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Bill Analysis

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Sarah A. Maki and Dennis M. Papp, Attorneys

SUMMARY

Gross sexual imposition penalty

- Modifies the circumstances in which a mandatory prison term is required for the offense of "gross sexual imposition."

Medical assistance for drug overdose – immunity

- Provides a specified type of immunity with respect to certain drug abuse instrument or paraphernalia offenses if a person seeks medical help for another person experiencing an overdose, experiences an overdose and seeks medical assistance, or is the subject of another person seeking medical assistance for that overdose.

County correctional officers carrying firearms

- Authorizes a county correctional officer to carry firearms while on duty in the same manner as a law enforcement officer if the county correctional officer is specifically authorized to carry firearms and has received firearms training.
- Grants a county correctional officer who is carrying firearms as described above protection from civil or criminal liability for any conduct occurring while carrying firearms to the same extent as a law enforcement officer.
- Provides for firearms training for county correctional officers to qualify them to carry firearms while on duty.

Correctional employee body-warn camera recordings

- Specifies the public record status of correctional employee body-worn camera recordings.

Law enforcement investigative notes in possession of coroner

- Eliminates a journalist's ability to obtain confidential law enforcement investigatory records from a county coroner.

Local correctional facility inmate's access to, and use of, internet

- Modifies the circumstances in which a prisoner in a county or municipal correctional facility may have access to the internet.

Civil protection orders – continuance of full hearing, and stalking protection order "family or household member" definition

- Modifies the circumstances in which a court that has issued an *ex parte* civil protection order may grant a continuance of the full hearing regarding the order.
- Corrects the definition of "family or household member" in the civil stalking protection order law by referring to the family or household member of the *petitioner*.

Judicial release

- Adds to the current judicial release mechanism circumstances in which judicial release may be granted, under a procedure similar but not identical to that applicable to judicial releases under current law, to inmates imprisoned during a state of emergency that is declared by the Governor as a response to a pandemic or public health emergency.
- Enacts a new judicial release mechanism loosely based in part on the current "80% release mechanism," enacts new procedures that govern a release under the new mechanism, and repeals the statute that contains the current mechanism.

Targeting Community Alternatives to Prison (T-CAP) program

- Changes the date for implementation of provisions under the T-CAP program from September 1, 2022, to June 30, 2022.

Grand jury inspection of local correctional facility

- Expressly authorizes grand jurors of involved counties to periodically visit, and examine conditions and discipline at, multicounty, multicounty-municipal, and municipal-county correctional centers and report on the specified matters.

Prison term for repeat OVI offender specification

- Imposes the mandatory prison term for conviction of a repeat OVI offender specification (an additional one-, two-, three-, four-, or five-year mandatory prison term) on an OVI offender who has previously been convicted of or pled guilty to that specification.

Speedy Trial Law – trial of a charged felon

- Allows the court to release from custody a person charged with a felony who has not been brought to trial within the amount of time required by statute, without dismissing charges against the person.
- Allows for a time-for-trial motion to be filed within 14 days before an accused charged with a felony must be brought to trial under continuing law.
- Requires charges to be dismissed with prejudice if a person charged with a felony is not brought to trial within 14 days after a time-for-trial motion is filed and served on the prosecuting attorney or, if none is filed, within 14 days after the court determines that the time to be brought to trial under continuing law has passed.

Criminal record sealing and expungement

- Modifies the conviction records that cannot be sealed and the time frame when certain conviction records may be sealed.
- Allows for the sealing of the official records in a case in which the person was granted a pardon.
- Requires a hearing on an application for sealing of the records related to a not guilty verdict, dismissal, no bill, or pardon not less than 45 days and not more than 90 days from the date of the filing of the application.
- Modifies the provisions regarding the time at which a prosecutor may object to an application and, in certain cases, must notify the victim of the offense in the case.
- Relocates numerous provisions of the law governing record sealing and makes technical changes as a result of those relocations.
- Authorizes a person to apply for expungement of a conviction record in the same manner that a person may apply for sealing of a conviction record, and authorizes the Governor to issue a writ of expungement of such a record in the same manner that the Governor may issue a writ for the sealing of such a record.
- Authorizes a person to apply for expungement of a dismissal for intervention in lieu of conviction in the same manner that the person may apply for sealing of a dismissal.

Youthful offender parole review

- Exempts an offender who is paroled on an offense committed when the offender was under 18 years of age who subsequently returns to prison from being eligible for parole under the special youthful offender parole provisions of current law.

Earned credits

- Increases the maximum amount of earned credit a prisoner may earn for participating in programming or completing a second program from 8% to 15% of the prisoner's prison term.

Transitional control and repeal of judicial veto

- Eliminates the provision that bars DRC from transferring a prisoner to transitional control, under any transitional control program it establishes, if the sentencing court within a specified period of time disapproves of the transfer.

Felony sentencing – Reagan Tokes Law

- Modifies a provision of the Felony Sentencing Law applicable to first and second degree felonies (part of the Reagan Tokes Law) to require DRC to provide sentencing courts with specified information when it recommends to the court that a prisoner sentenced under that Law be granted a reduction in the offender's minimum prison term.

Operating a vehicle while impaired (OVI) and traffic law changes

- Specifies that the discretionary prison term, in addition to the mandatory prison term, that may be imposed for a third degree felony OVI (operating a vehicle while impaired) offense is 12, 18, 24, 30, 36, 42, 48, 54, or 60 months, rather than 9, 12, 18, 24, 30, or 36 months as specified by the Ohio Supreme Court in State v. South.
- Expands the scope of the OVI laws by prohibiting the operation of a vehicle or watercraft while under the influence of a "harmful intoxicant."
- Allows a person to assert the existing affirmative defense of driving in an emergency with regard to a prosecution for driving under a suspended driver's license under specified laws.
- Specifies that the "enhanced penalty" for specified speeding violations applies regardless of whether the offender previously has been convicted of or pleaded guilty to a speeding offense.

Department of Youth Services

- Permits the Department of Youth Services (DYS) to develop a program to assist a youth leaving DYS's supervision, control, and custody at 21 years of age.
- Requires DYS's Director to appoint a central office quality assurance committee.

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DETAILED ANALYSIS

Gross sexual imposition

The bill modifies the circumstances in which a mandatory prison term is required for the offense of "gross sexual imposition."

