



OHIO

CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

Juvenile Justice Subcommittee

March 3, 2016

Meeting Notes

<p>Attending: Paul Dobson, Chair Jill Beeler Rep. Hearcel Craig Kate Foulke (DYS) Hon. Aaron Montz Kyle Petty John Ryan, OJC Jo Ellen Cline, OCSC</p>	<p>Erin Davies, Vice-Chair Jim Cole Judge DeLamatre Ashon McKenzie Rep. Dorothy Pelanda Director Harvey Reed Sara Andrews, OCSC Cyara Hotopp, OCSC</p>
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1. Chair Dobson called the meeting to order at 9:36 a.m.
2. Upon motion and second the meeting notes from the February 18, 2016 were amended to include Judge Fragale's name in the attendee list and were unanimously approved as amended.
3. The committee began its discussion of the draft restitution language. First, the committee approved, by unanimous consent, to eliminate duplicated language in division (A). The committee next turned its attention to division (F) which had been discussed in February but never received a vote. The committee approved a minor change to the language and approved the division unanimously. The committee then discussed proposed division (G) which created a priority list for crediting payments made. Currently the order in which fees, costs, and restitution are paid is not specified in the statute. Concerns were raised regarding the financial impact of such a prioritization. Upon motion and second to remove division (G) from the draft was passed (5-1). The committee then discussed proposed division (H) in the draft which represents a combination of other state's practice of allowing for parental liability. Although other statutes in the Revised Code allow for a civil action against parents for their child's delinquent act, a concern was expressed that requiring a victim to go through the civil process victimizes them again and, often, the amount of restitution does not make the expense of a civil action worth the trouble. Concerns with including parental liability was that it puts the child and the parent in an adversarial posture. A suggestion was made to look at possible amendments to the civil statutes in the future. Upon motion and second to remove division (H) from the draft, the motion carried 8-2. Another motion and second was made to include a



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regarding removal of the word “adjudication”, after discussion, a motion and second to remove the word failed 4-5. Finally, proposed changes to divisions (D)(7) and (8) were accepted as amended by the committee. The committee will revisit the proposed changes and proposed language put forward by Vice-Chair Davies at its next meeting.

7. The committee adjourned at 12:15 p.m.

Upcoming Meetings:

Full Commission: March 17, 2016

Juvenile Justice Committee: April 21, 2016

DRAFT

1 **Sec. 2152.10.** (A) A child who is alleged to be a delinquent child ~~is eligible for mandatory~~
2 ~~transfer and shall be transferred as provided in section 2152.12 of the Revised Code in any of~~
3 ~~the following circumstances:~~

4 (1) ~~The child is charged with a category one offense and either of the following apply:~~

5 (a) ~~The child was sixteen years of age or older at the time of the act charged.~~

6 (b) ~~The child was fourteen or fifteen years of age at the time of the act charged and~~
7 ~~previously was adjudicated a delinquent child for committing an act that is a category one or~~
8 ~~category two offense and was committed to the legal custody of the department of youth~~
9 ~~services upon the basis of that adjudication.~~

10 (2) ~~The child is charged with a category two offense, other than a violation of section~~
11 ~~2905.01 of the Revised Code, the child was sixteen years of age or older at the time of the~~
12 ~~commission of the act charged, and either or both of the following apply:~~

13 (a) ~~The child previously was adjudicated a delinquent child for committing an act that is~~
14 ~~a category one or a category two offense and was committed to the legal custody of the~~
15 ~~department of youth services on the basis of that adjudication.~~

16 (b) ~~The child is alleged to have had a firearm on or about the child's person or under the~~
17 ~~child's control while committing the act charged and to have displayed the firearm, brandished~~
18 ~~the firearm, indicated possession of the firearm, or used the firearm to facilitate the~~
19 ~~commission of the act charged.~~

20 (3) ~~Division (A)(2) of section 2152.12 of the Revised Code applies.~~

21 (B) ~~Unless the child is subject to mandatory transfer, if a child is, who is~~ fourteen years
22 of age or older at the time of the act charged, ~~and if the child who~~ is charged with an act that
23 would be a felony if committed by an adult, ~~the child is eligible for discretionary transfer to the~~
24 appropriate court for criminal prosecution. In determining whether to transfer the child for
25 criminal prosecution, the juvenile court shall follow the procedures in section 2152.12 of the
26 Revised Code. If the court does not transfer the child and if the court adjudicates the child to be
27 a delinquent child for the act charged, the court shall issue an order of disposition in
28 accordance with ~~section 2152.11 of the Revised Code~~ this chapter.

