

09-19 DRAFT – Intervention in Lieu of Conviction Statute
Ohio Criminal Sentencing Commission

- 1 (A) At any time prior to the entry of a guilty plea, a person charged with a criminal offense not
2 excepted herein may request intervention in lieu of conviction. The request shall include:
3 (1) An allegation that one of the following apply:
4 (a) Drug or alcohol usage by the offender was a principal factor leading to the
5 criminal offense with which the defendant is charged; or
6 (b) At the time of committing the offense, the defendant had a mental illness, was a
7 person with intellectual disability, or was a victim of a violation of section
8 2905.32 or 2907.21 of the Revised Code and that said status was a factor leading
9 to the offender’s criminal behavior.
10 (2) A statement that the defendant meets the eligibility requirements of division (B) or (C)
11 of this section.
12 (3) A waiver of the defendant’s rights to a speedy trial and, if necessary, the rights to the
13 preliminary hearing, the time period within which the grand jury may consider an
14 indictment against the offender, and arraignment.
15 (B) A defendant is considered ineligible for intervention in lieu of conviction if any of the
16 following is applicable:
17 (1) The defendant previously has been convicted of or plead guilty to a felony offense of
18 violence;
19 (2) The defendant is charged with any of the following:
20 (a) a violation where the alleged victim of the offense was sixty-five years of age or
21 older, permanently or totally disabled, under thirteen years of age, or was a
22 peace officer engaged in the officer’s official duties at the time of the alleged
23 offense;
24 (b) a felony of the first, second, or third degree;
25 (c) an offense of violence;
26 (d) a felony sex offense;
27 (e) an offense that carries a mandatory term of imprisonment;
28 (f) a violation of division (A)(1) or (2) of section 2903.06 of the Revised Code;
29 (g) a violation of division (A)(1) of section 2903.08 of the Revised Code;
30 (h) a violation of division (A) of section 4511.19 of the Revised Code or a municipal
31 ordinance that is substantially similar to that division;
32 (i) a violation of section 2925.02, 2925.04 or 2925.06 of the Revised Code;
33 (j) a violation of section 2925.03 that is a felony of the first, second, third, or fourth
34 degree;
35 (k) a violation of section 2925.11 that is a felony of the first, second or third degree;
36 (l) a violation of section 2925.24 and the alleged violation resulted in physical harm
37 to any person;
38 (m) a violation of an offense that would result in the defendant being disqualified
39 under Chapter 4506. of the Revised Code from operating a commercial motor
40 vehicle or would subject the defendant to any other sanction under that chapter.
41 (C)
42 (1) Upon receipt of a request for intervention in lieu of conviction, a court:

- 43 (a) Shall schedule a hearing if the request alleges drug or alcohol usage was a
44 principal factor leading to the criminal offense under division (A)(1)(a) of this
45 section.
- 46 (b) May reject the request without a hearing if the request is made solely under
47 division (A)(1)(b) of this section.
- 48 (2) If the court schedules a hearing on the defendant's motion, the court shall determine if
49 the offender is eligible under this section for intervention in lieu of conviction, and if so:
- 50 (a) Stay all criminal proceedings pending the outcome of the hearing, and;
51 (b) Order an assessment of the offender for the purpose of determining the
52 offender's program eligibility for intervention in lieu of conviction and
53 recommending an appropriate intervention plan.
- 54 (i) If the offender alleges under division (A)(1)(a) of this section that drug or
55 alcohol usage was a factor leading to the criminal offense with which the
56 offender is charged, the court may order this assessment be conducted
57 by a community addiction services provider or a properly credentialed
58 professional who will provide a written assessment of the offender to the
59 court.
- 60 (ii) If the offender alleges under division (A)(1)(b) of this section the offender
61 had a mental illness, was a person with an intellectual disability, or was a
62 victim of a violation of 2905.32 or 2907.21 of the revised code and that
63 the mental illness or status was a factor leading to the offense, the court
64 may order this assessment be conducted by a psychiatrist, psychologist,
65 independent social worker, licensed professional clinical counselor, or
66 independent marriage and family therapist who will provide a written
67 assessment of the offender to the court
- 68 (3) The victim notification provisions of division (C) of section 2930.06 apply in relation to
69 any hearing held under this section.
- 70 (4) The court shall presume that intervention in lieu of conviction is appropriate and shall
71 grant the offender's requests unless the court finds specific reasons to believe that
72 intervention in lieu of conviction would be inappropriate. In making this determination
73 the court shall consider:
- 74 (a) The offender's eligibility for intervention in lieu of conviction under division (B)
75 of this section;
- 76 (b) The offender's willingness and ability to comply with all terms and conditions
77 imposed by the court pursuant to division (F) of this section;
- 78 (c) The professional assessment conducted under (D)(2)(b) of this section;
- 79 (d) Whether the offender's drug usage, alcohol usage, mental illness or intellectual
80 disability, or the fact that the offender was a victim of a violation of section
81 2905.32 or 2907.21 of the Revised Code, whichever is applicable, was a factor
82 leading to the criminal offense with which the offender is charged;
- 83 (e) Whether intervention in lieu of conviction would demean the seriousness of the
84 offense, and;
- 85 (f) Whether intervention would substantially reduce the likelihood of any future
86 criminal activity.