Background

One of the two prohibitions under the offense of "gross sexual imposition" prohibits a person from having sexual contact with another, not the spouse of the offender; causing another, not the spouse of the offender, to have sexual contact with the offender; or causing two or more other persons to have sexual contact when any of five specified circumstances apply. One of these circumstances is when the other person, or one of the other persons, is

under age 13, whether or not the offender knows the age of that person.[1] The second prohibition under the offense prohibits a person from knowingly touching the genitalia of another, when the touching is not through clothing, the other person is under age 12, whether or not the offender knows the age of that person, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.[2]

Penalty

Under continuing law, gross sexual imposition committed in violation of either of the above prohibitions is either a third or fourth degree felony, depending on the prohibition violated and the circumstances of the violation. When the prohibition violated is the second prohibition described above, or when it is the first prohibition described above and the circumstance of the violation is the "under age 13" circumstance described above, the offense is a third degree felony and there generally is a presumption that a prison term must be imposed for the offense.[3] However, currently, the court must impose on an offender convicted of gross sexual imposition in violation of either prohibition in those circumstances a mandatory prison term for a third degree felony if either of the following applies:[4]

1. Evidence other than the testimony of the victim was admitted in the case corroborating the violation.
2. The offender previously was convicted of or pleaded guilty to gross sexual imposition, rape, the former offense of felonious sexual penetration, or sexual battery, and the victim of the previous offense was less than 13 years of age.

The Ohio Supreme Court, in *State v. Bevly*,[5] held the following in the first paragraph of its syllabus: "Because there is no rational basis for the provision in R.C. 2907.05(C)(2)(a) that requires a mandatory prison term for a defendant convicted of gross sexual imposition when the state has produced evidence corroborating the crime, the statute violates the due-process protections of the Fifth and Fourteenth Amendments to the United States Constitution." The bill eliminates (1), above, as a reason for imposing a mandatory prison term.[6]

[1] R.C. 2907.05(A)(4).

[2] R.C. 2907.05(B).

[3] R.C. 2907.05(C)(2).

[4] R.C. 2907.05(C)(2)(a) and (b).

[5] *State v. Bevly*, 142 Ohio St.3d 41 (2015).

[6] Repeal of current R.C. 2907.05(C)(2)(a).

Possessing drug abuse instruments, illegal use or possession of drug paraphernalia, and illegal use or possession of marihuana drug paraphernalia

The bill provides a specified type of immunity with respect to certain drug abuse instrument or paraphernalia offenses, regarding a request for, or the seeking of, medical assistance for a drug overdose.

Medical assistance for drug overdose – immunity

The bill provides immunity from arrest, charges, prosecution, conviction, or penalty for the offenses of "possessing drug abuse instruments," "illegal use or possession of drug paraphernalia," and "illegal use or possession of marihuana drug paraphernalia" ("drug paraphernalia offenses") if a person seeks or obtains medical help for another person experiencing an overdose, experiences an overdose and seeks medical assistance for the overdose, or is the subject of another person seeking or obtaining medical assistance for that overdose. Similar immunity currently exists for a "minor drug possession offense" (a defined term) when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose. A person is qualified for the immunity if the person is not on community control or post-release control and acts in good faith to seek or obtain medical help, or is the subject of another person seeking or obtaining medical help, in one of the specified manners. The types of medical assistance covered by this provision include making a 9-1-1 call, contacting an on-duty peace officer, or transporting or presenting a person to a health care facility.[7]

Under the bill, a person who meets the qualifications described above may not be arrested, charged, prosecuted, convicted, or penalized for any of the drug paraphernalia offenses if all of the following apply (the immunity provisions state that nothing they contain compels a qualified individual to disclose protected health information in a way that conflicts with the requirements of the federal Health Insurance Portability and Accountability Act of 1996 or related regulations):[8]

1. The evidence that would be the basis of the offense was obtained as a result of the person seeking medical assistance or experiencing an overdose and needing medical assistance.
2. Within 30 days after seeking or obtaining the medical assistance, the person seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.

[7] R.C. 2925.11(B)(2)(a), 2925.12(B)(2), 2925.14(C)(1) and (D)(3), and 2925.141(E)(2).

[8] R.C. 2925.11(B)(2)(b) and (g).

3. The person who obtains a screening and receives a referral as described in (2), upon the request of any prosecuting attorney, submits documentation verifying that the person satisfied the requirements of that paragraph.

Limitation on immunity

No person may be granted immunity under the bill's provisions more than two times, and the immunity provisions do not apply to any person who twice previously has been granted immunity.[9]

Penalty for community control or post-release control violation

As under current law regarding minor drug possession offenses, the bill gives a court directions regarding penalties in cases in which a person is found to be in violation of a community control sanction as a result of either (1) seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose, or (2) experiencing a drug overdose and seeking medical assistance for that overdose or being the person for whom medical assistance is sought. The court must first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty for the violation, after which the court may either order the person's participation or continued participation in a drug treatment program or impose the penalty for the violation while considering the person's overdose circumstance as a mitigating factor. A similar provision applies to cases before a court or the Parole Board in which a person is found to be in violation of a post-release control sanction.[10]

Evidence of other crimes, seizure, or arrest

The bill does not: (1) limit the admissibility of evidence with regards to any crime other than the drug paraphernalia offenses or minor drug possession offenses committed by a person qualified for immunity under the bill, (2) limit any seizure of evidence or contraband otherwise permitted by law, (3) limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense for which immunity is not provided, or (4) limit, modify, or remove any immunity from liability available prior to September 13, 2016, to any public agency or agency employee.[11]

County correctional officers carrying firearms

The bill includes provisions that address the authority of a county correctional officer to carry firearms while on duty.

[9] R.C. 2925.11(B)(2)(f).

[10] R.C. 2925.11(B)(2)(c) and (d).

[11] R.C. 2925.11(B)(2)(e).

Authority for correctional officers carrying firearms

The bill authorizes a "county correctional officer" (see below) to carry firearms while on duty in the same manner, to the same extent, and in the same areas as a law enforcement officer of the law enforcement agency with jurisdiction over the place at which the county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse is located, if all of the following apply:[12]

1. The person in charge of the particular jail, workhouse, or correctional center has specifically authorized the county correctional officer to carry firearms while on duty.
2. The county correctional officer has done or received one of the following:
    a. The officer has been awarded a certificate by the Executive Director of the Ohio Peace Officer Training Commission (OPOTC), which certificate attests to satisfactory completion of an approved state, county, or municipal basic training program or a program at the Ohio Peace Officer Training Academy (OPOTA) that qualifies the officer to carry firearms while on duty and that conforms to the rules adopted by the Attorney General (AG), as described below.
    b. Prior to or during employment as a county correctional officer and prior to the effective date of the bill, the officer successfully completed a firearms training program, other than one described in (a), above, that was approved by the OPOTC.

County correctional officer definition

The bills defines "county correctional officer" as a person who is employed by a county as an employee or officer of a county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.[13]

Protection from civil and criminal liability

The bill grants a county correctional officer who is carrying firearms under authority of the bill's provision described above with protection from potential civil or criminal liability for any conduct occurring while carrying the firearm or firearms to the same extent as a law enforcement officer of the law enforcement agency with jurisdiction over the place at which the county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-

[12] R.C. 109.772(A).

