

Juvenile Justice Committee

March 3, 2016

Agenda

- I. Call to Order
 - II. Approval of Meeting Notes of February 18, 2016 meeting
 - III. Restitution
 - Finalize recommendation for full Commission meeting in March
 - IV. Juvenile SORN
 - Discussion of suggested recommendations
 - V. Mandatory Bindovers
 - Discussion of additional factors or revision of existing factors in R.C. 2152.12(C)
 - Interlocutory appeals
 - VI. Adjourn
-

Upcoming Meetings

Ohio Criminal Sentencing Commission **March 17, 2016**

Juvenile Justice Committee **April 21, 2016**

Juvenile Justice Subcommittee

February 18, 2016

Meeting Notes

Attending:	Paul Dobson, Chair	Erin Davies, Vice-Chair
	Jill Beeler	Ron Burkitt
	Dustin Calhoun	Judge DeLamatre
	Kate Foulke (DYS)	Kathleen Hamm
	Teresa Lampl	Rep. Dorothy Pelanda
	Kyle Petty	Sen. Cecil Thomas
	Judge Nick Selvaggio	John Ryan, OJC
	Kathy Wellington (Rep. Craig)	Kari Bloom, OPD
	Ashley Gilbert, OSC	David Roper (Sen. Thomas)
	Sara Andrews, OCSC	Jo Ellen Cline, OCSC
	Cyara Hotopp, OCSC	

1. Chair Dobson called the meeting to order at 9:36 a.m.
2. Upon motion and second the meeting notes from the January 21, 2016 were unanimously approved.
3. The committee began with a discussion of the proposed revisions of the restitution draft submitted by Vice-Chair Davies and, separately, by Ms. Beeler. The committee began its focus on division (B) of the draft. The section is intended to leave community service to the discretion of the judge. There was thorough discussion regarding whether or not the statute should specify community service in lieu of restitution or, if the statute did not specify such an alternative, would judges have more discretion. The committee then focused on the language in the proposed revisions regarding restorative justice. There were questions from members on whether the language was superfluous. Ms. Beeler made a motion to remove the restitution language as it exists in current law into a separate Revised Code section. The motion was seconded by Sen. Thomas. The motion carried 10-2 (Hamm, Calhoun). The committee then revisited its discussion of division (B). Language was proposed to be moved from division (G) of the Davies revisions to division (B). Ms. Davies made a motion to accept the revised division (B), the motion was seconded by Ms. Beeler. The motion passed unanimously. The committee moved on to division (D) of the original draft (stricken in the proposed revisions) which allows for a 5% administrative fee to be placed on top of the restitution amount. Concerns with allowing the fee were expressed because those on payment plans are usually the least likely to be able to afford the extra amount and there was a concern that assessing the fee would adversely impact the amount of restitution the victim would recover. The

committee also engaged in some discussion of parental liability around this issue. After proposing some language changes that would assess the administrative fee as a court cost under RC 2152.20, a motion was made and seconded to keep division (D) in the draft, as modified. The motion carried unanimously. The committee then discussed whether or not the order for restitution should expire when the child reaches age 21. Language in the proposed revisions was moved and seconded. The motion passed 9-4 (Dobson, Foulke, Calhoun, Selvaggio). The committee next discussed division (F) regarding ability to pay. Concerns were expressed that the proposed language limited the court's discretion on ordering restitution. The committee also discussed when an offender's ability to pay should be considered – at disposition or when there had been a non-payment. There was a proposal to rewrite the language in division (F) to address the expressed concerns. The rewritten language will be included in the next draft but no formal motion was made nor vote taken on the language.

