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H.B. 403
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Fiscal Note & Local Impact Statement

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Version: As Introduced

Primary Sponsors: Reps. Hillyer and Galonski

Local Impact Statement Procedure Required: No

Jamie Duskocil, Fiscal Supervisor

Highlights

- The Department of Rehabilitation and Correction's (DRC) Division of Parole and Community Services – Bureau of Community Sanctions will likely realize some manner of administrative cost savings related to no longer sending notices of the pendency of the transfer to transitional control to courts of common pleas. The annual magnitude of this cost savings is unknown but is likely to be minimal relative to the current duties of the Division.
- The GRF-funded incarceration costs incurred by DRC are likely to decrease, as more offenders will likely be transferred to transitional control, which is typically less expensive than remaining in an institutional setting. The potential cost savings will depend on the total number of prisoners who meet the criteria for transfer and are no longer subject to a possible judicial veto.
- Courts of common pleas will see a decrease in administrative expenses to review and process notices of the pendency of the transfer to transitional control, the annual magnitude of which will vary from court to court. Currently, notices must be sent to the court responsible for the original sentencing.

Detailed Analysis

The bill eliminates the provision in current law that bars the Department of Rehabilitation and Correction (DRC) from transferring a prisoner to transitional control if the sentencing court, within a specified period, disapproves of the transfer. Transitional control is a prison program designed to facilitate an offender's transition back into the community from prison. Inmates who are deemed eligible by the Ohio Parole Board may participate in the transitional control program

during the final 180 days prior to their release from prison. Depending on sentence length, some inmates may require approval from the applicable sentencing judge prior to transfer.

Department of Rehabilitation and Correction

The Division of Parole and Community Services – Bureau of Community Sanctions, within DRC, administers the transitional control program in addition to other programs whose goal is to sanction and treat offenders in the community. Of DRC’s overall FY 2020 budget of \$1.91 billion, the Bureau of Community Sanctions’ overall funding accounted for approximately 10%, or \$191.2 million. The table below details the funding as allocated for the Bureau’s various funded programs for that year.

Department of Rehabilitation and Correction – Bureau of Community Sanctions FY 2020 Funded Programs (\$191,169,650 total)		
Program	Number of Counties Served	Total Funding
Prison Diversion	71	\$24,911,302
Jail Diversion	60	\$9,339,023
Community-Based Correctional Facilities	88	\$83,072,332
Halfway House	88	\$66,011,784
Community Residential Centers	88	\$2,807,492
Permanent Supportive Housing	88	\$3,039,248
Community Transitional Housing Program	88	\$1,988,469

Source: Ohio Department of Rehabilitation and Correction 2020 Annual Report

Non-GRF line item 501604, Transitional Control, is used to help pay costs related to the operation of the transitional control program, the purpose of which is to closely monitor a prisoner’s adjustment to community supervision during the final 180 days of the prisoner’s confinement. This line item is supported by fees that prisoners may be required to pay for their confinement and supervision while under transitional control. Up to 25% of the prisoner’s earnings are paid to the Transitional Control Fund (Fund 4L40) and appropriated to line item 501604. Actual collections vary due to the success of inmates finding employment and other collections they are assessed. Revenue has remained steady in recent years; however, future economic conditions could result in a decrease in revenue.

As part of preparing an offender for the transitional control program, the Division of Parole and Community Services (PCS Division) must give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the prisoner was indicted and of the fact that the court may disapprove the transfer of the prisoner to transitional

control. The notice must include an institutional summary report¹ prepared by the head of the prison in which the prisoner is confined at least 60 days prior to transfer and if the prisoner is serving a definite term of imprisonment or definite prison term of two years or less for an offense committed on or after July 1, 1996, or who is serving a minimum term of two years or less under a nonlife felony indefinite prison term.

If the court disapproves of the transfer of the prisoner to transitional control, the court must notify the PCS Division of the disapproval within 30 days after receipt of the notice, and upon such a timely disapproval, the Division may not proceed with the transfer. If the court does not timely disapprove the transfer of the prisoner to transitional control, the PCS Division may transfer the prisoner to transitional control.

In calendar year (CY) 2018, DRC submitted 3,104 judicial notices in accordance with their transitional control program. Of those, 2,437 notices received a response, and of those, 1,131 were subjected to a judicial veto. In CY 2019, numbers were similar with 3,071 judicial notices sent, 2,356 responses received, and 1,136 vetoed. Due to timing, there is some overlap in these year-to-year statistics.

According to the *DRC 2020 Annual Report*, in FY 2020, the average length of stay in the transitional control program was 139 days. In FY 2020, non-GRF expenditures for the program totaled approximately \$2.43 million. There are nine halfway house agencies statewide providing transitional control services, each with a slightly different per diem. The average was \$69.36 per day.

When compared to the FY 2020 budget statistics for incarcerated offenders, DRC expended \$1.48 billion. The average inmate cost per day for that year was \$83.72. The overall average stay in an institution was 3.11 years.

Because of the bill, DRC will likely realize cost savings in terms of administrative workload and incarceration expenditures. Currently, as part of the process to prepare an individual for transitional control, DRC first determines that an offender is eligible. A letter is then produced and mailed to the appropriate court. The correspondence is tracked via a database and if a judge denies the request, DRC must notify the inmate and the home institution. Additionally, all administrative tasks that had been completed in anticipation of the transfer must be reversed. For a portion of these cases, due to the time constraints, DRC would have already completed work to make referrals to a halfway house to ensure space would be available. If enacted, the bill would effectively eliminate the need to send and track the judicial notices and subsequent costs incurred to roll back preparations that may have been taken. In terms of incarceration expenditures, the GRF-funded incarceration costs incurred by DRC are likely to decrease, as more offenders will likely be transferred to transitional control, which is typically less expensive than remaining in an institutional setting. The potential cost savings will depend on the total number of prisoners who meet the criteria for transfer and are no longer subject to a possible judicial veto. Additional revenue may be collected from offenders that otherwise may not have been allowed to participate in the transitional control program.

¹ The institutional summary report must cover the prisoner's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the prisoner.

Courts of common pleas

Courts of common pleas will experience a potential cost savings because the court will no longer be required to consider notices of the pendency of the transfer to transitional control for prisoners identified by DRC. The magnitude of those savings will vary from court to court but will likely be commensurate with the number of offenders adjudicated by each court. In other words, courts with higher criminal caseloads and convictions will experience larger savings as they will likely receive fewer notices of pendency of transfer.