OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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(As Reported by H. Criminal Justice)

Sens. Eklund and Tavares, Schiavoni, Terhar, Thomas, Coley, Williams, Brown, Hoagland, Huffman, Kunze, LaRose, Lehner, McColley, Obhof, O'Brien, Oelslager, Skindell, Sykes, Wilson

Reps. Manning, Celebrezze, Rogers

BILL SUMMARY

- Expands the overriding purposes of felony sentencing to include, in addition to the currently stated purposes, the promotion of the effective rehabilitation of the offender.

- Removes the one-year minimum that currently applies when a court sentences an offender to a community control sanction for a fourth or fifth degree felony under the presumption for community control sanctions and expressly authorizes the court to impose a combination of community control sanctions under the provision.

- Provides that a court may impose a new term of up to six months in a community-based correctional facility or jail as a penalty for a felony offender who violates a community control sanction condition.

- Allows a sentencing court to place an offender who is subject to community control sanctions under the supervision of any entity authorized to provide probation and supervisory services to the county when there is no county probation department.

- Modifies the manner in which a sentencing court calculates the confinement credit by which the prison term of a felony offender sentenced to prison must be reduced.

- Eliminates a requirement that the sentencing court inform the offender at sentencing that the offender must not ingest or be injected with a drug of abuse and must submit to random drug testing while incarcerated.

- Modifies the criteria that a person must satisfy to be eligible for intervention in lieu of conviction (ILC) and changes the phrasing of a provision that specifies what a court must do after a hearing held to determine whether to grant ILC.

- Expands eligibility for pretrial diversion to include persons charged with certain minor drug offenses when the prosecutor consents to their participation.

- Expands the categories of offenders who are "eligible offenders" for purposes of Ohio's Conviction Record Sealing Law.

- Modifies the procedures for the Adult Parole Authority to grant a final release or terminate post-release control.

- Modifies the criteria for considering a prison term sanction for a post-release control violation.

- Extends the authority of the State Highway Patrol's Superintendent and Troopers to enforce criminal laws to also apply to the Northeast Ohio Correctional Center.

- Modifies the penalty for an employer's failure to remit state income taxes withheld from an employee.

- Allows halfway houses and the Department of Mental Health and Addiction Services to use the validated risk assessment tool selected by the Department of Rehabilitation and Correction (DRC).

- Allows authorized users of the validated risk assessment tool to disclose risk assessment reports to qualified persons and research organizations for research, evaluative, and statistical purposes, subject to written agreements.

- Authorizes the conveyance of state-owned real estate in Madison and Scioto counties currently under the jurisdiction of DRC.

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CONTENT AND OPERATION

The bill modifies numerous aspects of the law governing sentencing, corrections, and conviction record sealing.

Rehabilitation as a purpose of felony sentencing

The bill expands the overriding purposes of felony sentencing stated in current law to include, in addition to the currently stated purposes, the promotion of the effective rehabilitation of the offender. The purposes currently specified are protecting the public from future crime by the offender and others and punishing the offender using the minimum sanctions that the court determines accomplish those purposes without imposing an unnecessary burden on state or local government resources. The bill adds the new rehabilitation-related purpose after the two currently specified purposes.[1]

Existing law, unchanged by the bill, links the overriding purposes to felony sentencing in several ways. First, it requires a court that sentences an offender for a felony to be guided by the overriding purposes. Second, it specifies that, to achieve those purposes, the court must consider the need for incapacitating the offender, deterring the offender and others from future crime, rehabilitating the offender, and making restitution to the victim of the offense, the public, or both. Third, it requires that a felony sentence be reasonably calculated to achieve those purposes, commensurate with and not demeaning to the seriousness of the offender's conduct and its impact upon the victim, and consistent with sentences imposed for similar crimes committed

[1] R.C. 2929.11(A) and (B); also see 2929.13(B) to (E) and 2967.28(E), and 2925.01(CC), 2929.12(A), and 2967.19(B), not in the bill.

by similar offenders.[2] Under the bill, the rehabilitation expansion to the overriding purposes will be within the scope of these provisions.