- 87 (D)
- 88 (1) At the conclusion of the hearing held pursuant to division (C) of this section, the court
- 89 shall enter its determination as to whether the defendant is eligible for intervention in
- 90 lieu of conviction and whether the court grants or denies the defendant's request for
- 91 intervention in lieu of conviction.
- 92 (2) If a court grants the defendant's motion, the court shall:
- 93 (a) Accept defendant's guilty plea and waiver of the right to speedy trial, and if
- 94 applicable, waiver of the preliminary hearing, the time period within which the
- 95 grand jury may consider an indictment against the defendant, and arraignment;
- 96 (b) Stay all criminal proceedings;
- 97 (c) Establish and order the defendant to comply with all terms and conditions
- 98 imposed by the court pursuant to division (F) of this section. The Court may
- 99 order a pre-sentence investigation to assist it in designing an appropriate
- 100 intervention plan for the defendant.
- 101 (3) If a court denies the defendant's motion, the court shall state the reasons for the denial,
- 102 with particularity, in a written entry.
- 103 (4) If the court rejects the defendant's motion without hearing or denies the defendant's
- 104 motion after hearing, the criminal proceedings against the defendant shall proceed as if
- 105 the defendant's request for intervention in lieu of conviction had not been made.
- 106 (E)
- 107 (1) If the court grants an offender's request for intervention in lieu of conviction, the court
- 108 shall:
- 109 (a) Place the offender under the general control and supervision of the agency that
- 110 supervises the court's offenders who are subject to a community control
- 111 sanction imposed under section 2929.15, 2929.18, or 2929.25 of the Revised
- 112 Code;
- 113 (b) Establish an intervention plan for the offender. The terms and conditions of the
- 114 intervention plan:
- 115 (i) Shall require the offender, for at least one year and not to exceed five
- 116 years from the date on which the court grants the order of intervention
- 117 in lieu of conviction, to:
- 118 a. abstain from the use of illegal drugs and alcohol
- 119 b. participate in treatment and recovery support services, and
- 120 c. submit to regular random testing for drug and alcohol use
- 121 (ii) May include any other treatment terms and conditions, or terms and
- 122 conditions similar to community control sanctions, which may include
- 123 community service or restitution, that are ordered by the court.
- 124 (F)
- 125 (1) If the court finds that the defendant has successfully completed the intervention plan it
- 126 shall dismiss the proceedings against the defendant.
- 127 (2) Successful completion of the intervention plan and period of abstinence under this
- 128 section shall be without adjudication of guilt and is not a criminal conviction for
- 129 purposes of any disqualification or disability imposed by law and upon conviction of a
- 130 crime, and

- 131 (3) The court may order the sealing of records related to the offense in question in the
132 manner provided in sections 2953.31 to 2953.36 of the Revised Code.
- 133 (G)
- 134 (1) If the offender fails to comply with any term or condition imposed as part of the
135 intervention plan, the supervising authority shall promptly advise the court of this
136 failure, and the court shall hold a hearing to determine whether the offender failed to
137 comply with any term or condition imposed as part of the plan.
- 138 (2) If the court finds that the offender has failed to comply with any of those terms and
139 conditions, it may:
- 140 (a) Continue the offender on intervention in lieu of conviction;
- 141 (b) Extend the time period of the intervention plan subject to the limited to the time
142 period for community control in section 2929.15 and 2929.25;
- 143 (c) Add additional terms, conditions, and sanctions to the defendant’s intervention
144 plan, or;
- 145 (d) Terminate the defendant from the intervention plan, enter a finding of guilty
146 against the defendant, and impose an appropriate sanction under Chapter 2929.
147 of the Revised Code.
- 148 (3) If the court sentences the defendant to a prison term, the court, after consulting with
149 the department of rehabilitation and correction regarding the availability of services,
150 may order continued court-supervised activity and treatment of the offender during the
151 prison term and, upon consideration of reports received from the department
152 concerning the offender's progress in the program of activity and treatment, may
153 consider judicial release under section 2929.20 of the Revised Code.
- 154 (H) As used in this section:
- 155 (1) “Community addiction services provider” has the same meaning as in section 5119.01 of
156 the Revised Code.
- 157 (2) "Community control sanction" has the same meaning as in section 2929.01 of the
158 Revised Code.
- 159 (3) "Intervention in lieu of conviction" means any court-supervised activity that complies
160 with this section.
- 161 (4) “Intellectual Disability” has the same meaning as in section 5123.01 of the Revised
162 Code.
- 163 (5) "Peace officer" has the same meaning as in section 2935.01 of the Revised Code.
- 164 (6) "Mental illness" and "psychiatrist" have the same meanings as in section 5122.01 of the
165 Revised Code.
- 166 (7) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.
- 167 (8) “Felony sex offense” means a violation of a section contained in Chapter 2907. of the
168 Revised Code that is a felony.