29 (B) If a complaint is filed against a person who is deemed not to be a child in the
30 circumstances described in division (C)(5) of section 2152.02 of the Revised Code, the person is
31 eligible for transfer, and the case shall be transferred to the appropriate court for criminal
32 prosecution.

33 ***

34 **2152.12 Transfer of cases.**

35 (A) (1)

36 (a) After a complaint has been filed alleging that a child is a delinquent child for committing an
37 act that would be aggravated murder, murder, attempted aggravated murder, or attempted
38 murder if committed by an adult, the juvenile court at a hearing shall transfer the case if either
39 of the following applies:

40 (i) The child was sixteen or seventeen years of age at the time of the act charged and there is
41 probable cause to believe that the child committed the act charged.

42 (ii) The child was fourteen or fifteen years of age at the time of the act charged, section 2152.10
43 of the Revised Code provides that the child is eligible for mandatory transfer, and there is
44 probable cause to believe that the child committed the act charged.

45 (b) After a complaint has been filed alleging that a child is a delinquent child by reason of
46 committing a category two offense, the juvenile court at a hearing shall transfer the case if the
47 child was sixteen or seventeen years of age at the time of the act charged and either of the
48 following applies:

49 (i) Division (A)(2)(a) of section 2152.10 of the Revised Code requires the mandatory transfer of
50 the case, and there is probable cause to believe that the child committed the act charged.

51 (ii) Division (A)(2)(b) of section 2152.10 of the Revised Code requires the mandatory transfer of
52 the case, and there is probable cause to believe that the child committed the act charged.

53 (2) The juvenile court also shall transfer a case in the circumstances described in division (C)(5)
54 of section 2152.02 of the Revised Code or if either of the following applies:

55 (a) A complaint is filed against a child who is eligible for a discretionary transfer under section
56 2152.10 of the Revised Code and who previously was convicted of or pleaded guilty to a felony
57 in a case that was transferred to a criminal court.

58 (b) A complaint is filed against a child who is domiciled in another state alleging that the child is
59 a delinquent child for committing an act that would be a felony if committed by an adult, and, if
60 the act charged had been committed in that other state, the child would be subject to criminal
61 prosecution as an adult under the law of that other state without the need for a transfer of
62 jurisdiction from a juvenile, family, or similar noncriminal court to a criminal court.

63 (3) If a complaint is filed against a child alleging that the child is a delinquent child and the case
64 is transferred pursuant to division (A)(1)(a)(i) or (A)(1)(b)(ii) of this section and if the child
65 subsequently is convicted of or pleads guilty to an offense in that case, the sentence to be
66 imposed or disposition to be made of the child shall be determined in accordance with section
67 2152.121 of the Revised Code.

68 (B) Except as provided in division (A) of this section, after a complaint has been filed alleging
69 that a child is a delinquent child for committing an act that would be a felony if committed by

70 an adult, the juvenile court at a hearing may transfer the case if the court finds all of the
71 following:

72 (1) The child was fourteen years of age or older at the time of the act charged.

73 (2) There is probable cause to believe that the child committed the act charged.

74 (3) The child is not amenable to care or rehabilitation within the juvenile system, and the safety
75 of the community may require that the child be subject to adult sanctions. In making its
76 decision under this division, the court shall consider whether the applicable factors under
77 division (D) of this section indicating that the case should be transferred outweigh the
78 applicable factors under division (E) of this section indicating that the case should not be
79 transferred. The record shall indicate the specific factors that were applicable and that the
80 court weighed.

81 (C) Before considering a transfer under division (B) of this section, the juvenile court shall order
82 an investigation into the child's social history, education, family situation, and any other factor
83 bearing on whether the child is amenable to juvenile rehabilitation, including a mental
84 examination of the child by a public or private agency or a person qualified to make the
85 examination. The investigation shall be completed and a report on the investigation shall be
86 submitted to the court as soon as possible but not more than forty-five calendar days after the
87 court orders the investigation. The court may grant one or more extensions for a reasonable
88 length of time. The child may waive the examination required by this division if the court finds
89 that the waiver is competently and intelligently made. Refusal to submit to a mental
90 examination by the child constitutes a waiver of the examination.