Presumptive fourth or fifth degree felony community control sanction – removal of minimum term

The bill removes the one-year minimum that currently applies when a court sentences an offender to a community control sanction for a fourth or fifth degree felony under the existing presumption for community control sanctions and expressly authorizes the court to impose a combination of community control sanctions under the provision.[3]

Currently under the presumption, subject to an exception not further described in this analysis,[4] if an offender is convicted of a fourth or fifth degree felony that is not an "offense of violence" or that is a "qualifying assault offense" (the terms in quotation marks are defined terms), the court must sentence the offender to a community control sanction of at least one year's duration if all of the following apply:[5]

(1) The offender previously has not been convicted of a felony offense;

(2) The most serious charge against the offender at the time of sentencing is a fourth or fifth degree felony;

(3) The offender previously has not been convicted of a misdemeanor offense of violence that the offender committed within two years prior to the offense for which sentence is being imposed;

(4) If the court requested the Department of Rehabilitation and Correction (DRC) to provide specified information regarding one or more community control sanctions of at least one year's duration that are available for persons sentenced by the court, the Department provided the information within 45 days.

If the presumption does not apply, in determining whether to impose a prison term as a sanction, the sentencing court must comply with the purposes and principles of sentencing.[6] The bill removes the requirement that the sentence under this provision

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[2] R.C. 2929.11(A) and (B).

[3] R.C. 2929.13(B)(1)(a).

[4] R.C. 2929.13(B)(1)(b) and (c).

[5] R.C. 2929.13(B)(1)(a) and (c).

[6] R.C. 2929.13(B)(2).

be at least one year's duration and makes conforming changes in recognition of this removal, and it expressly authorizes the court to impose a combination of community control sanctions under the provision.[7]

Community-based correctional facility term or jail term as sanction for violation of felony community control sanction

The bill provides that a court may impose a new term of up to six months in a community-based correctional facility, halfway house, or jail as a penalty for a felony offender who violates a community control sanction condition.[8]

Currently, if a felony offender who is sentenced to a community control sanction (i.e., a residential sanction, a nonresidential sanction, or a financial sanction) violates the conditions of the sanction or if the offender violates a law or leaves the state without the permission of the court or the offender's probation officer, the sentencing court may impose upon the violator one or more of the three specified penalties. The penalties are a longer time under the same sanction if the total time under the sanctions does not exceed the five-year limit for community control sanctions, a more restrictive community control sanction, or a prison term. A prison term imposed upon a violator under this provision must be within the range of prison terms available for the offense for which the violated sanction was imposed and may not exceed the prison term the court specified to the offender, from that range, at the sentencing hearing. A prison term imposed for a technical violation of the community control sanctions or for a new nonfelony offense committed while under the sanctions is subject to a maximum of 90 days or 180 days in specified circumstances. The court may reduce the longer period of time that the offender is required to spend under the longer sanction, the more restrictive sanction, or a prison term by the time the offender successfully spent under the sanction that initially was imposed.[9]

The bill specifies that the more restrictive sanctions that a sentencing court may impose as a penalty on a violator of a condition of a community control sanction include, but are not limited to, a new term of up to six months in a community-based correctional facility that serves the county, in a halfway house, or in a jail. Any term so imposed will be in addition to any community control sanction previously imposed on the offender. As under existing law with respect to a jail term imposed as a community control sanction, if the offense is a fourth or fifth degree felony that is not an offense of

[7] R.C. 2929.13(B)(1)(a), (a)(iii), (b)(iv), and (c).

[8] R.C. 2929.15(B)(1)(b) and 2929.16(A)(6).

[9] R.C. 2929.15(B)(1) and (3).

violence, the court may specify that it prefers that the offender serve the term in a minimum security jail.[10]

Supervision of offenders serving community control sanctions

The bill authorizes a sentencing court to place offenders subject to community control sanctions under the supervision of any entity authorized to provide probation and supervisory services in the county if the county lacks a probation department. When a county has a probation department, the court must place the offender under the department's general control and supervision for purposes of reporting to the court any violation of a condition of the sanctions, any condition of release, a violation of state law, or the offender's departure from the state without the permission of the court or the offender's probation officer.

