code 2930 provides that certain pieces of information must be shared with victims, including their rights. Each entity within the system may notify separately, meaning that law enforcement may only notify about those rights directly related to their work and the same for prosecutors. Entities in many jurisdictions provide Marsy's Law cards, containing comprehensive lists of Marsy's Law rights.

2. Rights Conferred Upon Request

- §10a(A)(2) Right to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim
 - Though some jurisdictions automatically provide this information, it is not legally required unless the victim, or their representative, makes a request.
 - This right applies only to public proceedings. Thus, other meetings, actions, and proceedings will occur without the victim's knowledge or right to be present.
 - What is considered timely varies by jurisdiction and proceeding, and is also influenced by the rights of the accused.
 - The prosecutor may need to file motions and/or the court may need to approve the victim's presence at certain hearings, such as in specific juvenile cases.
 - Per ORC Ann. 2930.09, a victim may "be accompanied by an individual to provide support . . . unless the court determines that exclusion of the individual is necessary to protect the defendant's or alleged juvenile offender's right to a fair trial or to a fair

delinquency proceeding.” Therefore, while an advocate or other supporter is generally permitted, the court may exclude persons in this role for a variety of reasons.

- §10a(A)(5) Right to reasonable notice of any release or escape
 - A victim or their representative must request notifications from jails, prisons, law enforcement, prosecutors, or courts. When assisting a survivor, it is important to determine where to make this request in the relevant jurisdiction.
- §10a(A)(9) Right to confer with the attorney for the government
 - The victim must request to speak with the attorney if they wish to do so. Though the attorney must speak to the victim, they need not adhere to the wishes presented in that meeting or follow the victim’s directions, desires, or requests.

d. Enforcement

Ultimately, victim rights cannot impact the rights of the accused. However, Marsy’s Law provides that if any of the listed rights are denied, the victim or the victim’s lawful representative may petition the court of appeals. The court of appeals will then “promptly consider and decide the petition.”

Though Marsy’s Law grants the right to petition, it does not provide the right to appeal a case. “Since the passage of the constitutional amendment, the Ohio legislature has not passed legislation related to Marsy’s Law to include victims among those entitled to appeal, nor has it passed a new statute extending appellate rights to . . .” Further, Marsy’s Law does not define petition. Thus, each jurisdiction must determine the form and timeline for petition filing.

Marsy’s law does NOT provide a cause of action for damages or compensation against the state or political subdivision, nor does it provide a cause of action against an officer, employee, agent of the state or political subdivision, or officer of the court. Therefore, Marsy’s Law does not create the ability to file a civil law suit, even if the rights are violated.

III. Chapter 2930 Rights

Ohio Revised Code Chapter 2930 predates Marsy’s Law, and applies to a more limited scope of offenses. Specifically, Chapter 2930 rights are only granted to victims of the following crimes:

- All Felonies
- Misdemeanor Classifications of:
 - 2907.06 Sexual Imposition
 - 2901.13 Assault
 - 2903.211 Stalking
 - 2903.21 Aggravated Menacing
 - 2903.22 Menacing
 - 2919.25 Domestic Violence
 - 2921.04 Intimidation of a crime victim or witness
 - 2903.05 Negligent Homicide
 - 2903.06 Vehicular manslaughter & vehicular homicides
 - 4511.19 Drunk driving injuries

Note that these rights also apply when the above-listed crimes are committed by a juvenile and the proceedings take place in juvenile court.

a. Victims and Representatives under Chapter 2930

Persons that may invoke 2930 rights include:

- Victims of the above-listed crimes; or
- If the victim chooses to work through a representative or the victim is incapacitated, deceased, incompetent, or a minor, a:
 - Victim Advocate; or
 - Family Member

Note that Ohio courts are permitted to restrict these rights if a victim is incarcerated.

If a victim chooses a victim representative, the victim or the chosen representative must notify the prosecutor (when the perpetrator is an adult) or the court (when the perpetrator is a minor and the court conducts a delinquency hearing). Once the prosecutor (or court, where appropriate) receives sufficient notification, all 2930 rights and notifications will be granted only to the victim's representative.

Advocate Tip!

It is feasible that, as an advocate, you may be chosen as the victim representative. Thus, you should review this chapter with the knowledge that you may be the person making requests and receiving guaranteed information.

If more than one person seeks to act as the victim's representative, the court deciding the criminal case against the perpetrator will hold a hearing and grant representative status to one individual. If the victim and another person seek to exercise 2930 rights, the court will issue an order stating that only the victim may exercise 2930 rights related to their case.

b. Victim Responsibilities

A victim seeking enforcement of these rights must keep their mailing address and telephone contact number current with the relevant court and authorities, as the notifications described below may be delivered verbally by telephone or, if the notification is in writing, by mail to the address given by the victim.

c. Rights Conferred

Chapter 2930 provides the above-listed qualifying survivors with the right to certain notifications. These notifications are either automatically required or required upon request. Unless the statute guaranteeing the notice requires a specific form of communication, the notification may be either oral or in writing, as long as it is "reasonably calculated to provide prompt, actual notice."^{ccviii}

1. Automatic Notices

- Law Enforcement Officers Must:

Advocate Tip!

You will notice that some rights are automatic, while others only kick in at the request of the survivor. It is crucial that you know the difference and can properly instruct a survivor when a request is necessary.

- Promptly provide information included in the Attorney General’s “Ohio Crime Victim Rights” pamphlet, including victim’s rights, assistance, compensation, and information regarding protective orders
- Provide contact information for the investigator and prosecutor assigned to the case
- Provide notice of arrest, the name of the defendant or juvenile offender
- Provide notice of defendant or juvenile offender’s eligibility for pre-trial release
- Inform the victim of his/her right to know if the accused has been arrested or released
- Inform the victim of his/her right to be free from intimidation
- Prosecutors Must:
 - Promptly provide information included in the Attorney General’s “Ohio Crime Victim Rights” pamphlet, including victim’s rights, assistance, compensation, and information regarding protective orders
 - To the extent practicable^{ccix}, confer with the victim or designated representative before engaging in a plea bargain, amending charges, dismissing charges, or trial
 - To the extent practicable, inform victims of the name of the accused, the charges selected, the case number, and procedural steps
 - To the extent practicable, inform victims of their right to attend all proceedings and provide person and phone contact
 - To the extent practicable, provide a summary of rights
 - To the extent practicable, provide a summary of intimidation response procedures
 - To the extent practicable, notify the victim about their need to request notices and about the victim’s right to select a representative to receive these notices on their behalf
 - To the extent possible, notify all victims of misdemeanor crimes of their right to make an oral or written victim impact statement
- Courts Must
 - Note on the record any known instance in which a prosecutor fails to confer with a victim at a required step and document the prosecutor’s reason for not conferring
 - NOT dismiss charges over the objections of a prosecutor and solely at the victim’s request
- Juvenile Courts Must
 - Notify the victim of the court’s intended action if, prior to the involvement of a prosecutor, the court amends, dismisses, grants diversion, or has an adjudicatory hearing on a case
 - NOT dismiss charges over the objections of a prosecutor and solely at the victim’s request

2. Notices that Must Be Requested

- Prosecutors (or the Court in a delinquency hearing) Must Notify the Victim:
 - of all court proceedings and changes to those proceedings or the case schedule, including date, time, and location
 - of an acquittal or conviction

- if a conviction occurs, of the crimes the perpetrator is convicted of, and the telephone number and address of the probation officer or person preparing the presentencing investigation
- of their right to make a statement as part of the PSI, which the judge may show to the perpetrator
- of the date, time, and place of sentencing, and the victim's right to speak at sentencing
- of the sentencing and any change of the sentence
- promptly after the sentencing, of the date on which the perpetrator will be first eligible for release
- if an appeal is filed and provide information about the appeal process, notify if the defendant is released, provide information about the time and place of the appeal, and of the results of the appeal

3. Information that Must Accompany Requests

- If the victim asks for any of the above-listed upon-request notifications, they must also receive notice of:
 - the perpetrator's incarceration or any commitment of a juvenile perpetrator
 - the date on which the perpetrator will likely be released
 - contact information of the custodial agency and its victim services component
 - Any actions the release authority takes and all judicial release or sentence modification

Note that, in the event that a victim does not wish to receive notice, they may contact the prosecutor and request not to receive such information.

d. Victim Impact Statement

Before both sentencing and any hearing that may authorize release from prison or the Department of Youth Services, a judge will likely order a Disposition of Information Report (DIP) (for juvenile offenders) or a Pre or Post-Sentence Investigation (PSI) (for adult offenders). If the judge orders either a DIP or PSI, the victim may be asked to make a written or oral statement to be included in the resulting report. If the victim provides the statement, it must be included. Similarly, if a victim requests to make the statement without prompting by the prosecutor, the victim's written statement must be included in the report.

When drafting the statement, a victim may include the following:

- Physical harm
- Psychological harm
- Emotional harm
- Property damage
- Economic loss
- Restitution needs
- Victim's opinion on sentencing/the final disposition of a juvenile perpetrator

Before sentencing an adult in all felony and misdemeanor crimes, or disposition of a juvenile perpetrator, the judge must permit a statement from the victim. The judge may give the perpetrator and their attorney a copy of any written statement drafted by the victim, and give the victim and prosecutor any written statement drafted by the perpetrator. **After the case concludes and a perpetrator has been incarcerated**, a judge must permit and consider a victim statement before a

release hearing from prison or Department of Youth Services (DYS). If the statement is written, the judge must give a copy given the perpetrator and DHS or adult parole authority.

Note: The judge is permitted to redact irrelevant information. Written statements are not public record, and must be returned to the court immediately after the hearing. If the victim includes new information, the perpetrator may be given an opportunity to respond.

e. Requesting Reconsideration of Bond or Release

If a defendant is released on bond or personal recognizance, and the victim or victim's family has been harmed or threatened, then the victim may request the prosecutor to motion for the court to reconsider bond or release conditions.

f. Confidentiality

Advocate Tip!

The prosecutor is the only party that can request the suppression of identifying information. Further, the prosecutor makes the decision about whether a victim has "reasonable grounds" to fear intimidation, threats, or violence. If the prosecutor has not made such a motion and the victim/representative thinks it necessary, they should discuss confidentiality concerns with the prosecutor. However, it is critical to remember that a prosecutor is not required to file the motion absent their professional judgment that the victim/representative has reasonable grounds to fear violence.

If a victim/representative has reasonable grounds to fear intimidation, threats, or violence if identifying information is presented in court, the prosecutor *may* make a motion asking the court to suppress such information. If the prosecutor files this motion, the court must hold a hearing to evaluate the request in chambers. This hearing must be recorded by a court reporter. If, as a result of the hearing, the court grants the motion, the following information shall remain confidential and will only appear in court files or documents if it is used to identify the location of the crime:

- Victim/Representative's Address
- Victim/Representative's Telephone Number
- Victim/Representative's Place of Employment
- Other Identifying Facts

g. Speedy Prosecutions

If a victim requests notices, the prosecutor must inform the victim (if practical) of possible delays caused by attorney maneuvers, such as a legally valid motion that will cause trial to take place at a later date. If the victim objects to the possible delays, the prosecutor must inform the judge. The judge must then consider the victim's concerns before granting the delay-causing motion. Note that a prosecutor is not required to inform a victim of delays if they did not request notifications.

h. Right to be Present

Victims are permitted to attend any hearing at which the defendant is present. However, a victim may not attend a grand jury proceeding. In addition, a victim may be excluded from any proceeding if a judge rules that the exclusion of the victim/representative is necessary to guarantee a fair trial.

i. Support Person

If a victim requests the accompaniment of a support person, the judge must permit the support person's attendance. However, if a judge rules that the support person's presence will cause an unfair trial or proceeding, they have the discretion to exclude the support person.

j. Separate Waiting Area

The court has a duty to minimize contact between the victim and defendant. Accordingly, the court must attempt to provide the victim with a waiting area separated from the defendant's presence.

k. Separate Waiting Area

Law enforcement officers are required to promptly return any property of the victim that was acquired as a result of the crime or resulting investigation, unless it is contraband, ownership is disputed, the prosecutor certifies it must be kept instead of photographed, or the judge promptly rules that the evidentiary value to the defendant's defense is greater than the victims need for the property.

l. Release and Hearing Notices

Victims are entitled to 60 days-notice of the following events:

- Judicial Release Hearings (Notification by Prosecutor)
- Results of Judicial Release Hearings
 - Adult Defendant (Notification by Prosecutor)
 - Juvenile Defendant (Notification by Juvenile Court)
- Recommendation for Pardon or Commutation, Parole Hearing, Placement in Transitional Control or Post-Release Control (Notification by Department of Corrections)
- Right to Be Heard/Make Comments at pre-release or parole hearings (Notification by Department of Corrections)
- Along with all of the above notifications, the victim must receive notice of any applicable right to submit a victim impact statement or attend hearings

Victims are entitled to prompt notice when:

- An Incarcerated Perpetrator Escapes, is Absent, is Recaptured, or Dies

If the perpetrator is convicted of or pleads guilty to an unclassified, 1st degree, 2nd degree, or 3rd degree felony, or is serving a lifetime prison sentence, the notice is **automatic**. If, however, the perpetrator is convicted of or pleads guilty to a 4th or 5th degree felony, the victim **must request notification**. The responsible party must make at least three attempts to notify the victim. If the victim does not respond, they may lose the right to future automatic notices. A victim is permitted to opt out of receiving notice, in which case they will not be entitled to the above-listed notifications.

Advocate Tip!

Hearing and release notices are only automatic in the case of unclassified, 1st, 2nd, and 3rd degree felonies. Accordingly, if the perpetrator pleads guilty to or is convicted of a **4th or 5th degree felony** and the victim wants hearing and release notifications, make sure to remind the victim that they must specifically request such notice and keep their contact information up to date with the court.

m. Employee Protections

An employer may not terminate, discipline, or retaliate against a victim/representative or a member of the victim's family for the following activities:

- Participating, at the prosecutor's request, in preparation for the criminal trial of an adult defendant or the delinquency hearing of a juvenile defendant
- Attending, pursuant to a subpoena, a criminal or delinquency proceeding, so long as the attendance is reasonably necessary to protect the victim's interests

Employers who knowingly violate these protections will be found in contempt of court.

Note: Courts generally do not consider it discipline or retaliation for an employer to refuse to pay a victim for lost work time during the criminal trial/delinquency hearing.

n. Enforcement

O.R.C. 2930.19 specifically provides that a prosecutor has a duty to *seek* compliance with Chapter 2930 provisions in a manner consistent with their duty to represent the interests of the public as a whole. Accordingly, a prosecutor may, but does not have to, petition the court to force other employees to protect victim rights (for example, if a clerk of court refuses to provide a victim with notice). However, 2930.19 also states that failure to comply with a 2930 is not grounds for a private lawsuit against the agency of employee that failed to protect a victim's statutory right. Further, failure to comply with 2930 does not provide grounds for a mistrial or new trial.

Chapter 2907 Rights

In addition to the rights conferred to crime victims by Marsy's Law and Chapter 2930, the following critical rights are conferred by Chapter 2907:

- O.R.C. Section 2907.10: A peace officer, prosecutor, or other public official must not ask or require a victim of an alleged sex crime to submit to a polygraph examination as a condition of proceeding with the investigation of the same alleged offense.
 - For the purposes of this statute, "sex offense" means a violation of Sections 2907.02 Rape, 2907.03 Sexual battery, 2907.04 Unlawful sexual conduct with a minor, 2907.05 Gross sexual imposition, 2907.06 Sexual imposition, 2907.07 Importuning, 2907.08 Voyeurism, or 2907.09 Public indecency.
 - Enforcement: There is no enforcement mechanism after the fact – a victim must assert this right prior to submitting to a polygraph examination.
- O.R.C. Section 2907.11: Upon request by the victim or offender in a prosecution of section [2907.02 Rape, 2907.03 Sexual battery, 2907.04 Unlawful sexual conduct with a minor, 2907.05 Gross sexual imposition, 2907.06 Sexual imposition, or 2907.07 Importuning], the judge ... must suppress the names of both the victim and offender, and the details of the alleged offense obtained by any law enforcement until the preliminary hearing, arraignment, or the case concludes, whichever occurs first.

I. Advocate Take Away

Unlike a defendant, a victim generally does not have a legal representative assigned to protect their interests. Therefore, a legal advocate's most indispensable job is to **know** what rights exist, **anticipate** when these rights arise in the criminal justice process, and **quickly spot** when these rights are not being protected.

During your review of this section, you likely noticed that different agencies and state employees are responsible for enforcing different rights at different stages of the criminal justice process. From the moment a crime is reported, numerous agencies and individuals will participate in the case and handle different components from investigation through conviction and possible release. Therefore, it is useful for every legal advocate to think of the system as the sum of many parts, most of which are not aware of the full spectrum of victim's rights that arise after the case leaves their control. The legal advocate is one of very few people that may be involved from start to finish, and thus may be the only person to recognize when a right is violated, ignored, or forgotten.

If you recognize that a victim right is not being upheld, it is your job to carefully and tactfully bring it to the responsible party's attention. This will require a combination of relationship building, effective communication, confidence, and persistence. At times, you may need to bring a copy of the supporting statute with you to demonstrate that your request is rooted in law. If you feel that the responsible party is resistant to your demands to enforce a victim's right, you should speak to a licensed attorney about possible methods of bringing noncompliance to the court's attention.

Practical Advocate Guidelines:

DO	DO NOT
➤ Memorize Chapter 2930	➤ Immediately assume that the responsible party is knowingly refusing to protect a right
➤ Ask for help if you do not understand a provision or know when it should apply	➤ Threaten to sue the responsible party in civil court for failure to protect a right
➤ If possible, schedule a face-to-face meeting with the responsible party to discuss the issue	➤ Give up after an initial refusal to protect the right
➤ Have a copy of the supporting statute on hand during any discussion	
➤ Ask follow-up questions and note any reasoning the responsible party gives you for their failure to or decision not to protect a right	
➤ Document the responsible party's plan to protect the right	
➤ Send appropriately-paced follow-up reminders if it is not clear that the right has been protected after your initial conversation	

Subsection Divider Page & Tab
III-L

III-L Protection Orders

I. Protection Orders Generally

When a survivor fears unwanted or dangerous conduct from the perpetrator, they may elect to file for a protection order. In Ohio, protection orders generally prohibit perpetrators from coming within a certain physical distance of the survivor and/or communicating with the survivor. Though protection orders do not result in physical detention of the perpetrator, strict penalties arise if the perpetrator fails to adhere and the survivor can prove such failure. In hearings for all types of protection orders, a survivor is permitted to be accompanied by an advocate.

There are two types of protection orders:

1. **Criminal:** When the survivor reports the crime and the prosecutor has filed specified criminal charges against a perpetrator, the survivor may seek a protection order as a condition of the perpetrator's pretrial release.
2. **Civil:** If the survivor chooses not to report the crime, or the prosecutor chooses not to file criminal charges, the survivor may seek a Civil Stalking Protection Order or Sexually Oriented Offense Protection Order.

Advocate Tip!

If a survivor fears for their safety but is reluctant to make a criminal report, it may be especially helpful to discuss available criminal and civil protection orders and their limitations and pre-application requirements.

II. Criminal Protection Orders – Ohio Revised Code Section 2903.213

If a survivor reports a crime and the prosecutor files a criminal complaint against the perpetrator for a specified type of crime, the survivor or family/household member may seek a criminal protection order be put in place as a condition of the perpetrator's pretrial release.

Violations of the following sections (and substantially similar municipal ordinances) qualify:

- Sexually Oriented Offenses, as defined by 2950.01(A):
 - 2907.02 Rape
 - 2907.03 Sexual Battery
 - 2907.04 Unlawful Sexual Conduct with a Minor^{ccx}
 - 2907.05 Gross Sexual Imposition
 - 2907.06 Sexual Imposition
 - 2907.07 Importuning
 - 2907.08 Voyeurism
 - 2907.21 Compelling Prostitution
 - 2907.22 Promoting Prostitution
 - 2907.32 Pandering Obscenity
 - 2907.321 Pandering Obscenity Involving a Minor or Impaired Person
 - 2907.322 Pandering Sexually Oriented Matter Involving a Minor or Impaired Person
 - 2907.323 Illegal Use of Minor in Nudity-Oriented Material or Performance

- 2905.01 Kidnapping^{ccxi}
- 2905.02 Abduction, 2905.03 Unlawful Restraint, 2905.05 Criminal Child Enticement^{ccxii}
- 2905.32 Trafficking in Persons^{ccxiii}
- 2907.24 Soliciting^{ccxiv}
- 2903.04 Involuntary Manslaughter (when the accompanying felony was committed or attempted with a sexual motivation)
- Violations of the following sections if committed with a sexual motivation:
 - 2903.01 Aggravated Murder
 - 2903.02 Murder
 - 2903.11 Felonious Assault
 - 2903.12 Aggravated Assault
 - 2903.13 Assault
 - 2903.21 Aggravated Menacing
 - 2903.211 Menacing by Stalking
 - 2903.22 Menacing
 - 2911.211 Aggravated Trespass

Procedure:

Filing	The prosecutor, the survivor, or a member of the survivor's family/household may file a motion that requests the issuance of a protection order as a condition of pretrial release. This may be filed at any time after the prosecutor files the criminal complaint.
General Format (The Court will Provide a Substantially Similar Form)	<p>"Motion for Protection Order</p> <p>..... Name and address of court</p> <p>State of Ohio</p> <p>v. No.</p> <p>.....</p> <p>Name of Defendant</p> <p>(Name of person), moves the court to issue a protection order containing terms designed to ensure the safety and protection of the complainant or the alleged victim in the above-captioned case, in relation to the named defendant, pursuant to its authority to issue a protection order under section 2903.213 of the Revised Code.</p> <p>A complaint, a copy of which has been attached to this motion, has been filed in this court charging the named defendant with a violation of section 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, a violation of a municipal ordinance substantially similar to section 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211 of the Revised Code, or the commission of a sexually oriented offense.</p> <p>I understand that I must appear before the court, at a time set by the court not later than the next day that the court is in session after the filing of this motion, for a hearing on the motion, and that any protection order granted pursuant to this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached</p>

	<p>complaint or until the issuance under section 2903.214 of the Revised Code of a protection order arising out of the same activities as those that were the basis of the attached complaint.</p> <p>.....</p> <p>Signature of person</p> <p>.....</p> <p>Address of person"</p>
Hearing	<p>The court will hold a hearing on whether to order the protection order as soon as possible, and no later than one day after the motion is filed. If this takes the form of an ex parte hearing (emergency hearing), and the court issues the protective order, the court must hold a full hearing no later than the next day to determine if the order should continue.</p> <p>The survivor or filing party must be present for the hearing, and will be asked to give information about why they feel the protection order is necessary.</p>
Determination	If the court finds that the protection and safety of the survivor or filing party will be impaired without the order, it will issue the protection order.
Conditions	The court has, within its discretion, the ability to prohibit the perpetrator from entering the survivor/filing party's residence, school, business, or place of employment. The court may also prohibit the perpetrator from removing, damaging, hiding, harming, or disposing of a companion animal.
Not Revocable by Survivor	The terms are not revoked, even if a person protected by the order invites the perpetrator into the prohibited areas.
Termination	This type of protection order ceases after the disposition of the case, i.e. after the perpetrator is found guilty and sentenced or is acquitted.
Exception	If the perpetrator is a member of the survivor's family/household, the survivor may file a motion for an emergency temporary protection order (See Below).
What if the case is transferred to a different court?	If the case originates in municipal or county court, and the originating court issues a protective order, that order remains in place if the case is transferred to a common pleas court. However, upon transfer the common pleas court has the discretion to modify the protection order if appropriately petitioned to do so.

III. Civil Protection Orders – Ohio Revised Code Sections 2903.214, 3113.31 & 2151.34(F)(3)

Petition Against an Adult

If a survivor does not wish to report the crime, the survivor or a member of their family/household may still petition the court for a civil protection order. Unlike a criminal protection order, no criminal charges are required. However, the survivor or family/household member must allege in the petition for protection order that the perpetrator committed a violation of one of the following sections:

- Domestic Violence, as defined by 3113.31(A):
 - Any of the following against a family or household member or person with whom the respondent is or was in a dating relationship (“a relationship between individuals who have, or have had, a relationship of a romantic or intimate nature. ‘Dating relationship’ does not include a casual acquaintanceship or ordinary fraternization in a business or social context.”)^{ccxv}:
 - Attempting to cause or recklessly causing bodily injury to a family or household member
 - Placing a family or household member by the threat of force in fear of imminent serious physical harm
 - Menacing by stalking against a family or household member
 - Committing aggravated trespass against a family or household member
 - Committing an act with respect to a child family or household member that would result in the child being an abused child
- 2903.211 Menacing by Stalking
- Sexually Oriented Offenses, as defined by 2950.01(A):
 - 2907.02 Rape
 - 2907.03 Sexual Battery
 - 2907.04 Unlawful Sexual Conduct with a Minor^{ccxvi}
 - 2907.05 Gross Sexual Imposition
 - 2907.06 Sexual Imposition
 - 2907.07 Importuning
 - 2907.08 Voyeurism
 - 2907.21 Compelling Prostitution
 - 2907.22 Promoting Prostitution
 - 2907.321 Pandering Obscenity
 - 2907.322 Pandering Sexually Oriented Matter Involving a Minor
 - 2907.323 Illegal Use of Minor in Nudity-Oriented Material or Performance
 - 2905.01 Kidnapping^{ccxvii}
 - 2905.02 Abduction, 2905.03 Unlawful Restraint, 2905.05 Criminal Child Enticement^{ccxviii}
 - 2905.32 Trafficking in Persons^{ccxix}
 - 2907.24 Soliciting^{ccxx}

Filing	The survivor or a member of their family/household may petition the court for a protection order. Because no criminal charges are required for this type of protection order, the petition may be filed at any point after the perpetrator acted in a manner that violated one of the above-listed crimes.
Cost	A court may not charge a survivor for filing or hearing costs.

<p>General Format (The court will provide a specific form. For an example, see “Order of Protection,” immediately following this section)</p>	<p>A petition alleging Menacing by Stalking or a Sexually Oriented Offense must include:</p> <ul style="list-style-type: none"> (1) a statement that the perpetrator engaged in a violation of Section 2903.211 or one of the above-listed sexually oriented offenses, (2) a description of the nature and extent of the perpetrator’s violation of the specified statute, and (3) a request for relief. <p>A petition alleging Domestic Violence must include:</p> <ul style="list-style-type: none"> (1) a statement that the perpetrator engaged in domestic violence against (1) a family or household member; or (2) a person with whom the respondent is or was in a dating relationship, (2) a description of the nature and extent of the domestic violence, (3) the relationship of the perpetrator to the petitioner, and (4) a request for relief.
<p>Requests for Electronic Monitoring (not available in cases of domestic violence)^{ccxxi}</p>	<p>If the survivor feels that the perpetrator poses a continuing threat to their and safety, they may seek electronic monitoring. If making this additional request, the petitioning party must include in their petition the items listed immediately above and the following:</p> <ul style="list-style-type: none"> (1) an additional statement that the perpetrator engaged in conduct that would cause a reasonable person to believe their health, welfare, or safety was at risk, (2) a description of the nature and extent of that conduct, and (3) a statement that the perpetrator presents a continuing danger to the survivor
<p>Ex Parte Hearing</p>	<p>If a survivor feels that immediate protection is necessary, they may request an Ex Parte Order. After a survivor files the ex parte petition, the court will hold a hearing as soon as possible, but no later than the next day the court is in session.</p>
<p>Determination of an Ex Parte Hearing</p>	<p>If the court finds that the survivor shows good cause (immediate and present danger, including but not limited to showing that the perpetrator made threats of bodily harm or has pled guilty to or been convicted of a violation of one of the above-listed statutes in a crime against the survivor seeking the petition) for the protection order at the ex parte hearing, the judge will enter any order it finds necessary to protect the survivor’s safety.</p>
<p>Conditions of an Ex Parte Order</p>	<p>The court has, within its discretion, the ability to include terms designed to ensure the survivor’s safety and protection, including, but not limited to prohibiting the perpetrator from entering the survivor/filing party’s residence, school, business, or place of employment. The court may also prohibit the perpetrator from removing, damaging, hiding, harming, or</p>

	disposing of a companion animal, and may include a term permitting the survivor to take possession of a companion animal owned by the perpetrator.
Full Hearing After an Ex Parte Order	<p>If the court grants an Ex Parte Order, the court will schedule a hearing within 10 court days after the ex parte hearing (7 days if domestic violence protection order was issued pursuant to Ohio Revised Code § 3113.31 and the order includes an order to vacate or evict). The perpetrator will be given notice of this hearing and an opportunity to be heard at the hearing.</p> <p>A court may order a continuance (delay) of the full hearing if: a party needs time to find an attorney, the perpetrator has not been served, the survivor and perpetrator agree to the delay. A continuance does not invalidate the Ex Parte Order or cause it to expire.</p>
Full Hearing When the Ex Parte Order is not Granted or the Survivor does not Request the Ex Parte Order	If the survivor does not first petition for or the court does not grant the Ex Parte Order, the court will schedule a full hearing on the matter pursuant to the court's own scheduling rules and the Ohio Rules of Civil Procedure.
Determination of a Full Hearing	If the court finds that the survivor shows by a preponderance of the evidence (more likely than not) that the perpetrator committed one of the above-referenced offenses, the court may issue any order it finds necessary to protect the survivor's safety.
Conditions of a Protection Order	<p>The court has, within its discretion, the ability to include terms designed to ensure the survivor's safety and protection, including, but not limited to evicting the perpetrator from the survivor's home in cases of domestic violence and prohibiting the perpetrator from entering the survivor/filing party's residence, school, business, or place of employment. The court may also prohibit the perpetrator from removing, damaging, hiding, harming, or disposing of a companion animal, and may include a term permitting the survivor to take possession of a companion animal owned by the perpetrator.</p> <p>Electronic Monitoring (not available in cases of domestic violence): If the court finds upon clear and convincing evidence that the survivor reasonably believed before filing the petition that the perpetrator endangered their health or safety and that the perpetrator presents a continuing danger to the survivor, the court may require the perpetrator to submit to electronic monitoring, whether or not the survivor requested it.</p>
Notice	The court will provide notice to the perpetrator and all law enforcement agencies authorized to enforce the order.
Not Revocable by Survivor	A survivor may not revoke the order by inviting the perpetrator to enter one of the restricted premises.