91 (D) In considering whether to transfer a child under division (B) of this section, the juvenile
92 court shall consider the following relevant factors, and any other relevant factors, in favor of a
93 transfer under that division:

94 (1) The victim of the act charged suffered physical or psychological harm, or serious economic
95 harm, as a result of the alleged act; or ~~(2) the physical or psychological harm suffered by the~~
96 ~~victim due to the alleged act of the child was exacerbated because of the physical or~~
97 ~~psychological vulnerability or the age of the victim.~~

98 ~~(3) (2) The child's relationship with the victim facilitated the act charged.~~

99 ~~(4) (3) The child allegedly committed the act charged for hire or as a part of a gang or other~~
100 ~~organized criminal activity.~~

101 ~~(5) (4) The child had a firearm on or about the child's person or under the child's control at the~~
102 ~~time of the act charged, the act charged is not a violation of section 2923.12 of the Revised~~
103 ~~Code, and the child, during the commission of the act charged, allegedly used or displayed the~~
104 ~~firearm, brandished the firearm, or indicated that the child possessed a firearm.~~

105 ~~(6)~~ (5) At the time of the act charged, the child was awaiting adjudication or disposition as a
106 delinquent child, was under a community control sanction, or was on parole for a prior
107 delinquent child adjudication or conviction.

108 ~~(7)~~ (6) The results of any previous juvenile sanctions and programs indicate that rehabilitation
109 of the child will not occur in the juvenile system.

110 ~~(8)~~ (7) As a result of the evaluation and/or investigation in division (C) of this section the court
111 determines that the child is emotionally, ~~physically~~, or psychologically mature enough for the
112 transfer.

113 ~~(9)~~ (8) As a result of the evaluation and/or investigation in division (C) of this section the court
114 determines that there is not sufficient time to rehabilitate the child within the juvenile system.

115 (E) In considering whether to transfer a child under division (B) of this section, the juvenile
116 court shall consider the following relevant factors, and any other relevant factors, against a
117 transfer under that division:

118 (1) The victim induced or facilitated the act charged; ~~or (2)~~ the child acted under provocation in
119 allegedly committing the act charged.

120 ~~(3)~~ (2) The child was not the principal actor in the act charged.

121 (3) At the time of the act charged, the child was under the negative influence or coercion of
122 another person; **or the child had an adult codefendant.**

123 (4) The child did not cause physical harm to any person or property, or have reasonable cause
124 to believe that harm of that nature would occur, in allegedly committing the act charged.

125 (5) The child previously has not been adjudicated a delinquent child.

126 **(6) The availability of a juvenile sanction or program that has not yet been utilized.**

127 ~~(6)~~ (7) The child is not emotionally, physically, or psychologically mature enough for the
128 transfer.

129 ~~(7)~~ (8) The child has a mental illness or ~~is a mentally retarded person~~ **has a developmental**
130 **disability.**

131 ~~(8)~~ (9) There is sufficient time to rehabilitate the child within the juvenile system and the level
132 of security available in the juvenile system provides a reasonable assurance of public safety.

133 (F) If one or more complaints are filed alleging that a child is a delinquent child for committing
134 two or more acts that would be offenses if committed by an adult, if a motion is made alleging

135 that division (A) of this section applies and requires that the case or cases involving one or more
136 of the acts charged be transferred for, and if a motion also is made requesting that the case or
137 cases involving one or more of the acts charged be transferred pursuant to division (B) of this
138 section, the juvenile court, in deciding the motions, shall proceed in the following manner:

139 (1) Initially, the court shall decide the motion alleging that division (A) of this section applies
140 and requires that the case or cases involving one or more of the acts charged be transferred.

141 (2) If the court determines that division (A) of this section applies and requires that the case or
142 cases involving one or more of the acts charged be transferred, the court shall transfer the case
143 or cases in accordance with that division. After the transfer pursuant to division (A) of this
144 section, the court shall decide, in accordance with division (B) of this section, whether to grant
145 the motion requesting that the case or cases involving one or more of the acts charged be
146 transferred pursuant to that division. Notwithstanding division (B) of this section, prior to
147 transferring a case pursuant to division (A) of this section, the court is not required to consider
148 any factor specified in division (D) or (E) of this section or to conduct an investigation under
149 division (C) of this section.

