

NOTICE

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**CHAPTER 698
PENALTIES AND SENTENCING**

698.01	Definitions.		698.04	Organizational Penalties.
698.02	Penalties for Misdemeanor.		698.05	Multiple Sentences.
698.03	Imposing Sentence for Misdemeanor		698.06	Modification of Sentence.

CROSS REFERENCES

See section histories for similar state law

Definition of "imprisoned" – see Ohio Revised Code §1.05

Burden and degree of proof – see Ohio Revised Code §2901.05

Criminal law prosecution – see Ohio Revised Code §2901.11

Venue – see Ohio Revised Code §2901.12

Procedure on change of venue – see Ohio Revised Code §2931.29

Transfer of prisoner on change of venue – see Ohio Revised Code §2931.30

Payment on costs and expenses on change of venue – see Ohio Revised Code §2931.31

Degree of offense; charge and verdict; prior conviction – see Ohio Revised Code §2945.75

Commitment in lieu of fine; credit for time served – see Ohio Revised Code §2947.20

Psychiatric examination before sentence – see Ohio Revised Code §2947.25

Criteria for probation; conditions for probation – see Ohio Revised Code §2951.02

Definitions generally – see GENERAL OFFENSES §606.01

Culpable mental states – see GENERAL OFFENSES §606.02

Classification of offenses – see GENERAL OFFENSES §606.03

Common law offenses abrogated – see GENERAL OFFENSES §606.04

Rule of construction – see GENERAL OFFENSES § 606.05

Limitation on prosecutions – see GENERAL OFFENSES §606.06

Requirements for criminal liability – see GENERAL OFFENSES §606.07

Organizational criminal liability – see GENERAL OFFENSES §606.08

Personal accountability for organizational conduct – see GENERAL OFFENSES §606.09

Obstructing justice – see GENERAL OFFENSES §606.15

SECTION 698.01 DEFINITIONS.

As used in this chapter:

(a) "Repeat offender" means a person who has a history of persistent criminal activity and whose character and condition reveal a substantial risk that he

will commit another offense. It is prima-facie evidence that a person is a repeat offender if any of the following applies:

- (1) Having been convicted of one or more offenses of violence, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense of violence;
- (2) Having been convicted of one or more sex offenses, as defined in Ohio Revised Code §2950.01, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent sex offense;
- (3) Having been convicted of one or more theft offenses, as defined in Section 642.01(k) and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent theft offense;
- (4) Having been convicted of two or more felonies, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense;
- (5) Having been convicted of three or more offenses of any type or degree other than traffic offenses, alcoholic intoxication offenses or minor misdemeanors, and having been imprisoned pursuant to sentence for any such offense, he commits a subsequent offense.

(b) "Dangerous offender" means a person who has committed an offense, whose history, character and condition reveal a substantial risk that he will be a danger to others, and whose conduct has been characterized by a pattern of repetitive, compulsive or aggressive behavior with heedless indifference to the consequences. "Dangerous offender" includes, without limitation, psychopathic offender, as defined in Ohio Revised Code §2947.24.

SECTION 698.02 PENALTIES FOR MISDEMEANOR.

(a) Unless another penalty is otherwise expressly provided in the section of which the provision is a part, whoever violates any of the provisions of this Part Six – General Offenses Code, other than a minor misdemeanor, shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

(b) Terms of imprisonment for misdemeanor shall be imposed as follows:

- (1) For a misdemeanor of the first degree, not more than six months.
- (2) For a misdemeanor of the second degree, not more than ninety days;

- (3) For a misdemeanor of the third degree, not more than sixty days;
 - (4) For a misdemeanor of the fourth degree, not more than thirty days.
- (c) Fines for a misdemeanor shall be imposed as follows:
- (1) For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000.00);
 - (2) For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
 - (3) For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
 - (4) For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00).
- (d) Whoever is convicted of or pleads guilty to a minor misdemeanor shall be fined not more than One Hundred Fifty Dollars (\$150.00).

SECTION 698.03 IMPOSING SENTENCE FOR MISDEMEANOR.