Termination	A protection order issued after a full hearing will be valid until a specified date up to five years after it is originally issued.
Renewal	As the termination date approaches, a survivor may renew the protection order through the same means used to petition for it.
Sanctions for Violating a Protection Order (Ex Parte or After Full Hearing)	<p>A perpetrator who violates a protection order of either variety may be subject to the following penalties:</p> <ul style="list-style-type: none"> ➤ Criminal prosecution ➤ Punishment for contempt of court <p>Note that a punishment for contempt of court does not bar a criminal prosecution, but the time served for contempt of court will be viewed as a credit and taken off of any sentence associated with any applicable corresponding criminal conviction.</p>

Petition Against Juvenile

When a survivor has been harmed by a juvenile, the survivor or an adult family member or household member may file a civil protection order, provided that the filing party can allege that the juvenile perpetrator engaged in acts that, if charged in criminal court, would constitute a violation of one of the sections listed below or a substantially similar municipal ordinance:

- Domestic Violence, as defined by 3113.31(A):
 - Attempting to cause or recklessly causing bodily injury to a family or household member
 - Placing a family or household member by the threat of force in fear of imminent serious physical harm
 - Menacing by stalking against a family or household member
 - Committing aggravated trespass against a family or household member
 - Committing an act with respect to a child family or household member that would result in the child being an abused child
- 2903.11 Felonious Assault, 2903.12 Aggravated Assault, 2903.13 Assault
- 2903.21 Aggravated Menacing, 2903.211 Menacing by Stalking, 2903.22 Menacing
- Sexually Oriented Offenses, as defined by 2950.01(A):
 - 2907.02 Rape
 - 2907.03 Sexual Battery
 - 2907.04 Unlawful Sexual Conduct with a Minor
 - 2907.05 Gross Sexual Imposition
 - 2907.06 Sexual Imposition
 - 2907.07 Importuning
 - 2907.08 Voyeurism
 - 2907.21 Compelling Prostitution
 - 2907.22 Promoting Prostitution
 - 2907.321 Pandering Obscenity
 - 2907.322 Pandering Sexually Oriented Matter Involving a Minor

- 2907.323 Illegal Use of Minor in Nudity-Oriented Material or Performance
- 2905.01 Kidnapping
- 2905.02 Abduction, 2905.03 Unlawful Restraint, 2905.05 Criminal Child Enticement
- 2905.32 Trafficking in Persons
- 2907.24 Soliciting
- For specifications regarding sections 2907.04, 2905.01, 2905.02-.05, 2905.32, and 2907.42, see the footnotes on pages 1-2.

Filing	A survivor or an adult family or household member may file a petition in court for a juvenile protection order.
Cost	A court may not charge a survivor for filing or hearing costs.
General Format (The court will provide specific forms. For an example, see “Juvenile Civil Protection Order,” immediately following this section.)	<p>A petition alleging Menacing by Stalking or a Sexually Oriented Offense must include:</p> <ul style="list-style-type: none"> (1) a statement that the perpetrator engaged in a violation of Section 2903.211 or one of the above-listed sexually oriented offenses, (2) a description of the nature and extent of the perpetrator’s violation of the specified statute, and (3) a request for relief. <p>A petition alleging Domestic Violence must include:</p> <ul style="list-style-type: none"> (1) a statement that the perpetrator engaged in domestic violence against a family or household member, (2) a description of the nature and extent of the domestic violence, (3) the relationship of the perpetrator to the petitioner, and (4) a request for relief.
Termination	If the court grants a protection order after a full hearing, it will terminate on a specified date before the perpetrator’s 19 th birthday.
Renewal	A survivor may seek to renew the protection order as the perpetrator’s 19 th birthday approaches, in the same manner in which they filed the original petition.
Sealing	Any protection order issued against a juvenile perpetrator must include a provision that the court will automatically seal all records of the proceeding and order on the date the perpetrator turns 19, unless the survivor shows the court evidence that the perpetrator has not complied with all terms of the protection order.
Copies	The court must deliver a copy of the protection order to the perpetrator, survivor, all law enforcement agencies with jurisdiction to enforce the order, and the parent, guardian, or legal custodian of the respondent on the same day the order is entered.

Sanctions for Failing to Comply with a Protective Order (Ex Parte or After a Full Hearing)	<p>A juvenile perpetrator who fails to comply with the terms of a protection order will be subject to the following penalties:</p> <ul style="list-style-type: none"> ➤ Delinquency Proceeding ➤ Contempt of Court <p>Note that a punishment for contempt of court does not bar a delinquency proceeding, but the time served for contempt of court will be viewed as a credit and taken off of any sentence associated with any applicable corresponding delinquency determination.</p>
All other provisions are substantially identical to those described above (Adult Perpetrators)	<p>To avoid duplicative text, this chart does not repeat substantially identical provisions found in the above-chart, which corresponds with Sections 2903.213 and 2919.25. Therefore, it is critical that you review and compare both charts to examine the differences and similarities before working with a survivor.</p>

IV. Advocate Take Away

Legal advocates can play an exceptionally important role in the protection order process, particularly at the ex parte stage, when a survivor likely has not had time to even consider attaining legal representation. It is not uncommon for advocates to support survivors while they fill out petition forms. During this early preparation process, it is important to distinguish yourself from an attorney and emphasize that though you can provide information, you are not permitted to give legal advice. If survivors are confused or do not know how to answer questions on forms, make sure that you do not encourage answers that may not be true. It is absolutely critical that you let the survivor tell their story and do not push the emphasis of details you think will be more favorable in a hearing, as this could result in confusion, unintentional misreporting, and lack of continuity between the ex parte hearing and the full hearing. It is also critically important you do NOT fill out the petition for the survivor, even if they ask you to.

In addition, it is important to be realistic with survivors. Though the survivors you work with may be extremely emotionally or physically vulnerable before, during, and after an ex parte or full hearing, it is important to be appropriate in your support and encouragement and avoid statements that may give the impression that the order is a ‘slam dunk’ or that there is no chance for success. Finally, at this critical stage, it is important to separate yourself emotionally and remember that you are limited in your role as a support person. You cannot make promises to pursue legal strategies typically reserved for attorneys or pro se litigants, and it is best for the survivor if you are able to look past emotions and provide information clearly and without bias.

Practical Advocate Guidelines:

DO	DO NOT
➤ Memorize, or if more practical, remember to always check which offenses qualify as a “sexually oriented offense.”	➤ Assume that because sexual violence took place, the crime automatically qualifies as a “sexually oriented offense.”
➤ Become familiar with the forms necessary to file a protection order	➤ Give up on a full protection order hearing if an ex parte order is not granted.
➤ Even if you have forms available, check the court’s website for updates and verbally confirm with a clerk of court that no forms have changed or been added	➤ Forget to emphasize that an ex parte order does not guarantee that an order will be issued after a full hearing.
➤ Explain the difference between an ex parte order and a regular order	➤ Promise to pursue legal strategies or maneuvers if the court refuses to grant the order.
➤ Introduce yourself to the court and clearly explain to both clerks and the presiding judge that you do not serve as legal representation.	➤ Come up with answers for the survivor or encourage the survivor to make their answers more dramatic.
➤ Explain to the survivor that, though you are present at the hearing, you are not there to give legal advice.	➤ Assume that juvenile and adult hearings and orders function identically.
➤ Encourage survivors to fill out forms as accurately as possible.	➤ Fill out forms for the survivor.
➤ Compare juvenile and adult proceedings thoroughly.	

V. Additional Sources

- Ohio Revised Code Section 2903.213 Motion for and Hearing on Protection Order, *available at* <http://codes.ohio.gov/orc/2903.213>
- Ohio Revised Code Section 2903.214 Petition for Protection Order in Menacing by Stalking Cases, *available at* <http://codes.ohio.gov/orc/2903.214>
- Ohio Legal Services, *Stalking: Stalking Civil and Criminal Protection Orders*, http://www.ohiolegalservices.org/public/legal_problem/domestic-violence/stalking/stalking-civil-and-criminal-protection-orders/qandact_view
- Stalking Resource Center, The National Center for Victims of Crime, Ohio, <http://www.victimsofcrime.org/our-programs/stalking-resource-center/stalking-laws/stalking-orders-of-protection/ohio>
- The Supreme Court of Ohio, *Juvenile Protection Order Forms*, http://www.supremecourt.ohio.gov/JCS/domesticViolence/protection_forms/juvenileForms/default

Subsection Divider Page & Tab
III-M

III-M

Reporting Sex Offenses

I. The Survivor's Decision to Report

National statistical data confirms that, as of this manual's publication, approximately 68%^{ccxxii} of sexual assault survivors decline to report the crimes they endured. The staggering rate of underreporting is reflective of the many challenges survivors face when determining whether or not to contact law enforcement. For instance, a survivor may experience:

- self-blame or fear of victim-blaming behaviors
- apprehension about discussing social patterns or prior sexual experiences
- concern about reactions from parents or other family members
- worry that telling a significant other may change the tone of their relationship
- strong feelings of regret or guilt
- fear that the perpetrator or the perpetrator's friends or family may target the survivor after a report
- discomfort with police based on prior experiences
- lack of faith in the legal system because of sexual orientation or gender, race, ethnicity, or socio-economic status
- concern that a perpetrator's professional position or community status will bias police/jurists
- a lack of confidence that what happened actually meets the elements of a statutory sex offense

Additionally, though the majority of sex offenses are committed by persons survivors know, many survivors are reluctant to report acquaintance rape. This is frequently the case when a survivor is confused or traumatized after the assault and does not come forward immediately, resulting in a fear that law enforcement may question their motives because of the gap between the assault and the report.

II. Reporting Considerations

Survivors should consider the advantages and disadvantages to reporting listed below. Note that none of these advantages or disadvantages are completely certain. Accordingly, the advantages should be cautiously viewed as possibilities that will be foreclosed if the survivor chooses not to report, and the disadvantages should be viewed as possible consequences that may or may not arise.

Advantages	Disadvantages
<ul style="list-style-type: none">➤ The survivor will be eligible for crime victim compensation (assuming the survivor meets other eligibility criteria), which is not available if they choose not to report.	<ul style="list-style-type: none">➤ Once the survivor reports, they are no longer in control of the process – and they may not feel satisfied with law enforcement investigative decisions, prosecutorial goals, or sentencing/plea deal outcomes.
<ul style="list-style-type: none">➤ The perpetrator may serve a punishment for their crime against the survivor.	<ul style="list-style-type: none">➤ After reporting, the survivor may be forced to consistently remember and discuss traumatizing events during the investigation and trial processes.

➤ Other individuals may be protected from assaults by the same perpetrator.	➤ After reporting, the survivor may experience retaliation at home, at school, in social settings, or at work.
➤ The arrest and/or criminal proceedings may change the perpetrator's understanding of their behaviors as crimes.	➤ Because the survivor is not a party in the trial, they may feel revictimized as a result of prosecutorial decisions based on a conflicting array of interests instead of on justice for the survivor.
➤ Information about the arrest/trial may increase awareness about sexual violence rates.	➤ If the case goes to trial, the survivor may be examined by the defense attorney on the witness stand and have to divulge personal information they may not be comfortable sharing.
➤ Even if no conviction occurs, a record of information will be created that may be considered if the perpetrator is implicated in future assaults.	➤ If a survivor reports, their name may be accessible on public record and published in media reports.
➤ The survivor will possibly gain closure from going through the criminal justice process.	➤ If the prosecutor files charges, defense attorneys may seek certain records or other information regarding the survivor for evidence at trial.

III. Timing of the Report

When working with a survivor, it is important to provide information about two specific timing considerations:

1. **The Statute of Limitations:** Always make sure that the survivor knows when the statute of limitations will lapse on their claims. The advocate should guide the survivor to consult with a licensed attorney to determine the likely date.
2. **Availability of Evidence:** Make sure that the survivor is aware that evidence is easily and quickly destroyed, and that witnesses can forget important facts, die, or move away and become unavailable to testify. Therefore, the sooner a survivor reports, the more likely law enforcement and prosecutors will have access to the evidence necessary to prove their case.

These timing considerations should not be used to scare or pressure the survivor into reporting, but should be noted so that the survivor has all the information necessary when balancing whether or not they are ready to report.

IV. Making the Report

Two individuals can make a report: (1) the survivor, or (2) a witness. Though procedures vary by local police departments, a typical report will likely begin with a brief interview, during which the responding officer will take a brief initial statement. After speaking with the responding officer, the

survivor will likely have a more in-depth conversation with a detective. In larger municipalities, this will likely be a sex crime detective.

In most situations, the detective will likely request a written statement from the survivor in addition to the verbal interview. As writing this statement can be emotionally draining for survivors, it is critical to make the survivor aware that the police may request this statement at any time after receiving the report.

The initial interview may be very intense for the survivor. If a survivor does not make the report immediately after the assault, the survivor should consider whether they feel more comfortable calling in and having officers conduct interviews in the home, or whether the survivor would prefer to make the report at the applicable police station. To the extent practicable, advocates should be present for and provide support during the initial interview.

Advocate Tip!

Pursuant to R.C. Section 2907.30, if a survivor has suffered a crime that could be construed as 2907.02 Rape, they are entitled to be interviewed by one of the department's officers trained in crisis intervention. However, this only applies if such an officer can be made reasonably available. If you are present at the report, make sure to preemptively inquire about the availability of an officer trained in crisis intervention. If you will not accompany the survivor, recommend they make a request before completing the report.

V. Polygraphing the Survivor

Depending on the law enforcement agency, survivor demeanor, or other factors, the officer receiving the report or conducting the interview may ask the survivor to undergo a polygraph examination. However, a survivor does not have to agree. Specifically, the Ohio Revised Code states:

A peace officer, prosecutor, or other public official shall not ask or require a victim of an alleged sex offense to submit to a polygraph examination as a condition for proceeding with the investigation of the alleged sex offense. The refusal of the victim of an alleged sex offense to submit to a polygraph examination shall not prevent the investigation of the alleged sex offense, the filing of criminal charges with respect to the alleged sex offense, or the prosecution of the alleged perpetrator of the alleged sex offense.^{ccxxiii}

It is critical to note that there is no enforcement mechanism available to the survivor if the survivor concedes to the polygraph. Therefore, if law enforcement asks a survivor to submit to a polygraph, the survivor must assert this right prior to undergoing the polygraph exam.

VI. In the Case of an Immediate Report

If the survivor reaches out immediately or shortly after the assault and wants to report to law enforcement, they should make the report as soon as possible. To the extent possible, the survivor should keep evidence retention in mind, and should thus take care not to change their clothes, shower, or clean any area of the body. Specifically note that the area under the fingernails may contain evidence if the survivor scratched the perpetrator in any way. In addition, clothing may contain physical evidence of the perpetrator or may demonstrate the nature of the assault. Items present at the scene of the assault may also contain evidence, and survivors should avoid cleaning the area before law enforcement officials arrive.

After the survivor contacts law enforcement, the survivor may immediately seek a sexual assault forensic (SAFE) and medical exam at a local emergency room. Advocates should encourage survivors to seek these examinations following a sexual assault, regardless of their intention to report. The survivor may have suffered serious and potentially dangerous injuries that they do not remember or do not realize are significant (such as strangulation or concussion).

Advocate Tip!

If a survivor is unsure about wanting to give a report, they can still pursue a sexual assault forensic and medical exam. The SANE (Sexual Assault Nurse Examiner) may take evidence and label it with coded identifying information. This preserves evidence if you want to make a report later.

VII. Advocate Take Away

Underreporting is an increasingly published and discussed issue.^{ccxxiv} However, survivors should under no circumstances be persuaded to report for the purpose of increasing awareness, protecting others from the perpetrator, or preventing a lapsed statute of limitations, no matter how meritorious the reasoning may seem to an advocate. The decision to report a crime lies entirely within the survivor's discretion. No matter what an advocate, law enforcement officer, counselor, or family member may feel about the strength of the case or the importance of notifying officials, the survivor must be permitted the control and dignity to decide what is best for him/her.

Though an advocate must not decide a course of action for the survivor, they should provide as much support and information as possible. In particular, the advocate should make the survivor aware in neutral terms of any statutes of limitations that will arise, so that the survivor always has that knowledge available for future decision-making purposes. The advocate should also anticipate and be empathetic to the challenges that a survivor may face after reporting.

Most importantly, an advocate should remember that unlike law enforcement officers or prosecuting attorneys, they are the only person totally focused on providing the survivor with support and information. The advocate should demonstrate an awareness of the societal constructs that create difficulty for survivors, and should help support whatever decision the survivor thinks is best for their individual healing process.

Practical Advocate Guidelines

Do	Do Not
➤ Listen to the survivor and provide support while they reason through the decision-making process.	➤ Make any reporting decisions for the survivor, even if the survivor insists.
➤ Understand that a survivor may change their mind about a decision to report.	➤ Make promises to the survivor about the results of a report.
➤ Openly inform survivors that submitting a report does not guarantee a police investigation, trial, or conviction.	➤ Play up the possibility that a report will ultimately result in trial or conviction.
➤ Remember that a survivor will likely be overwhelmed and forget important pieces of information that arise during communications with you, law enforcement, or court officials.	➤ Underestimate the impact of victim-blaming societal attitudes on a survivor's decision-making process.
➤ Make sure that the survivor is aware that they may be entitled to have an officer trained in crisis intervention conduct the initial interview.	

Subsection Divider Page & Tab
III-N

III-N

The Criminal Investigation

I. Benchmarks After the Report

As mentioned in Chapter III, Section M *Reporting Sex Offenses*, the criminal investigation begins when the survivor or a witness makes a report. Though the full investigation can take years, law enforcement will likely conduct several activities quickly to discover and preserve any remaining evidence:

- Responding officers will conduct an initial interview.
- The survivor will speak with a detective.
- The investigating detective will ask for a written statement from the survivor.
- If the survivor has not visited an emergency room for a sexual assault forensic examination, and the assault was recent enough for evidence to still be present, law enforcement may request that the survivor receive an examination.
- Officers will analyze the crime scene and collect physical and forensic evidence.
- Results from the survivor's sexual assault forensic and medical exam will be received from the lab and analyzed by investigating officers.
- Officers will interview the alleged perpetrator.
Officers will interview possible witnesses.
- Officers will conduct follow-up interviews with the survivor and other parties listed above to note varying versions of the factual narrative and/or timeline.
- If the survivor did not know the perpetrator, officers may ask the survivor to meet with a sketch artist or identify a suspect through a lineup, and DNA will be entered into databases to seek a match.

II. Probable Cause & Arrest

If law enforcement officers feel that they have probable cause to make an arrest, they will likely approach the applicable magistrate for a warrant. If the magistrate finds that the officers have produced sufficient evidence for a finding of probable cause, they will issue a warrant and the police will move forward with an arrest. After the arrest, law enforcement will likely seek additional information through interviews with the perpetrator.

Note that after an arrest, the alleged perpetrator will make an initial appearance and a magistrate will determine bond. This is discussed more thoroughly in Chapter III, Section O. For the purposes of this section, it is important to understand and convey to the survivor that even though a perpetrator was arrested, they may be able to leave custody until trial.

III. Issues with Criminal Investigation Techniques

a. Timing & Expectations: The objective of a criminal investigation is to uncover the truth and provide sufficient evidence to allow a successful prosecution without violating the defendant's

Advocate Tip!

Investigators have multiple cases, and must work around the schedules of numerous parties when trying to schedule interviews, obtain warrants, and otherwise gather information. It is important to explain timing challenges to a survivor at the outset, helping them frame their expectations to avoid the trauma that may result if they believe that the delay in their case processing is unique or personal. This does not mean advocates should ignore unusual delays – merely that a realistic view of an investigation timeline can help all parties involved avoid resentment, maintain trust where warranted, and work more efficiently together.

constitutional rights. To achieve this end, investigators will pursue numerous avenues to obtain information about the alleged crime. Obtaining information in a sex crime investigation almost always involves obtaining warrants and overcoming delays caused by attorneys representing the perpetrator, institutions, or other parties that do not want to provide information requested. In addition, law enforcement officers have an obligation to uncover as much

information as possible, even if they believe the survivor from the outset. For example, if the survivor makes a detailed complaint that makes sense to the law enforcement officer, the law enforcement officer must still interview witnesses provided by the survivor and perpetrator to uncover what both sides purport to have happened. When supporting the survivor through this process, it is helpful to remember the justice system's evolution and basis in avoiding wrongful convictions. Though it may not feel like it, law enforcement's insistence on interviewing all witnesses provided and seeking to cancel out all possible alternative factual narratives is obligatory, and not indicative of a lack of faith in the survivor.

b. Survivor Interviews: A survivor's account of the assault is likely one of the most important and difficult stories they will tell in their entire life. It can seem exasperating when someone who has heard the story has to ask the survivor to repeat it, as though the story is not important or was not impactful to them. Unfortunately, during the investigation stage, the survivor will likely have to tell the story not only to multiple individuals in the same agency, but likely multiple times to the same person. After giving the narrative, the survivor will also face numerous questions about the location and time of the assault, any events surrounding the assault, the identity of the perpetrator, and any possible relationship between the perpetrator and survivor. Though these questions seem straightforward and necessary to law enforcement, they can seem invasive and repetitive to survivors.

In addition, for law enforcement officers not trained on trauma and its impact on memory and decision making, many portions of a survivor's narrative may not make

Advocate Tip!

When preparing survivors for their interactions with law enforcement, consider using a "backwards planning" approach. Start by explaining law enforcement's general goals. Then explain the defendants' constitutional rights that cannot be violated (if they are violated, the case can get overturned). At that point, explain likely interview questions and point back to the purpose of the question. This will help the survivor understand law enforcement investigative methods and know what to expect.

sense. This will lead to questions that, if phrased poorly or delivered with the wrong tone, will come across as victim-blaming. For example, law enforcement officers may find it peculiar that a survivor waited days, weeks, months, or years to report the assault. Similarly, officers may question memory lapses or narratives that lack consistency from one interview to the next. As an advocate, it is important to remember that law enforcement officers are principally seeking sufficient evidence to produce a conviction. Use this information to help prepare the survivor for the types of follow-up questions that may arise after an inconsistent narrative or memory lapse, and to prepare them for inquiries that may appear aggressive if unexpected.

Though it is important to remember law enforcement's goals and limitations when working with a survivor, advocates should remember that an officer **should not be permitted** to abuse or treat a survivor with hostility. If this occurs, first seek (with the survivor's consent) to have a discussion with the officer about the survivor's traumatic experiences and the way that certain inquiry methods impact survivors.

IV. Advocate Take Away

The criminal investigation can be an extremely difficult period for survivors. Frequent questioning and evidence collection can force the survivor to relive the assault, make the survivor feel like no one believes them, and cause the survivor to be suspicious of information provided by law enforcement. It is therefore very important for advocates to understand law enforcement investigation goals and standards. As an advocate, you should feel comfortable asking law enforcement officers generally about arresting decisions and probable cause, expected arrest timelines, and interviewing techniques so that you can more readily discuss these concepts when a survivor has questions.

Because law enforcement interviewing techniques can cause a rift in the trust between survivor and officer, survivors may begin to question the timing and frequency of police communication or the information provided. If this happens, an advocate can be a valuable verification resource. First, a legal advocate should become familiar with the notification and updates either required by Ohio law or practiced as a matter of agency protocol. This will permit the advocate to anticipate when a survivor should hear from law enforcement or recognize when a survivor is not receiving the typical communications. Similarly, if a survivor questions the accuracy of criminal procedure questions, an advocate may use their base-knowledge of the criminal justice system to research the answer and either follow-up with law enforcement about a misleading answer or inform the survivor that the information was actually correct and how that information will apply to their case.

Practical Advocate Guidelines

Do	Do Not
➤ Seek information about typical investigation stages and interviewing techniques in your service community before working with survivors.	➤ Assume that all officers understand the impact of trauma and are trained on how to work proactively with survivors.
➤ Discuss the types of questions a survivor may anticipate and the reasoning behind such questions.	

<p>➤ Discuss survivor interpretations of questions and the impact of trauma with officers as appropriate.</p>	
<p>➤ Validate survivor concerns about interactions with law enforcement, and seek information to help assist the survivor in resolving the conflict proactively with law enforcement, if achievable.</p>	

Subsection Divider Page & Tab
III-O

III-O

From the Criminal Investigation to Trial

I. During or After the Investigation

Depending on the crime and available evidence, law enforcement officers may make an immediate^{ccxxv} arrest. If they do, the investigation will continue while the perpetrator is in custody. If they do not make an immediate arrest, but believe there is probable cause, they will investigate.^{ccxxvi} If this investigation produces what they believe is a prosecutable case, law enforcement will give the case to their county prosecutor.

Once the prosecutor reviews the file, they generally speak with the detective assigned to the case. This may result in a request for further investigation, investigation by members of the prosecutorial team, or a decision to either pursue or not pursue charges.

Advocate Tip!

The term “probable cause” appears at various points in the criminal justice process – as required justification for issuing warrants, arresting suspects, and even submitting a SANE kit to BSI for testing, among other actions. Ohio courts define probable cause as “a reasonable ground for belief of guilt,” describing it as a “flexible,” “common sense” standard satisfied if the facts available would cause a reasonable person to believe a crime occurred. *E.g.*, Office of the Ohio Public Defender, *Franklin County Criminal Law Case Book*, available at <http://opd.ohio.gov/The-Library/Criminal-Law-Casebook/Search-and-Seizure-Probable-Cause>; *State v. McCorvey*, 2011-Ohio-3627.

II. Felony Prosecutions versus Misdemeanor Prosecutions

Prosecutions for felony and misdemeanor crimes differ significantly^{ccxxvii}. The following graphs demonstrate the typical steps in each process:

Felony Charges		
1	Crime is committed	
2	Crime is reported	
3	Applicable law enforcement agency investigates	
4	Either (a) a direct indictment is issued in the municipal court or (b) an affidavit is filed in the municipal court	Indictment or Complaint: Filed with the municipal court Arraignment: A short court appearance in which a court informs the accused of charges and sets bond.
5	Arraignment in Municipal Court	A short court appearance in which a court informs the accused of charges and sets bond.
6	If the perpetrator was not directly indicted, unless waived, the court holds a preliminary hearing, ^{ccxxviii} unless defendant waives this step	The court should schedule this hearing to take place within 10 days of arrest if perpetrator is in custody, 15 days of arrest if perpetrator is not in custody. ^{ccxxix} The primary purpose of the preliminary hearing is to demonstrate that there is sufficient evidence for the case to be bound over. The ultimate burden to demonstrate this at the preliminary hearing lies with the prosecutor, and the defendant may present evidence during this

		proceeding in an effort to chip away at the prosecutor's basis and argue that there is no probable cause. At the conclusion, the court must find either that there is probable cause that a crime occurred and the defendant committed the crime, or discharge the perpetrator. If the court finds probable cause that the defendant committed the crime, the case must be bound over to the county court. ^{ccxxx}
5	Case is "bound over" to the Court of Common Pleas ^{ccxxxi}	
Note that a County Prosecutor can choose to forgo Steps 4-6 and proceed immediately to Grand Jury.		
6	Grand Jury (In certain cases, a preliminary hearing precedes grand jury)	The Ohio Constitution provides that no accused citizen will face a felony trial until a Grand Jury of 12 persons from the county with jurisdiction determine there is probable cause to believe a crime was committed, and issue charges. ^{ccxxxii} For more detailed information, see III-O, Section IV.
After the Grand Jury reviews evidence produced by the law enforcement investigation, the Grand Jury will vote on charges. The Grand Jury either issues a "No Bill," dismissing the case, or an "Indictment" on charges. In Ohio, an indictment is more commonly referred to as a "True Bill."		
7	Common Pleas Arraignment	Perpetrator's first county court appearance. ^{ccxxxiii} If the perpetrator has not obtained counsel, the perpetrator asks for court-appointed representation at the arraignment. The court will inform the perpetrator of charges and ask for plea. ^{ccxxxiv}
8	Plea Negotiations	Either shortly before, or after the arraignment but before trial, the prosecutor and defense attorney will likely bargain for a reduced charge in exchange for not proceeding to trial. For more information on plea negotiations, see III-O, Section V.
9	Pretrial conference	The case is assigned to a specific judge, the prosecutor and defense attorney meet with the judge and set the trial date. ^{ccxxxv} Note that, for a variety of reasons, this date is subject to be rescheduled.
10	Discovery ^{ccxxxvi} Motion Practice ^{ccxxxvii} Status Conferences	Between the pretrial conference and trial, the prosecution and defense attorney will likely continue bargaining for reduced charges. In addition, several status conferences will take place. The prosecutor and defense will exchange evidence – everything each side intends to use at trial must be provided. In addition, the prosecutor must hand over any items in its possession that could exculpate (clear) the accused. Upon review of the full library of evidence, either attorney may make a motion to suppress the evidence. If such a motion is filed, the court will likely hold a hearing to review the evidence and determine its admissibility.

		This portion of the process can be incredibly lengthy, sometimes lasting several months.
11	Final Plea Offer	At the conclusion of evidentiary review and motion practice, the prosecutor will generally make one final plea offer. If this is not accepted, the case goes to trial.
12	Trial	The prosecutor and defense will present their version of the facts through oral argument, physical evidence, and witnesses. A 12-person ^{ccxxxviii} jury receives education on the bounds of the law and makes a factual determination about which version of facts took place, producing a unanimous verdict. ^{ccxxxix}
13	Presentencing Investigation ^{ccxl}	If the jury produces a guilty verdict, the judge will evaluate factors to determine sentencing. Generally, the judge will request a report from the probation department to assist in facilitating sentencing decisions.
14	Sentencing ^{ccxli}	The judge will hold a sentencing hearing. At this stage, the victim and/or witnesses on behalf of the victim may provide statements or testimony. The perpetrator and/or witnesses on behalf of the perpetrator may provide statements. Upon the completion of the hearing, the judge will issue a fine, prison time, both, intervention in lieu of conviction, or a community control sanction. For more information on sentencing, see Chapter III-R.
15	Post-Conviction Motions ^{ccxlii}	If a direct appeal is not applicable, the defense may file a motion contesting the fairness or legality of certain portions of the trial, including motions for a new trial or new sentence. The perpetrator will remain bound by the sentence issued throughout the pendency of post-conviction motions.
16	Appeal ^{ccxliii} if applicable	If the jury or judge acquits the perpetrator, the prosecution may not appeal. ^{ccxliv} If the jury or judge convicts the perpetrator, the perpetrator has 30 days to appeal. Defendants have the right to an attorney during the appeal, but do not always use the same attorney to facilitate it.
17	Early Release	Perpetrators are sometimes able to apply for early release, which generally provides for specific regulations similar to probation or community control sanctions.
18	Standard Post-Release	Upon release, many perpetrators are subject to specific regulations. For more information on this, see Chapter III, Sections S & T.
19	Record Expungement/Sealing ^{ccxlv}	After the statutorily requisite period of time post release/fine payment, a perpetrator may apply to have his records destroyed or hidden from public view. Perpetrators must apply for expungement in the same

		court that tried their case, and judges must evaluate statutorily based factors. ^{ccxlvii}
--	--	---

Misdemeanor Charges

In a misdemeanor case, jurisdiction remains with the municipal court. This means that, unlike in the felony process, the case is heard by the municipal judge instead of being bound over to the County Common Pleas Court. Grand juries do not preside over charging decisions in misdemeanor cases.