150 (3) If the court determines that division (A) of this section does not require that the case or
151 cases involving one or more of the acts charged be transferred, the court shall decide in
152 accordance with division (B) of this section whether to grant the motion requesting that the
153 case or cases involving one or more of the acts charged be transferred pursuant to that division.

154 (4) No report on an investigation conducted pursuant to division (C) of this section shall include
155 details of the alleged offense as reported by the child.

156 (G) The court shall give notice in writing of the time, place, and purpose of any hearing held
157 pursuant to division (A) or (B) of this section to the child's parents, guardian, or other custodian
158 and to the child's counsel at least three days prior to the hearing.

159 (H) A child who has been found not amenable to care or rehabilitation within the juvenile
160 system under division (B) of this section has a right to appeal the transfer under R.C.
161 2505.02(B)(8). Upon issuing the order for transfer, the juvenile court shall immediately stay the
162 transfer for a period of fourteen days, unless waived by the child.

163 ~~(H)~~ (I) No person, either before or after reaching eighteen years of age, shall be prosecuted as
164 an adult for an offense committed prior to becoming eighteen years of age, unless the person
165 has been transferred as provided in division (A) or (B) of this section or unless division (J) of this
166 section applies. Any prosecution that is had in a criminal court on the mistaken belief that the
167 person who is the subject of the case was eighteen years of age or older at the time of the
168 commission of the offense shall be deemed a nullity, and the person shall not be considered to
169 have been in jeopardy on the offense.

170 ~~(H)~~ (J) Upon the transfer of a case under division (A) or (B) of this section, the juvenile court shall
171 state the reasons for the transfer on the record, and shall order the child to enter into a
172 recognizance with good and sufficient surety for the child's appearance before the appropriate
173 court for any disposition that the court is authorized to make for a similar act committed by an
174 adult. The transfer abates the jurisdiction of the juvenile court with respect to the delinquent
175 acts alleged in the complaint, and, upon the transfer, all further proceedings pertaining to the
176 act charged shall be discontinued in the juvenile court, and the case then shall be within the
177 jurisdiction of the court to which it is transferred as described in division (H) of section 2151.23
178 of the Revised Code.

179 ~~(H)~~ (J) If a person under eighteen years of age allegedly commits an act that would be a felony if
180 committed by an adult and if the person is not taken into custody or apprehended for that act
181 until after the person attains twenty-one years of age, the juvenile court does not have
182 jurisdiction to hear or determine any portion of the case charging the person with committing
183 that act. In those circumstances, divisions (A) and (B) of this section do not apply regarding the
184 act, and the case charging the person with committing the act shall be a criminal prosecution
185 commenced and heard in the appropriate court having jurisdiction of the offense as if the
186 person had been eighteen years of age or older when the person committed the act. All
187 proceedings pertaining to the act shall be within the jurisdiction of the court having jurisdiction
188 of the offense, and that court has all the authority and duties in the case as it has in other
189 criminal cases in that court.

190 ***

191 **2505.02 Final orders.**

192 (A) As used in this section:

193 (1) "Substantial right" means a right that the United States Constitution, the Ohio Constitution,
194 a statute, the common law, or a rule of procedure entitles a person to enforce or protect.

195 (2) "Special proceeding" means an action or proceeding that is specially created by statute and
196 that prior to 1853 was not denoted as an action at law or a suit in equity.

197 (3) "Provisional remedy" means a proceeding ancillary to an action, including, but not limited
198 to, a proceeding for a preliminary injunction, attachment, discovery of privileged matter,
199 suppression of evidence, a prima-facie showing pursuant to section 2307.85 or 2307.86 of the
200 Revised Code, a prima-facie showing pursuant to section 2307.92 of the Revised Code, or a
201 finding made pursuant to division (A)(3) of section 2307.93 of the Revised Code.