4. Kyle Petty gave a brief update on the Council of State Governments Justice Center's Statewide Juvenile Justice Improvement Initiative noting that Ohio is one of eight states being considered for technical assistance with juvenile justice reforms, particularly in the areas of diversion and reentry. John Ryan gave a brief update on the truancy legislation which has had two hearings in the House of Representatives. Amendments will be forthcoming to address some stakeholder concerns. Ms. Cline gave a brief update on the juvenile financial sanctions bench card being prepared by the Supreme Court of Ohio and a draft bill that would mandate a bindover for anyone 16 and over accused of aggravated vehicular homicide.
5. The committee agreed to meet on March 3, 2016 at 9:30 a.m. to finish its work on restitution, mandatory bindovers, and juvenile sex offender and notification.
6. With no further business to come before the committee, the committee adjourned at 12:09 p.m.

Upcoming Meetings:

March 3, 2016 (9:30 a.m.)

Juvenile Justice Committee

March 17, 2016 (10 a.m.)

Ohio Criminal Sentencing Commission

1 **2152.20 Authorized dispositions for delinquent child or juvenile traffic offender.**

2 (A) If a child is adjudicated a delinquent child or a juvenile traffic offender, the court
3 may order any of the following dispositions, in addition to any other disposition
4 authorized or required by this chapter:

5 (1) Impose a fine in accordance with the following schedule:

6 (a) For an act that would be a minor misdemeanor or an unclassified misdemeanor if
7 committed by an adult, a fine not to exceed fifty dollars;

8 (b) For an act that would be a misdemeanor of the fourth degree if committed by an
9 adult, a fine not to exceed one hundred dollars;

10 (c) For an act that would be a misdemeanor of the third degree if committed by an
11 adult, a fine not to exceed one hundred fifty dollars;

12 (d) For an act that would be a misdemeanor of the second degree if committed by an
13 adult, a fine not to exceed two hundred dollars;

14 (e) For an act that would be a misdemeanor of the first degree if committed by an adult,
15 a fine not to exceed two hundred fifty dollars;

16 (f) For an act that would be a felony of the fifth degree or an unclassified felony if
17 committed by an adult, a fine not to exceed three hundred dollars;

18 (g) For an act that would be a felony of the fourth degree if committed by an adult, a
19 fine not to exceed four hundred dollars;

20 (h) For an act that would be a felony of the third degree if committed by an adult, a fine
21 not to exceed seven hundred fifty dollars;

22 (i) For an act that would be a felony of the second degree if committed by an adult, a
23 fine not to exceed one thousand dollars;

24 (j) For an act that would be a felony of the first degree if committed by an adult, a fine
25 not to exceed one thousand five hundred dollars;

26 (k) For an act that would be aggravated murder or murder if committed by an adult, a
27 fine not to exceed two thousand dollars.

28 (2) Require the child or a parent or parents, guardian, or custodian of the child, or both,
29 to pay costs, including, but not limited to, costs described in section 2746.05 of the
30 Revised Code;

31 (3) Unless the child's delinquent act or juvenile traffic offense would be a minor
32 misdemeanor if committed by an adult or could be disposed of by the juvenile traffic
33 violations bureau serving the court under Traffic Rule 13.1 if the court has established a
34 juvenile traffic violations bureau, require the child to make restitution as provided under
35 Revised Code Section 2152.203, ~~to the victim of the child's delinquent act or juvenile~~
36 ~~traffic offense or, if the victim is deceased, to a survivor of the victim in an amount~~
37 ~~based upon the victim's economic loss caused by or related to the delinquent act or~~
38 ~~juvenile traffic offense. The court may not require a child to make restitution pursuant~~
39 ~~to this division if the child's delinquent act or juvenile traffic offense would be a minor~~
40 ~~misdemeanor if committed by an adult or could be disposed of by the juvenile traffic~~
41 ~~violations bureau serving the court under Traffic Rule 13.1 if the court has established a~~
42 ~~juvenile traffic violations bureau. If the court requires restitution under this division, the~~
43 ~~restitution shall be made directly to the victim in open court or to the probation~~
44 ~~department that serves the jurisdiction or the clerk of courts on behalf of the victim.~~