1	Crime is committed	
2	Crime is reported to law enforcement or prosecutor	After arrest in a misdemeanor case, the perpetrator may be released if a summons is reasonably calculated to assure the perpetrator's appearance in court. ^{ccxlviii}
3	Applicable agency investigates	
4	Charges are filed	Indictment or criminal complaint filed with municipal court. ^{ccxlviii}
5	Arraignment	Perpetrator's first appearance. ^{ccxlix} If the perpetrator has not obtained counsel, the perpetrator asks for court-appointed representation at the arraignment. The court will inform the perpetrator of charges and ask for plea. ^{ccl}
6	Pretrial	The case is assigned to a specific judge, the municipal prosecutor and defense attorney meet with the judge and a trial date is set. ^{ccli}
7	Plea Negotiations	Either shortly before, or after the arraignment but before trial, the municipal prosecutor and defense attorney will likely bargain for a reduced charge in exchange for not proceeding to trial. For more information on plea negotiations, see Chapter III-O, Section V.
8	Bench Trial/Jury Trial	Depending on the charges, the court will hold a bench or jury trial. These trials follow substantially the same order as a felony trial. One notable difference is the smaller number of eight jurors. ^{cclii} Both are described more fully in Chapter III-Q.
9	Sentencing ^{ccliii}	The judge will hold a sentencing hearing. At this stage, the victim and/or witnesses on behalf of the victim may provide statements or testimony. The perpetrator and/or witnesses on behalf of the perpetrator may provide statements. Upon the completion of the hearing, the judge will issue a fine, prison time, both, intervention in lieu of conviction, or a community control sanction. For more information on sentencing, see Chapter III-R.
10	Post-Conviction Motions ^{ccliv}	If a direct appeal is not applicable, the defense may file a motion contesting the fairness or legality of certain portions of the trial, including motions for a new trial or new sentence.
11	Appeal ^{cclv} if applicable	If the perpetrator is acquitted, the prosecution may not appeal. If the perpetrator is convicted, the perpetrator has 30 days to appeal. Defendants do not always use the same attorney to facilitate the appeal.

III. Bond/Bail/Court Supervised Release

When a perpetrator is arrested, law enforcement will either temporarily book them in jail or order them to appear at arraignment. The court will then determine a bond amount. Bond impacts perpetrators whether or not they are brought in for temporary holding:

Advocate Tip!

A strong private industry exists in Ohio, and across the country, that supplies loans to criminal defendants that cover the cost of bond. Though taking advantage of these loans can result in extensive fees, many defendants do procure bail bond services, permitting their release while awaiting trial. In cases where a perpetrator has limited financial resources, it is important to remind survivors that there are many avenues perpetrators can take to procure bond, thus the survivor should not automatically assume that their perpetrator will remain in temporary custody.

Bond is a sum of money determined by the court to secure the perpetrator's participation in the criminal justice process.

- A perpetrator brought in for temporary holding can pay the bond amount in exchange for release from jail during the pendency of proceedings. Once that perpetrator is released, that person is responsible for paying an additional bond amount if they do not show up for arraignment or other mandatory court appearances, or if they flee the court's jurisdiction.
- A perpetrator not brought in for temporary holding will be responsible for paying the court the bond amount if they do not show up for arraignment or other mandatory court appearances, or if they flee the court's jurisdiction. If a perpetrator pays the bond and complies with conditions, the sum is generally returned to the perpetrator less court fees. Depending on the county, the local common pleas system may operate additional programming related to the bond system.^{celvi}

IV. Grand Jury

In the legal community, Ohio is referred to as an "indictment and information state." In lay terms, this means that some cases require an indictment, while others can proceed without one if the defendant waives the right to grand jury proceedings and to proceed by "information."^{celvii} Specifically, a grand jury indictment is required when prosecuting a felony punishable by death or life imprisonment. Any other felony must be presented to a grand jury unless the defendant waives that right and agrees to proceed by information. Misdemeanors can be prosecuted by either indictment or information. Both an indictment and information signify that a neutral third party has determined there is a factual basis for the charges at issue, but their processes differ, as do the rights afforded to defendants and witnesses in each specific process.

Prosecution by Indictment	Prior to proceeding to trial, a prosecutor must empanel and present evidence to 12 grand jury members. The prosecutor may present evidence, interrogate witnesses, and require the survivor to testify before the grand jury. To proceed to trial, the grand jury members must produce a unanimous vote, called a "true bill." Anything less will result in a finding of no indictment, sometimes referred to in conversation as a "no bill," and the charges will not proceed to trial.
Prosecution by Information	Preliminary Hearing System: Proceedings commence with a preliminary hearing to determine whether probable cause exists to proceed to trial. The court issues a charging document against the defendant. The defendant can challenge charges, cross-examine witnesses, and submit evidence during preliminary hearing. The hearing results in decision whether to proceed to trial.

An Ohio grand jury is essentially an independent investigative body. The grand jury panel that reviews a survivor's case is not convened specifically to review that matter. Instead, grand jurors serve for short periods of time, evaluating numerous felony indictments during their brief term. Once the jurors are selected and take their oath, they “retire with the officer appointed to attend [the grand jury], and proceed to inquire of and present all offenses committed within the county.”^{cclviii} Grand jury members are sworn to secrecy regarding the matters they review while impaneled,^{cclix} and are barred from testifying about the manner in which any grand jury member voted or an opinion expressed by a grand jury member during the grand jury proceedings.^{cclx} In addition to observing the prosecution's evidence, the grand jury may independently subpoena witnesses.^{cclxi} It is important to note that the rules of evidence do not apply to grand jury proceedings. Therefore, hearsay and other types of evidence barred from admission at trial may be admitted during grand jury proceedings.

After the grand jury has observed all testimony and reviewed evidence, the members will discuss the matter in private. The members will vote on whether they believe there is probable cause to proceed to trial. Unlike jurors in a criminal trial, their belief does not have to meet the “Beyond a Reasonable Doubt” standard. Instead, the standard is whether they have probable cause, or a reasonable basis, to believe a crime was committed and the defendant was the person who did it. A unanimous vote is required.^{cclxii} If that unanimous vote is reached, the foreman will report a “true bill,” and the case will proceed to trial. If no unanimous vote is reached, the case will not proceed. Barring specific factors,^{cclxiii} the perpetrator will be discharged from any existing temporary jail hold upon the grand jury's announcement of a finding of no indictment.^{cclxiv}

Evidentiary Differences

As the rules of evidence do not apply in grand jury proceedings, the prosecutor may bring in numerous pieces of evidence they cannot admit at trial. In the wrong circumstances, this can give the survivor a false sense of security about the availability of evidence and likelihood of conviction. In cases where the grand jury returns a “true bill,” it will be important to set up a meeting with the survivor and the prosecutor early on to discuss any pieces of evidence that will likely be unusable at trial, and the reasons the Ohio Rules of Evidence will potentially bar their use. In addition, because rape shield rules are not the same in grand jury proceedings, it may be beneficial for the survivor to discuss the difference between what will be disclosed about their sexual history to the grand jury and at trial.

Advocate Tips!

- As survivors may be called to testify, it is critical to understand what, if any, rights witnesses have in the grand jury room. In Ohio, a prosecutor may interrogate witnesses before the grand jury. During questioning, a witness may request permission to consult with an attorney outside of the grand jury room before answering a grand jury question. Conversely, a witness who refuses to answer grand jury inquiries can be held in contempt of court. Similarly, if a witness lies to a grand jury, that witness can be prosecuted for perjury.
- Though a survivor may want the advocate's accompaniment in the grand jury room, for support while being questioned or another purpose, the advocate will not be permitted to join them in the room. It is very important to clarify this with the survivor prior to arriving at grand jury proceedings.

V. Pleas & Plea Agreements

a. Pleas Generally

During the arraignment, the judge will read the indictment or information to the perpetrator, explain the charges, and ask for a plea.^{cclxv} In Ohio, perpetrators may make one of the following pleas:

Guilty	A complete admission of the perpetrator's guilt, which can be used against them in a subsequent criminal or civil proceeding. ^{cclxvi} A perpetrator does not have an absolute right to revoke a guilty plea. Instead, a court has the discretion to decline to accept the revocation. ^{cclxvii}
No-Contest	Not an admission of the perpetrators guilt – instead, an admission that the facts alleged in the indictment or information are true. If a perpetrator pleads no contest, their plea cannot be used against them in a subsequent criminal or civil proceeding. ^{cclxviii} The court must consent to no contest pleas, and must find perpetrators guilty of the offense for which they pled no contest. ^{cclxix}
Not Guilty by Reason of Insanity	The perpetrator admits to committing the crime, but sets out to prove that at the time of the offense, the perpetrator did not know, “as a result of a severe mental disease or defect, the wrongfulness of the person's acts.” ^{cclxx} Though the prosecutor must prove the perpetrator committed the act beyond a reasonable doubt, the perpetrator is responsible by proving the “insanity” by clear and convincing evidence.
Not Guilty	The perpetrator declines to admit guilt on the charges. After a not-guilty plea, the case will proceed to pretrial and trial scheduling. The majority of criminal defendants plead not guilty at arraignment.

When a perpetrator pleads guilty to the charges, the court must advise the perpetrator that the guilty plea constitutes an admission that may be used against them at a later trial; that the guilty plea subjects them to possible deportation or denial of naturalization; of any possible parole issues, applicable firearm restrictions, and the maximum possible penalty; that the guilty plea constitutes a waiver of the right to a jury trial, preliminary hearing, or grand jury proceeding; and of the defendant's right to counsel.^{cclxxi} Further, before accepting a plea of guilty or no contest, the court must determine that the perpetrator is making the plea knowingly and voluntarily.^{cclxxii}

b. Plea Negotiations

A plea made at arraignment is generally not final,^{cclxxiii} leaving open the option of a “plea bargain.” A plea bargain is a deal in which the prosecutor offers the perpetrator the opportunity to plead down to either less severe charges (typically lesser included offenses), dismissal of some charges, or other crimes not originally charged that carry less severe penalties, in exchange for not having to take the case to trial.

Competency vs. Insanity

In III-N, you will learn about “competency to stand trial.” Competency to stand trial and diminished capacity (insanity) at the time the crime was committed are two different legal constructs, and one has nothing to do with the validity of the other. Specifically, even if a court finds a perpetrator competent to stand trial, a jury may still find that the defendant met the burden of proof on his insanity defense and is therefore “Not Guilty by Reason of Insanity.” See *State v. Cihonski*, 178 Ohio App. 3d 713, 2008-Ohio-5191. Simply put, “competency” is a mental state at the time of trial, “insanity” is the mental state at the time of the crime.

To the prosecutor, plea bargaining is a logical process – trials are lengthy, costly, and the burden of proof in a criminal case is extremely high.^{cclxxiv} In sex crime cases, the nature of evidence makes conviction especially difficult to achieve.^{cclxxv}

Advocate Tip!

A perpetrator is permitted under the law to change a plea. For that reason, a plea may be fully negotiated as late as just before trial begins. It is important to explain that pleas lack permanence. Because meaningful steps in the plea bargaining process often take place at pretrial conferences, it may be useful to monitor the docket and check in with the victim witness unit or prosecutor before and after pretrial conferences.

Note: It is uncommon and extremely difficult, but not unheard of, for a perpetrator to attempt to revoke consent to the plea bargain. Survivors should know that the perpetrator is allowed to object to the bargain up until the point in which the judge imposes the sentence, and you should inquire with the assigned prosecutor about how the specific court handles such extreme requests from perpetrators.

Example A: A prosecutor has probable cause to pursue charges for 2907.02 Rape, but does not believe there is enough physical evidence to convince a jury. The prosecutor may offer the perpetrator a plea bargain requiring the perpetrator to plead guilty to 2907.07 Importuning, which carries a less severe penalty. The perpetrator accepts, knowing they will serve less time in prison, and the prosecutor no longer has to prove the elements of Rape beyond a reasonable doubt.

Example B: A prosecutor has probable cause to pursue charges for two counts of 2907.03 Sexual Battery and one count of 2907.05 Gross Sexual Imposition. They are concerned that there is not enough evidence to convict on the Gross Sexual Imposition count, and the evidence on the Sexual Battery charges is too close to call. The prosecutor offers a deal in which the perpetrator would plead guilty to one count of 2907.03 Sexual Battery, and the prosecutor would dismiss the second Sexual Battery charge and the Gross Sexual Imposition charge. This reduces the incarceration time, but allows the

General estimates indicate that approximately **90%** of criminal convictions are the result of plea deals. Ohio Prosecutor's Association, *Ohio's Judicial System: What You Should Know – Plea Agreements*, <http://www.ohiopa.org/pleaagreements.html>.

prosecutor to insure the perpetrator will serve some prison time and will be required to register as a sex offender.

Example C: A prosecutor has probable cause to pursue charges for one count of 2907.03 Sexual Battery. The evidence produced during discovery causes the prosecutor to doubt a successful conviction at trial. The prosecutor offers a reduced charge of 2907.06 Sexual Imposition, which carries a reduced penalty. The defense attorney, understanding the low level of evidence produced during discovery, counters with a charge of 2903.13 Assault, which does not require the perpetrator to register as a sex offender. The prosecutor speaks to the survivor, who does not wish to testify, and the survivor consents to this charge, which will carry prison time pursuant to the guidelines of the plea agreement. To the prosecutor, the results in these examples still hold perpetrators accountable without the risk that the jury will find not them guilty with no penalty at all.

c. The Survivor's Voice During Plea Negotiations

“To the extent practicable,” prosecutors must notify the victim before accepting a plea negotiation.^{cclxxvi} Depending on the county, survivors may play a role in plea negotiations. This is highly dependent on the charges filed, the evidence available, and the importance of victim involvement in the prosecution’s case in chief. For example, in a case with strong physical evidence and a survivor who does not wish to testify or face cross-examination, the court may work with the survivor on determining whether the survivor is comfortable with the plea deal proposed or would rather go to trial. Conversely, if there is limited physical evidence or witnesses, the prosecutor may go forward with a plea deal without informing the survivor. The degree of survivor input sought depends on many factors, including county custom, individual prosecutor preferences, the size of the docket, the court’s resources, the presence and staffing of the victim witness unit (prosecution-based advocate), the court system’s relationship with the local rape crisis center, and other factors.

d. Finalizing the Plea Agreement - Judicial Approval

Once the prosecutor offers a plea bargain and the perpetrator accepts, the court must approve it in a sentencing hearing, which is where the victim should be permitted to read a statement.^{cclxxvii} Upon court approval, the agreement is viewed as contractual in nature and the prosecution is barred from rescinding the offer.^{cclxxviii} However, plea negotiations do not always proceed in such a straightforward manner. For example, perpetrators or victims (through their victim impact statement) may object to the agreement up to the point of sentencing, and the court is free to refuse to accept the plea bargain in whole or in part, and can impose a different sentence than what was originally agreed upon.

Advocate Tip!

Contact prosecution-based advocates early, and discuss how to facilitate survivor participation in the plea-bargaining process. The Ohio Revised Code provides that a victim is permitted to give a statement during sentencing. This applies where a plea bargain is reached as well. See R.C. 2930.13.

VI. Discovery

Between a felony common pleas arraignment and jury trial, the prosecution and defense have a duty to provide each other with all “information necessary for a full and fair adjudication of the facts, to protect the integrity of the justice system and the rights of defendants, and to protect the wellbeing of witnesses, victims, and society at large.”^{cclxxix} This information sharing process is called “**discovery**.” In a criminal case, discovery begins when the defense provides the prosecution with a written discovery demand.^{cclxxx} The defendant must make this demand no later than 21 days after arraignment or seven days before trial, whichever is earlier. Upon receipt, the prosecution must hand over the following to the defense:

- Any written or recorded statement by defendant, including police summaries and grand jury testimony;
- Criminal records of defendant’s prior convictions;^{cclxxxi}
- All laboratory or hospital reports, books, papers, documents, photographs, tangible objects, buildings, or places;^{cclxxxii}
- The results of mental examinations, experiments or scientific tests;^{cclxxxiii}
- Any evidence material to guilt or punishment that is favorable to the defendant;

- All law enforcement reports;
- A full written witness list, including names and addresses of any witness the defense or prosecution reasonably intends to or anticipates possibly needing to call at trial;
- Witness statements in the prosecution's case in chief that may be used in process of calling a rebuttal witness; and
- The expert witness reports (prepared by the expert witness), summarizing the expert witness's testimony, findings, analysis, conclusions, or opinion, and shall include a summary of the expert's qualifications.

When preparing discovery, the prosecution has the option to stamp evidence "Counsel Only," meaning that it cannot be viewed by the individual defendant, or any person other than counsel of record.^{cclxxxiv} If the evidence is stamped "Counsel Only," counsel of record may share the information obtained from the evidence with the defendant or others orally.

Once the defense obtains discovery materials, it has the right to

either copy

or inspect it before returning it to the state (the prosecutor).

In sexual assault cases, special conditions apply. For example, the defense may only inspect photographs, examination results, or hospital reports related to the charges on the indictment or information.^{cclxxxv} No other hospital record is discoverable.^{cclxxxvi} Hospital records related to the indictment or information must be provided to defense experts under seal and protective order preventing unauthorized disclosure.^{cclxxxvii} If

Advocate Tip!

Note that statements made by the survivor to the police that could exculpate (clear) the perpetrator, that are included in a law enforcement report, or that will be included in the prosecution's case-in-chief must be turned over. Because there is wide variability within these standards, it will be important to inquire with the prosecution about which survivor statements will be turned over. When the defense's right to access certain information is questionable, that evidence will likely be subjected to an in camera hearing (private judicial determination that bars public disclosure of the evidence reviewed), in which a judge determines whether it needs to be turned over to avoid prejudice to the defense.

Advocate Tip!

Unlike the highly dramatized trial scenarios in television and movie plots, trials are set up specifically to avoid any surprises. Both the defense and prosecution should be aware of every piece of physical evidence and the contents of every witness statement long before trial begins. Discovery is the process through which each side becomes informed and can build their arguments for jury presentation. It is useful to explain to survivors at the outset what information will be shared, how it will be transferred, how it will be copied or inspected, how it will be returned, and what protections shield it. Advocates should reach out to the prosecutor or prosecution-based advocates to discuss processes unique to their county.

the victim is under the age of 13, the court may order the child's statement to be provided to defense under seal and protective order preventing unauthorized dissemination (as opposed to adult victim statements, which are handed over without such protections).^{cclxxxviii} It is important to note that discovery is not a one-time exchange. Both sides have a duty to provide supplemental discovery upon obtaining new evidence. Supplemental discovery exchanges can take place multiple times between arraignment and trial.

Discovery can be an incredibly complex and stressful time for survivors. During this period, the defense will seek highly personal information from a variety of sources, all in an effort to discredit the survivor's credibility generally and the factual basis of the survivor's allegations. The defense will likely even go after communications between survivors and rape crisis center advocates (see Chapter III-O, Section VII below). Because this will likely feel incredibly invasive to the survivor, it is important to make things as predictable as possible from the outset. Advocates should discuss the concept and process of discovery early and often, so that survivors are not surprised when it occurs.

VII. Subpoenas

Disclaimer: This manual does not provide legal advice. It is therefore impossible for this resource to provide guidance on responding to a particular subpoena. If you are reviewing this resource after receiving a subpoena, please consult and follow your program's policy on responding to subpoenas and contact prosecutor assigned to the case immediately, if you have not done so already.

During the course of discovery, the defense will seek out specific records from a variety of institutions, including hospitals, schools, mental health treatment centers, employers, and even rape crisis centers. The tool used to procure these records is a “**subpoena**.” Subpoenas may seek physical records or the contents of conversations with survivors. Should a subpoena request in-person testimony, it will identify the specific individual and indicate where and when their presence is required.^{cclxxxix} As it relates to rape crisis center records, this means that the defense could subpoena the client file and advocate notes, as well as demand that the advocate who worked with the survivor testify in court about their conversations with the survivor. Once the prosecution or defense serves an individual or institution with a subpoena, failure to either timely challenge or comply will result in a contempt charge.^{ccxc}

In Camera Review = A private hearing in judicial chambers - these hearings are shielded from public view and are designed to protect victim privacy. These are especially common in cases involving confidential information or child victims.

Before providing the requested documents, recipients may contest subpoenas requesting information that is irrelevant, confidential or privileged, unduly burdensome, or oppressive or harassing.^{ccxc} These objections will take the form of a motion for protective order or a motion to quash, and will typically lead to a brief evidentiary

hearing in front of the judge, sometimes involving in camera review. At the conclusion of the evidentiary hearing, the judge will either limit the scope of the subpoena, place restrictions on the information sought, or leave it as is (prompting full compliance with the original subpoena).

Upon receipt of a subpoena, the served institution or individual must strategize quickly. A proper subpoena will explicitly state the date by which the recipient must respond.^{ccxcii} However, that does not mean that the recipient should automatically concede to the terms of the subpoena. If the recipient is a rape crisis center or RCC employee, the employee should first consult the center's written official policy on responding to subpoenas.^{ccxciii} Next, the recipient should notify the prosecutor of the subpoena (in a manner that strictly complies with the center's internal policy). Prosecutors play an important role in the response to criminal subpoenas. As the lead attorney in the state's case against the defendant, the prosecutor will want to be advised of all requests for information that could aid in

the defense's attempt to evade conviction. In certain circumstances, the prosecutor will step in and formally dispute the subpoena to the court.

When contacting the prosecutor, it is important to remember that the primary interest of the state is a successful prosecution that will protect the public. A survivor's wish to keep certain communications private may not be of concern to the prosecutor. Therefore, depending on the strength of the prosecution, the status of a plea bargain, or other factors, the prosecutor may decline to quash. If this happens, a rape crisis center recipient should consult with private counsel^{ccxciv} before making any decisions about responding. If the recipient needs clarification about the subpoena, **take care to direct those inquiries to the court.** A recipient should not contact defense council unless specifically directed to do so by the prosecutor or private counsel.

Advocate Tip!

There is a critical distinction between “confidential” and “privileged” communications. In Ohio, communications between advocates and survivors are **not privileged**. Therefore, though the rape crisis center guarantees confidentiality to survivors, a court may mandate their disclosure in court. To protect confidential communications, any attorney moving to quash a subpoena served upon an Ohio rape crisis center must base the argument on another basis, such as undue burden or lack of relevancy. It is critical for advocates to explain the limitations of confidentiality in a non-privilege state to the survivors they serve. Please review **Chapter III-P** thoroughly for an explanation of the difference between confidentiality and privilege, as well as model explanations to communicate this in a tangible way to survivors at the beginning of the service relationship.

If a survivor feels that the prosecutor is failing to uphold crime victim rights mandated under Ohio law, the survivor should consider hiring a crime victim rights attorney to pursue proper enforcement of those rights. Many resources provided to rape crisis center advocates and crime victims stress the option of hiring a crime victim rights attorney. However, advocates should be aware that this is not a popular practice area for private attorneys. Hiring a private attorney to enforce rights can be expensive, and even experienced attorneys will likely be new at engaging in this type of legal practice. Advocates should proactively develop familiarity with statewide resources and non-profit public interest agencies that provide crime victim rights representation for low-income survivors, as well as the local private bar, so that you can explain the cost and possible challenges in obtaining a victim's rights attorney before assisting a survivor in seeking these resources.

VIII. Pretrial Litigation & Motion Practice

At several points between arraignment and trial, the defense and prosecution will likely make several requests of the court that impact the case but do not call the underlying charges into question. These requests are called “motions.” Motions are filed to resolve discrepancies involving evidence, timing, or alleged defects in the indictment/information or prosecution process.^{ccxcv} One of the most common types of pretrial motions is a “motion to suppress”^{ccxcvi} certain evidence. After one party files a motion, the other party has an opportunity to respond (usually titled a “motion in opposition”). The court then reviews the motions and resolves the issue within a specified amount of time, **before trial**. There is a large amount of variance in motion practice. For example, some motions must be brought before trial or the filing party loses the right to do so. Similarly, some motions require hearings to decide the request, while others require only a review of motions by both parties on the question at issue.

Advocate Tip!

Motion practice is rule-based, technical, and specialized. In most cases, no one but defense counsel or the prosecution will be able to accurately predict the motion practice pattern in any individual case. It is important to stay on top of the motions filed in a survivor’s case, and reach out to the prosecution to obtain a better understanding of the specific motions filed and what impact they may have on the survivor.

IX. Advocate Take Away

There is no straight line between a police report and trial. The best way to assist survivors is to arm oneself with a base knowledge of the rules and procedures that govern law enforcement, prosecutorial, and defense practice during this period. A base knowledge of what to expect will enable you to make the most of the time you have to inquire with employees of the state or court. In addition, it will allow you to give survivors an overview of what is to come. Importantly, it will give you the tools to calmly inform survivors if an unexpected development is standard or needs to be addressed urgently. Rooting reactions to developments in a knowledge of the rules allows advocates to effectively manage survivor expectations and understanding before the process even begins.

Practical Advocate Guidelines

Do	Do Not
➤ Develop professional and cordial relationships with prosecutors, prosecution-based advocates, and court employees.	➤ Assume that all prosecutors specialize in sex crimes or, even if your specific prosecutor does, that they understand trauma and the importance of predictable and reliable victim notification.
➤ Review and engage with the local and state practice rules, thereby enhancing your understanding of the investigation-to-trial time period in your service community before working with survivors.	➤ Make promises to the survivor about enforcement of their crime victim rights, as there are no enforcement mechanisms for these rights.

➤ If possible, before a survivor makes a police report, discuss the steps that take place from the time of report to trial.	➤ Guarantee that conversations with survivors will be shielded from the defense or the court.
➤ When working with survivors, explain as early as possible that your conversations are confidential but not privileged, and therefore contents of your conversations may be turned over to the prosecution or defense counsel.	➤ Always speak with legal terminology – survivors should be offered assistance in decoding what this language means for them in their current process.
➤ Develop an understanding of your county and municipality's typical victim notification procedures.	➤ Contact defense counsel without first contacting the prosecutor and/or consulting with private counsel, even at the survivor's urging. This action can have serious consequences for not only the survivor, but your agency as well.
➤ Develop outlines for survivors with pre-litigation language and local practices. This written tool is something they can take with them and access later when receiving updates from the court in legalese.	
➤ Work proactively with prosecutors and private counsel to protect survivor rights when information is sought by defense counsel.	
➤ Remember that the prosecutor represents the state, and therefore may not always act in accordance with the survivor's interests.	
➤ Proactively engage with the courts or prosecutor to gain a better understanding of typical plea deals in your service area. Use this information to assist survivors in understanding their role in the plea-bargaining process, and why certain charges are frequently substituted in these arrangements.	
➤ Regularly engage with the docket. <i>See Chapter III-Q.</i>	

Subsection Divider Page & Tab
III-P

III-P

Survivor Privacy: Privilege vs. Confidentiality

I. Overview

Privilege and confidentiality are individual constructs that exist independently of one another, and carry vastly different limitations.^{ccxcvii} Communications between Ohio rape crisis center advocates and survivors are not privileged. This means that the contents of all communications between an advocate and survivor can lawfully be subpoenaed and, unless the prosecutor or private counsel successfully opposes the subpoena, disclosed to the defense and in open court.

If Advocate/Survivor Communications are not Privileged, Why Discuss It?

The terms “privilege” and “confidentiality” share connotations, and are thus often confused by professionals and the survivors they serve. To understand what protections exist for survivor communications, advocates must know which protections they have and which they do not. Essentially, a professional cannot fully understand the confidentiality that applies without fully exploring and distinguishing the privilege that does not.

II. Confidentiality

a. Generally

In a rape crisis center/survivor relationship, confidentiality is an ethical principle that originates with and governs behavior of the rape crisis center and its employees. The principle of confidentiality provides that, without the survivor’s consent, employees of the rape crisis center must not divulge any information relating to the survivor’s consumption of rape crisis center services. When a rape crisis center guarantees confidentiality, the survivor theoretically feels more confident in accessing services.

b. Ohio Rape Crisis Centers

Ideally, all Ohio rape crisis centers mandate the ethical principle of confidentiality in their written policies. Pursuant to the Ohio Core Rape Crisis Center Standards,^{ccxcviii} rape crisis centers must have and adhere to a “policy regarding confidentiality of services provided to survivors/co-survivors,” and a “detailed policy regarding confidentiality of clients and client information,” among other confidentiality standards for hot lines, volunteers, etc.^{ccxcix} If compliant, these policies will prohibit the disclosure of information to any individual outside of the survivor/rape crisis center relationship without the survivor’s informed consent.

c. Limitations

Rape crisis center confidentiality policies are self-imposed and self-produced. Thus, the contents of communications between survivors and advocates are **not immune from court-ordered disclosure**. Many third-parties, such as perpetrators, law enforcement officers, defense attorneys, survivor friends or family, or witnesses may have an interest in the contents of the communications. If an interested third-party seeks out survivor information, it is critical that the rape crisis center employee receiving the request decline to share that information in accordance with the center’s internal policies and

procedures. Without a survivor's informed consent, a rape crisis center employee should not disclose contents of communication until all of the following have taken place:

- the rape crisis center receives a subpoena;
- the rape crisis center informs the prosecutor;
- the prosecutor challenges the subpoena (or a private attorney if the prosecutor is unwilling);
- the court rules on the motion opposing the subpoena; and
- the rape crisis center discusses that ruling with the prosecutor or private attorney, if applicable, to determine if it fully understands the mandate from the court and the scope of information requested.