202 (B) An order is a final order that may be reviewed, affirmed, modified, or reversed, with or
203 without retrial, when it is one of the following:

204 (1) An order that affects a substantial right in an action that in effect determines the action and
205 prevents a judgment;

206 (2) An order that affects a substantial right made in a special proceeding or upon a summary
207 application in an action after judgment;

208 (3) An order that vacates or sets aside a judgment or grants a new trial;

209 (4) An order that grants or denies a provisional remedy and to which both of the following
210 apply:

211 (a) The order in effect determines the action with respect to the provisional remedy and
212 prevents a judgment in the action in favor of the appealing party with respect to the provisional
213 remedy.

214 (b) The appealing party would not be afforded a meaningful or effective remedy by an appeal
215 following final judgment as to all proceedings, issues, claims, and parties in the action.

216 (5) An order that determines that an action may or may not be maintained as a class action;

217 (6) An order determining the constitutionality of any changes to the Revised Code made by Am.
218 Sub. S.B. 281 of the 124th general assembly, including the amendment of sections 1751.67,
219 2117.06, 2305.11, 2305.15, 2305.234, 2317.02, 2317.54, 2323.56, 2711.21, 2711.22, 2711.23,
220 2711.24, 2743.02, 2743.43, 2919.16, 3923.63, 3923.64, 4705.15, and 5111.018 (renumbered as
221 5164.07 by H.B. 59 of the 130th general assembly), and the enactment of sections 2305.113,
222 2323.41, 2323.43, and 2323.55 of the Revised Code or any changes made by Sub. S.B. 80 of the
223 125th general assembly, including the amendment of sections 2125.02, 2305.10, 2305.131,
224 2315.18, 2315.19, and 2315.21 of the Revised Code;

225 (7) An order in an appropriation proceeding that may be appealed pursuant to division (B)(3) of
226 section 163.09 of the Revised Code.

227 (8) An order for transfer pursuant to R.C. 2152.12.

228 (C) When a court issues an order that vacates or sets aside a judgment or grants a new trial, the
229 court, upon the request of either party, shall state in the order the grounds upon which the
230 new trial is granted or the judgment vacated or set aside.

231 (D) This section applies to and governs any action, including an appeal, that is pending in any
232 court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998,
233 notwithstanding any provision of any prior statute or rule of law of this state.

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RULE 4. Appeal as of Right--When Taken

(A) Time for appeal

(1) Appeal from order that is final upon its entry. Subject to the provisions of App.R. 4(A)(3), a party who wishes to appeal from an order that is final upon its entry shall file the notice of appeal required by App.R. 3 within 30 days of that entry.

(2) Appeal from order that is not final upon its entry. Subject to the provisions of App.R. 4(A)(3), a party who wishes to appeal from an order that is not final upon its entry but subsequently becomes final—such as an order that merges into a final order entered by the clerk or that becomes final upon dismissal of the action—shall file the notice of appeal required by App.R. 3 within 30 days of the date on which the order becomes final.

(3) Delay of clerk’s service in civil case. In a civil case, if the clerk has not completed service of the order within the three-day period prescribed in Civ.R. 58(B), the 30-day periods referenced in App.R. 4(A)(1) and 4(A)(2) begin to run on the date when the clerk actually completes service.

(B) Exceptions

The following are exceptions to the appeal time period in division (A) of this rule:

(1) Multiple or cross appeals. If a notice of appeal is timely filed by a party, another party may file a notice of appeal within the appeal time period otherwise prescribed by this rule or within ten days of the filing of the first notice of appeal.

(2) Civil or juvenile post-judgment motion. In a civil case or juvenile proceeding, if a party files any of the following, if timely and appropriate:

- (a) a motion for judgment under Civ.R. 50(B);
- (b) a motion for a new trial under Civ.R. 59;
- (c) objections to a magistrate's decision under Civ.R 53(D)(3)(b) or Juv. R. 40(D)(3)(b);
- (d) a request for findings of fact and conclusions of law under Civ.R. 52, Juv.R. 29(F)(3), Civ.R. 53(D)(3)(a)(ii) or Juv.R. 40(D)(3)(a)(ii);
- (e) a motion for attorney fees; or
- (f) a motion for prejudgment interest,

276 then the time for filing a notice of appeal from the judgment or final order in question begins to
277 run as to all parties when the trial court enters an order resolving the last of these post-
278 judgment filings.