45 ~~If the court requires restitution under this division, the restitution may be in the form of~~
46 ~~a cash reimbursement paid in a lump sum or in installments, the performance of repair~~
47 ~~work to restore any damaged property to its original condition, the performance of a~~
48 ~~reasonable amount of labor for the victim or survivor of the victim, the performance of~~
49 ~~community service work, any other form of restitution devised by the court, or any~~
50 ~~combination of the previously described forms of restitution.~~

51 ~~If the court requires restitution under this division, the court may base the restitution~~
52 ~~order on an amount recommended by the victim or survivor of the victim, the~~
53 ~~delinquent child, the juvenile traffic offender, a presentence investigation report,~~
54 ~~estimates or receipts indicating the cost of repairing or replacing property, and any~~
55 ~~other information, provided that the amount the court orders as restitution shall not~~
56 ~~exceed the amount of the economic loss suffered by the victim as a direct and~~
57 ~~proximate result of the delinquent act or juvenile traffic offense. If the court decides to~~
58 ~~order restitution under this division and the amount of the restitution is disputed by the~~
59 ~~victim or survivor or by the delinquent child or juvenile traffic offender, the court shall~~
60 ~~hold a hearing on the restitution. If the court requires restitution under this division, the~~
61 ~~court shall determine, or order the determination of, the amount of restitution to be~~
62 ~~paid by the delinquent child or juvenile traffic offender. All restitution payments shall be~~
63 ~~credited against any recovery of economic loss in a civil action brought by or on behalf~~

64 of the victim against the delinquent child or juvenile traffic offender or the delinquent
65 child's or juvenile traffic offender's parent, guardian, or other custodian.

66 If the court requires restitution under this division, the court may order that the
67 delinquent child or juvenile traffic offender pay a surcharge, in an amount not exceeding
68 five per cent of the amount of restitution otherwise ordered under this division, to the
69 entity responsible for collecting and processing the restitution payments.

70 The victim or the survivor of the victim may request that the prosecuting authority file a
71 motion, or the delinquent child or juvenile traffic offender may file a motion, for
72 modification of the payment terms of any restitution ordered under this division. If the
73 court grants the motion, it may modify the payment terms as it determines appropriate.

74 (4) Require the child or a parent or parents, guardian, or custodian of the child, or both,
75 to reimburse any or all of the costs incurred for services or sanctions provided or
76 imposed, including, but not limited to, the following:

77 (a) All or part of the costs of implementing any community control imposed as a
78 disposition under section 2152.19 of the Revised Code, including a supervision fee;

79 (b) All or part of the costs of confinement in a residential facility described in section
80 2152.19 of the Revised Code ~~or in a department of youth services institution~~, including,
81 but not limited to, a per diem fee for room and board, the costs of medical and dental
82 treatment provided, and the costs of repairing property the delinquent child damaged
83 while so confined. ~~The amount of reimbursement ordered for a child under this division~~
84 ~~shall not exceed the total amount of reimbursement the child is able to pay as~~
85 ~~determined at a hearing and shall not exceed the actual cost of the confinement. The~~
86 ~~court may collect any reimbursement ordered under this division. If the court does not~~
87 ~~order reimbursement under this division, confinement costs may be assessed pursuant~~
88 ~~to a repayment policy adopted under section 2929.37 of the Revised Code and division~~
89 ~~(D) of section 307.93, division (A) of section 341.19, division (C) of section 341.23 or~~
90 ~~753.16, division (C) of section 2301.56, or division (B) of section 341.14, 753.02, 753.04,~~
91 ~~or 2947.19 of the Revised Code.~~

92 (B) Chapter 2981. of the Revised Code applies to a child who is adjudicated a delinquent
93 child for violating section 2923.32 or 2923.42 of the Revised Code or for committing an
94 act that, if committed by an adult, would be a felony drug abuse offense.