[13] R.C. 109.71(I), by reference to R.C. 341.41, not in the bill.

county jail or workhouse, or multicounty-municipal jail or workhouse is located has such protection.[14]

Ohio Peace Officer Training Commission rules

The bill requires the OPOTC to recommend rules to the AG in respect to both of the following:[15]

1. Permitting county correctional officers to attend approved peace officer training schools, including the OPOTA, to receiving training described below in (2), and to receive certificates of satisfactory completion of the basic training programs described below in (2).
2. The requirements for basic training programs that county correctional officers must complete to qualify them to carry firearms while on duty under authority of the bill's provision described above, which requirements must include the firearms training specified below in "**Attorney General rules**."

Attorney General rules

The bill requires the AG to adopt rules authorizing and governing the attendance of county correctional officers at approved peace officer training schools, including the OPOTA, to receive training to qualify them to carry firearms while on duty, and the certification of the officers upon their satisfactory completion of training programs providing that training.[16]

Certification of county correctional officers

The bill grants the OPOTC's Executive Director the power and duty to certify county correctional officers who have satisfactorily completed approved basic training programs (including the training courses at the OPOTA, as described below) that qualify them to carry firearms while on duty under authority of the bill's provision described above and to issue appropriate certificates to such county correctional officers. The powers and duties must be exercised with the general advice of the OPOTC.[17]

The bill requires the OPOTA to permit county correctional officers to attend training courses at the Academy that are designed to qualify the county correctional officers to carry firearms while on duty under authority of the bill's provision described above and that provide training mandated under the rules adopted by the AG. The county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-

[14] R.C. 109.772(B).

[15] R.C. 109.73(A)(16) and (17).

[16] R.C. 109.773.

[17] R.C. 109.75(N) and 109.79(A).

municipal jail or workhouse served by the county correctional officer who attends the OPOTA may pay the tuition costs of the county correctional officer.[18]

Firearms requalification

The bill adds county correctional officers to the list of persons who, if authorized to carry firearms in the course of their official duties, must complete an annual firearms requalification program approved by the OPOTC's Executive Director. No person who is subject to the requalification requirement may carry a firearm during the course of official duties if the person does not comply with the requirement. Currently, corrections officers of a multicounty correctional center, a municipal-county correctional center, or multicounty-municipal correctional center to carry firearms in the discharge of official duties who are authorized under the limited provision of current law repealed by the bill, described below in "**Current law, and application of the bill**," are subject to the requalification requirement.[19]

Current law, and application of the bill

Current law authorizes a corrections officer of a multicounty correctional center, a municipal-county correctional center, or multicounty-municipal correctional center to carry firearms in the discharge of official duties if the person in charge of the center grants the officer permission to carry firearms when required in the discharge of official duties and the officer has received firearms training. As described above, an officer granted permission to carry firearms under the provision is subject to the annual firearms requalification requirement, and the officer may carry firearms under authority of the provisions only when acting within the scope of the officer's official duties. The bill repeals these provisions and replaces them with the general "county correctional officer" provisions described above.[20]

Correctional employee body-warn camera recordings

The bill establishes, for body-worn camera recordings of a correctional employee, the same public records exemption that current law provides for recordings made by a visual and audio recording device worn on a peace officer or mounted on a peace officer's vehicle.[21] Under continuing law, restricted portions of a body-worn or dashboard camera recording are not subject to disclosure as public records.[22]

For purposes of the bill, "correctional employee" means any DRC employee who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.[23]

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[18] R.C. 109.79(A).

[19] R.C. 109.801.

[20] R.C. 109.801(A)(1) and 307.93(A).

[21] R.C. 149.43(A)(15), (16), and (17).

[22] R.C. 149.43(A)(1)(jj).

[23] R.C. 149.43(A)(9).

A restricted recording may be released with the consent of the recording's subject or that person's representative, only if the recording will not be used in connection with any probable or pending criminal proceedings or if the recording has been used in connection with a criminal proceeding that resulted in a dismissal or sentencing and will not be used again in connection with any probable or pending criminal proceedings.

If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, any person may file a mandamus action or a complaint with the clerk of the court of claims requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court must order the public office to release the recording.

However, if a criminal defendant requests a restricted recording as part of the person's case, under continuing law, that request is treated as a discovery demand under the Ohio Rules of Criminal Procedure instead of a public records request, and the Rules determine whether the defendant is entitled to receive the recording. The Rules allow a party to a case to receive many types of records that may be exempt from disclosure as public records.[24]

Law enforcement investigative notes in possession of coroner

The bill eliminates a journalist's ability to obtain confidential law enforcement investigatory records from a county coroner. Each county has an elected county coroner who has authority to perform an autopsy on a person who died under suspicious circumstances.[25] Many records of the coroner's office are subject to disclosure as public records under Ohio's Public Records Law, but some are confidential.[26] Current law specifies the following are confidential, but *may be viewed by a journalist upon request*: suicide notes, photographs of the decedent made by the coroner or by anyone acting under the coroner's discretion or supervision, and preliminary autopsy and investigative notes and findings. The bill modifies this to exclude records of a deceased individual that are "confidential law enforcement investigatory records" (under continuing law, confidential law enforcement investigatory records generally are not subject to disclosure as public records[27]). Under the bill, then, a journalist cannot view those items if they are confidential law enforcement investigatory records. Continuing law defines that to mean:

"Any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

[24] R.C. 149.43(G) and (H)(1) and (2).

[25] R.C. 313.01, not in the bill, and R.C. 313.10.

[26] R.C. 149.43.

[27] R.C. 149.43(A)(1)(h).

1. The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised.
2. Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity.
3. Specific confidential investigatory techniques or procedures or specific investigatory work product.
4. Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source."[28]

Local correctional facility inmate's access to, and use of, internet

The bill modifies the circumstances under which a county or municipal correctional officer may provide a prisoner access to, or permit a prisoner to have access to, the Internet through the use of a computer, computer network, computer system, computer services, telecommunications service, or information service and the circumstances under which a prisoner in a county correctional facility under control of a county or in a municipal correctional facility under control of a municipality may access the internet through any of those devices or items. "County correctional officer," "municipal correctional officer," "county correctional facility," and "municipal correctional facility" all are defined under existing law, unchanged by the bill.[29] The provisions as modified by the bill impose the same restrictions with respect to the specified facilities and officers, and inmates, as current law, unchanged by the bill, imposes with respect to officers and employees of, and inmates in, correctional institutions under DRC's control or supervision.[30] Under the bill:[31]

1. No county correctional officer or municipal correctional officer may provide a prisoner access to or permit a prisoner to have access to the internet through the use of a computer, computer network, computer system, computer services, telecommunications service, or information service unless: (a) the prisoner is "accessing the internet solely for a use or purpose approved by the managing officer of that prisoner's county correctional facility or by the managing officer's designee," and (b) the provision of and access to the internet is in accordance with rules promulgated by DRC under an existing provision requiring it to adopt rules governing the establishment and operation of a system providing limited and monitored access to the internet for prisoners solely for a use or purpose approved by the managing officer of that prisoner's institution or by the officer's designee. Currently, the criterion described in clause (a) is

[28] R.C. 149.43(A)(2).