Under current law, when there is no probation department in the county that serves the court, the court must place the offender under the supervision of the Adult Parole Authority. However, counties are already authorized to contract with any nonprofit, public or private agency, association, or organization for the provision of probation and supervisory services for persons placed under community control sanctions; therefore, the bill appears to remedy an inconsistency in current law.[11]

Calculation and use of felony confinement credit

Calculation of credit

The bill modifies the manner in which a sentencing court calculates the confinement credit by which the prison term of a felony offender sentenced to prison must be reduced.[12]

Currently, if a court sentencing an offender for a felony determines that a prison term is necessary or required, the court must perform several specified tasks. One of the tasks is to determine, notify the offender of, and include in the sentencing entry the number of days that the offender has been confined for any reason arising out of the offense for which the offender is being sentenced and by which DRC must reduce the stated prison term under. The court's calculation may not include the number of days, if any, that the offender previously served in DRC's custody arising out of the offense for which the prisoner was convicted and sentenced. The bill modifies these provisions to require the court's determination, notification, and entry to be of the *total* number of

[10] R.C. 2929.15(B)(1)(b) and 2929.16(A)(6) and (D).

[11] R.C. 2301.27, not in the bill, and 2929.15.

[12] R.C. 2929.19(B)(2)(f)(i) and (v).

days, *including the sentencing date but excluding conveyance time*, that the offender has been confined for any reason arising out of the offense for which the offender is being sentenced.[13]

Under existing law, unchanged by the bill, in making the determination described above, the court must consider the arguments of the parties and conduct a hearing if one is requested. The court retains continuing jurisdiction to correct any error not previously raised at sentencing in making the determination and provides a mechanism for the offender to request a correction in an error in the determination. If the court changes the number of days in its determination or redetermination, the court must cause the entry granting that change to be delivered to DRC without delay. An inaccurate determination is not grounds for setting aside the offender's conviction or sentence and does not render the sentence void or voidable.[14]

Use of credit in reducing prison term

Under existing law, unchanged by the bill, DRC must reduce the stated prison term, the minimum and maximum term, or the parole eligibility date, whichever is applicable, of a prisoner in its custody by the total number of days that the prisoner previously served in DRC's custody arising out of the offense for which the prisoner was convicted and sentenced and by the total number of days that the prisoner was otherwise confined for any reason arising out of that offense, including several expressly stated types of confinement. The expressly stated types of confinement are confinement in a juvenile facility, confinement in lieu of bail while awaiting trial, confinement for examination to determine competence to stand trial or sanity, and confinement while awaiting transportation to prison, as determined by the sentencing court.[15] The bill specifies that, in determining the total days of local confinement for purposes of this reduction, DRC must rely upon the latest journal entry of the sentencing court as described above.[16]

Requirements at sentencing

The bill eliminates a requirement that, before imposing a prison term, the sentencing court must inform an offender that they are prohibited from ingesting or being injected with a drug of abuse and are required to submit to random drug testing

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[13] R.C. 2929.19(B)(2)(f)(i).

[14] R.C. 2967.19(B)(2)(f)(ii) to (iv).

[15] R.C. 2967.191, not in the bill.

[16] R.C. 2929.19(B)(2)(g)(v).

and test negative for drug abuse during the period of incarceration.[17] Under current law, unchanged by the bill, DRC randomly drug tests all inmates in state correctional institutions, and jails contract with laboratories and other entities to drug test prisoners.[18]

Intervention in lieu of conviction

The bill modifies the criteria that a person must satisfy to be eligible for intervention in lieu of conviction (ILC), changes the phrasing of a provision that specifies what a court must do after a hearing held to determine whether to grant ILC, and gives a court an additional sanction that it may impose when a person granted ILC fails to comply with an ILC term or condition.[19]

Introduction

Under current law, a person charged with a criminal offense may request ILC if either drug or alcohol usage by the offender was a factor leading to the criminal offense, or at the time of committing that offense, the person had a mental illness, was a person with intellectual disability, or was a victim of a "trafficking in persons" offense and the mental illness, intellectual disability status, or trafficking in persons victimization was a factor leading to the person's criminal behavior. The person must satisfy specified criteria (see below) to be eligible for ILC. The request must include a waiver of the person's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the person, and arraignment, unless the hearing, indictment, or arraignment has already occurred. If the court makes certain findings at a hearing, it may grant the person ILC. If the court grants ILC, the person enters a guilty plea, the court accepts the person's waiver of the trial-related rights described above, the court stays all criminal proceedings and imposes intervention terms and conditions, and the person remains under court supervision while undergoing intervention. If the person successfully completes the plan of intervention, the criminal proceeding is dismissed; if not, the court must impose a sanction (see below).[20]

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[17] R.C. 2929.19(B)(2)(f) and 2967.191.

[18] R.C. 341.26, 753.33, and 5120.63, not in the bill.