95 (C) The court ~~may shall, at disposition,~~ hold a hearing ~~if necessary~~ to determine whether
96 a child ~~or a parent or parents, guardian, or custodian of the child, or both,~~ is are able to
97 pay a sanction under this section. The amount ~~of reimbursement ordered for a child~~
98 ~~under this division~~ shall not exceed the total amount of reimbursement the child or
99 parent or parents ~~is are~~ able to pay ~~as determined at a hearing and shall not exceed the~~
100 ~~actual cost of the confinement.~~ The court may collect any reimbursement ordered
101 ~~under this division.~~

102 (D) If a child who is adjudicated a delinquent child is indigent, the court shall consider
103 imposing a term of community service under division (A) of section 2152.19 of the
104 Revised Code in lieu of imposing a financial sanction under this section. If a child who is
105 adjudicated a delinquent child is not indigent, the court may impose a term of
106 community service under that division in lieu of, or in addition to, imposing a financial
107 sanction under this section. The court may order community service for an act that if
108 committed by an adult would be a minor misdemeanor.

109 If a child fails to pay a financial sanction imposed under this section, the court may
110 impose a term of community service in lieu of the sanction.

111 (E) The clerk of the court, or another person authorized by law or by the court to collect
112 a financial sanction imposed under this section, may do any of the following:

113 (1) Enter into contracts with one or more public agencies ~~or private vendors~~ for the
114 collection of the amounts due under the financial sanction, which amounts may include
115 interest from the date of imposition of the financial sanction;

116 (2) Permit payment of all, or any portion of, the financial sanction in installments, by
117 credit or debit card, by another type of electronic transfer, or by any other reasonable
118 method, within any period of time, and on any terms that the court considers just,
119 except that the maximum time permitted for payment shall not exceed five years or the
120 child's twenty-first birthday, whichever occurs first. The clerk may pay any fee
121 associated with processing an electronic transfer out of public money and may charge
122 the fee to the delinquent child.

123 (3) To defray administrative costs, charge a reasonable fee ~~to a child who~~ to the obligor
124 if the obligor elects a payment plan rather than a lump sum payment of a financial
125 sanction.

126

127 2152.203 Restitution

128

129 (A) Unless the child's delinquent act or juvenile traffic offense would be a minor
130 misdemeanor if committed by an adult or could be disposed of by the juvenile traffic
131 violations bureau serving the court under Traffic Rule 13.1, if the court has established a
132 juvenile traffic violations bureau, if a child is adjudicated a delinquent child or a juvenile
133 traffic offender, the court may order the child to make restitution to the victim of the
134 child's delinquent act or juvenile traffic offense or, if the victim is deceased, to a survivor
135 of the victim in an amount based upon the victim's economic loss caused by or related
136 to the delinquent act or juvenile traffic offense. The court may not require a child to
137 make restitution pursuant to this division if the child's delinquent act or juvenile traffic
138 offense would be a minor misdemeanor if committed by an adult or could be disposed
139 of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the
140 court established a juvenile traffic violations bureau. If the court requires restitution
141 under this division, the restitution shall be made directly to the victim in open court or
142 to the probation department that services the jurisdiction or the clerk of courts on
143 behalf of the victim.

Commented [CJE1]: This is duplicative of the language at the beginning of the division. Is there a reason for repeating it?

144

145 (B) If the court requires restitution under this division, the court may order that the
146 restitution be in the form of a cash reimbursement paid in a lump sum or in
147 installments, the performance of repair work to restore any damaged property to its
148 original condition, the performance of a reasonable amount fo labor for the victim or
149 survivor of the victim, the performance of community service work, any other form of
150 restitution devised by the court, including, but not limited to, alternative restorative
151 justice or alternative means to restitution, including returning personal property, or any
152 combination of the previously described forms of restitution.