- (a) In determining whether to impose imprisonment or a fine, or both, for misdemeanor, and in determining the term of imprisonment and the amount and method of payment of a fine, the court shall consider the risk that the offender will commit another offense and the need for protecting the public therefrom, the nature and circumstances of the offense, the history, character and condition of the offender and his need for correctional or rehabilitative treatment, and the ability and resources of the offender and the nature of the burden that payment of a fine will impose on him.
- (b) If the offender is a repeat or dangerous offender, it does not control the court's discretion, but shall be considered in favor of imposing imprisonment for misdemeanor.
- (c) The criteria listed in Ohio Revised Code §2929.12, favoring shorter terms of imprisonment for felony, do not control the court's discretion, but shall be considered against imposing imprisonment for misdemeanor.
- (d) The criteria listed in subsections (b) and (c) hereof shall not be construed to limit the matters which may be considered in determining whether to impose imprisonment for misdemeanor.

(e) The court shall not impose a fine in addition to imprisonment for misdemeanor, unless a fine is specially adapted to deterrence of the offense or the correction of the offender, or the offense has proximately resulted in physical harm to the person or property of another, or the offense was committed for hire or for purpose of gain.

(f) The court shall not impose a fine or fines which, in the aggregate and to the extent not suspended by the court, exceeds the amount which the offender is or will be able to pay by the method and within the time allowed without undue hardship to himself or his dependents, or will prevent him from making restitution or reparation to the victim of his offense.

SECTION 698.04 ORGANIZATIONAL PENALTIES.

(a) Regardless of the penalties provided in Section 698.02, or in any other section of these Codified Ordinances, an organization convicted of an offense pursuant to Section 606.08 shall be fined, which fine shall be fixed by the court as follows:

- (1) For a misdemeanor of the first degree, not more than five thousand dollars (\$5,000.00);
- (2) For a misdemeanor of the second degree, not more than four thousand dollars (\$4,000.00);
- (3) For a misdemeanor of the third degree, not more than three thousand dollars (\$3,000.00);
- (4) For a misdemeanor of the fourth degree, not more than two thousand dollars (\$2,000.00);
- (5) For a minor misdemeanor, not more than one thousand dollars (\$1,000.00);
- (6) For a misdemeanor not specifically classified, not more than two thousand dollars (\$2,000.00);
- (7) For a minor misdemeanor not specifically classified, not more than one thousand dollars (\$1,000.00).

(b) When an organization is convicted of an offense not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then such penalty shall be imposed in lieu of the penalty provided in this section.

(c) When an organization is convicted of an offense not specifically classified, and the penalty provided includes a higher fine than that provided in this section, then the penalty imposed shall be pursuant to the penalty provided for violation of the section defining the offense.

(d) This section does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 606.08, either in addition to or in lieu of a fine imposed pursuant to this section.

SECTION 698.05 MULTIPLE SENTENCES.

(a) Except as provided in subsection (b) hereof, a sentence of imprisonment shall be served concurrently with any other sentence of imprisonment. In any case, a sentence of imprisonment for misdemeanor shall be served concurrently with a sentence of imprisonment for felony served in a State penal or reformatory institution.

(b) A sentence of imprisonment shall be served consecutively to any other sentence of imprisonment when the trial court specifies that it is to be served consecutively.

(c) Subject to the maximum provided in subsection (d) hereof, when consecutive sentences of imprisonment are imposed for misdemeanor, the term to be served is the aggregate of the consecutive terms imposed.

(d) Consecutive terms of imprisonment imposed shall not exceed an aggregate term of eighteen months, when the consecutive terms imposed are for misdemeanors. When consecutive terms aggregating more than one year are imposed for misdemeanors under the Ohio Revised Code or these Codified Ordinances, and at least one such consecutive term is for a misdemeanor of the first degree, the trial court may order the aggregate term imposed to be served in a state penal or reformatory institution.

SECTION 698.06 MODIFICATION OF SENTENCE.

(a) At the time of sentencing and thereafter when imprisonment for misdemeanor is imposed, the court may:

- (1) Suspend the sentence and place the offender on probation pursuant to Ohio Revised Code §2951.02;
- (2) Permit the offender to serve his sentence in intermittent confinement, overnight, or on weekends, or both, or at such other time or times as will allow him to continue at his occupation or care for his family;

- (3) Require the offender to serve a portion of his sentence, which may be served in intermittent confinement, suspend the balance of the sentence and place the offender on probation pursuant to Ohio Revised Code §2951.02.
- (b) At the time of sentencing and thereafter when a fine is imposed, the court may:
 - (1) Suspend all or any portion of the fine, upon such conditions as the court imposes in the interests of justice and the correction and rehabilitation of the offender;
 - (2) Permit payment of all or any portion of the fine in installments, or by such other method and in such time and on such terms as the court considers just, except that the maximum time permitted for payment shall not exceed two years.

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