[29] R.C. 341.42 and 753.32.

[30] R.C. 5145.31, not in the bill.

[31] R.C. 341.42 and 753.32.

that the prisoner is "participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes."

2. No prisoner in a county correctional facility under the control of a county or in a municipal correctional facility under the control of a municipality may access the internet through the use of a device or item described above in (1) unless: (a) the prisoner is "accessing the internet solely for a use or purpose approved by the managing officer of that prisoner's county or municipal correctional facility or by the managing officer's designee," and (b) the provision of and access to the Internet is in accordance with rules promulgated by DRC (see clause (b) under (1), above). Currently, the criterion described above in clause (a) is that the prisoner is "participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes. As under current law, a violation of the prohibition described in this paragraph is "improper internet access," a first degree misdemeanor.

Civil protection orders – continuance of full hearing, and stalking protection order "family or household member" definition

The bill modifies provisions regarding continuances of full hearings regarding civil protection orders in specified circumstances and the definition of "family or household member" used regarding one type of civil protection order.

Background

Current law provides mechanisms for the issuance of a civil protection order (CPO) in three sets of circumstances. The first is a CPO issued by a juvenile court based on an allegation that a person (the respondent) engaged in a specified assault, menacing, menacing by stalking, or aggravated trespass offense, committed a sexually oriented offense, or engaged in a violation of any municipal ordinance substantially equivalent to any of those offenses against the person to be protected by the protection order. The second is a CPO issued by a common pleas court based on an allegation that a respondent is age 18 or older and engaged in a menacing by stalking offense or committed a sexually oriented offense against the person to be protected by the protection order (a stalking CPO). The third is a CPO issued by a common pleas court based on an allegation that the respondent engaged in domestic violence against a family or household member of the respondent or against a person with whom the respondent is or was in a dating relationship (a domestic violence CPO). With respect to each type of CPO, current law authorizes a person who requests the issuance of a CPO to request an *ex parte* order – if such a request is made, special procedures apply regarding the request.

Request for *ex parte* order and continuance of full hearing after issuance of *ex parte* order

Current law provides mechanisms, if a person who requests the issuance of a CPO requests an *ex parte* order, the court must hold an *ex parte* hearing, generally on the same day or the day after, the petition is filed. If the court at the hearing makes specified findings, it may issue an *ex parte* temporary CPO, and if it does, it must schedule a full hearing to be held within a specified number of days – generally ten, but in certain circumstances, seven – after the *ex*

parte hearing, must give the respondent notice of, and an opportunity to be heard at, the full hearing, and in certain cases must give notice to other specified persons. The court must hold the full hearing on the date scheduled unless it grants a continuance of the hearing, under any of the circumstances described in the next paragraph, to a reasonable time determined by the court. At the full hearing, the court decides whether to grant a regular CPO.[32]

The bill modifies the grounds that authorize a court to grant a continuance of a full hearing scheduled after the issuance of an *ex parte* order. Under the bill, the grounds are any of the following: (1) prior to the date scheduled for the full hearing, the respondent has not been served with the petition requesting the issuance of the order and notice of the full hearing, (2) the parties consent to the continuance, or (3) the continuance is to allow a respondent to obtain counsel. Currently, the ground listed in clause (3) is that the continuance is needed to allow "a party" to obtain counsel, and currently, there is a fourth ground, which is "the continuance is needed for other good cause."[33]

Definition of "family or household member" regarding stalking civil protection orders

The current domestic violence CPO law defines "family or household member" as any of four specified types of persons in relation to the "respondent" – i.e., the person against whom a domestic violence CPO is sought.[34] The current stalking CPO law defines "family or household member" by referencing the definition of "family or household member" in the domestic violence CPO law (i.e., R.C. 3113.31).[35] The reference to the definition in the domestic violence CPO law is in error, because a person who seeks a stalking CPO may be a family or household member of the *petitioner*, not a family or household member of the *respondent* as in the civil domestic violence protection order law definition.

The bill corrects the definition of "family or household member" in the stalking CPO law by eliminating the reference to the domestic violence CPO law and instead defining "family or household member" for purposes of the stalking CPO law as any of the four specified types of family or household member of the *petitioner.*[36] The bill makes no changes to the four types of family or household members specified in the definition.

Judicial release

The bill expands the existing judicial release mechanism to also apply with respect to "state of emergency-qualifying offenders" and enacts a new judicial release mechanism that replaces the current "80% release mechanism."

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[32] R.C. 2151.34, 2903.214, and 3113.31.

[33] R.C. 2151.34(D)(2)(a), 2903.214(D)(2)(a), and 3113.31(D)(2)(a).

[34] R.C. 3113.31(A)(3).

[35] R.C. 2903.214(A)(3).

[36] R.C. 2903.214(A)(3).

Current judicial release mechanism – application to inmates imprisoned during a declared state of emergency

General authorization and filing of motion

Current law provides two separate judicial release mechanisms. One mechanism, unchanged by the bill, applies with respect to offenders who are in imminent danger or death, are medically incapacitated, or are suffering from a terminal illness – this mechanism is not further discussed in this analysis. The other mechanism applies with respect to "eligible offenders," a defined term (current law, unchanged by the bill, provides that certain specified prison terms may not be reduced through judicial release[37]). The bill expands this current mechanism, with several different procedures, to apply with respect to "state of emergency-qualifying offenders" (hereafter, SEQ offenders), who are defined as inmates serving a stated prison term during a state of emergency declared by the Governor as a direct response to a pandemic or public health emergency. Under the bill, on the motion of an SEQ offender made during the state of emergency that was declared as a response to a pandemic or public health emergency, or on its own motion with respect to such an offender during the declared state of emergency, the sentencing court may reduce the offender's aggregated nonmandatory prison term or terms through a judicial release.

An SEQ offender may file a judicial release motion with the sentencing court during the state of emergency that was declared as a response to a pandemic or public health emergency, within the same periods of time applicable under current law to an eligible offender, based on the length of the applicant's aggregated nonmandatory prison term and whether the term includes any mandatory prison terms. But if an SEQ offender's prison term does not include any mandatory prison terms, or if the term includes one or more mandatory prison terms and the offender has completed all of the mandatory terms, the offender may file the motion at any time during the offender's aggregated nonmandatory prison term or terms, provided that time is also during the state of emergency that was declared as a direct response to a pandemic or public health emergency.[38]

Court actions upon receipt of a motion

Upon receipt of a timely motion for judicial release filed by an SEQ offender, or upon the sentencing court's own motion made under the bill, the court may deny the motion without a hearing, schedule a hearing on the motion, or grant the motion without a hearing. If a court denies a motion without a hearing, it later may consider judicial release for that SEQ offender on a subsequent motion. The court may not deny a motion with prejudice. The court may hold multiple hearings for any offender under consideration for judicial release as an SEQ offender.