Because confidential communications between survivors and advocates are not privileged, the attorney opposing the subpoena must do so on other grounds, such as relevance, undue burden, or availability of information sought through other, less disruptive means.

III. Privilege

As stated above, as of September 26, 2017, communications between rape crisis center advocates and survivors are not privileged.

a. Generally

Where confidentiality is a self-imposed guideline, privilege is a shield provided by the laws of evidence to communications between clients and certain professionals.^{ccc} More formally called “testimonial privilege,” privilege allows the client or the professional to refuse to testify in court regarding communications between one another made for the purpose of the client obtaining services. Privilege evolved out of the practical understanding that certain services require candor, and the persons needing those services would not be truthful if they feared their statements may be aired in court. For example, patients cannot receive effective treatment from doctors if they are not able to be fully truthful about their injuries or symptoms. If a patient causes a car accident and is injured, they are more likely to refuse to tell the doctor what happened if he fears the doctor will testify against them in a criminal trial. If the doctor does not know about the full scope of possible injuries, they may decline to order all needed tests, and the patient could die. In the eyes of the courts and the Ohio Legislature, this result negates the purpose of the doctor/patient relationship, and thus privilege protects patients' ability to fully explain injuries and symptoms.

b. What is Covered

In Ohio, R.C. 2317.02 governs testimonial privilege, and provides that privilege covers communications made by one statutorily specified person to another for the purpose of receiving specified services. The attorney/client relationship provides a useful illustration. Under R.C. 2317.02:

1. **One person to another:** A conversation between the attorney and client, made away from other persons.
2. **For the purpose of receiving services:** The conversation must relate to the legal advice the client seeks.

Ohio law extends privilege to communications between members of numerous specialized professions and their clients. The following is a partial list:

- Attorneys and clients
- Physicians, advanced practice registered nurses, dentists and patients
- Cleric and person confessing

- Specified types of licensed mental health care providers and social workers and clients
- Two spouses

c. What this means for Ohio Rape Crisis Centers

The public's often-interchangeable use of the terms "privileged" and "confidential" may lead survivors seeking services to believe that privilege shields advocate testimony about their conversations. This

problem is compounded by the fact that 37^{ccci} states, as of October 1, 2017, classify advocate/survivor communications as privileged. Survivors who have received services in other states or conducted their own research prior to coming in for services may incorrectly assume their conversations are protected.

Advocate Tip!

Survivors experiencing trauma should not have to think back during the criminal justice process, wondering if they shared private information with someone who can be compelled to testify. It is critical for advocates to explain a center's confidentiality policy and its limits, and state clearly and specifically who could be compelled to testify about information shared and why. The advocate or assigned staff should share this information with survivors at their very first meetings.

In addition, some rape crisis centers employ licensed mental health professionals included in Ohio's privilege statute. In those circumstances, conversations with the mental health professionals are privileged, as long as they meet statutorily specified standards. However, this privilege does not extend its reach to cover communications between the same survivor and the advocate assigned to the case.

IV. Advocate Take Away

Privilege and confidentiality exist at differing ends of the victim privacy spectrum. It is incredibly important to fully understand and disclose internal policies and limitations to survivors as soon as they request services. Rape crisis centers should have comprehensive written confidentiality policies, which should indicate who advocates must contact if they receive a subpoena. Contesting a subpoena or otherwise objecting to a court-ordered disclosure is a function of legal practice, and advocates should take care not to make legal decisions that will impact outcomes for the survivor they are serving, such as handing over information because it is not privileged.

Practical Advocate Guidelines

Do	Do Not
➤ Access and internalize your center's written policy on confidentiality and responding to subpoenas.	➤ Release survivor information without survivor's informed consent or a court order and subsequent advice from an attorney.
➤ Fully explain your center's confidentiality policy and its limits with survivors upon first meeting.	➤ Assume that non-privileged client communications are subject to subpoena – wait for the advice of an attorney or prosecutor on whether other exceptions bar the information from disclosure.

- | | |
|--|--|
| <p>➤ Explain to the survivor that your confidentiality policy does not guarantee you will not be compelled to testify.</p> | |
|--|--|

Subsection Divider Page & Tab

III-Q

III-Q Local Rules & The Docket

I. Local Rules

The Rules of Superintendence for the Courts of Ohio allow municipal courts and courts of common pleas to adopt their own local rules of practice, as long as they do not contradict rules developed by the Ohio Supreme Court (such as the Rules of Criminal and Civil Procedure).^{ccci}

These rules may have an impact on the procedures involving a survivor's case. Though courts draft these rules for attorney practice^{ccci}, it is useful for advocates to be aware of their existence. Should you wish to review your local rules or need to find them upon survivor request, the Ohio Supreme Court provides access to information about the local rules employed by every common pleas or municipal court.

To access the alphabetical list of local rules, please visit
<https://www.supremecourt.ohio.gov/JudSystem/trialCourts/>

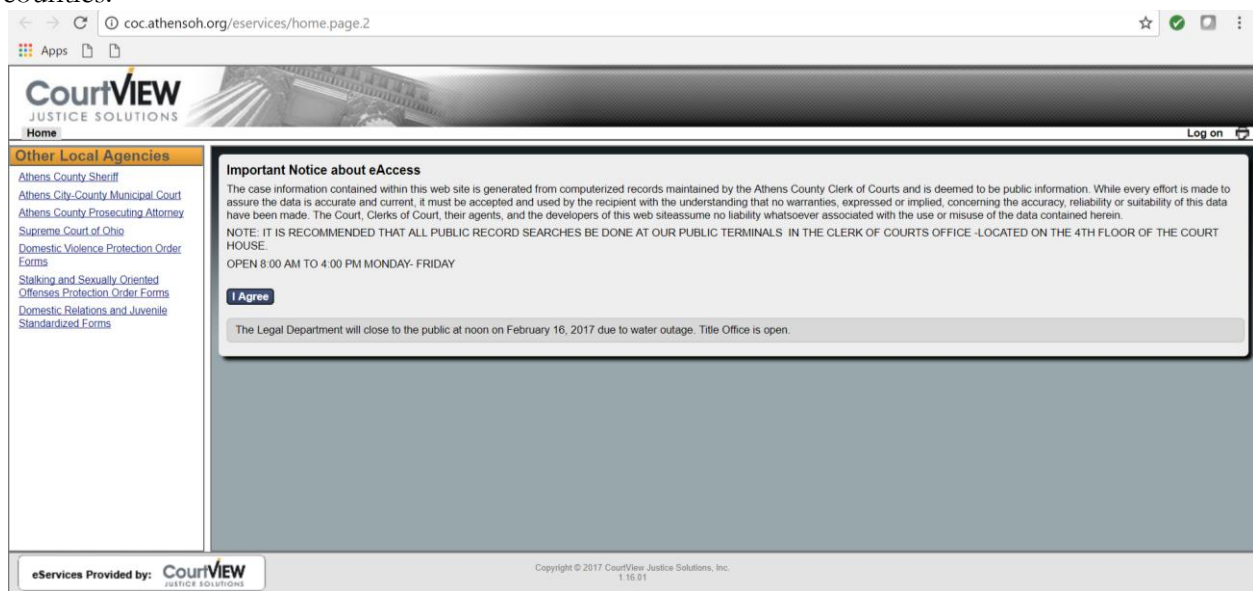
II. The Docket

The term “docket” refers to a court’s official summary of case proceedings. Each case is assigned a docket number, which enables a search of court documents, a calendar of proceedings, party information, and other relevant information. Each Ohio court of common pleas permits a docket search on its website. A typical docket search requires either the case number or party names.

For example, to access the docket for a case in the Athens County Court of Common Pleas, visit the court’s website at www.co.athensoh.org/departments/common_pleas_court.php. Locate and select the link to the docket, in Athens, this is on the sidebar menu.



Upon selection, the system takes the user to a disclaimer and agreement page, consistent across counties:



After clicking “I agree,” you will be taken to the “Search” page, where you can search by name,

← → ↻ coc.athensoh.org/eservices/search.page.4?x=mGk3DWNvYEGY5FctYfWRxQ ☆ 🔒 📄 ⋮

Apps 📁 📄

Home Search Calendar

Log on

Other Local Agencies

[Athens County Sheriff](#)

[Athens City-County Municipal Court](#)

[Athens County Prosecuting Attorney](#)

[Supreme Court of Ohio](#)

[Domestic Violence Protection Order Forms](#)

[Stalking and Sexually Oriented Offenses Protection Order Forms](#)

[Domestic Relations and Juvenile Standardized Forms](#)

Search

Select your search criteria below. Fields marked with * are required.

Number of Results 25 ▾

Name	Case Type	Case Number	Advanced Attorney
<p>Last Name * <input type="text"/></p> <p>First Name * <input type="text"/></p> <p>Middle Name <input type="text"/></p> <p>Suffix <input type="text"/> Choose One ▾</p> <p>Or Search by Business Name</p> <p>Company Name * <input type="text"/></p>	<p>Case Type</p> <p>All Cases</p> <p>CERTIFICATES OF JUDGMENT</p> <p>CIVIL</p> <p>COURT OF APPEALS</p> <p>CRIMINAL</p> <p>DISSOLUTION</p> <p>DIVORCE</p> <p>DOMESTIC</p>		
	<p>Case Status</p> <p>All Statuses</p> <p>Absconder from Supervision</p> <p>Closed</p> <p>Inactive</p> <p>Open</p> <p>PRB Revoked</p> <p>Reopen (RO)</p> <p>Reopen - Modifications</p>		

Home Search Calendar

Log on

Other Local Agencies

[Athens County Sheriff](#)

[Athens City-County Municipal Court](#)

[Athens County Prosecuting Attorney](#)

[Supreme Court of Ohio](#)

[Domestic Violence Protection Order Forms](#)

[Stalking and Sexually Oriented Offenses Protection Order Forms](#)

[Domestic Relations and Juvenile Standardized Forms](#)

Search

Party Type

Inactive

Open

PRB Revoked

Reopen (RO)

Reopen - Modifications

All Party Types

Creditor

Debtor

Defendant

Petitioner 1

Petitioner 2

Plaintiff

Third Party Defendant

Date of Birth Search Range:

Begin Date MM/dd/yyyy

End Date MM/dd/yyyy

File Date Search Range:

Begin Date MM/dd/yyyy

End Date MM/dd/yyyy

Date of Death Search Range:

Begin Date MM/dd/yyyy

End Date MM/dd/yyyy

Search

case type,

← → 🔄 coc.athensoh.org/eservices/search.page.4.1?x=mGk3DWNvYEGY5FctYfWRxQ ☆ 📄 📱 ⋮

CourtVIEW
JUSTICE SOLUTIONS
Home Search Calendar Log on

Other Local Agencies
[Athens County Sheriff](#)
[Athens City-County Municipal Court](#)
[Athens County Prosecuting Attorney](#)
[Supreme Court of Ohio](#)
[Domestic Violence Protection Order Forms](#)
[Stalking and Sexually Oriented Offenses Protection Order Forms](#)
[Domestic Relations and Juvenile Standardized Forms](#)

Select your search criteria below. Fields marked with * are required.

Number of Results 25 ▾

Name **Case Type** **Case Number** **Advanced Attorney**

Begin Date * MM/dd/yyyy **Case Status** All Statuses
 Absconder from Supervision
 Closed
 Inactive
 Open
 PRB Revoked
 Reopen (RO)
 Reopen - Modifications

End Date * MM/dd/yyyy

Case Type * CERTIFICATES OF JUDGMENT
 CIVIL
 COURT OF APPEALS
 CRIMINAL
 DISSOLUTION
 DIVORCE
 DOMESTIC
 TL - TAXLIEN IMPORT

Party Type All Party Types
 Creditor
 Debtor
 Defendant
 Petitioner 1
 Petitioner 2
 Plaintiff
 Third Party Defendant

Search

eServices Provided by: **CourtVIEW**
JUSTICE SOLUTIONS Copyright © 2017 CourtView Justice Solutions, Inc. 1.16.01

case number,

← → 🔄 coc.athensoh.org/eservices/search.page.4.2?x=mGk3DWNvYEGY5FctYfWRxQ ☆ 📄 📱 ⋮

CourtVIEW
JUSTICE SOLUTIONS
Home Search Calendar Log on

Other Local Agencies
[Athens County Sheriff](#)
[Athens City-County Municipal Court](#)
[Athens County Prosecuting Attorney](#)
[Supreme Court of Ohio](#)
[Domestic Violence Protection Order Forms](#)
[Stalking and Sexually Oriented Offenses Protection Order Forms](#)
[Domestic Relations and Juvenile Standardized Forms](#)

Search

Select your search criteria below. Fields marked with * are required.

Number of Results 25 ▾

Name **Case Type** **Case Number** **Advanced Attorney**

Case Number *

Search ?

eServices Provided by: **CourtVIEW**
JUSTICE SOLUTIONS Copyright © 2017 CourtView Justice Solutions, Inc. 1.16.01

or attorney information.

Depending on the information you have available, your search will yield a list of possible case matches. Once you select your desired case, you will see tabs for “All Information,” “Party,” “Docket,” “Event,” “Disposition.” Depending on the status of the case, you may see additional tabs.

All Information

← → ↻ coc.athensoh.org/eservices/?x=zjnPmfUx1pJcfXk2FT9UKZqX*L45L*wlqQ4R*lu4fw1oTffKet-j7H9j*ENnOKuVerBYpyKGI0ZeF69BaGClJg ☆ 🔍 📄 ⋮

CourtVIEW
JUSTICE SOLUTIONS

Home Search Results Calendar Log on

94

Case Type: CRIMINAL
Case Status: Closed
File Date:
DCM Track:
Action: MISCELLANEOUS
Status Date:
Case Judge:
Next Event:

All Information Party Docket Disposition

Party Information

DOB
DOD
Disposition
Disp Date
Alias AKA
Party Attorney

Docket Information

Date	Docket Text	Amount
04	BILL OF INFORMATION FILED	
04	SUMMONS ON INFORMATION SERVED BY	
04	RECOGNIZANCE OF ACCUSED FILED (ROR)	
04	JOURNAL ENTRY FILED (TO BE RELEASED ROR)	

eServices Provided by: **CourtVIEW** JUSTICE SOLUTIONS Copyright © 2017 CourtView Justice Solutions, Inc. 1.16.01

ccciv

Party

← → ↻ coc.athensoh.org/eservices/?x=zjnPmfUx1pJcfXk2FT9UKZqX*L45L*wlqQ4R*lu4fw1oTffKet-j7H9j*ENnOKuVerBYpyKGI0ZeF69BaGClJg ☆ 🔍 📄 ⋮

CourtVIEW
JUSTICE SOLUTIONS

Home Search Results Calendar Log on

94CR0040

Case Type: CRIMINAL
Case Status: Closed
File Date:
DCM Track:
Action: MISCELLANEOUS
Status Date:
Case Judge:
Next Event:

All Information Party Docket Disposition

Party Information

DOB
DOD
Disposition
Disp Date
Alias AKA
Party Attorney

CourtVIEW JUSTICE SOLUTIONS Copyright © 2017 CourtView Justice Solutions, Inc. coc.athensoh.org/eservices/?x=BB2cl9uzvzbHxaprlrWCMczIGi3HAvVEC2JkChrQcsz1WIQ78s7B0znYgYvYGYUVRQ60AXIqcoVrnzIM3v1Znqj5MNOm9X4lhRBjVc8TE6f4ky7S2yVg

Docket

← → ↻ coc.athensoh.org/eservices/?x=zjnPmfUx1pJcfXk2FT9UKZqX*L45L*wlqQ4R*lu4fw1oTffKet-j7H9j*ENnOKuVerBYpyKGI0ZeF69BaGCUg ☆ ✓ □ ⋮

Apps □

CourtVIEW
JUSTICE SOLUTIONS
Home Search Results Calendar Log on

Case Type: CRIMINAL
Case Status: Closed
File Date: [REDACTED]
DCM Track: [REDACTED]

Action: MISCELLANEOUS
Status Date: [REDACTED]
Case Judge: [REDACTED]
Next Event: [REDACTED]

All Information Party Docket Disposition

Docket Information

Date	Docket Text	Amount
04/04/2017	BILL OF INFORMATION FILED	
04/04/2017	SUMMONS ON INFORMATION SERVED BY MICHAEL HUFF ON JOHN SMITH	
04/04/2017	RECOGNIZANCE OF ACCUSED FILED (ROR)	
04/04/2017	JOURNAL ENTRY FILED (TO BE RELEASED ROR) VOLUME # 260 PAGE # 539	
04/04/2017	WAIVER OF COUNSEL AND INDICTMENT FILED (JR 260 PG 551) (W)	
05/01/2017	NOTICE OF SENTENCING FILED SENTENCING DATE 6-6-94 AT 11:00 A M	
06/01/2017	JUDGMENT ENTRY FILED (JR 262 PG 518)(G) VOLUME # 262 PAGE # 518	
06/01/2017	[REDACTED]	

coc.athensoh.org/eservices/?x=XzrGDC-uUilUN2F-cl7lIkSs31goKCUcqj5zUX/ikh6sOI05Z6huSLRXv0X9gFT*Kz29Wmy2RxczGtRsgFWwH4RCJlplUEHIDh*EK8m1-*dZ9TfRizPjDNM69NdOUGbw Copyright © 2017 CourtView Justice Solutions, Inc.

Event

← → ↻ coc.athensoh.org/eservices/?x=zjnPmfUx1pJcfXk2FT9UKZqX*L45L*wlqQ4R*lu4fw1oTffKet-j7Om7TGydabzb3IEYTCPhdCEcNQI79n*Rg ☆ ✓ □ ⋮

Apps □

CourtVIEW
JUSTICE SOLUTIONS
Home Search Results Calendar Log on

Case Type: CRIMINAL
Case Status: Closed
File Date: [REDACTED]
DCM Track: [REDACTED]

Action: [REDACTED]
Status Date: [REDACTED]
Case Judge: [REDACTED]
Next Event: [REDACTED]

All Information Party Charge Event Docket Financial Receipt Disposition

Events

Date/Time	Location	Type	Event Judge
11/08/2017	COURTROOM A	Arraignment	[REDACTED]
08/08/2017	COURTROOM A	Arraignment (individual)	[REDACTED]
10/08/2017	COURTROOM A	Pre Trial	[REDACTED]
11/08/2017	COURTROOM A	Pre Trial	[REDACTED]
11/08/2017	COURTROOM A	Jury Trial	[REDACTED]
01/08/2017	COURTROOM A	Sentencing	[REDACTED]

eServices Provided by: **CourtVIEW**
JUSTICE SOLUTIONS Copyright © 2017 CourtView Justice Solutions, Inc.
1.16.01

Disposition

← → ↻ coc.athensoh.org/eservices/7x=zjnPmfUx1pJcfXk2FT9UKZqX*L45L*wiqQ4R*lu4fw1oTffKet-j7H9j*ENnOKuVerBtPyKGI0ZeF69BaGCIJg

Apps

CourtVIEW
JUSTICE SOLUTIONS

Home Search Results Calendar Log on

Case Type: CRIMINAL
Case Status: Closed
File Date:
DCM Track:

Action: MISCELLANEOUS
Status Date:
Case Judge:
Next Event:

All Information Party Docket Disposition

Case Disposition

Disposition	Date	Case Judge
GUILTY OR NO CONT-ORIG CHR(CRY)DEFAULT(CV)		

eServices Provided by: **CourtVIEW**
JUSTICE SOLUTIONS

Copyright © 2017 CourtView Justice Solutions, Inc.
1.16.01

Depending on the county, members of the public may be able to download documents filed with the court from the online docket. Franklin County, for example, provides electronic access:

← → ↻ Secure | https://fcdcfjs.co.franklin.oh.us/CaseInformationOnline/caseSearch?zBFfHtQIGD1GSoCCH56

Apps

Maryellen O'Shaughnessy
Franklin County Clerk of Courts

Home Case Information Online Court Schedule

Last Name: First Name: Middle Init: Court: All Case: Search

Advanced Search Email Updates

CRIMINAL CASE DETAIL

Previous Case Next Case

CASE NUMBER	HOW FILED	DATE FILED	MUN	COMP	ARREST DATE	STATUS
	INDICTMENT		CPD	No Comp	None	CLOSED

JUDGE: COURTROOM 4A
345 SOUTH HIGH STREET
4TH FLOOR
COLUMBUS, OH 43215

PROSECUTOR:

DEFENDANT(S)

Name: Attorney:

Co-Defendant(s): None

CHARGES (Disclaimer: The listed "Off. Date" may be inaccurate on cases filed prior to 10/9/92. This is the date the electronic docket for this case was converted to a new system, and not the actual date of the Offense. See docket entries below for Case History.)

Date	Chg.Description Lvl	Image	Fiche	Frame	Pages
12	00 ATTORNEY FEES ORDER				
12	00 ATTORNEY FEES - MOTION FOR				
12	00 COST BILL PRINTED IN NIGHTLY RUN				
11	00 WARRANT TO CONVEY RETURNED - PAPERS ONLY				
11	00 BOND INACTIVATED				
11	00 BOND INACTIVATED				
11	00 WARRANT TO CONVEY				
11	00 COSTS SUSPENDED				
11	00 COSTS ASSESSED				
11	00 SENTENCING ENTRY				
11	01 POST RELEASE CONTROL				
11	01 INCARCERATION				
11	00 COURT REPORTER CERTIFICATE FILED				
11	00 NOTICE - PRISON				
11	00 SHERIFF-FELONY SENTENCING WORKSHEET				
11	00 WARRANT TO CONVEY RETURNED - SERVED				
11	01 NOLLE PROSEQUI - CHARGE				
11	02 NOLLE PROSEQUI - CHARGE				
11	03 PLEA OF GUILTY TO THE INDICTMENT				
09	00 NOTICE RETURNED				
09	00 WARRANT TO CONVEY				
09	00 COURT ORDERED WARRANT - ENTRY ORDERING ISSUED				
09	00 COURT ORDERED WARRANT - ISSUED				
09	00 COURT ORDERED WARRANT - STATE APPLICATION				
09	00 SUBPOENA - RETURNED SERVED				
09	00 SUBPOENA ISSUED-SHERIFF				
09	00 ORIGINAL COPY OF HEARING NOTICE FILED				
09	00 ORIGINAL COPY OF HEARING NOTICE FILED				
09	00 ORIGINAL COPY OF HEARING NOTICE FILED				
09	01 WAIVER OF RIGHT TO SPEEDY TRIAL				

If you have trouble locating the docket for the common pleas or municipal court with jurisdiction over a survivor's case, contact the clerk of court's office for further direction.

Advocate Tip!

Though the docket is the best place to find answers about scheduling and locations, particulars may change between the date the docket was updated and the hearing date. It is important to stay in contact with the prosecutor, the prosecution-based advocates and the courts instead of relying solely on the docket for information that will impact the survivor.

III. Advocate Take Away

Each common pleas and most municipal courts in Ohio have adopted individualized local rules. These rules can be useful in understanding unique procedures or customs in the court with jurisdiction over a survivor's case. In addition, each court maintains its own docket. The docket is an exceptionally valuable tool that every legal advocate should understand and know how to find, use, and demonstrate to survivors.

Subsection Divider Page & Tab
III-R

III-R Trial

IV. Overview

When a case proceeds to trial, the survivor may be satisfied or vindicated, fearful that the perpetrator will be acquitted, or full of stress and anxiety because of mandated participation. Whatever a survivor is feeling, the trial will almost certainly be an incredibly difficult time. Therefore, a knowledgeable and supportive legal advocate is an invaluable resource for survivors.

V. Defendants' Rights

It is important to remember that, as mentioned in earlier sections of this manual, the United States and Ohio legal systems are built around protecting against wrongful convictions. Many evidentiary standards and other rights will seem alarmingly one-sided to survivors, and it is important to explain the purpose and historical context of defendants' rights when discussing trial structures with survivors.

VI. When does the Trial Happen?

Though a crime's statute of limitations provides a specific deadline for bringing charges against a perpetrator, both the federal and Ohio constitutions provide defendants with the right to a "speedy trial" that protects against "prejudicial pre-accusation delay."^{cccv} The purpose of this right is to prevent prosecutors from gaining an advantage by waiting to pursue trial. For example, if the prosecutor knows that a perpetrator's elderly mother is his only possible witness, the prosecution cannot delay bringing charges until after the witness is deceased.

The "speedy trial" right attaches at the time of arrest or issuance of a formal charge, whichever comes first. From that point, the prosecution has one of the following periods^{cccv} to bring the case forward:

Minor Misdemeanor	30 Days
Third- or Fourth-Degree Misdemeanor (or other misdemeanor punishable by up to 60 days in jail)	45 Days
First or Second-Degree Misdemeanor (or other misdemeanor punishable by more than 60 days in jail)	90 days
Felony	270 Days

However, the "speedy trial" period may be extended by many factors,^{cccvii} including:

The defendant is unavailable due to unrelated criminal or extradition proceedings against them;
The defendant is incarcerated in another state;
The defendant is mentally incompetent to or physically incapable of standing trial;
The defendant's improper conduct or lack of counsel caused a delay;
The defendant initiated a pretrial motion that caused delay;
A party moved for a change of venue;
The defendant moved for a continuance;
The trial is stayed by another court; or
An appeal is pending

Ultimately, despite speedy trial guidelines, a court can delay trial numerous times over the course of one or more years. It is important to warn the survivor of scheduling factors ahead of time, so that the survivor does not assume the delay is representative of a weakened case.

VI. Perpetrator's Presence at Trial

The law provides that a defendant must be physically present throughout the full trial, unless the defendant voluntarily fails to appear after the trial begins. However, a perpetrator may be removed from a courtroom if their behavior is so disruptive that the trial cannot continue otherwise.^{cccvi}

VII. Competency

In Ohio, a defendant is presumed competent to stand trial. If, however, the court, prosecutor, or defense counsel raises the issue of competence **before** the trial begins, the trial will hold a separate hearing on competence.^{cccix} If the defense brings up the competence issue after trial starts, the court must only hold a hearing if the defense shows good cause. If needed, a court may order a mental evaluation of the perpetrator before the competency hearing.^{cccix} To find the perpetrator incompetent to stand trial, the court must find by preponderance of the evidence that the perpetrator is incapable of understanding the “nature and objective” of the proceedings against them or “of assisting in their defense.”^{cccxi}

VIII. Basic Order of Proceedings

An Ohio felony trial and misdemeanor jury trial typically take the following form:

Oral Argument on Unresolved Pretrial Motions
Voir Dire (Jury Selection)
Jurors Take Oath
Opening Statements
Prosecution's Case-In-Chief
Defense Moves for Dismissal
(If dismissal is not granted) Defense's Case-In-Chief
Closing Arguments
Jurors Deliberate
Verdict

IX. Voir Dire (Jury Selection) & Oath

On the first day of trial, the court will assemble the group of potential jurors called for duty. These jurors will answer a series of standardized questions posed by the judge. Both the prosecution and defense will carefully monitor the answers to these questions to detect possible bias against their case. In most felony cases, each side may exercise up to four “peremptory challenges.”^{cccxi} A peremptory challenge is a request that the court remove a specific juror from the consideration pool, and the requesting attorney need not provide any reason for the requested dismissal. Thus, peremptory challenges are a way for the prosecution and defense to weed out jurors that they feel likely to favor the other side. In many courtrooms, both sides take notes on juror responses during standardized

questioning, and submit a list of four potential jurors they would like removed upon request from the judge.^{cccxi}

In addition to peremptory challenges, the prosecution and defense may also request to dismiss jurors that meet certain statutory factors. This is called a “for cause” challenge, and does not count against the four peremptory challenges. The Ohio Revised Code lists the following justifications for a “for cause” challenge: evidence of bias toward one party not remedied by further examination; membership on grand jury that returned the indictment; status as a witness to the crime; lack of ability to speak, read, or write in English; familial relationship to perpetrator or victim; prior service on jury relating to same act; drug or alcohol dependency; status as convicted felon; case between potential juror and state or perpetrator; spousal involvement; or general unsuitability.^{cccxi}

The judge will review the peremptory and for cause challenges for validity. Once the pool is narrowed to 12 in a felony case and 8 in a misdemeanor case, the jurors take an oath and proceedings begin. During the trial, most courts permit jurors to take notes and write questions to submit to the court. Depending on the court, and typically when trial is likely to last more than one day, alternate jurors may be empaneled in case a juror needs to be excused.^{cccxi}

X. Opening Statements

Opening statements provide the prosecutor and defense attorney the opportunity to create a verbal road map for the jury, demonstrating what they believe the evidence will show and what conclusion the jurors will reach. Opening statements may be the very first time a survivor hears the defense strategy formally expressed. Given the force and style the defense will use to make a first impression on the jury, and the lack of opportunity to immediately contradict the defense attorney, this portion of the trial can be very difficult for survivors. It is important to prepare survivors for this portion of the trial, explaining the purpose of opening argument, and the unflattering light it may cast not only on the survivor’s case, but also their character and integrity. More experienced advocates can provide examples from trials they have observed, and all advocates should come up with a support strategy that will assist the survivor in keeping composure during the oral argument phase.

XI. Case-in-Chief

A criminal trial ultimately boils down to the prosecution presenting one version of the facts, the defense presenting another, and the jury deciding which is true. “Case-in-chief” refers to each side’s presentation of facts. In the prosecution’s case-in-chief, the prosecutor will present and examine witnesses, whom the defense attorney will have the opportunity to cross-examine, and submit physical evidence. The prosecution will then “rest,” conclude its case-in-chief, and the defense will likely move to dismiss for lack of evidence that the crime occurred. If the court declines to grant the dismissal, the defense attorney will present the perpetrator’s case-in-chief. Because the burden of proof rests with the prosecution, defense attorneys sometimes elect not to present their own case-in-chief at all. This is a strategic decision influenced by a number of factors. For example, if the defense attorney feels that the prosecution’s case does not meet the burden of proof, it may seem like a risk to have the defendant or other witnesses take the stand. This is especially true if the defendant likely will not appeal to the jury pool, or putting the defendant on the stand creates a risk of self-incrimination. Essentially, the goal of the defendant’s case-in-chief is to cast doubt on the prosecution’s case-in-chief.