153

154 (C) If the court requires restitution under this division, the court may base the
155 restitution order on an amount recommended by the victim or survivor of the victim,
156 the delinquent child, the juvenile traffic offender, a presentence investigation report,
157 estimates or receipts indicating the cost of repairing or replacing property, and any
158 other information, provided that the amount the court orders as restitution shall not
159 exceed the amount of the economic loss suffered by the victim as a direct and
160 proximate result of the delinquent act or juvenile traffic offense. If the court decides to
161 order restitution under this division and the amount of the restitution is disputed by the
162 victim or survivor or by the delinquent child or juvenile traffic offender, the court shall
163 hold a hearing on the restitution. If the court requires restitution under this division, the

164 court shall determine, or order the determination of, the amount of restitution to be
165 paid by the delinquent child or juvenile traffic offender. All restitution payments shall be
166 credited against any recovery of economic loss in a civil action brought by or on behalf
167 of the victim against the delinquent child or juvenile traffic offender or the delinquent
168 child's or juvenile traffic offender's parent, guardian, or other custodian.

169

170 (D) If the court requires restitution under this division, the court may order the payment
171 of a surcharge, in an amount not exceeding five percent of the amount of restitution
172 otherwise ordered under this division, as costs under section 2152.20 of the Revised
173 Code, to the entity responsible for collecting and processing the restitution payments.

174 (E) Any court order for restitution expires at the earlier of satisfaction of the restitution
175 order, either through payment, community service, or at the advice of the victim; upon
176 completion of the disposition; or when the delinquent child or juvenile traffic offender
177 against whom the order is made turns twenty-one.

178 (F) Following an order of restitution and establishment of a payment plan, the court
179 shall consider the child's present and future ability to pay in addition to any other
180 factors the court finds relevant in determining the number and amount of restitution
181 payments.

Commented [CJE2]: This division, although discussed by the committee, was not subject to a formal vote.

182 (G) If the court imposes one or more financial sanction in addition to restitution, any
183 amount paid by the delinquent child or juvenile traffic offender shall be credited first to
184 restitution, unless the court orders otherwise and provides reasons on the record and in
185 its judgment entry for ordering otherwise.

Commented [CJE3]: Divisions (G) and (H) are both in the original draft but are both stricken in the proposed language from Co-Chair Davies and, separately, Ms. Beeler.

186 (H) If the court determines that a delinquent child owes restitution under this section, it
187 may award a judgment in favor of the victim or survivor of the victim against a parent or
188 both parents, or a guardian or guardians, of the delinquent child or juvenile traffic
189 offender for the same amount ordered against the delinquent child or juvenile traffic
190 offender, or a separate amount than ordered against the delinquent child or juvenile
191 traffic offender, but in any case not to exceed \$10,000, provided that the court finds by
192 a preponderance of the evidence presented that the parent or both parents, or guardian
193 or guardians failure to exercise reasonable control or supervision over the delinquent
194 child or juvenile traffic offender was a substantial factor in the child's delinquency. Prior
195 to ordering parental restitution under this division, the court shall hold a hearing on the
196 matter with notice given to all interested parties as to the nature and amount of the

Commented [CJE4]: Divisions (G) and (H) have not been discussed by the committee.

197 parental restitution. In determining if restitution should be paid and by whom, as well as
198 the method and amount of payment, the court shall take into account, and shall state
199 on the record and in its judgment entry, the following factors:

200 (1) Whether the parent, or both parents, or guardian or guardians knew of
201 the child's delinquent nature and failed to take reasonable measures to control the
202 child;

203 (2) The past efforts of the parent or both parents, or the guardian or
204 guardians, to correct the delinquent juvenile's conduct;

205

206 (3) The opportunity the parent or both parents, or the guardian or guardians
207 has had to correct the delinquent child's conduct;

208 (4) Whether the parent or both parents, guardian or guardians, is custodial;

209 (5) The burden the payment will impose with regard to the other obligations
210 of the parent or both parents or the guardian or guardians;

211 (6) Any other factors the court finds relevant.