A denial of a motion filed by an inmate as an eligible offender does not limit or affect any right of the offender to file a motion for consideration as an SEQ offender or for the court

[37] See, e.g., R.C. 2929.14(B)(1) to (11).

[38] R.C. 2929.20(A) to (C).

on its own motion to consider the offender for judicial release as an SEQ offender, and a denial of a motion filed by an inmate as an SEQ offender does not limit or affect any right of the offender to file a motion for consideration as an eligible offender or for the court on its own motion to consider the offender for judicial release as an eligible offender.

The court considering a motion regarding an SEQ offender may order the prosecuting attorney of the county in which the offender was indicted to respond to the motion in writing within ten days and to include in the response any statement that the victim wants to be given to the court. The court must consider any response from the prosecuting attorney and any statement from the victim in its ruling on the motion. After receiving the response from the prosecuting attorney, the court must either order a hearing as soon as possible, or enter its ruling on the motion as soon as possible. If the court conducts a hearing, it must be in open court or by a virtual, telephonic, or other form of remote hearing, and the court must enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, it must enter its ruling on the motion within ten days after the motion is filed or after it receives the response from the prosecuting attorney. If the court schedules a hearing, the existing notice provisions regarding a hearing on a motion made by an inmate as a qualifying offender apply (i.e., notice to DRC, the prosecuting attorney, and victims).

Any person may submit to the court, at any time prior to the hearing, a written statement concerning the effects, circumstances surrounding, and manner of commitment, of the offender's crime or crimes, and the person's opinion as to whether the offender should be released.[39]

Hearings and hearing-related activities

Prior to the date of the hearing on a motion for judicial release made by an SEQ offender or by a court on its own, the head of the prison in which the offender is confined must send to the court an institutional summary report on the offender's conduct in the institution and in any other institution. Upon the request of the indicting prosecuting attorney or of any law enforcement agency, the head of the prison also must send a copy of the report to the requesting prosecuting attorney and agencies. The institutional summary report covers the offender's participation in rehabilitative activities and any disciplinary action taken against the offender, and it is part of the record of the hearing. A presentence investigation report is not required for judicial release.

If the court grants a hearing on a motion for judicial release made by an SEQ offender, or by the court on its own, the offender must attend the hearing if ordered to do so by the court. Upon receipt of a copy of the order, the head of the prison in which the offender is incarcerated must deliver the offender to the sheriff of the county in which the hearing is to be held, who must convey the offender to and from the hearing. The existing hearing procedures

[39] R.C. 2929.20(D)(1) and (2)(b), (E), and (L).

relative to a motion made by an inmate as a qualifying offender apply to a hearing relative to a motion made by an SEQ offender.[40]

Court determination on motion

Except as otherwise described in this paragraph, a court must grant a judicial release to an offender who is under consideration as an SEQ offender if the court determines that the risks posed by incarceration to the offender's health and safety, because of the nature of the state of emergency, outweigh the risk to public safety if the offender were to be released from incarceration. A court may not grant a judicial release to an offender who is imprisoned for a first or second degree felony and is under consideration for judicial release as an SEQ offender unless the court, with reference to the factors the Felony Sentencing Law requires to be considered in sentencing, finds that a sanction other than a prison term: (1) would adequately punish the offender and protect the public from future criminal violations by the offender, because the applicable factors indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism, and (2) would not demean the seriousness of the offense, because the applicable factors indicating that the offender's conduct in committing the offense was less serious than conduct normally constituting the offense outweigh the applicable factors indicating that the offender's conduct was more serious than conduct normally constituting the offense.

If the court grants a motion for judicial release, it must order the SEQ offender's release, place the offender under an appropriate community control sanction (for a period not exceeding five years), under appropriate conditions, and under supervision of the department of probation serving the court, and reserve the right to reimpose the reduced sentence if the offender violates the sanction. The existing provisions regarding reimposition of a reduced sentence, reduction of a period of community control imposed, and notice (i.e., notice to DRC, the prosecuting attorney, and victims) with respect to judicial release granted on a motion made by an inmate as an eligible offender apply.[41]

Application of bill's provisions regarding SEQ offenders

The changes made by the bill, as described above, apply to any judicial release decision made on or after the bill's effective date for any eligible offender or SEQ offender.[42]

New judicial release mechanism – replacement of current "80% release mechanism"

General authorization, filing of recommendation, and related duties

The bill enacts a new judicial release mechanism loosely based in part on the current "80% release mechanism," enacts new procedures that govern a release under the new

[40] R.C. 2929.20(G) to (I).

[41] R.C. 2929.20(J)(3) and (K).

[42] R.C. 2929.20(M)(2).

mechanism, and repeals the statute[43] that contains that current mechanism (current law, unchanged by the bill, provides that certain specified prison terms may not be reduced through judicial release[44]).

The bill specifies that separate from and independent of the provisions of the other judicial release mechanisms, DRC's Director may recommend in writing to the sentencing court that the court consider releasing from prison, through a judicial release, any offender who is confined in a prison, who is serving a stated prison term of one year or more, and who is an "eligible offender" under the definition of that term that applies to the other judicial release mechanisms. The Director may file the recommendation by submitting to the sentencing court a notice, in writing, of the recommendation, within the same periods of time applicable under current law to an eligible offender under the other judicial release mechanisms, based on the length of the applicant's aggregated nonmandatory prison term and whether the term includes any mandatory prison terms (but references in the existing provisions to "the motion" are to be construed for purposes of this provision as being references to the notice and recommendation under this new mechanism). An "eligible offender" is any person who, on or after April 7, 2009, is serving a stated prison term that includes one or more nonmandatory prison terms, but the term does not include any person who, on or after April 7, 2009, is serving a stated prison term for any of a list of specified criminal offenses that was a felony and was committed while the person held a public office in Ohio.

The Director must include with any notice submitted to the sentencing court an institutional summary report that covers the offender's participation while confined in a prison in rehabilitative activities and any disciplinary action taken against the offender while so confined, and any other documentation requested by the court, if available.

If the Director submits a notice recommending judicial release, DRC promptly must provide to the prosecuting attorney of the county in which the offender was indicted a copy of the written notice and recommendation, a copy of the institutional summary report, and any other information provided to the court, and must provide a copy of the institutional summary report to any law enforcement agency that requests it. DRC also must provide written notice of the submission of the Director's notice to any victim of the offender or victim's representative, in the same manner as applies under the existing notice provisions under the other judicial release mechanisms, regarding a hearing on a motion made by an inmate as a qualifying offender under the other mechanisms (i.e., notice to DRC, the prosecuting attorney, and victims).[45]

[43] Repeal of R.C. 2967.19.