[19] R.C. 2951.041.

[20] R.C. 2951.041.

Eligibility criteria

Currently, there are ten eligibility criteria that a person must satisfy to be eligible for ILC, and the bill modifies six of them. The bill also changes references to *eligibility* with respect to ILC to *program eligibility* with respect to ILC.[21]

Criteria modified by the bill

The six eligibility criteria modified by the bill, and the changes it makes in those criteria, are as follows:[22]

(1) The bill limits the first criterion to specify simply that the offender previously has not been convicted of any felony offense of violence. Currently, that criterion specifies that the offender previously has not been convicted of a felony offense of violence or previously has been convicted of any felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for ILC participation, previously has not been through ILC or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose a community control sanction on the offender or with a misdemeanor.

(2) Under the bill, a second criterion specifies that the offense is not a first, second, or third degree felony, is not an offense of violence, is not "aggravated vehicular homicide" or "aggravated vehicular assault," is not a state OVI or a violation of a substantially similar municipal ordinance, and is not an offense for which a mandatory prison term is required. Currently, that criterion also requires that the offense is not an offense for which a mandatory term of local incarceration or a mandatory term of imprisonment in a jail is required.

(3) Under the bill, a third criterion specifies that the person is not charged with "corrupting another with drugs," "illegal manufacture of drugs," "illegal cultivation of marihuana," or "illegal administration or distribution of anabolic steroids," is not charged with a first, second, third, or fourth degree felony controlled substance trafficking offense under R.C. 2925.03, and is not charged with a first or second degree felony controlled substance possession offense under R.C. 2925.11. Currently, that criterion also requires that the person is not charged with a third degree felony controlled substance possession offense under R.C. 2925.11.

(4) Under the bill, a fourth criterion specifies that, if the person is charged with "tampering with drugs," the alleged violation did not result in physical harm to any

[21] R.C. 2951.041(B).

[22] R.C. 2951.041(B)(1) to (5) and (B)(8).

person. Currently, that criterion also requires that, if the person is charged with that offense, the person has not previously been treated for drug abuse.

(5) Under the bill, a fifth criterion and sixth criterion are modified to refer to a determination of the person's *program eligibility* for ILC, instead of referring to the person's *eligibility* for ILC. The bill does not otherwise change either criterion.

Criteria not changed by the bill

The four eligibility criteria not modified by the bill relate to the likelihood of whether ILC would demean the seriousness of the offense, the age, disability, and occupation of the victim, the person's willingness to comply with all terms and conditions imposed by the court, and whether the charge would result in sanctions under the Commercial Driver's License Law.[23]

Hearing determination

The bill changes the phrasing of a provision that specifies what a court must do at the conclusion of a hearing held to determine whether to grant ILC. Under the bill, at the conclusion of the hearing, the court must enter its determination as to whether the person will be granted ILC. Currently, the provision states that, at the conclusion of the hearing, the court must enter its determination as to whether the person is eligible for ILC and as to whether to grant the person's request.[24]

Eligibility for pretrial diversion

The bill permits persons accused of certain minor drug offenses to enter a pretrial diversion program with the consent of the prosecuting attorney. Under current law, persons accused of any drug offense (meaning a violation of Chapter 2925. or 3719. of the Revised Code) are ineligible for pretrial diversion. The bill creates an exception for persons accused of any of the following when the prosecutor consents to their participation:[25]

- Drug possession when the offense is only a misdemeanor, fifth degree felony, or fourth degree felony;
- Possessing drug abuse instruments, permitting drug abuse, or illegal use or possession of drug paraphernalia when the offense is only a misdemeanor.

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[23] R.C. 2951.041(B)(6), (7), (9), and (10).

[24] R.C. 2951.041(C).

[25] R.C. 2935.36(A)(3).

Eligibility for conviction record sealing

The bill expands the categories of offenders who are "eligible offenders"[26] for purposes of Ohio's Conviction Record Sealing Law.[27] That Law prescribes a mechanism pursuant to which an "eligible offender" (see below) may apply for the sealing of the offender's record of conviction.