If the prosecution did not meet its burden when presenting its own case, theoretically there is no reason for the defense to take the time to cast doubt on the prosecution's presentation.

a. Witnesses

Witnesses are generally the cornerstone of a successful prosecution. Witnesses present their knowledge of the matter in the following format:

Direct-Examination: During the state's case-in-chief, the prosecutor will call its witnesses, including the survivor. The state will pose questions to derive the information sought from that witness. The defense will do the same during its own case-in-chief. Direct examination is *usually* less traumatic for survivors than cross-examination, as long as the prosecutor has prepared the survivor and the survivor knows ahead of time what questions the prosecutor will pose.

Cross-Examination: Cross-examination takes place immediately after direct-examination of an individual witness concludes. For example, after a prosecutor finishes questioning a survivor, the defense will immediately begin its questioning. These questions are generally designed to cast doubt on the survivor's credibility, memory, or motives for reporting. The same pattern follows for other lay witnesses.

1. Lay Witnesses

In their cases-in-chief, both sides will likely call on persons who saw, heard, or otherwise observed one or more elements of the crime the prosecution seeks to prove. Generally, lay witnesses are permitted to testify to what they observed, but are not allowed to express opinions or perceptions unless those opinions or perceptions are "(1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue."^{cccxi}

2. Expert Witnesses

At trial, attorneys often bring in expert witnesses, individuals with verifiable expertise that can assist in clarifying unresolved issues of fact. An expert's role is to expand on the facts available, to help the judge and jury determine which version of the facts is correct.^{cccxvii} For example, if a perpetrator denies leaving a threatening note on the survivor's windshield, the prosecutor may bring in a handwriting expert to examine the note and express their opinion that the perpetrator drafted it. Common examples include medical experts to testify to the reliability of DNA results, mental health professionals to testify to the impact of a sexual assault on the survivor's mental and physical health, and trauma experts to testify to the impact trauma has on the brain and resulting effects on the contents of the survivor's initial and subsequent reports.

Expert testimony is regulated by Ohio Evidence Rule 702, which states that a witness may testify if all of the following conditions are met:

- the expert testimony relates to matters "beyond the knowledge or experience possessed by lay persons or dispels a misconception among lay persons;"
- the witness is qualified as an expert by specialized knowledge, skill, experience, training, or education regarding the testimony subject matter; and
- the witness's testimony is based on reliable scientific, technical, or other specialized information (special rules apply when testimony is based on independently-conducted scientific evaluation/testing/experiments).^{cccxviii}

Before an expert witness can testify to the court, that witness must be "qualified."^{cccxix} The procedure for qualifying a witness takes the form of a line of questioning by the attorney seeking to introduce the testimony in the presence of the judge and jury. The line of questioning will seek out the following information^{cccxx}:

- Name
- Occupation & Place of Employment
- Present Title & Current Position Held
- Brief description of specialty subject matter & sub-specialties within that field
- Specialized degrees & training, licensing & length of time licensed
- Length of time practicing in field & any board certifications
- Positions held since completion of education, length of time in each position
- Duties and function of current position
- Length of time at current position
- Whether the expert conducted personal testing or evaluation of subject matter & the number of tests or evaluations, & where they were conducted
- Any lecturing in field, where, and when lectures take place
- Publications & Professional Society Memberships
- Honors, awards, acknowledgements
- Requirements for membership and advancement within organizations of membership
- Number of times expert has given testimony as an expert witness in this field
- Availability for consulting to parties, state agencies, or defense attorneys

Once the attorney concludes questioning on these topics, they will orally move to enter the witness as an expert.

In Ohio, an expert may base their opinion on either facts perceived or admitted into evidence at the hearing, or those observed prior to trial. Unlike other states, in Ohio, an expert is allowed to testify on whether a criminal defendant possessed the mental state required of any element of or defense to the charges.^{cccxxi}

3. Minors as Witnesses

Ohio law presumes that any individual (barring other exclusions) over the age of ten is competent to serve as a witness.^{cccxxii} Any child under the age of ten must demonstrate to the court their intelligence, ability to differentiate between truth and falsehood, and understanding of the importance of telling the truth.^{cccxxiii}

4. Impeachment

When one side relies on the testimony of a witness, the other will likely attempt to “impeach” that witness. To impeach is to cause doubt about the witness’s reliability. Specifically, Ohio Evidence Rule 607 permits, with certain limitations, either the prosecutor or defense to attack the credibility of any witness.

5. Removal of Witnesses

If a party feels that justice cannot be served if a witness is present in the courtroom when testifying, that party may move to have the witness removed. Generally, absent exception, survivors cannot be mandated to leave the courtroom.

Advocate Tip!

Impeachment can be highly traumatic to survivor witnesses. It is important to warn them about this part of the process, and to help the survivor speak with the prosecutor about what types of credibility issues may be brought out in trial.

b. Physical Evidence

Advocate Tip!

Because of the frequency in which SAFE kits change hands, “chain of custody” challenges are common in sex crime trials. It can be useful to ask the prosecutor or prosecutor-based advocate before trial if they predict any chain of custody issues at the time of trial, as well as to discuss their insight on the likelihood of this arising. This is particularly important, as survivors often perceive these challenges as a possibility that their case will be dismissed because of the actions of law enforcement, nurses, or lab technicians that had nothing to do with the crime itself.

testimony of distinctive characteristics.^{cccxxiv} In addition, the attorney seeking to admit the evidence must establish a chain of custody if the evidence is the type that could easily be tampered with or confused for another, similar item (like a SAFE kit container or a blood sample). A sufficient chain of custody must establish the location and possessing party of the evidence from the time it was collected or obtained through its admission at trial. Items like photographs, movies, or diagrams (referred to as “representations”) can be authenticated by the testimony of a witness with personal knowledge of the accuracy of the representation created. Authentication of complex, specialized and scientifically-derived items, like x-rays, require testimony that an accurate process was used, the machine creating the reproduction was working properly, and the person operating the machine was qualified to do so.

In the case of documents, authentication usually comes from the testimony of eyewitnesses, handwriting experts, or agreement by both parties. Some documents are self-authenticating, including certified copies of public records, newspapers and magazines, etc.^{cccxxv}

c. Objections

Throughout each case-in-chief, the opposing attorney will regularly object to questions and tangible objects on a variety of grounds. Typically, the attorney will state “Objection,” and then provide the name of the evidentiary rule they argue bars the question or admission of evidence. Stating the name of the rule creates a record for appeal, if applicable. The judge will either sustain (agree with) the objection, which stops the witness from answering the question, or overrule (disagree with) the objection, meaning the witness has to answer. Common objections in rape cases include those based on hearsay, privilege, relevance, prior acts evidence, and violations of rape shield protections.

In addition to calling witnesses to provide facts observed, both sides will seek to enter into evidence tangible objects that establish elements of the crime or defense. This can include documentation (written records, letters, text messages, emails, etc.) or physical objects (a weapon used to commit the crime, items left at the crime scene, clothing impacted by the crime).

Each piece of tangible evidence must be **authenticated**. This means that the prosecutor or defense has to establish that the piece of evidence is what the attorney seeking its admission says it is.

With physical objects, authentication can be supplied by testimony of personal knowledge or

Advocate Tip!

Though the evidentiary rules around authentication are designed for attorney practice and are, frankly, tedious, it can be tempting to avoid discussion on this topic with survivors. However, it can be incredibly painful for survivors sitting in trial to observe the evidence documenting their sexual assault be questioned and potentially attacked. It is therefore important to inform the survivor about the process of and reasons for authentication.

d. Hearsay

Hearsay is defined as “a statement, other than one made by the declarant while testifying at trial or hearing, offered in evidence to prove the truth of the matter asserted.”^{cccxxvi} In lay terms, this means that the Ohio Rules of Evidence strictly prohibit witnesses from testifying about statements other individuals made to that witness.^{cccxxvii} The purpose of the hearsay rule is to prohibit the use of unverifiable information. Because not all second-hand information is unverifiable, the rules of evidence contain numerous exceptions and exemptions to the hearsay rule. For example, a court will permit the inclusion of “excited utterances”^{cccxxviii} (statements made immediately after observing a traumatic event) and statements made to medical personnel for the purposes of treatment^{cccxxix} (because the success of the treatment would have been dependent on the truthfulness of the declaration, and therefore truth is presumed).

Advocate Tip!

The hearsay rule is among the most complex of the Ohio Rules of Evidence. If a survivor seems confused about why a certain piece of evidence will not be admitted, it can be helpful to contact the prosecutor or prosecution-based advocate to have them provide an explanation – the advocate should never assume something is hearsay and make such declaration to the survivor.

Hearsay is a highly technical area of evidentiary law to be navigated by the attorney of record. As it relates to hearsay, and advocate’s role is to inform survivors of this common and complex rule, and the frequent use of objections to enforce it. An advocate can be especially useful in helping a survivor understand why certain statements the survivor heard from the perpetrator or other witnesses may not be admissible in court. For example, a survivor may be confident that conviction will ensue because the perpetrator’s brother told her “he told me he did it.” However, this statement is hearsay and is not admissible.

e. Rape Shield Laws

Defense attorneys often seek to admit evidence of the survivor’s prior sexual conduct to cast doubt on the lack of consent. However, Ohio law bars the use of evidence of a survivor’s prior sexual conduct, any reputation for interest in sexual behavior, or opinions about the survivor’s prior sexual history. An exception exists if the defense seeks to use the evidence to provide the origin of pregnancy, disease, semen, or past sexual activity with the defendant.^{cccxxx}

Advocate Tip!

If the survivor has not yet heard from the prosecutor about potentially inadmissible evidence about the survivor’s sexual history, consider contacting the prosecutor or prosecution-based advocate a month before trial and again just after the 14-day deadline passes. In addition, you can work with the prosecution-based advocate, the docket, or the court to determine if the court set a timeline outside of the standard 14 days for consideration of rape shield evidence.

If the defense intends to admit evidence of the survivor’s prior sexual behavior, it must file a motion with the court no later than 14 days^{cccxxxi} before trial. This motion must describe the evidence and state the purpose for its introduction. The motion must be served on the prosecutor, and the survivor must be notified. The court will hold an in camera hearing on the evidence, and give the survivor and perpetrator the right to attend.^{cccxxxii}

Absent court order, the record of this hearing will be sealed.

f. Prior Acts Evidence

Evidence of prior actions is not admissible to prove that the person is of bad character and the person thus committed the crime because it was in accordance with that character.^{cccxxxiii} However, a defendant's crimes or other prior bad acts can be admissible if brought in to prove motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.^{cccxxxiv} This is often called "MIMIC" evidence (Motive, Intent, absence of Mistake, Identity, or Common Plan).

Example 1: Bob sexually assaults Rachel. At trial, the prosecution moves to admit evidence that Bob was previously convicted of burglary. The defense objects, on the grounds that the prosecution is seeking to show Bob possesses diminished character which would make him more likely to commit rape. The court sustains the objection and excludes this evidence.

Example 2: Jane incapacitates Marin with a substance, restrains her before she awakes, and takes her across county lines with the intent to traffic her. At trial, the prosecution moves to admit evidence of a prior situation in which Jane used the same substance to incapacitate another young woman, who woke up while Jane attempted to restrain her and escaped. The defense objects on the grounds that this is inadmissible prior bad acts evidence. The prosecution rebuts that this is admissible to prove absence of mistake (knowledge that the substance could incapacitate a person of that size), common plan, and preparation. The judge overrules the objection and allows the testimony to proceed.

XII. Closing Argument

After the defense rests its case in chief, both sides will give closing arguments. As with opening statements, closing arguments can be particularly draining for survivors. Each attorney will summarize the facts of the case in a manner that supports their theme or theory of what happened. This is the last opportunity either attorney has to convince the jury. Therefore, closing arguments can seem emotional, overt, and repetitive. This is especially difficult for survivors in cases where the defense relies heavily on rape myths or marring the survivor's integrity. It is important to work with the survivor and prosecutor to make sure the survivor knows what to expect. More experienced advocates may have seen the defense attorney's closing argument style in the past, and it can be helpful to describe their past closing arguments to survivors as examples.

XIII. Final Jury Instructions and Verdicts

Generally, courts use standardized jury instructions previously prepared for each specific crime. However, parties have the opportunity for input. For example, once the presentation of evidence has concluded, but before closing arguments commence, either side can submit requested instructions to the judge.^{cccxxxv} The judge will decide to include or dismiss these requested instructions.

After closing argument, the court will provide the jury with its finalized instructions, both verbally and in writing, for deliberation. As parties generally have the opportunity to provide input on jury instructions, the form can vary. However, most jury instructions will include the charges, the elements of those charges, the definition of the standard of proof (beyond a reasonable doubt in criminal cases), restrictions on certain evidence, and the requirement of a unanimous vote.

The jury will then retire to a separate room to deliberate until a unanimous vote is reached on all charges. This can take hours or days. If a unanimous vote is reached, the jury foreman will submit the verdict to the court. If the jury cannot reach unanimity, the court will declare a “hung jury,” and the case may be retried in front of a new jury.

If the jury returns a guilty verdict, the court will either proceed to sentencing immediately, or schedule a sentencing hearing. The defense will most certainly submit an appeal. If, however, the jury returns a not guilty verdict, the prosecution is barred from pursuing appeals on acquittal.

XIV. A Word about Recess

The court will break for “recess” several times during the course of trial. When this happens, jurors use the same public elevators, lunchrooms, restrooms, and hallways as the survivor, advocate, prosecutor, defense attorney, and observers. It is very, very important that the survivor and advocate refrain from commenting on the case during recesses. Jurors are strictly prohibited from conversing with you, and an unintentional disclosure related to the matter in front of a juror could have a severe impact, up to the judge declaring a mistrial. Simply put, talking about matters when there is even a remote possibility that a juror is in your presence is not worth the risk.

XV. Preparations

The days and weeks before trial can be incredibly confusing and traumatic for the survivor. It is therefore extremely important to assist the survivor in planning ahead for not only the substance of the day, but logistics as well. For example, as early as is practical, sit down with the survivor and come up with a plan for asking off of work, mapping out directions from the survivor’s home or job to the court and back, pinpointing parking areas, and reviewing the specific location of the courtroom within the larger building. If time permits, make the plan during one visit with the survivor, and go over it every subsequent time you meet. If logistically possible, set aside a day in which the survivor can drive in at the same time they would have to for the trial and park at an agreed upon location. Meet the survivor there, walk the survivor over, show them where you will go on the day of the trial, and what types of security measures the court takes.

On later visits, if the rape crisis center the survivor patrons is close to the court, make a trip back to review how to get to the courtroom. If the survivor is a visual learner who likes references, make a map of the court building, as well as a diagram of the courtroom so that the survivor can decide where to sit and mentally prepare for the testimony.

The Perpetrator’s Family & Friends

It is incredibly common for friends, family, and other supporters of the perpetrator to attend trial. It is important to prepare the survivor and their supporters for this, with early notification, support, and coping strategies that will best allow the survivor to keep composure during the trial.

Long before the day of trial, go over what materials are allowed in court and what materials are prohibited. Address any nervous habits the survivor has and what the advocate can provide that would help calm the survivor down in a quiet formal setting (i.e. stress balls, a pen and paper to sketch with or take notes, etc.). Remind the survivor verbally and write down on the diagram that all cell phones must be turned off. If the survivor has children or a dependent adult, put a plan in place for where emergency contacts will go while the survivor is in court. In addition, remind the survivor that trials are lengthy affairs, and it will be useful to pack snacks to consume in the common areas during recess.

If you have been to the courtroom before, explain the typical temperature to the survivor so that they can plan their attire properly. It is best to advise the survivor to dress in layers. Regardless of the typical temperature, emotions and traumatic reactions can cause a person to feel flushed/hot or chilled. If the survivor has questions about this, work with the survivor on choosing an outfit that fits the formality of the circumstances but allows for comfort.

XVI. Advocate Take Away

Trial is an incredibly challenging time for survivors. Trial forces them to undergo challenges to their own trustworthiness and credibility, forces them to face questions designed to disrupt their ability to answer, and challenges them to present succinct and accurate memories of a traumatic event without being overcome by emotion. In some ways, a trial is the best and worst result for a survivor. It means that they still have the opportunity to see their perpetrator held accountable, but it also means they will have to relive many parts of the sexual assault in the presence of strangers specifically brought in to evaluate whether the survivor is lying or telling the truth. With this backdrop, it is clear that a knowledgeable and pragmatic advocate can play an instrumental role in aiding the survivor through this process.

Because advocates cannot litigate the matter for survivors, their role is based in providing predictability and information. Though they cannot make the invasive nature of trial go away, they can reduce the tension and trauma by making the survivor aware about each step in the process. It is therefore essential for legal advocates to become familiar with the framework of a trial. This will not only help them inform survivors of what comes next, it will also assist them in making efficient inquiries with the court or prosecution team.

In addition, it is incredibly important for advocates to work with survivors to establish a support system and/or plan for follow-up care for the survivor and their loved ones once the trial is over. Though this is important in all cases, it is particularly beneficial to have a plan in place ahead of time if the trial results in acquittal, which can be devastating for survivors, witnesses, and others.

Practical Advocate Guidelines

Do	Do Not
➤ Confer with the prosecution-based advocate to create a simplified trial timeline/outline for the survivor as far in advance as possible.	➤ Promise the survivor that certain types of evidence will be barred. Each evidentiary challenge is independently reviewed by the judge and it is impossible to predict rulings.
➤ Explain fully the concept that the criminal system is built around avoiding wrongful convictions, and the trial may therefore seem one-sided in favor of the defendant.	➤ At the time of trial, speak about matters in common spaces or engage with jurors.
➤ Explain the basic structure of jury selection, so that the survivor is aware of why the parties are making peremptory or for-cause challenges.	➤ Advise survivors on how to answer questions on the stand. This could have a major impact on the outcome of the trial and would amount to engaging in the practice of law without a license.

➤ Explain that though many types of evidence are barred from admission, they are often times brought up in court and stricken from the record after.	➤ Predict what the verdict will be. Many times, juries return verdicts that are unexpected to advocates or survivors due to their perceptions of the trial.
➤ Explain the concept of an “expert witness,” and the types of information they may provide.	
➤ Reinforce the need to remain quiet in common areas and during court proceedings, and not engage in any way, verbal or otherwise, with jurors.	
➤ Show the survivor what standardized jury instructions look like, so the survivor knows ahead of time what the prosecutor is working to prove.	
➤ Assist the survivor in reaching out to the prosecutor at the relevant time periods to determine if the defense has moved to admit evidence of prior sexual acts.	

Subsection Divider Page & Tab

III-S

III-S Sentencing

I. When Does Sentencing Take Place?

If the jury (or judge in a bench trial) returns a guilty verdict on one or more charges, the defendant pleads guilty to charges, or the court approves a plea deal, the case will proceed to sentencing. In Ohio, the judge is responsible for sentencing.^{cccxxxvi} In death penalty cases you will see more involvement from the jury. In some cases (usually minor misdemeanors), the sentencing hearing will take place immediately following entry of a guilty plea, plea bargain approval hearing, or trial.^{cccxxxvii} When the possibility of significant incarceration exists, however, the judge may not impose the sentence until some days or weeks later, in a separately held sentencing hearing. If found guilty, the perpetrator may or may not be held in incarceration while waiting for sentencing.

II. The Purposes of Sentencing

Survivors often feel that their perpetrator should be subjected to the most severe sentence possible, and it can be jarring for both survivors and new advocates to learn that the victim's suffering is not the only factor considered in the sentencing process. Sentencing and its purpose is actually one of the most controversial topics in legal and political systems. Examining the effectiveness of particular sentencing strategies has become a specialized field of study, which posits that public preference for sentencing strategies regularly shift between those that serve the following goals:

- Retribution
 - Punishment is served for no reason other than an offense has been committed, on the basis that a proportionate punishment is a morally acceptable response that satisfies the aggrieved party and society.
- Deterrence
 - Punishment is served to deter the perpetrator from reoffending through fear of further punishment, and warn other potential offenders of consequences.
- Denunciation
 - Punishment is served as a means of expressing society's disapproval and reinforcing moral boundaries.
- Incapacitation
 - Punishment is served to make the perpetrator incapable of committing further crime, thereby protecting society from crime.
- Rehabilitation
 - Punishment is served to reform the perpetrator's behavior.
- Reparation
 - Punishment is served as a form of repayment to survivors or the community.

Ohio refined its own sentencing purposes through the Ohio Felony Sentencing Commission.^{cccxxxviii} Due in large part to their efforts, Ohio Revised Code § 2929.11 *Purposes of felony sentencing* states explicitly:

The overriding purposes of felony sentencing are to protect the public from future crime by the offender and others and to punish the offender using the minimum

sanctions that the court determines accomplish those purposes without imposing an unnecessary burden on state or local government resources. To achieve those purposes, the sentencing court shall consider the need for incapacitating the offender, deterring the offender and others from future crime, rehabilitating the offender, and making restitution to the victim of the offense, to the public, or both....A sentence imposed for a felony shall be reasonably calculated to achieve the two overriding purposes of felony sentencing [] **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 crimes committed by similar offenders.^{ccccxxix}

It is important to note that individual common pleas or municipal court judges may interpret this language differently or bring their own subjective understanding of these principles to the sentencing process.

III. Mandatory Prison Terms

Generally, judges have discretion in choosing an individual sentence from a list of available terms of incarceration and/or fines. However, some crimes require mandatory jail or prison terms – meaning the perpetrator must spend at least some time in jail or prison.^{cccxli} Some statutes identify a precise term of incarceration, while others provide the judge with a range of prison terms to impose. The following table illustrates some examples:

Offense	Other Factors	Range of Allowable Penalties
§ 2903.01 Aggravated Murder	<ul style="list-style-type: none"> The death sentence is not imposed 	The judge must impose life in prison
§ 2903.02 Murder		The judge must impose a prison term between 15 years and life.
§ 2903.02 Murder	<ul style="list-style-type: none"> The victim was less than 13-years-old The perpetrator plead guilty to or was convicted of a sexual motivation specification 	The judge must impose an indefinite prison term of 30 years to life.
§ 2903.02 Murder	The perpetrator plead guilty to or was convicted of both: <ul style="list-style-type: none"> a sexual motivation specification; and a sexually violent predator specification 	The judge must impose a prison term of life without parole.

Other crimes that carry a mandatory prison term include:

- Any rape or attempted rape where the survivor is under the age of 13;
- Gross sexual imposition or sexual battery when the perpetrator has a prior conviction of 2907.02 Rape, 2907.03 Sexual Battery, or 2907.04 Gross Sexual Imposition;
- Sex offenses enhanced by a sexually violent predator specification;
- Human trafficking offenses involving kidnapping and certain sex offenses;
- Any 1st or 2nd degree felony when the perpetrator has previously been convicted of or plead; guilty to an unclassified felony, a 1st degree felony, or a 2nd degree felony;

- Felonies committed with a firearm;
- Certain felonious assaults against pregnant women

Please note that numerous statutes in the Ohio Revised Code carry mandatory prison terms. For specific descriptions of statutes that frequently impact survivors served by Rape Crisis Centers, please see Chapter III, Section I(iii), which provides detailed individual descriptions of the sentencing guidelines for the majority of statutes in Ohio Revised Code Chapters 2903, 2905, and 2907.

IV. Discretionary Sentencing

For all other crimes, the Ohio Revised Code provides minimum and maximum penalties based on felony or misdemeanor level. The judge must then use their discretion to determine the appropriate penalty within the allowable prison terms, community control sanctions, and/or fine amounts^{cccxi}. Despite this discretion, the Ohio Revised Code “presumes” a prison term for 1st and 2nd degree felonies. Similarly, the law suggests that judges impose community control sanctions in lieu of incarceration for lower level, non-violent felonies.^{cccxlii} However, 4th and 5th degree felony sex crimes, or other 4th and 5th degree felonies generally lead judges to impose prison terms.^{cccxliii} Judges maintain similar discretion with regard to misdemeanor offenses, though the less severe nature of these crimes allows for more judicial flexibility.

The table below provides an illustration (misdemeanors carry similarly specific guidelines)^{cccxliv}:

Felony Level	Allowable Prison Terms	Maximum Fine	Repeat Violent Offender Enhancement	Post Release Control Requirement
F1	3, 4, 5, 6, 7, 8, 9, 10 or 11 years	\$20,000	1, 2, 3, 4, 5, 6, 7, 8, 9, or 10 years	5 Years
F2	2, 3, 4, 5, 6, 7, or 8 years	\$15,000	Same as F1	3 Years Generally, 5 for Sex Offenses
F3	9, 12, 18, 24, 30, or 36 months	\$10,000	Dependent on Felony Level of Prior Crime	3 Years if Violent Offense, 5 Years if Sex Offense, otherwise None
F4	6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months	\$5,000	If Sex Offense, otherwise optional	If Sex Offense, 5 Years
F5	6, 7, 8, 9, 10, 11, or 12 months	\$2,500	If Sex Offense, otherwise optional	If Sex Offense, 5 Years

Other crimes, however, carry their own specific sentencing guidelines. For example, 2907.02 Rape contains the following parameters:

Division	Circumstances	Felony Level	Allowable Prison Term
2907.02(A)(2)	Nonconsensual	F1	3, 4, 5, 6, 7, 8, 9, 10, or 11 years

2907.02(A)(1)(a)	Impaired Consent	F1	3, 4, 5, 6, 7, 8, 9, 10, or 11 years (minimum 5 years if drugs used to incapacitate victim)
2907.02(A)(1)(B)	<p>Victim is child under 13</p> <p>Victim is under 13, offender is under 16 and used no force, caused no physical harm, and had no prior convictions or guilty pleas</p> <p>Victim is under 13 and offender uses force or causes serious physical harm</p>	<p>FI</p> <p>FI</p> <p>FI</p>	<p>Life</p> <p>3, 4, 5, 6, 7, 8, 9, 10, or 11 years</p> <p>10 years – life</p>
2907.02(B)	Victim is less than 10 years old	F1	10 years – life
Additional Factors			
Sexually Violent Predator Specification	<p>Victim is over 13</p> <p>Victim is under 13</p> <p>Victim is under 13 and the sexually violent predator uses force</p> <p>Victim is under 13 and sexually violent predator causes serious physical harm or has a prior violation</p>		<p>10 years – life</p> <p>10 years – life</p> <p>Life without parole</p> <p>Life without parole</p>

V. The Presentencing Report

In cases with more severe crimes and a delay between trial and sentencing, the court will order the probation department to conduct a pre-sentence investigation. The purpose of this report is to gather information relevant to selecting an appropriate penalty pursuant to the purposes of sentencing as outlined in Ohio Revised Code § 2929.11. Typically, this investigation results in a report containing information about the perpetrator’s finances, family, criminal history, personality, physical condition, and mental condition.^{cccxlvi}

VI. Considerations in Discretionary Sentencing

During the sentencing hearing, the judge will review statements and the presentencing report prepared by the probation department. In addition, defendants often speak on their own behalf, victims provide

statements, and non-parties occasionally provide statements about the defendants' character or the impact of the defendant's actions on the victim.

a. Mandatory Factors^{cccxlvi}

The judge must weigh the following:

- Severity of Defendant's Conduct
 - "More Serious"^{cccxlvii}
 - Injury exacerbated by victim's physical or mental condition or age
 - Victim suffered serious physical, psychological, or economic harm
 - Defendant held public office or position of trust and the offense related to the office or position
 - Defendant's occupation obliged the defendant to prevent the offense or to bring those committing it to justice
 - Defendant's reputation, occupation, or office facilitated the offense or is likely to influence others' conduct
 - Defendant's relationship with the victim facilitated the offense
 - Defendant acted for hire or as part of organized criminal activity
 - Defendant was motivated by prejudice based on race, ethnicity, gender, sexual orientation, or religion
 - In a domestic violence or assault case, the defendant is a parent or other custodian, victim was a family or household member, and offense was committed in the vicinity of one or more children other than the victim
 - "Less Serious"^{cccxlviii}
 - Victim induced or facilitated the offense
 - Defendant acted under strong provocation
 - Defendant did not cause or expect to cause physical harm to person or property
 - Substantial grounds exist to mitigate the defendant's conduct, even if they don't constitute a defense
- Defendant's Likelihood of Recidivism
 - "More Likely"^{cccxlix}
 - Offense while on bail, awaiting sentencing, on community control or PRC, or after PRC unfavorably terminated
 - Defendant has a history of criminal convictions or juvenile delinquency adjudications
 - Defendant has not responded favorably to sanctions previously imposed in adult or juvenile court
 - Defendant shows pattern of alcohol-/drug-use related to offense and doesn't acknowledge it or refuses treatment
 - Defendant shows no genuine remorse
 - "Less Likely"^{cccl}
 - Defendant has no prior juvenile delinquency adjudication
 - Defendant has no prior adult conviction

- Defendant led a law-abiding life for a significant number of years
 - Offense was committed under circumstances unlikely to recur
 - Defendant shows genuine remorse
- Defendant's Veteran Status
 - The sentencing court shall consider the defendant's military service record and whether the defendant has an emotional, mental, or physical condition that is traceable to the defendant's service in the United States armed forces and that was a contributing factor in the defendant's commission of the offense or offenses.

b. Victim Impact Statement

Judges also review victim impact statements at the sentencing hearing. A victim impact statement is a written or oral statement about the impact of the crime on the victim. This is unique in that it provides the victim with the opportunity, in their own voice, to share the ways the crime has changed their life. These statements can include descriptions of physical and/or emotional damage the defendant caused, financial costs, and any resulting need for medical or psychological treatment. Judges may use information from the statement to inform the sentencing decision, and the parole board may use it to help make release decisions.

Procedures on the submission of victim impact statements vary across courts, but they generally permit the survivor to draft a letter stating the impact of the crime and/or requesting a specific sentence. The statement can generally be read by either the survivor, advocate, or other party (excluding the prosecutor that tried the case) at the survivor's request. Some courts give the survivor the option to send impact statements to the court's recommendation board prior to the sentencing hearing. This allows for the board to consider and consolidate the survivor's statement in their final recommendation to the judge.

Advocate Tips!

1. Victim impact statements become part of the public record. It is critical to make survivors aware of this and support them in reviewing their statements for disclosures that may make them vulnerable or impact their sense of privacy.
2. Depending on the court, the prosecutor may impose a policy in which only the prosecution-based advocate can read the victim impact statement, if the victim does not wish to do so. It is very important to confer with the court well before trial to determine and finalize who will be with the survivor during the sentencing hearing and, if the survivor does not wish to read the statement, who will do so instead.