212

213

214

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

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

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

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

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

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

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

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

22 (B) Unless the child is subject to mandatory transfer, if a child is, who
23 is fourteen years of age or older at the time of the act charged, and if the child who is
24 charged with an act that would be a felony if committed by an adult, the child is
25 eligible for discretionary transfer to the appropriate court for criminal prosecution. In
26 determining whether to transfer the child for criminal prosecution, the juvenile court
27 shall follow the procedures in section 2152.12 of the Revised Code. If the court does
28 not transfer the child and if the court adjudicates the child to be a delinquent child for
29 the act charged, the court shall issue an order of disposition in accordance with section
30 2152.11 of the Revised Code this chapter.

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

36 **Sec. 2152.12.** ~~(A)(1)(a) After a complaint has been filed alleging that a child~~
37 ~~is a delinquent child for committing an act that would be aggravated murder, murder,~~
38 ~~attempted aggravated murder, or attempted murder if committed by an adult, the~~
39 ~~juvenile court at a hearing shall transfer the case if the child was sixteen or seventeen~~
40 ~~years of age at the time of the act charged and there is probable cause to believe that~~
41 ~~the child committed the act charged. The juvenile court also shall transfer the case at a~~
42 ~~hearing if the child was fourteen or fifteen years of age at the time of the act charged,~~
43 ~~if section 2152.10 of the Revised Code provides that the child is eligible for~~
44 ~~mandatory transfer, and if there is probable cause to believe that the child committed~~
45 ~~the act charged.~~

46 ~~(b) After a complaint has been filed alleging that a child is a delinquent child~~
47 ~~by reason of committing a category two offense, the juvenile court at a hearing shall~~
48 ~~transfer the case if section 2152.10 of the Revised Code requires the mandatory~~
49 ~~transfer of the case and there is probable cause to believe that the child committed the~~
50 ~~act charged.~~

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

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

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

63 ~~(B) Except as provided in division (A) of this section, after~~ After a complaint
64 has been filed alleging that a child is a delinquent child for committing an act that
65 would be a felony if committed by an adult, the juvenile court at a hearing may
66 transfer the case if the court finds all of the following:

67 ~~(1)~~(a) The child was fourteen years of age or older at the time of the act
68 charged.

69 ~~(2)~~(b) There is probable cause to believe that the child committed the act
70 charged.

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

78 (2) Independent of the authority to transfer a case under division (A)(1) of this
79 section, the juvenile court shall transfer a case when the person charged is deemed not
80 to be a child in the circumstances described in division (C)(5) of section 2152.02 of
81 the Revised Code.

82 ~~(C)~~(B) Before considering a transfer under division ~~(B)~~(A)(1) of this section,
83 the juvenile court shall order an investigation, including a mental examination of the
84 child by a public or private agency or a person qualified to make the examination. The
85 child may waive the examination required by this division if the court finds that the
86 waiver is competently and intelligently made. Refusal to submit to a mental
87 examination by the child constitutes a waiver of the examination.

88 ~~(D)~~(C) In considering whether to transfer a child under division ~~(B)~~(A)(1) of
89 this section, the juvenile court shall consider the following relevant factors, and any
90 other relevant factors, in favor of a transfer under that division:

91 (1) The victim of the act charged suffered physical or psychological harm, or
92 serious economic harm, as a result of the alleged act.

93 (2) The physical or psychological harm suffered by the victim due to the
94 alleged act of the child was exacerbated because of the physical or psychological
95 vulnerability or the age of the victim.

96 (3) The child's relationship with the victim facilitated the act charged.

97 (4) The child allegedly committed the act charged for hire or as a part of a gang
98 or other organized criminal activity.

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

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

Mandatory Bindover (Proposed language)

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

109 (8) The child is emotionally, physically, or psychologically mature enough for
110 the transfer.