Eligible offender

Under the bill, in addition to the category of offenders who currently are "eligible offenders" for purposes of the Conviction Record Sealing Law, the term also includes, anyone who has been convicted of one or more, but not more than five, offenses in Ohio or any other jurisdiction, if all of the offenses in this state are fourth or fifth degree felonies or misdemeanors and none of those offenses are an "offense of violence" (a defined term) or a felony sex offense and all of the offenses in another jurisdiction, if committed in Ohio, would be fourth or fifth degree felonies or misdemeanors and none of those offenses would be an offense of violence or a felony sex offense. If an eligible offender of this type has been convicted of two felonies, the offender may apply to seal the record four years after final discharge; if the offender has been convicted of three to five felonies, the offender may apply five years after final discharge; as under current law, if convicted of one felony, an eligible offender may apply for record sealing three years after final discharge.[28]

Currently, for purposes of the Conviction Record Sealing Law, "eligible offenders" includes only a person who has been convicted of an offense in Ohio or any other jurisdiction and who has not more than one felony conviction, not more than two misdemeanor convictions, or not more than one felony conviction and one misdemeanor conviction in Ohio or any other jurisdiction. When two or more convictions result from or are connected with the same act or result from offenses committed at the same time, they are counted as one conviction. When two or three convictions result from the same charging document, from the same plea of guilty, or from the same official proceeding, and result from related criminal acts committed within a three-month period but do not result from the same act or from offenses committed at the same time, they are counted as one conviction, provided that a court may decide that it is not in the public interest for the two or three convictions to be counted as one conviction. For purposes of, and except as otherwise described in this paragraph, a conviction for a minor misdemeanor, or for a specified state or municipal

[26] R.C. 2953.31 and 2953.32(A).

[27] R.C. 2953.31 to 2953.36.

[28] R.C. 2953.31(A)(1)(a).

traffic law violation generally is not a conviction. However, a conviction for certain specified state or municipal traffic law violations, including state or municipal OVI, is considered a conviction. The bill specifies that these existing provisions do not apply with respect to a person who is an "eligible offender" under the expansion of that term described in the preceding paragraph.[29]

Grant of final release/termination of post-release control

The bill modifies the procedures for the Adult Parole Authority (the APA) to grant a final release or terminate post-release control.[30]

Grant of final release

Under the bill, when a paroled prisoner, other than a prisoner in the shock incarceration program, has faithfully performed the conditions and obligations of the prisoner's parole and has obeyed the APA's rules and regulations that apply to the prisoner, the APA may grant a final release and thereupon must issue to the prisoner a certificate of final release that serves as the minutes of the APA. However, the APA may not grant a final release earlier than one year after the prisoner is released from the institution on parole, or for a prisoner whose sentence is life imprisonment, earlier than five years after the prisoner is released from the institution on parole. The final release certificate of a parolee serves as the official minutes of the APA, and it must consider those certificates as its official minutes.

Current law is similar, except that a final release may be granted only on recommendation of the Superintendent of Parole Supervision and the APA is expressly required to enter a final release upon its minutes.[31]

Termination of period of post-release control

Under the bill, when a prisoner who has been released under a period of post-release control after serving the prisoner's prison term has faithfully performed the conditions and obligations of the prisoner's post-release control sanctions and has obeyed the APA's rules and regulations that apply to the prisoner or has the period of post-release control terminated by a court, the APA may terminate the period of post-release control and issue to the released prisoner a certificate of termination, which serves as the minutes of the APA. However, the APA may not terminate post-release control for a prisoner whose period of post-release control is mandatory earlier than one

[29] R.C. 2953.31(A).

[30] R.C. 2967.16.

[31] R.C. 2967.16(A), (D), and (E).

year after the prisoner is released from the institution under post-release control and may not terminate post-release control for a prisoner whose sentence is life imprisonment earlier than five years after the prisoner is released from the institution under post-release control. The APA must classify the termination as favorable or unfavorable depending on the offender's conduct and compliance with the conditions of supervision.

Current law is similar, except that it refers to a grant of a final release instead of termination of post-release control, a final release may be granted only on recommendation of the Superintendent of Parole Supervision, and the APA is expressly required to enter a final release upon its minutes.[32]

Restoration of rights and privileges

Under the bill, a prisoner who has been granted a final release or termination of post-release control by the APA is restored to the rights and privileges forfeited by a conviction. Current law is the same, except that it does not include the reference to termination of post-release control (since the comparable procedure under existing law is designated a final release).[33]

Prison term as sanction for violation of post-release control sanction

The bill modifies the criteria for considering a prison term sanction for a post-release control violation and reduces the maximum length of any such sanction.[34]

Under the bill, when the Parole Board or a court of common pleas making joint decisions with the Board regarding post-release control decisions holds a hearing to determine whether a person on post-release control has violated a post-release sanction or a condition applicable to the person and determines that the person has violated a sanction or condition, the Board or court must consider a prison term as a sanction imposed for the violation when the violation involves a deadly weapon or dangerous ordnance, physical harm or attempted serious physical harm to a person, or sexual misconduct. As under current law, unless the person's stated prison term was reduced under the law regarding intensive program prisons, the period of a prison term imposed as a sanction under this provision may not exceed nine months, and the

[32] R.C. 2967.16(B) and (E).