VII. Concurrent vs. Consecutive Sentencing

In cases where the offender is convicted of multiple charges, the sentencing judge will decide whether the offender will serve the separate sentences for each conviction “concurrently” or “consecutively.”

a. Concurrent Sentences

Sentences for multiple charges are served at the same time. For example, if the offender is convicted of two counts of Gross Sexual Imposition and one count of Pandering Obscenity, each charge will carry its own sentence:

- GSI 1 – 5 years
- GSI 2 – 4 years
- PO – 1 year

In a concurrent system, the clock will start ticking on each sentence at the same time. That means that the offender will serve only a total of five years. For example, if this particular offender started serving his sentence on January 2, 2020, the offender would complete the sentence in the following manner:

- GSI 1 – January 2, 2025
- GSI 2 – January 2, 2024
- PO – January 2, 2021
- Release Date: January 2, 2025

Concurrent sentencing is used in cases where the judge determines that the offender or the public will not be served by consecutive sentences, which drain public resources. Part of the logic of concurrent sentences is that if multiple charges are similar in severity, it does not serve the purposes of sentencing to incarcerate the offender for an extended period of time that would have befitted a much more severe crime.

Unless specified otherwise, misdemeanor charges must be served concurrently with accompanying felony charges.

b. Consecutive Sentences

In a consecutive sentencing system, the offender serves the individual sentences one at a time. Using the same example above, an offender would serve the sentences in the following manner:

- GSI 1 – January 2, 2025
- GSI 2 – January 2, 2029
- PO – January 2, 2030
- Release Date: January 2, 2030

Consecutive sentencing is reserved for particularly egregious cases that warrant the use of public resources. A factor that commonly influenced this type of sentencing scheme is the likelihood of recidivism and danger to the public upon the perpetrator’s release.

VIII. Time Served Prior to Sentence

In most cases, the prison sentence the judge imposes is the total period of time the offender will serve, including time spent incarcerated before trial or between trial and sentencing.^{cccli} This means that time already spent in jail pending trial or sentencing for the crime at issue will be subtracted from the sentence.

Example: Jane is arrested and charged with a violation of 2907.03 Sexual battery. She cannot afford to post bond. Jane spends five months in county jail awaiting trial. After she is convicted, she spends two more weeks in county jail awaiting sentencing. On the day the judge imposes their sentence, she has spent five months and two weeks in county jail. The judge sentences Jane to five years in prison.

Total Sentence - Time Already Spent in Jail = Remainder of Sentence
5 Years - 5 Months and 2 Weeks = 4 Years, 6 Months, and 2 Weeks

IX. Community-Control Sections

In addition to fines and prison terms, certain offenses allow for “community control sanctions” in lieu of incarceration. The term “community control” has come to replace the term “parole.” For both felonies and misdemeanors, community control sanction terms are capped at five years. Community control sanctions for both felony and misdemeanor offenses prohibit the perpetrator from leaving the state without prior permission from the probation officer and/or courts.

a. Felony-Level Community Control Sanctions

If the crime is a felony and does not require a “prison term, mandatory prison term, or a term of life imprisonment,”^{ccclii} the sentencing judge may directly impose a sentence that consists of one or more of the following^{cccliii} community control sanctions:

- A term of up to 6-months at a community-based correctional facility
- A term in a halfway house
- A term in an alternative residential facility (allows for employment)
- Day Reporting
- House Arrest
- Up to 500 hours of community service
- Curfew Time

b. Misdemeanor-Level Community Control Sanctions

If the crime is a misdemeanor (excluding minor misdemeanors) and does not require a jail term, the sentencing judge may directly impose a sentence that consists of one or more of the following^{cccliv} community control sanctions:

- A term of up to 6-months at a community-based correctional facility or halfway house, not to exceed the longest jail term available for that offense
- An allowance that the perpetrator may serve in intermittent confinement, overnight, on weekends or at any other time or times that will allow the continued employment or required care of a family member
- Release for employment, education, training, treatment, or to fulfill community service or other requirement, only for the time needed to fulfill the reason for release
- House Arrest
- Day Reporting
- Up to 500 hours of community service for a first degree misdemeanor, 200 hours for a second degree misdemeanor

- Curfew Time
- Intensive probation supervision
- Basic probation supervision
- Monitored time
- With prior approval of the victim, participation in victim-offender mediation;
- Suspension of operating licenses

c. Violations

If an offender violates the terms of a community control sanction, leaves Ohio without the permission of the court or the offender's probation officer, the sentencing court may impose one or more of the following:

- **Original Crime was a Felony:** An extension of the same community control sanction (as long as the total time does not exceed five years); a more restrictive community control sanction listed in §§ 2929.16-.18; or a prison term^{ccclv}
- **Original Crime was a Misdemeanor:** An extension of the same community control sanction (as long as the total time does not exceed five years); a more restrictive community control sanction listed in §§ 2929.26-.28; or a combination of community control sanctions listed in §§ 2929.26-.28, including a jail term^{ccclvi}

X. Sentencing Modifications

Before 1996, parole boards had the discretion to release individuals prior to the completion of their sentence.^{ccclvii} For crimes committed after that date, however, only a judge can modify a sentence. The most common methods of modification are:

- **Judicial Release:** Offenders not serving mandatory sentences (if the offender is serving multiple sentences and has completed the portion allocated to the crime with mandatory prison time, that offender may apply for judicial release) may file a motion (apply) for early release from incarceration, called "judicial release."^{ccclviii} Offenders may apply for judicial release at a time designated by their original sentence. Specifically:

Total Non-Mandatory Sentence	Can Apply after Serving
Less than 2 years	30 days
5 years	4 years
More than 5 years but less than 10 years	5 years
More than 10 years	5 years or half of total sentence, whichever is greater

After the application is submitted, the court will either decline the application or hold a hearing. If a hearing is held, the prosecutor must notify the victim or the victim's representative if the offender was convicted of a felony of the first, second, or third degree.^{ccclix} Prior to the hearing, the court will order a report on the offender's conduct during incarceration, as well as information on any training, education, treatment, or other rehabilitative activities.^{ccclx} During the hearing, the offender, prosecutor, survivor, and other parties the court deems relevant will have the opportunity to provide statements.^{ccclxi} In addition, any person may file a written statement for the court's consideration.^{ccclxii}

If the court declines the application without a hearing, the offender may apply again. However, if the court holds a hearing and declines to grant judicial release, the offender is barred from applying again in the future. If the court grants the motion, it will assign the offender up to five years of an individualized community control sanction.^{ccclxiii}

- **Furlough:** Offenders not serving a mandatory or life prison term for a crime committed **prior to March 17, 1998**, may apply for transitional supervision during the final 180 days of confinement.^{ccclxiv} The survivor must receive notification at least 60 days before transfer, and be given the opportunity to provide a written statement for consideration.^{ccclxv}

- **Reduction by Earned Credit:** If an inmate participates in meaningful work, school, treatment, or training, that inmate may reduce their sentence by one day^{ccclxvi} or five days^{ccclxvii} for each month of participation.^{ccclxviii}

XI. Advocate Take Away

After a conviction, the survivor may breathe a sigh of relief. However, that same survivor may find the sentencing phase just as, if not more, stressful than the trial. Many survivors come into the criminal justice process assuming the most severe possible penalty will be imposed, and can feel deflated and confused when it is not. One of the best ways to prepare a survivor for this possibility is to start discussing sentencing early. Advocates do not need to teach the survivor everything about sentencing, but should remind survivors about Ohio's stated purposes of sentencing early and often to avoid surprises. Advocates can empower survivors to use this information to help craft their victim impact statement, addressing the purposes of sentencing that apply to the survivor's experience and any fear they may have for other members of the public.

Practical Advocate Guidelines

Do	Do Not
➤ Understand that sentencing involves complex factors and judicial discretion, making the final sentence virtually unpredictable.	➤ Assume that the sentencing judge will impose the harshest possible sentence.
➤ Discuss sentencing with the survivor early on, with an emphasis on the statutorily stated purposes of sentencing so that the survivor is not surprised if the sentencing judge leans heavily on a purpose the survivor does not feel is the most important.	➤ Take the importance of a victim impact statement for granted. Though the perpetrator was convicted, the survivor still has an opportunity to help the court understand the crime's impact.
➤ Explain the structure of the sentencing hearing and the factors the judge will consider.	➤ Forget to explain community control sanctions, or to ask the prosecutor

	about the possibility that these will be imposed.
➤ Give the survivor the opportunity to verbally practice the impact statement.	
➤ Remind the survivor that the perpetrator's family and friends may provide statements at the sentencing. Especially post-conviction, the statements will likely emphasize the impact of harsh sentencing on the perpetrator. This can be incredibly upsetting to survivors, and it is important to discuss this ahead of time.	
➤ Inquire with the prosecutor about possible sentences, as numerous factors contribute to the ultimate sentence.	
➤ Ask the survivor if they want notice about sentencing modifications and put in a written request with the prosecutor, if applicable.	

Subsection Divider Page & Tab
III-T

III-T Appeal

I. Generally

If, at the conclusion of trial, the judge (in a bench trial) or jury convicts the defendant, the defendant may seek to overturn the conviction (appeal). The state is not permitted to appeal an acquittal. After a conviction, a defendant has 30 days to file an appeal. Appeals are not filed with the trial court. Instead, a defendant must file the appeal with the appropriate appellate district. An Ohio Court of

Appellate practice is significantly different from traditional trial practice. As such, the defendant may hire a different attorney to handle the appeal.

Appeals must accept and review each appeal it receives (unlike the Ohio Supreme Court, which has the discretion to decline review). Almost universally, the state will respond to and challenge the appeal.

When reviewing an appeal of a conviction (there are numerous other types of appeal not typically relevant to legal advocacy in this field), the appellate court does not look at new physical evidence or hear testimony. Instead, they attack the resulting conviction by arguing that the trial failed to meet certain standards. This is commonly referred to as “appealing on the grounds of procedural error.” The appellate court will examine the trial as a whole. If it finds error, the appellate court will reverse the conviction, and “remand” the case back to the trial court. “Remand” means to send back to the trial court for reconsideration. This could mean a new trial.

II. What Appeals Look Like

Unlike trial, which involves the constant admission of new facts, through witnesses and physical evidence, the appellate court relies on briefing from the defense attorney and state’s attorney. Appellate attorneys obtain the trial record from that court and reference it in their briefs, and the appellate court reviews the record. Appellate attorneys create legal arguments in briefing, and later deliver oral argument to the appellate court.

Because new evidence is not admitted on appeal, the survivor will have limited, if any, involvement during the appeal process.

III. Right to Notification

Pursuant to Ohio law, the prosecutor must notify the survivor if the perpetrator appeals, **if the survivor requests** “notice of filing of an appeal.”^{ccclxix} If the survivor makes this request, the prosecutor must also give the survivor an explanation of the appellate process and possible results, notify the survivor if the offender was allowed out on bail or recognizance while the appeal is pending, provide the survivor with the time and location of appellate proceedings and any changes, provide the result of the appeal, and notify the survivor that should the case be remanded, victim rights apply as they did during the first trial.

Advocate Tip!

The survivor must actively request notifications of appeal. Because appeals must be filed within 30 days, it is prudent that the survivor request this notification as soon as possible. Speak to the survivor early on about their right to notification and what they must do to secure it. Speak to the prosecutor or prosecutor-based advocate early to determine their preferred format for submission, and help the survivor submit the request as early as possible.

IV. Remand

If the appellate court overturns the conviction and remands the case back to the trial court, the prosecution will have to put on a new trial. In addition to the time lapsed while the appeal is pending, scheduling and preparing another trial could take several months. This process can be extremely challenging for survivors, who likely felt a sense of closure at the conclusion of the first trial. Advocates should strive to be just as supportive during a retrial as they were during the first proceeding, remembering that they are facing an incredibly draining, invasive, and lengthy ordeal for the second time.

V. Advocate Take Away

The appellate process has little, if any, room for survivor involvement. In an appeal, lawyers engage in a tactical battle largely on paper, with one opportunity for oral argument. No one questions witnesses or provides new evidence, and the survivor has no platform to speak. This phase can leave survivors feeling lost, scared, and without control. Any relief they felt after conviction is in jeopardy, as they face the possibility of another trial. During this phase, it is very important to be available for survivors, and to provide them with information about their rights during this comparatively quiet process.

One way to best help survivors through the appeal process is to explain it early, in conjunction with an overview of the entire process. Working with survivors before trial to ask for notifications can empower survivors to feel actively engaged, and see the appellate timeline as an extension of the trial process that they were expecting and are prepared for. This will not take away the stress and pain involved, but will help facilitate predictability and awareness.

III-V

Ohio Sex Offender Registry Laws

This section discusses the sex offender registry as it relates to adult perpetrators. For information on the juvenile offender registry, please consult Volume II, Chapter IV-A.

VI. Generally

Ohio law requires all adults who are convicted of or plead guilty to a sexually oriented offense to register as a “sexual offender.”^{ccclxx} Each sexually oriented offense is designated a “Tier I,” “Tier II,” or “Tier III” offense, with “Tier I” offenses being the least severe and “Tier III” offenses being the most severe.^{ccclxxi} As tiers are statutorily tied to specific crimes, registration requirements automatically apply and are not subject to judicial discretion.^{ccclxxii}

Note that, prior to 2008, judges evaluated factors including likelihood of recidivism to assign requirements. However, since the passage of the Adam Walsh Act, tier assignment is based entirely on the offense committed.

VII. Vocabulary

The Ohio Revised Code’s sections on sexually oriented offenses and other legal resources frequently use the following terminology:

Child-Victim Offender	A person who is either convicted of or pleads guilty to, or is adjudicated a delinquent child for, committing any child-victim oriented offense ^{ccclxxiii}
Child-Victim Oriented Offense	When the victim is under the age of 18, and the perpetrator is not the victim’s parent or guardian: Kidnapping (except when committed specifically to engage in sexual conduct, which is instead heightened with a specification); Abduction (except with sexual motivation); or Criminal Child Enticement (except with sexual motivation) ^{ccclxxiv}
Sexual Motivation	A purpose to gratify the sexual needs or desires of the offender ^{ccclxxv}
Sexual Motivation Specification	A specification on the indictment that charges a defendant with a designated homicide, assault, or kidnapping offense with committing the offense with a sexual motivation – enhances penalty ^{ccclxxvi}
Sex Offender	A person who is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing any sexually oriented offense, unless that person was convicted of consensual sexual conduct or contact and either: the victim was over 18 and not under the perpetrator’s custodial authority; OR the victim was over the age of 13 and the perpetrator was not more than 4 years older than the victim ^{ccclxxvii}
Sexually Oriented Offense	<p>All violations of § 2907.02 Rape, § 2907.03 Sexual Battery, § 2907.05 Gross Sexual Imposition, § 2907.06 Sexual Imposition, § 2907.07 Importuning, § 2907.08 Voyeurism, § 2907.21 Compelling Prostitution, § 2907.22 Promoting Prostitution, § 2907.32 Pandering Obscenity, § 2907.321 Pandering Obscenity Involving a Minor, § 2907.322 Pandering Sexually Oriented Matter Involving a Minor, or § 2907.323 Illegal use of Minor in Nudity-Oriented Material or Performance</p> <p>Specified violations of § 2907.04 Unlawful Sexual Conduct with a Minor, § 2903.11 Felonious Assault, §§ 2905.01-2905.03 (Kidnaping, Abduction, Unlawful Restrain), § 2905.05 Criminal Child Enticement, § 2905.32 Trafficking in Persons</p>

	Violations of § 2903.01 Aggravated Murder, § 2903.02 Murder, § 2903.04 Involuntary Manslaughter committed with a sexual motivation ^{ccclxxviii}
Sexually Violent Predator	A person who, on or after January 1, 1997, commits a sexually violent offense and is likely to engage in the future in one or more sexually violent offenses ^{ccclxxix}
Sexually Violent Predator Specification	A specification on an indictment for a violent sex offense, a designated homicide, assault, or kidnapping with a sexual motivation specification, that charges the defendant as a sexually violent predator ^{ccclxxx}
Violent Sex Offense	A violation of § 2907.02 Rape or § 2907.03 Sexual Battery ^{ccclxxxi}

VIII. Tiers

Any adult convicted of a sexually oriented offense in Ohio must register as a Tier I, II, or III offender. An individual offender's designation is tied to the underlying conviction. Whereas prior law required the Court to determine the proper level of registration by looking at several factors including the likelihood of recidivism, the Adam Walsh Act, implemented in Ohio in 2008, removed this discretion. The following charts provide an **incomplete** list of examples to help advocates learn about the system. For a full listing of offenses tied to each Tier, see Ohio Revised Code § 2950.01.

Tier III Offenses	
§ 2907.02 Rape, § 2907.03 Sexual Battery	
§ 2907.05(B) Gross Sexual Imposition:	When the following section is violated: (B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
§ 2903.01 Aggravated Murder, § 2907.02 Murder, or § 2903.11 Felonious Assault:	When committed with a sexual motivation
§ 2903.04 Involuntary Manslaughter:	When the underlying felony was committed with a sexual motivation
§ 2905.01 Kidnapping:	When the victim is under 18, the perpetrator is not the parent of the victim and the following section is met: (B) No person, by force, threat, or deception, or, in the case of a victim under the age of thirteen or mentally incompetent, by any means, shall knowingly do any of the following, under circumstances that create a substantial risk of serious physical harm to the victim or, in the case of a minor victim, under circumstances that either create a substantial risk of serious physical harm to the victim or cause physical harm to the victim: (1) Remove another from the place where the other person is found; (2) Restrain another of the other person's liberty.
Attempt, Conspiracy, or Complicity involving any of the above-listed offenses	
A sexually oriented or child-victim offense committed after the sex offender was already classified a Tier II or Tier III sexual offender or child-victim offender	

Tier II Offenses	
§ 2907.21 Compelling prostitution, § 2907.321 Pandering Obscenity involving a minor, or § 2907.322 Pandering sexually oriented matter involving a minor	
§ 2907.05(B) Gross Sexual Imposition:	When the following section is violated: (B) No person shall knowingly touch the genitalia of another, when the touching is not through clothing, the other person is less

than twelve years of age, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
§ 2907.04 Unlawful sexual conduct with a minor: When the perpetrator is at least 4 years older than the victim or when the offender is less than 4 years older than the victim and the offender previously has been convicted of or pleaded guilty to a violation of § 2907.02 Rape, § 2907.03 Sexual battery, or § 2907.04 Unlawful sexual conduct with a minor
§ 2903.04 Involuntary Manslaughter: When the underlying felony was committed with a sexual motivation
§ 2905.01 Kidnapping: When committed with a sexual motivation, or the victim was over the age of 18 and the perpetrator committed the crime specifically to engage in sexual activity
§ 2907.05 Gross sexual Imposition: When the victim is less than 13-years-old
§ 2907.24 Soliciting: When the victim is less than 16-years-old or has a developmental disability
§ 2907.323(A)(1)-(2) Illegal use of minor in nudity-oriented material or performance
§ 2905.02 Abduction: When the perpetrator committed the crime specifically to engage in sexual activity
§ 2919.22 Endangering children: When the victim is younger than 18 (or 21 and has a developmental disability), and the perpetrator violates Section (5) “Entice, coerce, permit, encourage, compel, hire, employ, use, or allow the child to act, model, or in any other way participate in, or be photographed for, the production, presentation, dissemination, or advertisement of any material or performance that the offender knows or reasonably should know is obscene, is sexually oriented matter, or is nudity-oriented matter”
Certain violations of § 2905.32 Trafficking in persons
Attempt, Conspiracy, or Complicity involving any of the above-listed offenses
A sexually oriented or child-victim offense committed after the sex offender was already classified a Tier I sexual offender or child-victim offender

Tier I Offenses
§ 2907.06 Sexual Imposition, § 2907.07 Importuning, § 2907.08 Voyeurism, 2907.22 Promoting prostitution, § 2907.09 Public indecency, or § 2907.32 Pandering sexually oriented matter involving a minor
§ 2907.04 Unlawful sexual conduct with a minor: When the perpetrator is less than 4 years older than the victim, the victim did not consent to the sexual conduct, and the perpetrator has no prior violation of section § 2907.02 Rape, § 2907.03 Sexual Battery, or § 2907.04 Unlawful sexual conduct with a minor
§ 2903.01 Aggravated Murder, § 2907.02 Murder, or § 2903.11 Felonious Assault: When committed with a sexual motivation
§ 2903.04 Involuntary Manslaughter: When the underlying felony was committed with a sexual motivation
§ 2905.01 Kidnapping: When the victim is under 18, the perpetrator is not the parent of the victim and the following section is met: (B) No person, by force, threat, or deception, or, in the case of a victim under the age of thirteen or mentally incompetent, by any means, shall knowingly do any of the following, under circumstances that create a substantial risk of serious physical harm to the victim or, in the case of a minor victim, under circumstances that either create a substantial risk of serious physical harm to the victim or cause physical harm to the victim: (1) Remove another from the place where the other person is found; (2) Restrain another of the other person's liberty.

§ 2907.05 Gross sexual imposition: When the perpetrator uses force or threat of force, impairs the victim's judgment to impair resistance, the perpetrator knows the victim's judgment or control is impaired because of administration of intoxicant for medical purposes, or the victim's ability to resist or consent is substantially impaired because of mental or physical condition or advanced age.
§ 2907.09 Public indecency: When the perpetrator exposes themselves with the purpose of personal sexual arousal or gratification or to lure a minor into sexual activity and either: (A) is less than 10 years older than the survivor, or (B) the perpetrator is ten or more years older than the survivor and the perpetrator has not previously been convicted of or pleaded guilty to any violation of 2907.09
§ 2907.323 Illegal use of minor in nudity-oriented material or performance: When the perpetrator violates (A)(3) specifically, which prohibits possessing or viewing "any material or performance that shows a minor who is not the person's child or ward in a state of nudity"
§ 2903.11 Felonious assault, § 2905.03 Unlawful restraint, § 2905.05 Criminal child enticement: When committed with a sexual motivation
Attempt, Conspiracy, or Complicity involving any of the above-listed offenses

IX. Reporting, Notification, & Public Data

a. Reporting & Notification

Immediately after conviction or guilty plea, but before transfer to the incarceration facility, sexual offenders must register with the county sheriff's department.^{ccclxxxii} Depending on tier, they will have to update their address and other information with the county sheriff's department at regular intervals.

Tier	Reporting Frequency	Waiver Eligibility	Community Notification
Tier III	Offenders must report their current address every 90 days for the rest of their lives.	Not Eligible	Community of residence receives mail notifications of this person's status and residential address
Tier II	Offender must report their current address every 180 days for 25 years	Not Eligible	N/A
Tier I	Offender must report once per year for 15 years	After 10 years	N/A

Offenders of all three tiers must keep the following information,^{ccclxxxiii} among other facts, up to date:

- Name/Aliases, Social Security Number, Date of Birth
- Status of Incarceration
- Name/Address of Employer and Work Site
- Name/Address of Institution of Higher Learning
- License Plate Numbers for Each Vehicle Owned or Operating, Driver's Licenses/Commercial Driver's License/State ID Card Number
- Reports of Subsequent Offenses
- Professional Licenses
- Email Addresses, Internet Identifiers, Telephone Numbers
- Any Information Required by BCI.

Offenders must keep numerous parties up to date on their location. For example, among other restrictions, the offender must notify the sheriff's office if that offender intends to leave the county

and/or state, and most report presence in a new county if the offender plans to stay for more than three days, work in that county, or attend school in that county.^{ccclxxxiv}

b. Publicly Available Data/ESORN

Each county sheriff's department maintains a list of registered sex offenders. In addition, the Ohio Attorney General's Office operates Ohio's Electronic Sex Offender Registration^{ccclxxxv} and Notification database. More commonly known by its acronym, ESORN, this searchable database is publicly available. Any member of the public with internet access can search for data on either individual sex offenders or the presence of sex offenders in a particular community by name, location, telephone number, and internet user names.

33143

The screenshot displays the Ohio Attorney General's Office website. At the top is a banner with the text "Protecting Ohio's Families" and a photo of a family. Below the banner is a navigation bar with links: "Search for Offenders in your area", "Register for Email Alerts", "Safety Tips", "Links", "Contact", and "Contact Your Sheriff". The main content area is titled "Offender Search". It features a search form with tabs for "In your area", "Name", "City", "Non-compliant", "Internet Names/Email", and "Phone Number". The "In your area" tab is selected. The form includes fields for Address, City, State (dropdown menu showing "OH"), Zip, and Zip Plus. Below these fields are checkboxes for "Offender Address Type": "Home Addresses" (checked), "Work/Volunteer Addresses", "School Addresses", and "Other Addresses". A note states "* Denotes required field". At the bottom of the form are "Search" and "Reset" buttons. To the right of the search form are three sections: "Other Search Options" with links to "Click here to list all published offenders registered with this agency." and "Click here to search by name or other options."; "Receive Email Alerts" with a link to "Click here to register to receive an email alert whenever a published offender registers within the selected radius of your desired addresses."; and "Experiencing Problems?" with a link to "Click here if you are experiencing technical problems or need assistance using this site." At the bottom of the page is a footer with links: "Home", "View Presentation", "Search for Offenders in your area", "Register for Email Alerts", "Safety Tips", "Links", "Contact", and "Unsubscribe from Email Alerts".

Protecting Ohio's Families

MIKE DEWINE
OHIO ATTORNEY GENERAL

Search for Offenders in your area Register for Email Alerts Safety Tips Links Contact Contact Your Sheriff

Offender Search

In your area Name City Non-compliant Internet Names/Email Phone Number

Use this search to view all published offenders within a specified radius of your home, business, school or other desired address. > [How searches work](#)

Address: *
City: *
State: OH *
Zip: *
Zip Plus:
Offender Address Type: ☒ Home Addresses ☐ Work/Volunteer Addresses ☐ School Addresses ☐ Other Addresses

* Denotes required field

Search Reset

Other Search Options

> [Click here](#) to list all published offenders registered with this agency.
> [Click here](#) to search by name or other options.

Receive Email Alerts

Click [here](#) to register to receive an email alert whenever a published offender registers within the selected radius of your desired addresses.

Experiencing Problems?

Click [here](#) if you are experiencing technical problems or need assistance using this site.

[Home](#) | [View Presentation](#) | [Search for Offenders in your area](#) | [Register for Email Alerts](#) | [Safety Tips](#) | [Links](#) | [Contact](#) | [Unsubscribe from Email Alerts](#)

X. Propensity for Future Change

Sex offender registries are highly controversial. The effectiveness of these systems in reducing and preventing sex crimes is frequently researched and often debated. Both the federal government and

Advocate Tip!

Explain to survivors you work with that sex offender registration requirements are subject to change at some point in the future. This will help prepare them for the potential disruption to closure that could accompany learning a part of the original penalty has changed.

legislatures of individual states frequently discuss prospective changes to or elimination of sex offender registration systems. Unlike changes to penalties that increase penalization after a crime is committed, it is not unconstitutional to alleviate some or all of a sex offender's registration requirements after the fact. Therefore, it is important to stay up-to-date on the status of sex offender management systems.

XI. Impact on Plea Bargaining

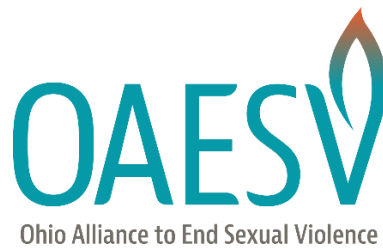
Because sex offender registration requirements have such strong impacts on employment, residence options, education choices, travel flexibility, and other areas of life, perpetrators and their defense attorneys often seek out plea options that reduce tier levels or eliminate the registration requirement altogether.

For example: Perpetrator commits a violation of § 2907.02 Rape, but the prosecutor does not believe there is a strong likelihood that the jury will convict. The prosecutor comes back with an offer of one count of felonious assault with a sexual motivation. Though this crime carries a shorter term of incarceration, the perpetrator would still have to register. The defense attorney counters by suggesting that the defendant will plead guilty to felonious assault without the sexual motivation specification.

Sometimes, this results in perpetrators pleading guilty to crimes that do not make much sense from a fact standpoint. If this happens, support the survivor in inquiring with the prosecutor about the basis for the plea deal.

XII. Advocate Take Away

Because of its polarizing political presence and long-term impact on individual defendants, the statutorily mandated registration requirements associated with the perpetrator's charges may have a very large impact on plea negotiations and even, in extreme cases, the jury's interpretations and determinations about guilt. Should survivors ask you to support them in asking the prosecutor about associated sex offender registration requirements, it will be useful to review the terms with the survivor and provide a basic summary of how the system works. Many factors contribute to classification statuses, and you should instruct the survivor to inquire with a licensed attorney about which status would apply if the perpetrator is convicted and why.