111 (9) There is not sufficient time to rehabilitate the child within the juvenile
112 system.

113 ~~(E)~~(D) In considering whether to transfer a child under division ~~(B)~~(A)(1) of
114 this section, the juvenile court shall consider the following relevant factors, and any
115 other relevant factors, against a transfer under that division:

116 (1) The victim induced or facilitated the act charged.

117 (2) The child acted under provocation in allegedly committing the act charged.

118 (3) The child was not the principal actor in the act charged, or, at the time of
119 the act charged, the child was under the negative influence or coercion of another
120 person.

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

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

125 (6) The child is not emotionally, physically, or psychologically mature enough
126 for the transfer.

127 (7) The child has a mental illness or is a mentally retarded person.

128 (8) There is sufficient time to rehabilitate the child within the juvenile system
129 and the level of security available in the juvenile system provides a reasonable
130 assurance of public safety.

131 ~~(F) If one or more complaints are filed alleging that a child is a delinquent child
132 for committing two or more acts that would be offenses if committed by an adult, if a
133 motion is made alleging that division (A) of this section applies and requires that the
134 case or cases involving one or more of the acts charged be transferred for, and if a
135 motion also is made requesting that the case or cases involving one or more of the acts
136 charged be transferred pursuant to division (B) of this section, the juvenile court, in
137 deciding the motions, shall proceed in the following manner:~~

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

141 ~~(2) If the court determines that division (A) of this section applies and requires
142 that the case or cases involving one or more of the acts charged be transferred, the~~

Mandatory Bindover (Proposed language)

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

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

156 ~~(G)~~(E) The court shall give notice in writing of the time, place, and purpose of
157 any hearing held pursuant to division (A) ~~or (B)(1)~~ of this section to the child's
158 parents, guardian, or other custodian and to the child's counsel at least three days prior
159 to the hearing.

160 ~~(H)~~(F) No person, either before or after reaching eighteen years of age, shall be
161 prosecuted as an adult for an offense committed prior to becoming eighteen years of
162 age, unless the person has been transferred as provided in division (A)(1) ~~or (B)~~ of
163 this section or unless division ~~(J)~~(H) of this section applies. Any prosecution that is
164 had in a criminal court on the mistaken belief that the person who is the subject of the
165 case was eighteen years of age or older at the time of the commission of the offense
166 shall be deemed a nullity, and the person shall not be considered to have been in
167 jeopardy on the offense.

168 ~~(I)~~(G) Upon the transfer of a case under division (A)(1) or ~~(B)~~(2) of this
169 section, the juvenile court shall state the reasons for the transfer on the record, and
170 shall order the child to enter into a recognizance with good and sufficient surety for
171 the child's appearance before the appropriate court for any disposition that the court is
172 authorized to make for a similar act committed by an adult. The transfer abates the
173 jurisdiction of the juvenile court with respect to the delinquent acts alleged in the
174 complaint, and, upon the transfer, all further proceedings pertaining to the act charged
175 shall be discontinued in the juvenile court, and the case then shall be within the
176 jurisdiction of the court to which it is transferred as described in division (H) of
177 section 2151.23 of the Revised Code.

Mandatory Bindover (Proposed language)

178 ~~(J)~~(H) If a person under eighteen years of age allegedly commits an act that
179 would be a felony if committed by an adult and if the person is not taken into custody
180 or apprehended for that act until after the person attains twenty-one years of age, the
181 juvenile court does not have jurisdiction to hear or determine any portion of the case
182 charging the person with committing that act. In those
183 circumstances, ~~divisions~~ division (A) ~~and (B)~~ of this section ~~do~~ does not apply
184 regarding the act, and the case charging the person with committing the act shall be a
185 criminal prosecution commenced and heard in the appropriate court having
186 jurisdiction of the offense as if the person had been eighteen years of age or older
187 when the person committed the act. All proceedings pertaining to the act shall be
188 within the jurisdiction of the court having jurisdiction of the offense, and that court
189 has all the authority and duties in the case as it has in other criminal cases in that
190 court.
191