[33] R.C. 2967.16(C)(1)(b).

[34] R.C. 2967.28(F)(3).

maximum cumulative prison term for all violations under this provision may not exceed one-half of the stated prison term originally imposed upon the offender.[35]

Current law is similar, except that it includes as an additional consideration for a court in determining whether to impose a prison term as a sanction for the violation that the person committed repeated violations of post-release control sanctions.

Under existing law, unchanged by the bill, the Parole Board or a court of common pleas making joint decisions with the Board regarding post-release control decisions may hold a hearing on any alleged violation by a person of a post-release control sanction or a condition imposed upon the person. If after the hearing the Board or court finds that the person violated the sanction or condition, it may increase the duration of the person's post-release control up to the maximum duration of post-release control authorized by law for the person's offense or impose a more restrictive post-release control sanction. When appropriate, the Board or court may impose as a post-release control sanction a residential sanction that includes a prison term.[36]

State Highway Patrol authority in Northeast Ohio Correctional Center

Current law specifies the investigatory and enforcement authority of the State Highway Patrol's Superintendent and Troopers. Among the specified authority, the Superintendent and Troopers may enforce the criminal laws on all state properties and state institutions, owned or leased by the state, and, when so ordered by the Governor in the event of riot, civil disorder, or insurrection, may arrest offenders against the criminal laws wherever they may be found within the state if the violations occurred upon, or resulted in injury to person or property on, state properties or state institutions, or under specified conditions with respect to a riot, civil disorder, or insurrection.

Currently, the authority of the Superintendent and Troopers to enforce the criminal laws described in the preceding paragraph extends to the Lake Erie Correctional Institution, to the same extent as if that prison were owned by the state. The bill further extends the authority of the Superintendent and Troopers to enforce the criminal laws described in the preceding paragraph to the Northeast Ohio Correctional

[35] R.C. 2967.28(F)(3).

[36] R.C. 2967.28(F)(3).

Center, to the same extent as if that prison were owned by the state.[37] The Northeast Ohio Correctional Center is a privately operated prison located in Youngstown.[38]

Penalty for employer's failure to remit state income taxes withheld from an employee

The bill modifies the penalty for an employer's failure to remit state income taxes withheld from an employee. Under the bill, the penalty for violating R.C. 5747.06 or 5747.07 by failing to remit income taxes withheld from an employee is: (1) except as described in clause (2), a fine of not less than $100 nor more than $1,000, or imprisonment for not more than 60 days, or both, or (2) if the offender previously has been convicted of a violation of R.C. 5747.06 or 5747.07 involving a failure to remit state income taxes withheld from an employee, a fifth degree felony. Currently, the penalty for violating R.C. 5747.06 or 5747.07 by failing to remit income taxes withheld from an employee always is a fifth degree felony.[39]

Under existing law, unchanged by the bill:[40]

(1) R.C. 5747.06, in relevant part, generally requires every employer, including the state and its political subdivisions, maintaining an office or transacting business within Ohio and making payment of any compensation to an employee who is a taxpayer to deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, as far as practicable, in withholding from the employee's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee under state law with respect to the amount of such compensation included in the employee's adjusted gross income during the calendar year. The employer shall deduct and withhold the tax on the date that the employer directly, indirectly, or constructively pays the compensation to, or credits the compensation to the benefit of, the employee.

(2) R.C. 5747.07, in relevant part, generally requires every employer required to deduct and withhold any amount under R.C. 5747.06 to file a return and pay the amount required by law, in a specified manner and at a specified time. The employer must file the return prescribed by the Tax Commissioner with the payment.

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[37] R.C. 5503.02(A).

[38] http://www.drc.ohio.gov/institutions.

[39] R.C. 5747.99.

[40] R.C. 5747.06 and 5747.07, not in the bill.