For further reading on support survivors in civil and administrative systems, adjusting to COVID-19 and its impact on courts and hearings, and improving access through effective advocacy, please consult:

Manual on the Ohio Legal System for Rape Crisis Center Advocates Volume II

Divider Page & Tab “Appendices”

Appendix A – Guide to Statewide Coalitions

This resource was produced by the Ohio Alliance to End Sexual Violence, and thus relates specifically to the Ohio legal system. If you are seeking comparable information for another state or territory, OAESV recommends reaching out directly to that area's coalition:

State or Territory	Coalition
Alabama	Alabama Coalition Against Rape 7003 Fulton Ct. Montgomery, AL 36117 T: (334) 264-0123 www.acar.org
Alaska	Alaska Network on Domestic Violence and Sexual Assault 130 Seward Street, Suite 214 Juneau, AK 99801 T: (907) 586-3650 F: (907) 463-4493 www.andvsa.org
American Samoa	American Samoa Alliance Against Domestic and Sexual Violence American Samoa Coalition P.O. Box 4459 Pago Pago, American Samoa 96799-7285 T: (684) 699-0272 F: (684) 699-0273 www.asalliance.co
Arizona	Arizona Coalition to End Sexual & Domestic Violence 2700 N Central Ave, Ste 1100 Phoenix, AZ 85004 T: (602) 279-2900 www.azcadv.org
Arkansas	Arkansas Coalition Against Sexual Assault P.O. Box 3837 Little Rock, AR 72203 T: (501) 246-3276 www.acasa.us
California	California Coalition Against Sexual Assault 1215 "K" Street, Ste 1850 Esquire Plaza Sacramento, CA 95814 T: (916) 446-2520 F: (916) 313-3742 www.calcasa.org
Colorado	Colorado Coalition Against Sexual Assault 1330 Fox Street, Ste 2 P.O. Box 40350

	<p>Denver, CO 80204 T: (303) 839-9999 www.ccasa.org</p>
Connecticut	<p>Connecticut Alliance to End Sexual Violence 96 Pitkin Street East Hartford, CT 06108 T: (860) 282-9881 F: (860) 291-9335 www.endsexualviolencect.org</p>
Delaware	<p>Sexual Assault Network of Delaware (New Castle County Contact Information) P.O. Box 9525 Wilmington, DE 19809 T: (302) 761-9800 F: (302) 761-4280 (Kent &. Sussex Counties Contact Information) P.O. Box 61 Milford, DE 19963 T: (302) 422-1154 F: (302) 422-2078 www.contactlifeline.org/sand/</p>
District of Columbia	<p>DC Rape Crisis Center P.O. Box 42734 Washington, DC 20015-9998 T: (202) 232-0789 F: (202) 866-0501 www.dcrcc.org</p>
Florida	<p>Florida Council Against Sexual Violence 1820 E. Park Avenue, Ste 100 Tallahassee, FL 32301 T: (850) 297-2000 F: (850) 297-2002 www.fcasv.org</p>
Georgia	<p>Georgia Network to End Sexual Assault P.O. Box 162505 Atlanta, GA 30321 T: (404) 815-5261 www.gnesa.org</p>
Guam	<p>Guam Coalition Against Sexual and Family Violence P.O. Box 1093 Hagatna, GU 96932 T: (671) 479-2277 F: (671) 479-7233 www.guamcoalition.org</p>
Hawaii	<p>Kapi'Olani Sex Abuse Treatment Center Kapiolani Medical Center for Women & Children</p>

	<p>Harbor Court, 55 Merchant Street, 22nd Floor Honolulu, HI 96813 T: (808) 524-7273 www.satchawaii.com</p>
Idaho	<p>Idaho Coalition Against Sexual & Domestic Violence Linen Building 1402 W. Grove St. Boise, Idaho 83706 T: (208) 384-0419 www.idvsa.org</p>
Illinois	<p>Illinois Coalition Against Sexual Assault 100 N. 16th Street Springfield, IL 62703 T: (217) 753-4117 F: (217) 753-8229 www.icasa.org</p>
Indiana	<p>Indiana Coalition Against Sexual Assault 9245 North Meridian Street Suite 227 Indianapolis, IN 46260 317-624-2370 http://indianacesa.org/</p>
Iowa	<p>Iowa Coalition Against Sexual Assault 3030 Merle Hay Rd. Des Moines, IA 50310 T: (515) 244-7424 F: (515) 850-1900 www.iowacasa.org</p>
Kansas	<p>Kansas Coalition Against Sexual & Domestic Violence 634 S.W. Harrison Topeka, KS 66603 T: (785) 232-9784 F: (785) 266-1874 www.kcsdv.org</p>
Kentucky	<p>Kentucky Association of Sexual Assault Programs P.O. Box 4028 Frankfort, KY 40604 T: (502) 226-2704 www.kasap.org</p>
Louisiana	<p>Louisiana Foundation Against Sexual Assault 2133 Silverside Dr. Baton Rouge, LA 70808 T: (225) 372-8995 F: (985) 345-5592 www.lafasa.org</p>
Maine	<p>Maine Coalition Against Sexual Assault 45 Memorial Circle, Ste. 302 Augusta, ME 04330</p>

	<p>T: (207) 626-0034 www.mecasa.org</p>
Maryland	<p>Maryland Coalition Against Sexual Assault P.O. Box 8782 Silver Spring, MD 20907 T: (301) 328-7023 F: (301) 328-7168 www.mcasa.org</p>
Massachusetts	<p>Massachusetts Coalition Against Sexual Assault and Domestic Violence, Jane Doe Inc. 745 Atlantic Ave., 8th Floor, Ste. 800 Boston, MA 02111 T: (617) 248-0922 www.janedoe.org</p>
Michigan	<p>Michigan Coalition to End Domestic & Sexual Violence 3893 Okemos Road, Suite B2 Okemos, MI 48864-4209 T: (517) 347-7000 F: (517) 347-1377 www.mcedsv.org</p>
Minnesota	<p>Minnesota Coalition Against Sexual Assault 161 St. Anthony Avenue St. Paul, MN 55103 T: (651) 209-9993 www.mncasa.org</p>
Mississippi	<p>Mississippi Coalition Against Sexual Assault P.O. Box 4172 Jackson, MS 39296 T: (601) 948-0555 F: (601) 948-0525 www.msCasa.org</p>
Missouri	<p>Missouri Coalition Against Domestic and Sexual Violence 217 Oscar Drive, Ste. A Jefferson City, MO 65101 T: (573) 634-4161 www.mocadsv.org</p>
Montana	<p>Montana Coalition Against Domestic & Sexual Violence P.O. Box 818 Helena MT 59624 T: (406) 443-7794 mcadsv.com</p>
Nebraska	<p>Nebraska Coalition to End Sexual and Domestic Violence 245 S. 84th Street, Suite 200 Lincoln, NE 68510 T: (402) 476-6256 www.nebraskacoalition.org</p>
Nevada	<p>Nevada Coalition to End Domestic & Sexual Violence</p>

	<p>(Northern Nevada Address) 250 South Rock Boulevard, Suite 116 Reno, NV 89502 (Southern Nevada Address) 3275 E. Warm Springs Rd. Las Vegas, NV 89120 T: (775) 828-1115 F: (775) 828-9911 www.ncedsv.org</p>
New Hampshire	<p>New Hampshire Coalition Against Domestic and Sexual Violence P.O. Box 353 Concord, NH 03302-0353 T: (603) 224-8893 www.nhcadsv.org</p>
New Jersey	<p>New Jersey Coalition Against Sexual Assault Crossroads Corporate Center 3150 Brunswick Pike, Suite 160 Lawrence Township, NJ 08648-2420 T: (609) 631-4450 F: (609) 631-4453 www.njcasa.org</p>
New Mexico	<p>New Mexico Coalition of Sexual Assault Programs 3909 Juan Tabo NE, Suite 6 Albuquerque, NM 87111 T: (505) 883-8020 F: (505) 883-7530 www.nmcsap.org</p>
New York	<p>New York State Coalition Against Sexual Assault 28 Essex St. Albany, NY 12206 T: (518) 482-4222 F: (518) 482-4248 www.nyscasa.org</p>
North Carolina	<p>North Carolina Coalition Against Sexual Assault 811 Spring Forest Rd., Suite 100 Raleigh, NC 27609 T: (919) 871-1015 F: (919) 871-5895 www.nccasa.org</p>
North Dakota	<p>North Dakota Council on Abused Women's Services 521 E. Main Ave., Ste 320 Bismarck, ND 58501 T: (701) 255-6240 F: (701) 255-1904 www.cawsnorthdakota.org</p>
Northern Marianas	<p>Coordinadora Paz Para La Mujer, Puerto Rico Apartado 193008</p>

	<p>San Juan, PR 00919 T: (787) 281-7579 www.pazparalamujer.org</p>
Ohio	<p>Ohio Alliance to End Sexual Violence 6111 Oak Tree Blvd., Ste. 140 Independence, Ohio 44131 T: (216) 658-1381 F: (216) 619-6195 www.oaesv.org</p>
Oklahoma	<p>Oklahoma Coalition Against Domestic Violence and Sexual Assault 8524 S. Western, Ste. 111 Oklahoma City, OK 73139 T: (405) 524-0700 F: (405) 524-0711 www.ocadvs.org</p>
Oregon	<p>Oregon Coalition Against Domestic & Sexual Violence 9570 SW Barbur Blvd., Ste. 214 Portland, OR 97219 T: (503) 230-1951 F: (503) 230-1973 www.ocadsv.org</p>
Pennsylvania	<p>Pennsylvania Coalition Against Rape 2101 North Front Street Governor's Plaza North, Bld. #2 Harrisburg, PA 17110 T: (717) 728-9740 www.pcar.org</p>
Puerto Rico	<p>Coordinadora Paz Para La Mujer, Puerto Rico Apartado 193008 San Juan, PR 00919 T: (787) 281-7579 F: (787) 767-6843 www.pazparalamujer.org</p>
Rhode Island	<p>Rhode Island / Day One: The Sexual Assault and Trauma Resource Center 100 Medway Street Providence, RI 02906 T: (401) 421-4100 F: (401) 454-5565 Hotline: 1-800-494-8100 www.dayoneri.org</p>
South Carolina	<p>South Carolina Coalition Against Domestic Violence and Sexual Assault P.O. Box 7776 Columbia, SC 29202 T: (803) 256-2900 www.sccadvasa.org</p>
South Dakota	<p>South Dakota Coalition Against Domestic Violence and Sexual Assault 122 E. Sioux Ave., Ste. D</p>

	<p>Pierre, SD 57501-0141 T: (605) 945-0869 F: (605) 945-0870 www.sdcedsv.org</p>
St. Croix	<p>The Women's Coalition of St. Croix P.O. Box 222734 Christiansted, VI 00822 T: (340) 773-9272 F: (340) 773-9062 www.wcstx.com</p>
Tennessee	<p>Tennessee Coalition Against Sexual Assault 2 International Plaza Dr. Suite 425 Nashville, TN 37217 T: (615) 386-9406 www.tncoalition.org</p>
Texas	<p>Texas Association Against Sexual Assault 7700 Chevy Chase Dr., Ste. 230 Austin, TX 78752 T: (512) 474-7190 www.taasa.org</p>
Utah	<p>Utah Coalition Against Sexual Assault 284 West 400 North Salt Lake City, UT 84103 T: (801) 746-0404 www.ucasa.org</p>
Vermont	<p>Vermont Network Against Domestic Violence & Sexual Assault P.O. Box 405 Montpelier, VT 05601-0405 T: (802) 223-1302 F: (802) 223-6943 www.vtnetwork.org</p>
Virgin Islands	<p>Virgin Islands Domestic Violence Sexual Assault Council (St. Croix Office) 4100 Sion Farm Shopping Center Christiansted, VI 00820 T: (340) 719-0144 F: (340) 719-5521 (St. Thomas/St. John Office) 9180 Estate Thomas – Unit K 2005 St. Thomas, VI 00802 T: (340) 774-0144 www.vidvsac.org</p>
Virginia	<p>Virginia Sexual and Domestic Violence Action Alliance 1118 W. Main Street Richmond, VA 23220 T: (804) 377-0335 www.vsdvalliance.org</p>

Washington	<p>Washington Coalition of Sexual Assault Programs 4317 6th Avenue S.E., Suite 102 Olympia, WA 98503 www.wcsap.org</p>
West Virginia	<p>West Virginia Foundation for Rape Information and Services 112 Braddock Street Fairmont, WV 26554 T: (304) 366-9500 F: (304) 366-9501 www.fris.org</p>
Wisconsin	<p>Wisconsin Coalition Against Sexual Assault 2801 West Beltline Highway, Ste. 202 Madison, WI 53713 T: (608) 257-1516 F: (608) 646-7753 www.wcasa.org</p>
Wyoming	<p>Wyoming Coalition Against Domestic Violence and Sexual Assault PO Box 236 710 Garfield Street, Ste. 218 Laramie, WY 82073 T: (307) 755-5481 F: (307) 755-5482 www.wyomingdvsa.org</p>

Appendix B – Guide to Ohio Rape Crisis Centers

County	Serving Agency	Hotline	Business Line	Website
Adams	Women Helping Women	(513) 381-5610	(513) 977-5541	www.womenhelpingwomen.org
Allen	Day One of Crime Victim Services	1 (877) 867-7273	(419) 222-8666	www.crimevictimservices.org
Ashland	Rape Crisis & Domestic Violence Safe Haven	(419) 289-8085	(419) 282-6097	www.safehavenofashland.org
Ashtabula	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (Online Chat Available; call/text)	(216) 619-6194 (440) 354-7364	www.clevelandrapecrisis.org
Athens	Survivor Advocacy Outreach Program	(740) 591-4266 (option “0”)	(740) 591-4266	www.saopseoh.org
Auglaize	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	www.crimevictimservices.org
Belmont	Tri-County Help Center	(740) 695-5441	(740) 695-5441	www.tricountyhelp.org
Brown	Women Helping Women	(513) 381-5610	(513) 977-5541	www.womenhelpingwomen.org
Butler	Women Helping Women	(513) 381-5610	(513) 977-5541	www.womenhelpingwomen.org
Carroll	COMPASS	(330) 339-1427	(330) 339-2504	www.compassrapecrisis.org
Champaign	Project Women	1 (800) 634-9893	(937) 328-5308	www.projectwomanohio.org
Clark	Project Women	1 (800) 634-9893	(937) 328-5308	www.projectwomanohio.org
Clermont	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Clinton	Alternatives to Violence Center	(888) 816-1146	(937) 383-3285	www.avconline.info
Columbiana	Alliance Area Rape Crisis Program	(330) 821-7273	(330) 455-0374	www.commquest.org

	COMPASS Family & Community Services Compass Rape Crisis and Counseling Center	(330) 782-3936 (330) 782-3936	(330) 782-5664	www.compassfamily.org www.rapecrisisanswers.org
Coshocton	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Crawford	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	www.helplinedelmor.org
Cuyahoga	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (call/text)	(216) 619-6194 or (440) 354-7364	www.clevelandrapecrisis.org
Darke	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	www.crimevictimservices.org
Defiance	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Delaware	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	www.helplinedelmor.org
Erie	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Fairfield	Family Health Services of East Central Ohio	(740) 344-9291	(740) 342-3517	www.fhseco.org
Fayette	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Franklin	SARNCO (Sexual Assault Response Network of Central Ohio)	(614) 267-7020 or (800) 656-4673	(614) 267-7020	www.ohiohealth.com/services/neuro science/our-programs/behavioral- and-mental-health/sarnco

Fulton	Y.W.C.A. Hope Center	(419) 241-7273 or 1 (866) 557-7273	(419) 241-3235	www.ywcanwo.org
Gallia	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266	www.saopseoh.org
Geauga	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (call/text)	(216) 619-6194 or (440) 354-7364	www.clevelandrapecrisis.org
Greene	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Guernsey	Haven of Hope	1 (800) 304-4673	(740) 439-7233	www.havenofhope.org
Hamilton	Women Helping Women	(513) 381-5610	(513) 977-5541	www.womenhelpingwomen.org
Hancock	Open Arms Domestic Violence & Rape Crisis Services	(419) 422-4766	(419) 420-9261	www.openarmsfindlay.com
Hardin	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	www.crimevictimservices.org
Harrison	Tri-County Help Center	(740) 695-5441	(740) 942-1018	www.tricountyhelp.org
Henry	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Highland	Alternatives to Violence Center	(888) 816-1146	(937) 393-8118	www.avconline.info
Hocking	Survivor Advocacy Outreach Program	(740) 591-4266 (option "0")	(740) 591-4266 x703	www.saopseoh.org
Holmes	OneEighty	(800) 686-1122	(330) 264-8498	www.one-eighty.org
Huron	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Jackson	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Jefferson	ALIVE, Inc. Sexual Assault Services	1-(888) 611-SAFE (7233) or (740) 512-6092	(740) 283-3444	www.aliveshelter.org

Knox	New Directions	(740) 367-4357 (call or text)	(740) 397-4357	www.newdirectionsshelter.org
Lake	Cleveland Rape Crisis Center	(216) 619-6192 or (440) 423-2020 (call/text)	(216) 619-6194 or (440) 354-7364	www.clevelandrapecrisis.org
Lawrence	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Licking	Family Health Services of East Central Ohio	(740) 344-9291	(740) 344-9291	www.fhseco.org
Logan	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Lorain	The Nord Center's Sexual Assault Services	1 (800) 888-6161 or (440) 204-4359	(440) 233-7232	www.nordcenter.org/sexual-assault-services/
Lucas	Y.W.C.A. Hope Center	(419) 241-7273 or 1 (866) 557-7273	(419) 241-3235	www.ywcanwo.org
Madison	Project Women	1 (800) 634-9893 or 1 (844) 644-6435	(937) 328-5308	www.projectwomanohio.org
Mahoning	Alliance Area Rape Crisis Program	(330) 821-7273	(330) 455-0374	www.commquest.org
	COMPASS Family & Community Services	(330) 782-3936	(330) 782-5664	www.compassfamily.org
	Compass Rape Crisis and Counseling Center	(330) 782-3936		www.rapecrisisanswers.org
Marion	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text "helpline" to 898211	N/A	www.helplinedelmor.org
Medina	Rape Crisis Center of Summit &	(330) 434-7273 or 1 (877) 906-7273	(330) 374-0740	www.hopeandhealingresources.org/rape-crisis-center/

	Medina Counties			
Meigs	Survivor Advocacy Outreach Program	(740) 591-4266 (option “0”)	(740) 591-4266 x706	www.saopseoh.org
Mercer	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	www.crimevictimservices.org
Miami	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Monroe	Tri-County Help Center	(740) 695-5441	(740) 472-0255	www.tricountyhelp.org
Montgomery	YWCA Dayton	(937) 222-7233	(937) 461-5550	www.ywcadayton.org
Morgan	Survivor Advocacy Outreach Program	(740) 591-4266 (option “0”)	(740) 591-4266 x703	www.saopseoh.org
Morrow	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text “helpline” to 898211	N/A	www.helplinedelmor.org
Muskingum	Family Health Services of East Central Ohio	(740) 344-9291	(740) 453-2872	www.fhseco.org
Noble	Haven of Hope	1 (800) 304-4673	(740) 439-7233	www.havenofhope.org
Ottawa	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	www.cocoonshelter.org
Paulding	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	www.crimevictimservices.org
Perry	Family Health Services of East Central Ohio Survivor Advocacy Outreach Program	(740) 344-9291 (740) 591-4266	(740) 343-3517 (740) 591-4266 x703	www.fhseco.com www.saopseoh.org
Pickaway	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com

Pike	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Portage	Townhall II	(330) 678-4357	(330) 678-3006	www.townhall2.com
Preble	YWCA Dayton	(937) 222-7233	(937) 461-5550	www.ywcadayton.org
Putnam	Day One of Crime Victim Services	(877) 867-7273	(419) 523-1111	www.crimevictimservices.org
Richland	The Domestic Violence Shelter, Inc.	(800) 931-7233	(419) 774-5840	www.thedvshelter.com
Ross	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Sandusky	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	www.cocoonshelter.org
Scioto	Southern Ohio Sexual Assault Treatment Center	(740) 355-3528		
Seneca	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	www.cocoonshelter.org
Shelby	Ohio Sexual Violence Helpline	(844) 644-6435	(419) 222-8666	www.ohiosexualviolencehelpline.com
Stark	Alliance Rape Crisis Program	(330) 821-RAPE (7273)	(330) 455-0374	www.commquest.org
	COMPASS	(330) 452-1111	(330) 437-3705	compassrapecrisis.org
Summit	Rape Crisis Center of Summit & Medina Counties	(330) 434-7273 or 1 (877) 906-7273	(330) 374-0740	www.hopeandhealingresources.org/rape-crisis-center/
Trumbull	Rape Crisis Team of Trumbull Co., Inc.	(330) 394-4060	(330) 394-4060	www.compassfamily.org
	COMPASS Family & Community Services	(330) 782-3936	(330) 782-5664	

	Compass Rape Crisis and Counseling Center	(330) 782-3936		www.rapecrisisanswers.org
Tuscarawas	COMPASS (Sexual Assault Education, Prevention & Support)	(330) 339-1427	(330) 339-2504	www.compassrapecrisis.org
Union	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Van Wert	Day One of Crime Victim Services	(877) 867-7273	(419) 222-8666	www.crimevictimservices.org
	YWCA of Van Wert County	(567) 259-9501	(419) 238-6639	www.ywcavanwert.org
Vinton	Survivor Advocacy Outreach Program	(740) 591-4266	(740) 591-4266 x706	www.saopseoh.org
Warren	Abuse & Rape Crisis Shelter (ARCS)	1 (888) 860-4084	(513) 695-1185	arcshelter.com
Washington	Eve, Inc.	1 (800) 974-3111	(740) 374-5820	www.eveshelter.com
Wayne	OneEighty	(800) 686-1122	(330) 264-8498	www.one-eighty.org
Williams	Ohio Sexual Violence Helpline	(844) 644-6435	N/A	www.ohiosexualviolencehelpline.com
Wood	The Cocoon	(419) 373-1730 ext. 2	(419) 373-1730	www.cocoonsshelter.org
Wyandot	Sexual Assault Response Network (SARN) Helpline	1 (800) 684-2324 or (740) 369-3316 or (419) 947-2520 or text “helpline” to 898211	N/A	www.helplinedelmor.org

ⁱ Texas Association Against Sexual Assault, *Sexual Assault Legal Advocacy Manual*, 5.

ⁱⁱ *Tips for Young Lawyers Dealing with Expert Witnesses*, AMERICAN BAR ASSOCIATION, <https://www.americanbar.org/groups/litigation/committees/diversity-inclusion/articles/2019/summer2019-tips-for-young-lawyers-dealing-with-expert-witnesses/> (last visited

-
- March 16, 2020); *See also* Ohio Rules of Evidence, Rule 702 Testimony by Experts, *available at* <https://www.supremecourt.ohio.gov/LegalResources/Rules/evidence/evidence.pdf>.
- iii *See, e.g.*, Ohio Rev. Code § 2951.041(A)(1).
- iv Office of the Ohio Public Defender, *Judicial Release Packet*, *available at* http://opd.ohio.gov/Portals/0/PDF/ProSe/Judicial_Release_Packet.pdf.
- v Ohio Rev. Code §§ 2929.24, 2929.28.
- vi Ohio Rev. Code § 2943.03; Robert A. Beatty, *What You Should Know About Pleading “No Contest,”* OHIO STATE BAR ASSOCIATION (2016), <https://www.ohiobar.org/forpublic/resources/lawyoucannuse/pages/lawyoucannuse-574.aspx> (last visited March 16, 2020).
- vii Ohio Department of Rehabilitation & Correction, *Post Release Control*, <http://www.drc.ohio.gov/prc> (last visited March 16, 2020).
- viii Ohio Rev. Code § 2967.28(B).
- ix FindLaw, *Negligence and the Reasonable Person Standard* (2020), *available at* <https://injury.findlaw.com/accident-injury-law/standards-of-care-and-the-reasonable-person.html> (last visited March 16, 2020).
- x Ohio Rev. Code § 2950.13(A)(1).
- xi National Sexual Violence Resource Center, *Sexual Assault Response Team Development: A Guide for Victim Service Providers* 1 (2011), *available at* <https://odh.ohio.gov/wps/portal/gov/odh/know-our-programs/sexual-assault-and-domestic-violence-prevention-program/protocol-for-sa-forensic-medical-exams/>.
- xii RAINN, *What is a Sexual Assault Forensic Exam?*, <https://www.rainn.org/articles/rape-kit> (last visited April 5, 2020); International Association of Forensic Nurses, *Sexual Assault Nurse Examiners*, <http://www.forensicnurses.org/?page=aboutsane> (last visited March 16, 2020).
- xiii International Association of Forensic Nurses, *Sexual Assault Nurse Examiners*, <http://www.forensicnurses.org/?page=aboutsane> (last visited March 16, 2020).
- xiv Ohio Rev. Code § 2947.051.
- xv Ohio Rev. Code § 2907.29, *available online at* <http://codes.ohio.gov/orc/2907.29>. Because sections of the Ohio Revised Code use the term “victim”, this Chapter will refer to survivors as victims when discussing certain legal requirements to maintain consistency with statutory language.
- xvi Ohio Rev. Code § 2907.28(A)(1) and Ohio Admin. Code § 109:7-1-01.
- xvii Ohio Rev. Code § 2907.29.
- xviii Ohio Dept. of Health, *Ohio Protocol for Sexual Assault Forensic Medical Examination* (Revised February 2011). *Available online at* <http://www.healthy.ohio.gov/-/media/HealthyOhio/ASSETS/Files/SADVP/Ohio-Protocol/Ohio-Sexual-Assault-Protocol-7-27-2011.pdf?la=en> *See also* Ohio Rev. Code § 2907.29.
- xix Ohio Rev. Code § 2907.29.
- xx *Ohio Protocol for Sexual Assault Forensic Medical Examination at 2.*
- xxi 42 U.S.C 1395dd.
- xxii Ohio Rev. Code § 2907.29.
- xxiii *Ohio Protocol for Sexual Assault Forensic Medical Examination at 2.*
- xxiv Ohio Chapter of the American Academy of Pediatrics Committee on Child Abuse and Neglect, *Ohio Child and Adolescent Sexual Abuse Protocol* 2009, 6 (2009 Edition), *available at* https://odh.ohio.gov/wps/wcm/connect/gov/7fd514-8874-4b28-be27-f6ebb86b137e/Ohio+Child+and+Adolescent+Sexual+Abuse+Protocol+2009+Edition.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-7fd514-8874-4b28-be27-f6ebb86b137e-mnUrp0t.
- xxv Ohio Rev. Code § 2907.29.
- xxvi *Ohio Protocol for Sexual Assault Forensic Medical Examination at 2.*
- xxvii *Id.*; U.S. Department of Justice, Office on Violence Against Women, *A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents at 59* (April 2013), *available at* <https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf>.
- xxviii *Ohio Protocol for Sexual Assault Forensic Medical Examination at 3.*
- xxix *Id.* at 5.
- xxx *Id.* at 4.

-
- xxxvi See Ohio Dept. of Health, *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 8 (Revised February 2011) (“Regardless of the adult patient’s decision to report, it is the responsibility of medical personnel to inform the patient that law enforcement must be notified that a sexual assault has been reported to the hospital in accordance to the O.R.C. This should be done after the patient has been deemed medically stable. The law, O.R.C. 2921.22(A) and (B), does not require that the adult patient’s name be given, but states that any person knowing that a felony has been or is being committed shall report it to law enforcement authorities.”); Ohio Rev. Code § 2921.22(B).
- xxxvii See *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 8.
- xxxviii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 15.
- xxxix *Id.* at 16.
- xl *Id.* at Appendix 6, available at https://odh.ohio.gov/wps/wcm/connect/gov/a4d7c67d-8c51-47bf-a070-f20db6fd9f53/Appendix+6+Patient+Handouts+2011.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-a4d7c67d-8c51-47bf-a070-f20db6fd9f53-mnZqwVt.
- xxxi *Id.* at Appendix 10, available at https://odh.ohio.gov/wps/wcm/connect/gov/8b8d4eea-509d-46e7-9873-9bd3314b003a/General+Consent+Form+April+18+2017.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-8b8d4eea-509d-46e7-9873-9bd3314b003a-mnTb2aQ.
- xxxii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 18 -20.
- xxxiii *Id.* at 34-37.
- xxxiv *Id.* at 21.
- xl *Id.* at Appendix 9, available at https://odh.ohio.gov/wps/wcm/connect/gov/b2e18c0d-80a5-4bcc-970f-194e187610cc/Appendix+9+Drug+Facilitated+Rape+Protocol+2011.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-b2e18c0d-80a5-4bcc-970f-194e187610cc-mnZqXQJ.
- lxii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 23.
- lxiii *Id.* at 24.
- lxiiii *Id.*
- lxv *Id.* at 25.
- lxvi *Id.* at 25-26.
- lxvii Ohio Rev. Code § 2933.82(B)(1)(b).
- lxviii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 9.
- lxix *Id.*
- lxx Ohio Rev. Code § 2907.28(B).
- l *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 29.
- li Ohio Rev. Code §§ 3701.74 - 3701.741.
- lii Ohio Rev. Code § 2907.27(A)(1).
- liii Ohio Rev. Code § 2907.27(B)(1)(a).
- liv Ohio Rev. Code § 2907.27(B)(1)(c).
- lv Ohio Rev. Code § 2907.29.
- lvi *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 8.
- lvii Ohio Rev. Code § 2907.29 (“Notwithstanding any other provision of law, a minor may consent to examination under this section. The consent is not subject to disaffirmance because of minority, and consent of the parent, parents, or guardian of the minor is not required for an examination under this section. However, the hospital shall give written notice to the parent, parents, or guardian of a minor that an examination under this section has taken place.”).
- lviii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 6.
- lix *Id.* at 7.
- lx *Id.* at 6.
- lxi Ohio Rev. Code § 2151.421.
- lxii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 7.
- lxiii 42 U.S.C. § 12182 and 42 U.S.C. 2000d.

-
- lxiv *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 5.
- lxv *Id.* at 6.
- lxvi *Id.*
- lxvii *Id.* at 8.
- lxviii *Id.* at 17.
- lxix *Id.* at Appendix 1 at 2 *available at* https://odh.ohio.gov/wps/wcm/connect/gov/65139649-c539-4274-a320-37e623074605/Appendix++1+Model+for+SART+2011.pdf?MOD=AJPERES&CONVERT_TO=url&CAID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-65139649-c539-4274-a320-37e623074605-mnZpV76
- lxx *Id.* at Appendix 1 9.
- lxxi *Id.*
- lxxii *Ohio Protocol for Sexual Assault Forensic Medical Examination* at 12.
- lxxiii *Id.* at Appendix 1 12-13.
- lxxiv IJIS Institute, *Office of Justice Programs*, United States Department of Justice Office on justice Programs at 1, 27, *available at* <https://www.fjc.gov/sites/default/files/2015/Courts%20101%20An%20Understanding%20of%20the%20Court%20System.pdf>.
- lxxv U.S. Const. art. III, § 1.
- lxxvi Offices of the United States Attorneys, *Introduction to the Federal Court System*, <https://www.justice.gov/usao/justice-101/federal-courts> (last visited June 16, 2020).
- lxxvii United States District Court, Northern District of Ohio, *Court Info*, ohnd.uscourts.gov/court-info (last visited June 9, 2020).
- lxxviii United States District Court, Southern District of Ohio, *About the Court*, <http://www.ohsd.uscourts.gov/about-court> (last visited June 16, 2020).
- lxxix Ohio Const., art. IV, § 1.
- lxxx *Id.*
- lxxxi Ohio Const., art. IV, § 4.
- lxxxii The Supreme Court of Ohio & the Judicial System, *The Supreme Court of Ohio & the Judicial System*, <https://www.supremecourt.ohio.gov/judsystem/> (last visited June 16, 2020).
- lxxxiii *Id.*
- lxxxiv *Id.*
- lxxxv Ohio Const., art. IV, § 3.
- lxxxvi The Supreme Court of Ohio & the Judicial System, *Judicial System Structure*, <https://www.supremecourt.ohio.gov/judsystem/> (last visited June 16, 2020).
- lxxxvii Ohio Const., art. IV, § 3.
- lxxxviii Ohio Const., art. IV, § 2.
- lxxxix *Id.*
- xc Ohio Const., art. IV, § 6.
- xci Certain rulings, such as suppression of evidence, may be appealed. However, it is impermissible to appeal an actual acquittal.
- xcii The Supreme Court of Ohio & the Judicial System, *First District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district1/> (last visited June 16, 2020).
- xciii The Supreme Court of Ohio & the Judicial System, *Second District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district2/default.asp> (last visited June 16, 2020).
- xciv The Supreme Court of Ohio & the Judicial System, *Third District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district3/default.asp> (last visited June 16, 2020).
- xcv The Supreme Court of Ohio & the Judicial System, *Fourth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district4/default.asp> (last visited June 16, 2020).