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280 If a party files a notice of appeal from an otherwise final judgment but before the trial court has
281 resolved one or more of the filings listed in this division, then the court of appeals, upon
282 suggestion of any of the parties, shall remand the matter to the trial court to resolve the post-
283 judgment filings in question and shall stay appellate proceedings until the trial court has done
284 so. After the trial court has ruled on the post-judgment filing on remand, any party who wishes
285 to appeal from the trial court's orders or judgments on remand shall do so in the following
286 manner: (i) by moving to amend a previously filed notice of appeal or cross-appeal under App.R.
287 3(F), for which leave shall be granted if sought within thirty days of the entry of the last of the
288 trial court's judgments or orders on remand and if sought after thirty days of the entry, the
289 motion may be granted at the discretion of the appellate court; or (ii) by filing a new notice of
290 appeal in the trial court in accordance with App.R. 3 and 4(A). In the latter case, any new appeal
291 shall be consolidated with the original appeal under App.R. 3(B).

292
293 **(3) Juvenile transfer order.** A party who wishes to appeal from an order pursuant to R.C.
294 2152.12 shall file the notice of appeal required by App.R. 3 within 14 days of that entry. Any
295 appeal from an order pursuant to R.C. 2152.12 shall be placed on the accelerated calendar
296 pursuant to App.R. 11.1.

297
298 **(4) Criminal and traffic post-judgment motions**
299 In a criminal or traffic case, if a party files any of the following, if timely and appropriate:

- 300
301 (a) a motion for arrest of judgment under Crim.R. 34;
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303 (b) a motion for a new trial under Crim.R. 33 for a reason other than newly discovered
304 evidence; or
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306 (c) objections to a magistrate's decision under Crim.R. 19(D)(3)(b) or Traf.R. 14; or
307
308 (d) a request for findings of fact and conclusions of law under Crim.R. 19(d)(3)(a)(ii),
309

310 then the time for filing a notice of appeal from the judgment or final order in question begins to
311 run as to all parties when the trial court enters an order resolving the last of these post-
312 judgment filings. A motion for a new trial under Crim.R. 33 on the ground of newly discovered
313 evidence made within the time for filing a motion for a new trial on other grounds extends the
314 time for filing a notice of appeal from a judgment of conviction in the same manner as a motion
315 on other grounds; but if made after the expiration of the time for filing a motion on other
316 grounds, the motion on the ground of newly discovered evidence does not extend the time for
317 filing a notice of appeal.

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319 If a party files a notice of appeal from an otherwise final judgment but before the trial court has
320 resolved one or more of the filings listed in (a), (b), or (c) of this division, then the court of
321 appeals, upon suggestion of any of the parties, shall remand the matter to the trial court to
322 resolve the motion in question and shall stay appellate proceedings until the trial court has
323 done so.

324
325 After the trial court has ruled on the post-judgment filings on remand, any party who wishes to
326 appeal from the trial court's orders or judgments on remand shall do so in the following
327 manner: (i) by moving to amend a previously filed notice of appeal or cross-appeal under App.R.
328 3(F), for which leave shall be granted if sought within thirty days of the entry of the last of the
329 trial court's judgments or orders on remand and if sought after thirty days of the entry, the
330 motion may be granted in the discretion of the appellate court; or (ii) by filing a new notice of
331 appeal in the trial court in accordance with App.R. 3 and 4(A). In the latter case, any new appeal
332 shall be consolidated with the original appeal under App.R. 3(B).

333
334 **(5) Appeal by prosecution**

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336 In an appeal by the prosecution under Crim.R. 12(K) or Juv.R. 22(F), the prosecution shall file a
337 notice of appeal within seven days of entry of the judgment or order appealed.

338
339 **(6) Partial final judgment or order**

340
341 If an appeal is permitted from a judgment or order entered in a case in which the trial court has
342 not disposed of all claims as to all parties, other than a judgment or order entered under Civ.R.
343 54(B), a party may file a notice of appeal within thirty days of entry of the judgment or order
344 appealed or the judgment or order that disposes of the remaining claims. Division (A) of this
345 rule applies to a judgment or order entered under Civ.R. 54(B).

346
347 **(C) Premature notice of appeal**

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349 A notice of appeal filed after the announcement of a decision, order, or sentence but before
350 entry of the judgment or order that begins the running of the appeal time period is treated as
351 filed immediately after the entry.