[44] See, e.g., R.C. 2929.14(B)(1) to (11).

[45] R.C. 2929.20(O)(1).

Effect of recommendation

Except as otherwise described in the next paragraph and in "**Court actions upon receipt of a recommendation**," below, a recommendation for judicial release in a notice submitted by the Director is subject to the notice, hearing, and other procedural requirements specified in the existing provisions under the other judicial release mechanisms, regarding a hearing on a motion made by an inmate as a qualifying offender (but references in the existing provisions to "the motion" are to be construed for purposes of this provision as being references to the notice and recommendation under this new mechanism).

The Director's submission of a notice constitutes a recommendation by the Director that the court strongly consider a judicial release of the offender consistent with the purposes and principles of sentencing set forth in the Felony Sentencing Law and establishes a rebuttable presumption that the offender must be released through a judicial release in accordance with the recommendation. The presumption of release may be rebutted only as described in the second succeeding paragraph. Only an offender recommended by the Director as described above may be considered for a judicial release under this new mechanism.[46]

Court actions upon receipt of a recommendation

Upon receipt of a notice recommending judicial release submitted by the Director as described above, the court must schedule a hearing to consider the recommendation for the judicial release of the offender who is the subject of the notice. Within 30 days after the notice is submitted, the court must inform DRC and the prosecuting attorney of the county in which the offender who is the subject of the notice was indicted of the date, time, and location of the hearing. Upon receipt of the notice from the court, the existing notice provisions regarding a hearing on a motion made by an inmate as a qualifying offender under the other mechanisms apply (i.e., notice to DRC, the prosecuting attorney, and victims).[47]

When a court schedules a hearing, at the hearing, the court must consider the institutional summary report submitted and all other information, statements, reports, and documentation described under the existing provisions that apply regarding the other judicial release mechanisms, in determining whether to grant the offender judicial release. The court must grant the offender judicial release unless the prosecuting attorney proves to the court, by clear and convincing evidence, that the release of the offender would constitute a present and substantial risk that the offender will commit an offense of violence. If the court grants a judicial release, it must order the offender's release, place the offender under an appropriate community control sanction (for a period not exceeding five years), under appropriate conditions, and under supervision of the department of probation serving the court, and reserve the right to reimpose the reduced sentence if the offender violates the sanction. The existing provisions regarding reimposition of a reduced sentence and reduction of a period of community control imposed with respect to judicial release granted on a motion made by an

[46] R.C. 2929.20(O)(2) and (3).

[47] R.C. 2929.20(O)(4).

inmate as an eligible offender apply (but references in the existing provisions to "the motion" are to be construed for purposes of this provision as being references to the notice and recommendation under this new mechanism).

After ruling on whether to grant the offender judicial release under this new mechanism, the court must notify the offender, the prosecuting attorney, and DRC of its decision, and must notify the victim of its decision in accordance with specified provisions[48] of the Crime Victims Rights Law.[49]

Cross-references and conforming changes

The bill amends several existing R.C. provisions to conform them to its changes described above.[50]

Targeting Community Alternatives to Prison (T-CAP) program

Am. Sub. H.B. 110 of the 134th General Assembly expanded the voluntary Targeting Community Alternatives to Prison (T-CAP) program to apply to fourth degree and fifth degree felonies instead of only fifth degree felonies. The act included a deadline of September 1, 2022, by which certain requirements under the act, including the application of the program with respect to fourth degree felonies, will apply and certain duties under the act must be satisfied. The bill changes that deadline from September 1, 2022, to June 30, 2022.

Local confinement for fourth and fifth degree felony prison terms

In general

Current law provides that in any "voluntary county," the board of county commissioners and the administrative judge of the common pleas court general division may agree to have the county participate in the following procedures, subject to exceptions for certain offenses and categories of offenders: (1) on and after July 1, 2018, a person sentenced to a prison term for a fifth degree felony may not serve the term in a DRC institution, and (2) on and after September 1, 2022, a person sentenced to a prison term for a fourth degree felony may not serve the term in a DRC institution. In either case, the person must instead serve a term of confinement in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, in a community alternative sentencing center or district community alternative sentencing center, or in a community-based correctional facility.

The bill changes, to June 30, 2022, the date by which the procedure described in clause (2) of the preceding paragraph will apply.[51]

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[48] R.C. 2930.03 and 2930.16.

[49] R.C. 2929.20(O)(5).

[50] R.C. 2929.13, 2929.14, 2930.03, 2930.06, 2930.16, 2967.12, 2967.26, 2967.28, 5120.66, and 5149.101.

[51] R.C. 2929.34(B)(3)(b) and (c).

Under current law, unchanged by the bill, a "voluntary county" is any county in which the board of county commissioners and the administrative judge of the common pleas court general division enter into an agreement described above. The bill does not change the current list of offenses and categories of offenders with respect to which the confinement provisions do not apply.[52]

Memorandum of understanding

Current law requires that, not later than September 1, 2022, each voluntary county must submit a memorandum of understanding (MOU) to DRC for its approval. Also, two or more voluntary counties may join together to jointly establish an MOU and, not later than September 1, 2022, jointly submit an MOU to DRC for its approval. The MOU must set forth and specify certain plans, actions to be taken, and procedures applicable to the submitting county or counties, and must be agreed to and signed by a list of specified officials in the county or counties. The bill changes the deadline for submission of the MOU from September 1, 2022, to June 30, 2022. It does not change the current provisions that specify the required content of, or the officials required to agree and sign, an MOU.[53]

Grand jury inspection of local correctional facility

The bill expands provisions regarding grand juror visitation of county jails to also apply to certain other types of local correctional facilities.

Operation of the bill

Current law requires that, once every three months, the grand jurors must visit the county jail, examine its condition, and inquire into the discipline, treatment, habits, diet, and accommodations of the prisoners. When grand jurors visit a jail under the provision, they must report on the specified matters, in writing, to the common pleas court of the county served by the grand jurors, and the court's clerk must forward a copy of the report to DRC.

The bill expands this provision to expressly authorize inspections with respect to multicounty correctional centers and multicounty-municipal correctional centers established to serve two or more counties, and municipal-county correctional centers established to serve a county. Under the bill:[54]

1. With respect to multicounty correctional centers and multicounty-municipal correctional centers, once every three months, the grand jurors of any or all of the counties served by the center may visit the facility, examine its contents, and inquire into the discipline, treatment, habits, diet, and accommodations of the prisoners. Only one visit by grand jurors may be made under this provision during any three-month period.

[52] R.C. 2929.34(B)(3)(a) and (d).

[53] R.C. 5149.38.

[54] R.C. 2939.21.