-
- ^{xcvi} The Supreme Court of Ohio & the Judicial System, *Fifth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district5/default.asp> (last visited June 16, 2020).
- ^{xcvii} The Supreme Court of Ohio & the Judicial System, *Sixth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district6/default.asp> (last visited June 16, 2020).
- ^{xcviii} The Supreme Court of Ohio & the Judicial System, *Seventh District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district7/default.asp> (last visited June 16, 2020).
- ^{xcix} The Supreme Court of Ohio & the Judicial System, *Eighth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district7/default.asp> (last visited June 16, 2020).
- ^c The Supreme Court of Ohio & the Judicial System, *Ninth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district9/default.asp> (last June 16, 2020).
- ^{ci} The Supreme Court of Ohio & the Judicial System, *Tenth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district10/default.asp> (last visited June 16, 2020).
- ^{cii} The Supreme Court of Ohio & the Judicial System, *Eleventh District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district11/default.asp> (last visited June 16, 2020).
- ^{ciii} The Supreme Court of Ohio & the Judicial System, *Twelfth District Court of Appeals*, <https://www.supremecourt.ohio.gov/JudSystem/districtCourts/district12/default.asp> (last visited June 16, 2020).
- ^{civ} For a free, searchable full-text version of the United States Constitution, see <https://www.law.cornell.edu/constitution/overview>.
- ^{cv} U.S. Const. art. I, § 9, cl. 3.
- ^{cvi} U.S. Const. art. III, § 2, cl. 3.
- ^{cvi} U.S. Const. amend. IV.
- ^{cvi} U.S. Const. amend. V.
- ^{cix} U.S. Const. amend. VI.
- ^{cx} U.S. Const. amend. VIII.
- ^{cx} For a free, searchable full-text version of the U.S. Code, see <https://www.law.cornell.edu/uscode/text>.
- ^{cxii} For a free, searchable full-text version of C.F.R., see <https://www.law.cornell.edu/cfr/text>.
- ^{cxiii} For a free, searchable full-text copy of the Ohio Constitution, see <https://www.legislature.ohio.gov/laws/ohio-constitution>.
- ^{cxiv} Ohio Const. art. I, § 10a.
- ^{cxv} Ohio Const. art. I, § 5.
- ^{cxvi} Ohio Const. art. I, § 9.
- ^{cxvii} Ohio Const. art. I, § 10.
- ^{cxviii} Ohio Const. art. I, § 10a.
- ^{cxix} Ohio Const. art. I, § 14.
- ^{cx} Ohio Const. art. I, § 16.
- ^{cxxi} For a free, searchable full-text copy of the Ohio Revised Code, see <http://codes.ohio.gov/orc/29>. A more detailed overview of sex crimes in Ohio is contained in Chapter III, Section I, Substance: Ohio Sexual Violence Laws.
- ^{cxix} LAWriter Ohio Laws and Rules, *Ohio Revised Code*, <http://codes.ohio.gov/orc/> (last visited June 16, 2020).
- ^{cxix} For a free, searchable full-text version of the Ohio Administrative Code, see <http://codes.ohio.gov/oac/>.
- ^{cxix} See Ohio Admin. Code § 109:7-1.
- ^{cxv} The primary purpose frequently fluctuates between rehabilitation and discouraging further criminal activity, and can be helpful to review the current sentencing trends with an attorney before a verdict or plea deal is reached so that the survivor has background knowledge at the time of sentencing. For more information regarding sentencing goals, see e.g., Alschuler, Albert W., *The Changing Purposes of Criminal*

Punishment: A Retrospective on the Past Century and Some Thoughts About the Next, U.Chi.Law.Rev., 2003, <http://www.jstor.org/discover/10.2307/1600541?uid=3739664&uid=2&uid=4&uid=3739256&sid=21106326799251>.

^{cxxvi} One definition of “duty of care” provides that the standard is “a requirement that a person act toward others and the public with the watchfulness, attention, caution and prudence that a reasonable person in the circumstances would use. If a person's actions do not meet this standard of care, then the acts are considered negligent, and any damages resulting may be claimed in a lawsuit for negligence.” Law.com, *Legal Terms and Definitions*, <http://dictionary.law.com/Default.aspx?selected=599>.

^{cxxvii} See, e.g., John M. Drye, Esq., *Tort Liability 101: When are Teachers Liable?*, Educator Resources, available at <http://www.educator-resources.com/pdf/Teacher%20Tort%20Liability.pdf>; see also National Science Teachers Association, *NSTA Position Statement: Liability of Science Teachers for Laboratory Science*, (revised Dec. 2017) available at http://www.static.nsta.org/pdfs/PositionStatement_Liability.pdf; see also Dr. Edward F. Dragan, *School Negligence Lawsuits & Appropriate Supervision of Children*, Education Expert (February 13, 2013), <http://education-expert.com/2013/02/school-negligence-and-appropriate-supervision-of-children/>.

^{cxxviii} *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 425 (2003).

^{cxxix} Ohio Rev. Code § 2315.21(D)(2)(b).

^{xxx} Ohio Rev. Code § 2901.02.

^{xxxi} Ohio Rev. Code § 2929.24(A)(1).

^{xxxii} Unless specified otherwise by § 2903.11(B).

^{xxxiii} Unless specified otherwise by § 2905.05(E).

^{xxxiv} Ohio Rev. Code § 2929.24(A)(2).

^{xxxv} Unless specified otherwise by § 2921.31(B).

^{xxxvi} Ohio Rev. Code § 2929.24(A)(3).

^{xxxvii} Unless specified otherwise by § 2907.06(C).

^{xxxviii} Ohio Rev. Code § 2929.24(A)(4).

^{xxxix} Unless specified otherwise by § 2907.09(C)(2).

^{cxl} Ohio Criminal Sentencing Commission, *Misdemeanor Sentencing Primer*, 18, <https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/legSummaries/HB490.pdf> (last visited June 27, 2020).

^{cxli} Unless specified otherwise by § 2917.11(E).

^{cxlii} Ohio Rev. Code § 2929.02(B)(1); Ohio Rev. Code § 2929.03(A)(1).

^{cxliii} Ohio Rev. Code § 2929.14(A)(1).

^{cxliv} Unless specified otherwise by § 2905.01(C)(1).

^{cxlv} Ohio Rev. Code § 2929.14(A)(2).

^{cxlvi} Unless specified otherwise by § 2903.11(D).

^{cxlvii} Unless specified otherwise by § 2905.02(C).

^{cxlviii} Ohio Rev. Code § 2929.14(A)((3).

^{cxlix} Unless specified otherwise by § 2905.02(C).

^{cl} Unless specified otherwise by § 2907.03(B).

^{cli} Ohio Rev. Code § 2929.14(A)(4).

^{clii} Unlawful sexual conduct with a minor is a fourth degree felony unless one of the following applies: the offender is less than four years older than the minor (first degree misdemeanor); the offender is ten or more years older than the other person (third degree felony); or if the offender has a prior plea or conviction for § 2907.02, § 2907.03, or § 2907.04. Ohio Rev. Code § 2907.04(B)(1)-(4).

^{cliii} Unless specified otherwise by § 2907.05(C).

^{cliv} Ohio Rev. Code § 2929.14(A)(5).

^{clv} See, e.g., Sealing Criminal Records, Cuyahoga County Office of the Prosecutor, (“You may not have any pending criminal charges against you when you apply to have a record sealed. All criminal cases against you must be fully discharged, which means: You must have completed any jail or prison sentence. You must have paid any courts costs you were ordered to pay. You must have paid any restitution you were ordered to pay. You must have completed any parole or probation you were ordered to serve. For misdemeanor convictions, you must wait one year after full discharge to apply to have a record sealed. For felony convictions: To seal one F3/F4/F5 felony, you must wait three years before applying. To seal two

F4/F5 felonies, you must wait four years before applying. To seal three to five F4/F5 felonies, you must wait five years before applying.”).

clvi R.C. 2953.51.

clvii *See* R.C. 2953.521(A)(1); R.C. 2953.37(A)(1); R.C. 2953.38 (A)(1).

clviii R.C. 2151.358.

clix R.C. 2953.21(B).

clx R.C. 2953.32.

clxi *See* R.C. 2953.32.

clxii *See supra* fn. clv.

clxiii R.C. 2953.31(A)(1)(a).

clxiv *Id.*

clxv R.C. 2953.31(A)(1)(b).

clxvi R.C. 2953.31, *et seq.*

clxvii *See* R.C. 2953.31(A)(1)(a).

clxviii *Id.* at 8-10.

clxix R.C. 2953.51(B)(1).

clxx Ohio Rev. Code § 1901.20(A); Ohio Rev. Code § 1907.02; Ohio Rev. Code § 2305.01.

clxxi Ohio Rev. Code § 1901.20.

clxxii Ohio Rev. Code § 2931.03.

clxxiii *See generally*, Ohio Rev. Code § 2901.13.

clxxiv Ohio Rev. Code § 2901.13(A)(1)(a).

clxxv Ohio Rev. Code § 2901.13(A)(1)(c).

clxxvi Ohio Rev. Code § 2901.13(A)(1)(b).

clxxvii Ohio Rev. Code § 2903.13(D).

clxxviii Ohio Rev. Code § 2901.13(I)-(J).

clxxix Ohio Rev. Code § 2901.13(J).

clxxx Ohio Rev. Code § 2901.13(G).

clxxxi Ohio Rev. Code § 2901.13(A)(1).

clxxxii Because sex crimes are governed by state statute and are almost universally matters of state law, this subchapter does not discuss federal statutory composition.

clxxxiii Ohio Rev. Code § 2901.20; 2901.21(B); 2901.22.

clxxxiv Ohio Rev. Code § 2901.22(A).

clxxxv Ohio Rev. Code § 2901.22(B).

clxxxvi Ohio Rev. Code § 2901.22(C).

clxxxvii Ohio Rev. Code § 2901.22(D).

clxxxviii Ohio Rev. Code § 2901.21(B).

clxxxix Ohio Rev. Code § 2901.20.

cxc Ohio Rev. Code § 2907.05(B).

cxci Ohio Rev. Code § 2907.19(D)(2).

cxcii Ohio Rev. Code § 2941.147(A).

cxci Ohio Rev. Code § 2941.148.

cxci Ohio Rev. Code § 2941.1418.

cxci Ohio Rev. Code § 2941.1419(A).

cxci Ohio Rev. Code § 2941.1419(B).

cxci Ohio Rev. Code § 2941.1420(A)(1).

cxci Ohio Rev. Code § 2941.1420(A)(3).

cxci Ohio Rev. Code § 2941.1421(A).

cc Ohio Rev. Code § 2941.1422.

cci Ohio Rev. Code § 2923.02(C).

ccii Michael T. Cahill, *Defining Inchoate Crime: An Incomplete Attempt*, 9 Ohio St. J. Crim. L. 751, 753 (2012).

cciii Chapters 2905 and 2903 have no internal definition section.

cciv Janet Halley, et al., *From the International to the Local in Feminist Legal Responses to Rape, Prostitution/Sex Work, and Sex Trafficking: Four Studies in Contemporary Governance Feminism*, 29 Harv. J.L. & Gender 335 (2006).

^{ccv} David L. Bazelon, *Forward – The Rights of the Accused*, 72 J. Crim. L. & Criminology 1143 (1981), *available at* <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=6257&context=jclc>.

^{ccvi} Paul C. Giannelli, *The Ohio Bill of Rights*, 1 Pub. Defender Rep. 1 (1978), *available at* http://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=1400&context=faculty_publications (last visited June 17, 2020).

^{ccvii} The Ohio Constitution provides “[v]ictims of criminal offenses shall be accorded fairness, dignity, and respect in the criminal justice process,” but explicitly declines to create a cause of action against the state or its agents for failure to adhere to these guidelines.

^{ccviii} O.R.C. 2930.03(A)

^{ccx} See Ohio Rev. Code § 2950.01(A)(2)-(3) for specific conditions.

^{ccxi} See Ohio Rev. Code § 2950.01(A)(5)-(8) for specific conditions.

^{ccxii} See Ohio Rev. Code § 2950.01(A)(10) for specific conditions.

^{ccxiii} See Ohio Rev. Code § 2950.01(A)(11) for specific conditions.

^{ccxiv} See Ohio Rev. Code § 2950.01(A)(13) for specific conditions.

^{ccxv} Rev. Code § 3113.31(A)(8).

^{ccxvi} See Ohio Rev. Code § 2950.01(A)(2)-(3) for specific conditions.

^{ccxvii} See Ohio Rev. Code § 2950.01(A)(5)-(8) for specific conditions.

^{ccxviii} See Ohio Rev. Code § 2950.01(A)(10) for specific conditions.

^{ccxix} See Ohio Rev. Code § 2950.01(A)(11) for specific conditions.

^{ccxx} See Ohio Rev. Code § 2950.01(A)(13) for specific conditions.

^{ccxxi} The Supreme Court of Ohio, *Domestic Violence Resource Guide, Chapter 3: Protection Orders in Ohio* 29 (2014), *available at* <http://test.supremecourt.ohio.gov/JCS/domesticViolence/publications/DRresourceGuide.pdf> (last visited June 17, 2020).

^{ccxxii} RAINN, *The Criminal Justice System: Statistics*, <https://www.rainn.org/statistics/criminal-justice-system> (citing Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *National Crime Victimization Survey*, 2010-2016 (2017); Federal Bureau of Investigation, *National Incident-Based Reporting System*, 2012-2014 (2015); Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Felony Defendants in Large Urban Counties*, 2009 (2013)).

^{ccxxiii} Ohio Rev. Code § 2907.10.

^{ccxxiv} See, e.g., Centers for Disease Control and Prevention, *The National Intimate Partner and Sexual Violence Survey (NISVS)* (2020), <https://www.cdc.gov/violenceprevention/datasources/nisvs/index.html>.

^{ccxxv} See Ohio Rev. Code § 2935.03 (A law enforcement officer may make a warrantless arrest if either (1) the arrestee committed a **felony or misdemeanor** in the officer’s presence; (2) or if not in the officer’s presence, the officer has “reasonable cause to believe” that the arrestee committed a **felony**).

^{ccxxvi} Crim. R. 4(A).

^{ccxxvii} See, e.g., Office of Attorney General Mike DeWine, *Ohio Crime Victims’ Rights: Helping Crime Victims Rebuild their Lives*, 25-26 (Apr. 7, 2017), *available at* <https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Victims/Picking-Up-the-Pieces-A-Guide-to-Helping-Crime-Vic> (last visited June 16, 2020).

^{ccxxviii} Crim. R. 5(B).

^{ccxxix} *Id.*

^{ccxxx} *Id.*

^{ccxxxi} Crim. R. 21; see, e.g., Cuyahoga County Court of Common Pleas Juvenile Division, *Criminal Justice System Glossary*, <http://juvenile.cuyahogacounty.us/en-US/Glossary.aspx> (last visited June 16, 2020).

^{ccxxxii} Crim. R. 6.

^{ccxxxiii} Crim. R. 10.

^{ccxxxiv} Crim. R. 11.

^{ccxxxv} Crim. R. 17.1.

^{ccxxxvi} Crim. R. 16.

^{ccxxxvii} Crim. R. 12.

^{ccxxxviii} Crim. R. 23(B).

ccxxxix Crim. R. 31(A).

ccxl Crim. R. 32.2.

ccxli Crim. R. 32.

ccxlii See Crim. R. 33, 35, & 47.

ccxliii See Ohio Rules of Appellate Procedure, *available at* <https://www.supremecourt.ohio.gov/LegalResources/Rules/appellate/AppellateProcedure.pdf>.

ccxliv Though the acquittal for the individual perpetrator will stand, prosecutors on rare occasions may submit an appeal on the legal determination to deter the decision from becoming precedent. For an illustrative example, see WKYC Staff, *Prosecutor Challenges Legal Analysis of Brelo Verdict*, WKYO (May 30, 2015), http://www.cleveland.com/court-justice/index.ssf/2015/05/cuyahoga_county_prosecutor_say_1.html. This link seems broken, but I was able to find a similar article: WKYC, *Prosecutor challenges legal analysis of Brelo verdict*, WKYC Studios (May 30, 2015), <https://www.wkyc.com/article/news/local/cleveland-police-chase/prosecutor-challenges-legal-analysis-of-brelo-verdict/95-109943186>.

ccxlv Ohio Rev. Code § 2953.36.

ccxlv Ohio Rev. Code § 2953.32.

ccxlvii Crim. R. 4(F).

ccxlviii Crim. R. 3.

ccxlix Crim. R. 10.

cc Crim. R. 11.

ccli Crim. R. 17.1.

cclii Crim. R. 23(B).

ccliii Crim. R. 32.

ccliv See Crim. R. 33, 35, & 47.

cclv See Ohio Rules of Appellate Procedure, *available at* <https://www.supremecourt.ohio.gov/LegalResources/Rules/appellate/AppellateProcedure.pdf>.

cclvi For example, in Cuyahoga County, the Court has the discretion to add the services of the Adult Probation Department's Pretrial Services Unit as a condition of bond. If added, the Unit conducts a bail investigation and provides supervision to felony defendants released into the community.

cclvii Crim. R. 7(A).

cclviii Ohio Rev. Code § 2939.08. In addition, grand juries are also tasked with quarterly visits to prison facilities to evaluate conditions; see Ohio Rev. Code § 2939.21.

cclix Ohio Rev. Code § 2939.06.

cclx Ohio Rev. Code § 2939.19.

cclexi Ohio Rev. Code § 2939.12.

cclexii Ohio Rev. Code § 2939.20.

cclexiii Ohio Rev. Code § 2939.24.

cclexiv *Id.* I think this and the above note could maybe be collapsed into one note

cclexv Crim. R. 10.

cclexvi Crim. R. 11(B)(1).

cclexvii Crim. R. 32.1; see also *State v. Xie*, 584 N.E.2d 715, 718 (Ohio 1992).

cclexviii Crim. R. 11(B)(2).

cclexix *Id.*; see also *State v. Bird*, 692 N.E.2d 1013, 1015 (Ohio 1998).

ccclxx Ohio Rev. Code § 2901.01(A)(14).

ccclxxi Crim. R. 11(C); R.C. 2937.09, .031-.033.

ccclxxii Crim. R. 11.

ccclxxiii Crim. R. 11(F)-(G).

ccclxxiv Robert A. Beatty, *What You Should Know about Plea Bargains in Criminal and Traffic Cases*, Ohio State Bar Association (March 2, 2016), <https://www.ohiobar.org/public-resources/commonly-asked-law-questions-results/criminal-justice/what-you-should-know-about-plea-bargains-in-criminal-and-traffic-cases/#:~:text=A%20person%20charged%20with%20a,prove%20the%20defendant%20guilty%20of> (last visited June 17, 2020).

^{cclxxv} Wilder Research, *Critical Issues in Sexual Assault*, Minnesota Department of Public Safety (July 2007), available at <https://www.wilder.org/Wilder-Research/Publications/Studies/Crime%20Victims%20Services/Critical%20Issues%20in%20Sexual%20Assault.pdf> (last visited June 17, 2020).

^{cclxxvi} Ohio Rev. Code § 2930.06(A).

^{cclxxvii} Ohio Rev. Code § 2930.13.

^{cclxxviii} See *State v. Thompson*, 2004 Ohio 2413 (Ohio Ct. App. 2004).

^{cclxxix} Crim. R. 16(A).

^{cclxxx} *Id.*

^{cclxxxi} Subject to admissibility under Evid. R. 609.

^{cclxxxii} Subject to Crim. R. 16(D)(4) & (E).

^{cclxxxiii} *Id.*

^{cclxxxiv} Crim. R. 16(C).

^{cclxxxv} Crim. R. 16(D).

^{cclxxxvi} *Id.*

^{cclxxxvii} *Id.*

^{cclxxxviii} *Id.*

^{cclxxxix} Crim. R. 17(E) & (F).

^{ccxc} Crim. R. 17(G); see also Ohio Rev. Code §2317.21, Ohio Rev. Code §2937.22 (up to a \$50 fine or incarceration).

^{ccxci} See State of Ohio Public Defender, *Franklin County Criminal Law Case Book: Subpoenas*, available at <https://opd.ohio.gov/Library/Criminal-Law-Casebook/Subpoena> (last visited June 17, 2020).

^{ccxcii} Depending on the type of subpoena, “respond” could mean deliver the documents requested or show up a specific place at a specific time.

^{ccxciii} If the center does not have such policy, please contact OAESV for guidance on policy development. At minimum, such policies should be developed in close consultation with and approved by an attorney licensed in the state of Ohio.

^{ccxciv} OAESV can recommend pro bono or low-cost services for rape crisis centers seeking to establish relationships with firms for this specific purpose. If your center does not have an existing relationship with counsel, please contact OAESV for a consult.

^{ccxcv} Crim. R. 12(C).

^{ccxcvi} See Crim. R. 12(C)(3).

^{ccxcvii} Because Ohio does not grant privilege to advocates, this resource does not cite specifically to articles discussing privilege held by rape crisis center advocates. Instead, it references articles on the difference between privilege and confidentiality as it relates to attorneys. See, e.g., Sue Michmerhuizen, *Confidentiality, Privilege, A Basic Value in Two Different Applications*, American Bar Association Center for Professional Responsibility (May, 2007), available at https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/confidentiality_or_attorney.authcheckdam.pdf (last visited June 17, 2020).

^{ccxcviii} Ohio Alliance to End Sexual Violence, *Core Standards for Rape Crisis Centers in Ohio* (2013), available at http://www.ncdsv.org/images/OAESV_CoreStandardsForRapeCrisisProgramsInOhio_Updated-3-19-13.pdf.

^{ccxcix} *Id.* at 9, 13, 19, 21, & 41.

^{ccc} See Michmerhuizen at 1.

^{ccci} American Bar Association, *Summary of U.S. State and Territorial Laws Related to Advocate Confidentiality & Privilege*, Confidentiality Institute, https://static1.squarespace.com/static/51dc541ce4b03ebab8c5c88c/t/5da0abb1d3d974057a1948e1/1570810818572/CI_Laws+Related+to+Advocate+Confidentiality+and+Privilege.pdf (last visited June 17, 2020).

^{cccii} Sup. R. 5.

^{ccciii} These rules generally cover topics such as font size and page limits in motion practice, submission rules particular to the county, methods of addressing the court, etc.

^{ccciv} Each example case presented in this section were randomly selected from the public record.

cccv See 18 U.S.C. §§3161-3174.

cccvii Ohio Rev. Code § 2945.71.

cccviii Ohio Rev. Code § 2945.72.

cccviii Ohio Rev. Code § 2938.12; Crim. R. 43(B).

cccix Ohio Rev. Code §§ 2901.01(A)(14), 2901.05(A), 2945.371; *see generally* State v. Austin, 73 N.E. 218 (Ohio 1905).

cccix Ohio Rev. Code § 2945.371(A)

cccxi Ohio Rev. Code § 2945.37(G).

cccxi Ohio Rev. Code § 2945.21 (in misdemeanor cases, each side is granted three peremptory challenges).

cccxi This is an excellent example of local rules in practice – as the form and custom for submitting peremptory challenges to the judge varies by courtroom.

cccxi Ohio Rev. Code § 2945.25; Ohio Crim. R. 24(C).

cccxi OSBA Committees & Sections, *Law Facts: Jury Service*, Ohio State Bar Association (March 17, 2014), <https://www.ohiobar.org/public-resources/commonly-asked-law-questions-results/law-facts/law-facts-jury-service> (last visited June 17, 2020). /.

cccxi Evid. R. 701.

cccxi *See generally*, Ohio State Bar Association, *Law Facts: Being a Witness* (April 11, 2014), <https://www.ohiobar.org/public-resources/commonly-asked-law-questions-results/law-facts/law-facts-being-a-witness/> (last visited June 17, 2020).

cccxi Evid. R. 702.

cccxi *Id.*

cccxi Gil I. Sapir, *Qualifying the Expert Witness, A Practical Voire Dire*, Forensic Magazine (Jan. 1, 2007), *available at* <https://www.chm.uri.edu/forensics/courses/Appendix%20-%20forensic%20science%20&%20expert%20witness/Voir%20Dire.pdf> (last visited June 17, 2020).

cccxi Evid. R. 704.

cccxi Evid. R. 601; *see also* Ohio Rev.Code. § 2317.01.

cccxi *Wheeler v. United States*, 159 U.S. 523, 524, 526 (1895).

cccxi Evid. R. 901.

cccxi Evid. R. 902.

cccxi Evid. R. 801(C).

cccxi Evid. R. 801-807.

cccxi Evid. R. 803.

cccxi *Id.*

cccxi Ohio Rev. Code §§ 2907.02(D), 2907.05(E).

cccxi Unless the court chooses and sets a different deadline.

cccxi Ohio Rev. Code §2907.02(E)-(F)

cccxi Evid. R. 404(B)

cccxi *Id.*

cccxi Ohio Rev. Code § 2315.01(5).

cccxi Ohio Rev. Code § 2929.19.

cccxi Ohio Rev. Code § 2929.022.

cccxi An affiliate office of the Ohio Supreme Court.

cccxi Ohio Rev. Code § 2929.19.

cccxi Ohio State Bar Association, *The Law & You*, 46, *available at* https://www.ohiobar.org/globalassets/the-law-and-you/tlay_complete.pdf (last visited June 17, 2020).

cccxi Fines are technically listed as community control sanctions in the Ohio Revised Code.

cccxi *The Law & You*, *supra* 47.

cccxi *Id.* at 48.

cccxi The table is adapted from the Ohio Criminal Sentencing Commission’s *Felony Sentencing Table*, located on Page 9 of the Commission’s *Felony Sentencing Quick Reference Guide*. For direct access, *see* <https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/judPractitioner/felonyQuickRef.pdf> (last visited June 17, 2020).

cccxlvi *The Law & You, supra* 48.

cccxlvi Ohio Criminal Sentencing Commission, *Felony Sentencing Quick Reference Guide* (Apr. 2015), available at <https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/judPractitioner/felonyQuickRef.pdf> (last visited June 17, 2020).

cccxlvi *Id.*

cccxlvi *Id.*

cccxlvi *Id.*

cccxlvi *Id.*

cccxlvi *Id.*

cccxlvi Ohio Rev. Code § 2929.15(A).

cccxlvi Ohio Rev. Code §§ 2929.15, 2929.16, 2929.17, 2929.18.

cccxlvi Ohio Rev. Code §§ 2929.25, 2929.26, 2929.27, 2929.28.

cccxlvi Ohio Rev. Code § 2929.15(B). The applicable prison term for such a violation must meet the requirements of Ohio Rev. Code § 2929.14.

cccxlvi Ohio Rev. Code § 2929.25(D)(2).

cccxlvi *The Law & You, supra* 46.

cccxlvi Office of the Ohio Public Defender, *Judicial Release Packet*, available at http://opd.ohio.gov/Portals/0/PDF/ProSe/Judicial_Release_Packet.pdf.

cccxlvi Ohio Rev. Code § 2929.20(E)(2).

cccxlvi Ohio Rev. Code § 2929.20(G).

cccxlvi Ohio Rev. Code § 2929.20(I).

cccxlvi Ohio Rev. Code § 2929.20(L).

cccxlvi Ohio Rev. Code § 2929.20(K).

cccxlvi Ohio Rev. Code § 2967.26(A)(1).

cccxlvi Ohio Rev. Code § 2967.26(A)(3).

cccxlvi The perpetrator is eligible only for one day per month if serving a sentence for one of the following crimes (with statutorily specified enhancements or factors): involuntary manslaughter, voluntary manslaughter, felonious assault, permitting child abuse, kidnapping, soliciting, prostitution, aggravated arson, vehicular vandalism, railroad vandalism, railroad grade crossing device vandalism, criminal possession of a biological/chemical/or radiological weapon, criminal use of chemical/biological/or explosive weapon, money laundering in support of terrorism, aggravated robbery, robbery, aggravated burglary, burglary, abortion manslaughter, partial birth feticide, endangering children, escape, conspiracy, possession of deadly weapon while under detention, discharging a firearm near or on prohibited premises, engaging in a pattern of corrupt activity, tampering with drugs, contaminating a substance for human consumption. Ohio Rev. Code § 2967.26(J)(3).

cccxlvi The perpetrator is eligible for five days per months if serving a sentence for crimes not listed in Ohio Rev. Code § 2967.26(J)(3) (partially highlighted in fn. xx).

cccxlvi *Id.*

cccxlvi Ohio Rev. Code § 2930.15.

cccxlvi Ohio Rev. Code § 2950.03.

cccxlvi Ohio Rev. Code § 2950.01

cccxlvi *Id.*

cccxlvi Ohio Rev. Code § 2950.01(D).

cccxlvi Ohio Rev. Code § 2950.01(C).

cccxlvi Ohio Rev. Code § 2971.01(J).

cccxlvi Ohio Rev. Code § 2971.01(K).

cccxlvi Ohio Rev. Code § 2950.01(B).

cccxlvi Ohio Rev. Code § 2950.01(A)(4).

cccxlvi Ohio Rev. Code § 2971.01(H)(1).

cccxlvi Ohio Rev. Code § 2971.01(I).

cccxlvi Ohio Rev. Code § 2971.01(L)(1).

cccxlvi Ohio Rev. Code § 2950.04(A)(1)(a).

^{ccclxxxiii} Ohio Rev. Code § 2950.04(G).

^{ccclxxxiv} Ohio Rev. Code § 2950.04(C).

^{ccclxxxv} Office of Attorney General Dave Yost, *Offender Search*, available at <http://www.icrimewatch.net/index.php?AgencyID=55149>.