352
353 **(D) Definition of "entry" or "entered"**

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355 As used in this rule, "entry" or "entered" means when a judgment or order is entered under
356 Civ.R. 58(A) or Crim.R. 32(C).

**Bindover Factor Suggestions:
February 2016**

~~(D)~~(C) In considering whether to transfer a child under division ~~(B)~~(A)(1) of this section, the juvenile court shall consider the following relevant factors:

(1) The risk level of the child as determined by the Ohio Youth Assessment System administered by a trained court professional;

(2) The role of the victim of the offense, including the level of harm suffered, the relationship of the child to the victim, or if the victim induced or contributed to the offense;

(3) The child's prior experience in the juvenile court, including the presence or lack of any prior or current cases and rehabilitative efforts by the juvenile court;

(4) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person or with an adult;

(5) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged;

(6) The child's individual developmental characteristics, including age, maturity, developmental age, and physical size;

(7) The child's overall development characteristics, including lack of maturity, underdeveloped sense of responsibility, heightened risk taking and impulsivity, diminished culpability, vulnerability to negative influence and outside pressure, decreased deterrence, and the transitory nature of children's character;

(8) The child's behavioral health history, including mental health or substance abuse;

(9) Consideration of a child's chronological age and its hallmark features, such as immaturity, impetuosity, susceptibility to peer pressure, and failure to appreciate risks and consequences;

(10) The child's background, including family and home environment — from which the youth cannot usually extricate himself, even if it is brutal or dysfunctional, and history of trauma;

(11) The youth's role in the crime, including if the child was not the principal actor in the act charged, or at the time of the act charged the child was under the negative influence or coercion of another person, particularly an adult.

(12) The relative ability of the juvenile justice system and the adult criminal justice system to provide age-appropriate programming and safety for the youth. This analysis should consider the negative impacts of involvement in the adult criminal justice system, including the lack of access to age-appropriate program, the higher likelihood of sexual and physical abuse, and the likelihood of increased reoffending.

Mandatory Bindover – E. Davies suggestions

- (D) No child shall be transferred if the following factors are present:
- (1) The child has a developmental disability or intelligence quotient of less than 70; or
 - (2) The child is not accused of a felony level offense.



OHIO

CRIMINAL SENTENCING COMMISSION

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

JUVENILE JUSTICE COMMITTEE WORK CHART

<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
3-6 month	Address juvenile court costs – assessment & collection	Language on costs and fines approved by Commission	Restitution language still pending	Jo Ellen	Finalize restitution language at February meeting for March OCSC meeting
3-6 month	Mandatory bindovers – eliminate or limit	Discussion	Pending	Jo Ellen Erin Davies	February Meeting Finalize draft for March OCSC meeting
3-6 month	Mandatory sentences	Discussion	Pending	Jo Ellen Erin Davies	Discussion at April committee meeting
6-12 month	Sexting	Discussion	Pending	Members	Gather information
6-12 Month	Truancy	Update on HB 410 given by John Ryan @ February meeting	Pending	Jo Ellen John Ryan Scott Lundregan	Monitor HB 410



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<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
6-12 Month	Probation (Length of time)	Discussion	Pending	Jill Beeler	Gather information
6-12 Month	Post-Dispositional Detention Time	Discussion	Pending	Kathleen Hamm	Gather information
6-12 Month	Juvenile Records - sealing, expungement	Discussion	Pending		Gather information



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<u>Category</u>	<u>Issue</u>	<u>Last Action</u>	<u>Project Status</u>	<u>Responsible Person</u>	<u>Next Action</u>
COMPLETED	Extended sentence review (Juvenile)	SB 272 introduced in February 2016	COMPLETED	Jo Ellen Jill Beeler-Andrews	
COMPLETED	Juvenile confinement credit	Language approved by committee	COMPLETED	Jo Ellen Director Reed	
COMPLETED	JSORN	Committee decided not to make any recommendations to Recodification Committee	COMPLETED	Jo Ellen	
COMPLETED	Mandatory shackling	Comment on proposed Sup.R. 5.01 re: juvenile restraints submitted	COMPLETED	Members	Sup.R. 5.01 adopted by Supreme Court (Eff. 7/1/16)