2. With respect to a municipal-county correctional center, once every three months, the grand jurors of the county served by the center may visit the facility, examine its contents, and inquire into the discipline, treatment, habits, diet, and accommodations of the prisoners.
3. When grand jurors visit a jail under either provision, they must report on the matters specified in the provision, in writing, to the common pleas court of the county served by the grand jurors, and the court's clerk must forward a copy of the report to DRC.

Background

Under current law, unchanged by the bill, the boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or the boards of two or more counties may contract with one or more municipal corporations located in that county or those counties for the joint establishment of a municipal-county or multicounty-municipal correctional center. The law provides criteria for establishment, management, and operation of any center established under the authorization.[55]

Prison term for repeat OVI offender specification

The bill expands the circumstances in which a mandatory prison term is required for conviction of a repeat OVI offender specification.

Background

Under current law, a person who commits multiple OVI offenses is subject to increasingly higher penalties, depending on the number of offenses and the time period in which the offenses occurred. For purposes of this part of the analysis, "OVI offenses" include a violation of R.C. 4511.19 and also equivalent offenses (e.g., a municipal OVI offense, an OVI in another state, operating a water vessel under the influence, etc. – see R.C. 4511.181, not in the bill). Generally, a person is guilty of a felony OVI offense if the person has four or more OVI offenses within ten years, five or more OVI offenses within 20 years, or has previously been convicted of a felony OVI offense. Along with all other increased penalties, if a person commits a felony OVI offense and has been convicted of five or more OVI-related offenses within the past 20 years and a specification charging that fact ("repeat OVI offender specification"), the court is required to impose an additional one-, two-, three-, four-, or five-year mandatory prison term on the offender for the specification. That offender serves the additional prison term consecutively and prior to any prison term imposed for the underlying offense.[56]

The specification

Currently, the prison term for conviction of a repeat OVI offender specification only applies if the requisite number of offenses (five) occurred within the past 20 years. This

[55] R.C. 307.93.

[56] R.C. 2929.13(G)(2), 2941.1413, and 4511.19(G)(1)(d).

condition, however, has allowed certain offenders who previously served an additional mandatory prison term for the specification to avoid a later imposition of the specification, even after committing an additional felony OVI offense. This can happen if one or more of the prior offenses falls outside of the 20-year time period. For example:

1. An offender was convicted of OVI in 2015 and had five prior OVI offenses in 1996, 1997, 2008, 2010, and 2013.
2. Because the offender had five offenses within 20 years of the 2015 offense, the offender was convicted of the OVI repeat offender specification and received a mandatory additional prison sentence.
3. If the offender is again convicted of OVI in 2022, the OVI repeat offender specification prison term would not apply because the 1996 and 1997 OVIs are not within the 20-year lookback period.

Thus, that offender potentially serves a shorter prison term for a seventh OVI offense than the offender did for his or her sixth OVI offense. To avoid that scenario, the bill imposes the repeat OVI offender specification (and its mandatory additional prison term) on an offender who has previously been convicted of the specification, regardless of the number of years between offenses. Therefore, the offender in the example above would be subject to the repeat OVI offender specification and the resulting mandatory prison sentence for the 2022 OVI offense.[57]

Speedy Trial Law – trial of a charged felon

The bill modifies the state's Speedy Trial Law with respect to the required time for trial of a person charged with a felony, in specified circumstances.

Timely trial for a charged felon

The bill grants a prosecutor additional time to begin a trial after a charged felon has not been brought to trial in a timely manner required by statute. Under continuing law, the time for beginning a trial of a person charged with a felony is 270 days (separate provisions of continuing law, unaffected by the bill, specify a time within which a person charged with a felony must be accorded a preliminary hearing and a time within which a person charged with a misdemeanor must be brought to trial). For purposes of computing the 270 days, continuing law provides that each day during which the accused is held in jail in lieu of bail on the pending charge must be counted as three days.[58] Continuing law provides for the extension of the 270-day period for any of nine specified reasons (see below).[59]

Currently, when a charged felon is not brought to trial within 270 days after the person's arrest, as possibly extended for any of the nine specified reasons, upon motion made at or prior

[57] R.C. 2941.1413 and 4511.19(G)(1)(d).

[58] R.C. 2945.71(C) and (E).

[59] R.C. 2945.72, not in the bill.

to the commencement of trial, the person must be discharged and the discharge is a bar to any further criminal proceedings against the person based on the same conduct. Under the bill, when a charged felon is not brought to trial within 270 days after the person's arrest, as possibly extended for any of the nine specified reasons, the person is eligible for release from detention. The court may release the person from any detention in connection with the charges pending trial and may impose any terms or conditions on the release that the court considers appropriate.

Under the bill, upon motion made at or before the commencement of trial, but no sooner than 14 days before the day the person would become eligible for release from detention under the bill's provisions described in the preceding paragraph, the person must be brought to trial on the pending charges within 14 days after the motion is filed and served on the prosecuting attorney. If no motion is filed, the accused must be brought to trial within 14 days after the court determines that the 270-day time for trial, as possibly extended for any of the nine specified reasons, has expired. If the accused is not brought to trial within whichever of those 14-day time periods applies, the charges must be dismissed with prejudice. The 14-day period may be extended at the request of the accused or because of the accused's fault or misconduct.[60] The bill specifies that the three-for-one counting that applies to the 270-day time for trial under current law, as described above, does not apply for purposes of computing the 14-day extension to commence a trial under the bill.[61]

Reasons for extension of time within which an accused must be brought to trial

Continuing law[62] specifies that the time within which an accused must be brought to trial may be extended only by any period:

1. During which the accused is unavailable for hearing or trial, by reason of other criminal proceedings, confinement in another state, or the pendency of extradition proceedings, provided that the prosecution exercises reasonable diligence to secure the accused's availability.
2. During which the accused is mentally incompetent to stand trial, the accused's mental competence to stand trial is being determined, or the accused is physically incapable of standing trial.
3. Of delay necessitated by the accused's lack of counsel, provided that the delay is not occasioned by any lack of diligence in providing counsel to an indigent accused upon request as required by law.
4. Of delay occasioned by the accused's neglect or improper act.

[60] R.C. 2945.73(C).

[61] R.C. 2945.71(E).

[62] R.C. 2945.72, not in the bill.

5. Of delay necessitated by reason of a plea in bar or abatement, motion, proceeding, or action made or instituted by the accused.
6. Of delay necessitated by a removal or change of venue pursuant to law.
7. During which trial is stayed pursuant to either an express statutory requirement or an order of another court competent to issue such order.
8. Of a continuance granted on the accused's own motion and of any reasonable continuance granted other than upon the accused's own motion.
9. During which an appeal of a specified, limited nature filed by the state is pending.

Criminal record sealing and expungement

The bill modifies and reorganizes the laws regarding the sealing of conviction records; modifies and reorganizes the laws regarding the sealing of records after a not guilty finding, a dismissal of proceedings, or a no bill by grand jury, and extends those laws to also apply regarding records after a pardon; maintains and relocates the laws regarding the expungement in limited circumstances of certain conviction records; and enacts new provisions regarding the expungement of a conviction record in the same manner and under the same procedures that apply regarding sealing of a conviction record.