Risk assessment

The bill allows halfway houses and the Department of Mental Health and Addiction Services to use a validated risk assessment tool selected by DRC for adult offenders. Current law authorizes trial courts, departments of probation, correctional institutions, the Adult Parole Authority, and the Parole Board to use the tool. The bill also permits authorized users of the risk assessment tool to disclose risk assessment reports to qualified persons and research organizations for research, evaluative, and statistical purposes. Use of the reports is subject to the terms of written agreements between the authorized user and the recipients of the reports. Reports must be disclosed in a manner that ensures the security and confidentiality of information in the reports.[41]

Land conveyances

The bill authorizes the conveyance of state-owned real estate in Madison and Scioto counties currently under the jurisdiction of the Department of Rehabilitation and Correction (DRC) to the Madison County Board of County Commissioners and Scioto County Board of County Commissioners, respectively, through a negotiated real estate purchase agreement for $1 each.[42] The agreements must include: purchase price; accepting sanitary effluent and distributing potable water within current, average daily flow capacity monitored by flow meters; and reasonable, negotiated user rates. In addition, the Scioto County agreement must provide for the Scioto County Commissioners to improve its sewer infrastructure, particularly its sanitary sewer lines to eliminate storm water inflow and infiltration. As part of both conveyances, the state will grant a perpetual easement to the Madison County Commissioners and Scioto County Commissioners to provide access for purposes of inspection, repair, maintenance, replacement or other improvement to any sanitary sewer and water lines and water wells located on the adjacent state-owned land.

The deed may contain restrictions, exceptions, reservations, reversionary interests, or other terms and conditions the state determines to be in its best interest, including restrictions prohibiting the Madison County Commissioners or Scioto County Commissioners from occupying, using, developing, or selling the real estate, or the wastewater pretreatment or treatment plant, water treatment plant, or associated water towers located on the property in a way that interferes with the quiet enjoyment of neighboring state-owned land. The Madison County plants must continue to service

[41] R.C. 5120.114(A) and 5120.115(A).

[42] The $1 must be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund created under R.C. 5120.092. The authority expires three years after the bill's effective date.

sanitary effluent and potable water from and to the London Correctional Institution, London Correctional Training and Education Center, Madison Correctional Institution, Bureau of Criminal Investigation facilities, and the Ohio Peace Officer Training Academy, so long as DRC or the Attorney General consider it necessary. The Scioto County plant must continue to service sanitary effluent from and to the Southern Ohio Correctional Facility so long as DRC considers it necessary. Each agreement may transfer to the Madison County Commissioners or Scioto County Commissioners any supplies, equipment, furnishings, fixtures, or other assets considered necessary for the continued operation and management of the plants. If the Madison County Commissioners or Scioto County Commissioners later attempt to sell the real estate or the plants, the state has the first right of refusal and may repurchase the real estate and plants.

The real estate must be sold as an entire tract and not in parcels. The conveyance must include the improvements and chattels situated on the real estate, and is subject to all easements, covenants, conditions, and restrictions of record; all legal highways and public rights-of-way; zoning, building, and other laws, ordinances, restrictions, and regulations; and real estate taxes and assessments not yet due and payable. The real estate must be conveyed in an "as-is, where-is, with all faults" condition. The Madison County Commissioners or Scioto County Commissioners must pay all costs associated with the purchase, closing and conveyance, including surveys, title evidence, title insurance, transfer costs and fees, recording costs and fees, taxes, and any other fees, assessments, and costs that may be imposed. The Auditor of State, with the assistance of the Attorney General, must prepare a deed. The deed must state the consideration, restrictions, and other terms and conditions. The deed must be executed by the Governor in the name of the state, countersigned by the Secretary of State, sealed with the Great Seal of the State, presented in the Office of the Auditor of State for recording, and delivered to the Madison County Commissioners or Scioto County Commissioners, as applicable. The Commissioners must present the deed for recording in the Office of the Madison County Recorder or Scioto County Recorder. The state or DRC may release any restrictions, exceptions, reservations, reversionary interests, or other terms and conditions contained in the deed without further legislation.[43]

[43] Sections 4 (Madison County) and 5 (Scioto County).

HISTORY

ACTION	DATE
Introduced	02-21-17
Reported, S. Judiciary	02-28-18
Passed Senate (32-0)	02-28-18
Reported, H. Criminal Justice	05-23-18

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