Mandatory Bindover – OPD Proposal

2152.12 Transfer of cases.

(A)

(1)

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

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

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

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

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

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

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

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

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

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

(B) Except as provided in division (A) of this section, after a complaint has been filed alleging that a child is a delinquent child for committing an act that would be a felony if committed by an adult, the juvenile court at a hearing may transfer the case if the court finds all of the following:

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

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

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

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

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

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

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

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

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

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

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

~~(8)~~ (7) The results of the evaluation and investigation in division (C) of this section indicate that the child is emotionally, ~~physically,~~ or psychologically mature enough for the transfer.

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~~(9)~~ (8) The results of the evaluation and investigation in division (C) of this section indicate that there is not sufficient time to rehabilitate the child within the juvenile system.

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

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

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

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

(4) 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.

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

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

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

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

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

(F) If one or more complaints are filed alleging that a child is a delinquent child for committing two or more acts that would be offenses if committed by an adult, if a motion is made alleging that division (A) of this section applies and requires that the case or cases involving one or more of the acts charged be transferred for, and if a motion also is made requesting that the case or cases involving one or more of the acts charged be transferred pursuant to division (B) of this section, the juvenile court, in deciding the motions, shall proceed in the following manner:

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

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

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

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

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

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

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

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

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

Mandatory Bindover – OPD Proposal

2505.02 Final orders.

(A) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) This section applies to and governs any action, including an appeal, that is pending in any court on July 22, 1998, and all claims filed or actions commenced on or after July 22, 1998, 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,

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

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

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(4) Criminal and traffic post-judgment motions

In a criminal or traffic case, if a party files any of the following, if timely and appropriate:

(a) a motion for arrest of judgment under Crim.R. 34;

(b) a motion for a new trial under Crim.R. 33 for a reason other than newly discovered evidence; or

(c) objections to a magistrate's decision under Crim.R. 19(D)(3)(b) or Traf.R. 14; or

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(d) a request for findings of fact and conclusions of law under Crim.R. 19(d)(3)(a)(ii), then the time for filing a notice of appeal from the judgment or final order in question begins to run as to all parties when the trial court enters an order resolving the last of these post-judgment filings. A motion for a new trial under Crim.R. 33 on the ground of newly discovered evidence made within the time for filing a motion for a new trial on other grounds extends the time for filing a notice of appeal from a judgment of conviction in the same manner as a motion on other grounds; but if made after the expiration of the time for filing a motion on other grounds, the motion on the ground of newly discovered evidence does not extend the time for filing a notice of appeal.

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

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

(5) Appeal by prosecution

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

(6) Partial final judgment or order

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

(C) Premature notice of appeal

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

(D) Definition of "entry" or "entered"

As used in this rule, "entry" or "entered" means when a judgment or order is entered under 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>
2-3 month	JSORN	Discussion	Pending	Jo Ellen	February Meeting finalize suggestions Present committee thoughts to Recodification Committee
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



OHIO

CRIMINAL SENTENCING COMMISSION

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

<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	Mandatory shackling	Comment on proposed Sup.R. 5.01 re: juvenile restraints approved 12/17/15	Pending	Members	Monitor rule amendment process
6-12 month	Sexting	Discussion	Pending	Members	Gather information
6-12 Month	Truancy	Proposed legislation given to committee	Pending	Jo Ellen John Ryan Scott Lundregan	Comments on pending legislation
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



CRIMINAL SENTENCING COMMISSION

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

<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)	Juvenile draft completed	COMPLETED	Jo Ellen Jill Beeler-Andrews	Approved by Commission 11/19/15
COMPLETED	Juvenile confinement credit	Discussion	COMPLETED	Jo Ellen Director Reed	Approved by Commission 11/19/15