Sealing of criminal record

A record that is sealed is removed from public record, but still maintained so that it may be accessed by statutorily enumerated persons or agencies.

Sealing of conviction record

Who may have a conviction record sealed

Current law allows an "eligible offender" to apply for the sealing of a conviction record. The bill removes the definition of "eligible offender" and as a result, removes all references to "eligible offender" in this provision as well as in the other R.C. sections of the Sealing Law. As a result, the bill requires the court to determine whether the applicant seeks to seal a conviction record that is prohibited from being sealed (see, "**Conviction records that cannot be sealed**," below).[63]

The bill allows an offender to apply to the sentencing court if convicted in Ohio, or to a common pleas court if convicted in another state or in federal court, for the sealing of the record of the case that pertains to the conviction, subject to certain exceptions (see, "**Conviction records that cannot be sealed**," below). Application to the sentencing court or the common pleas court, when applicable, for the sealing of a conviction record may

[63] R.C. 2953.31(A) and 2953.32(B)(1).

be made at specified times (see, "**Application times for sealing of conviction record**," above).[64]

The bill continues to allow any person who has been arrested for a misdemeanor offense and who has effected a bail forfeiture for the offense charged to apply to the court in which the misdemeanor criminal case was pending when bail was forfeited for the sealing of the record of the case that pertains to the charge. Application to the court in which the misdemeanor case was pending for the sealing of a conviction record may be made at any time after the date on which the bail forfeiture was entered upon the minutes of the court of the journal, whichever entry occurs first.[65]

The bill continues to allow an applicant to request the sealing of the records of more than one case in a single application. Upon the filing of an application, the applicant, unless indigent, must pay a fee of $50, regardless of the number of records the applicant requests to have sealed. The court pays $30 of the fee into the state treasury, with $15 of that amount credited to the Attorney General Reimbursement Fund, and $20 of the fee into the county general revenue fund if the sealed conviction was pursuant to a state statute or into the general revenue fund of the municipal corporation involved if the sealed conviction was pursuant to a municipal ordinance.[66]

Conviction records that cannot be sealed

What cannot be sealed. The bill modifies existing law regarding conviction records that cannot be sealed. Convictions of a first or second degree felony and convictions under the Driver's License Law, the law regarding driver's license suspension, cancellation, and revocation, the Traffic Law-Operation of a Motor Vehicle (including OVI), and the Motor Vehicle Crimes Law, or a conviction for a municipal ordinance violation that is substantially similar to any of those laws still cannot be sealed under the bill. The bill also prohibits the following convictions from being sealed:[67]

1. Convictions under the Commercial Driver's License Law or convictions of a municipal ordinance violation that is substantially similar to that law.
2. Convictions of a felony offense of violence that is not a sexually oriented offense.
3. Convictions of a sexually oriented offense and the offender is subject to the requirements of R.C. Chapter 2950 or R.C. Chapter 2950 as it existed prior to January 1, 2008, (SORN Law).
4. Convictions of an offense in circumstances in which the victim of the offense was less than age 13, except for convictions for nonsupport of dependents for contributing to

[64] R.C. 2953.32(B)(1).

[65] R.C. 2953.32(B)(2).

[66] R.C. 2746.02(O) and 2953.32(D)(3).

[67] R.C. 2953.32(A).

the nonsupport of dependents (under existing law, the victim of the offense is under age 16 and the offense is a first degree misdemeanor or a felony).

The bill relocates this provision from R.C. 2953.36 to R.C. 2953.32(A).

What can be sealed. As a result of the bill's modifications the following can be sealed:[68]

1. Convictions that subject the offender to a mandatory prison term.
2. Bail forfeitures in a traffic case as defined in Traffic Rule 2.
3. Specified convictions of unlawful sexual conduct with a minor if a court has terminated the offender's duty to comply with SORN Law.
4. Convictions of an offense of violence when the offense is a misdemeanor.
5. Public indecency when the victim of the offense was under age 18, unless the offender knowingly exposed the offender's private parts with the purpose of sexual arousal or gratification or to lure the minor into sexual activity, where the offender's conduct was likely to be viewed by and affront another person who was in the offender's physical proximity, is a minor, and is not the spouse of the offender.
6. Procuring, disseminating matter harmful to juveniles, and displaying matter harmful to juveniles when the victim of the offense was under age 18.
7. Theft in office that is not a first or second degree felony.

Application times for sealing of conviction record

Under the bill. Under the bill, application to the sentencing court or the common pleas court, when applicable, for the sealing of a conviction record may be made at one of the following times:[69]

1. Except as otherwise described below in (4), at the expiration of three years after the offender's final discharge if convicted of one or more third degree felonies as long as none of the offenses are a violation of theft in office;
2. Except as otherwise described below in (4) or (5), at the expiration of one year after the offender's final discharge if convicted of one or more fourth or fifth degree felonies or one or more misdemeanors as long as none of the offenses is a violation of theft in office or a felony offense of violence;
3. At the expiration of seven years after the offender's final discharge if the record includes one or more convictions of soliciting improper compensation in violation of theft in office;

[68] R.C. 2953.36, repealed by the bill.

[69] R.C. 2953.32(B)(1).

4. If the offender was subject to the requirements of the SORN Law or the SORN Law as it existed prior to January 1, 2008, at the expiration of five years after the requirements have ended under the law regarding the commencement date for the duty to register or that law as it existed prior to January 1, 2008, or are terminated under the law regarding the termination of the duty to comply with SORN Law;
5. At the expiration of five years after the offender's final discharge if convicted of domestic violence under state law when it is a first degree misdemeanor or of a violation of a substantially similar municipal ordinance that would be a first degree misdemeanor if the offender had been convicted of the state offense;
6. At the expiration of six months after the offender's final discharge if convicted of a minor misdemeanor.

Currently. Existing law allows an application for the sealing of a conviction record to be made at the following times:[70]

1. At the expiration of three years after the offender's discharge if convicted of one third degree felony as long as none of the offenses are a violation of theft in office;
2. At the expiration of one year after the offender's final discharge if convicted of one fourth or fifth degree felony or one misdemeanor as long as none of the offenses are a violation of theft in office or an offense of violence;
3. At the expiration of seven years after the offender's final discharge the record includes one conviction of soliciting improper compensation in violation of theft in office.

Hearing on the application

The bill requires the court to hold the hearing on the application for the sealing of a conviction record not less than 45 days and not more than 90 days from the date of the filing of the application. The bill continues to allow the prosecutor to object to the application by filing an objection with the court but requires the objection to be in writing and filed with the court not later than 30 days prior to the date set for the hearing. The prosecutor must also provide notice of the application and the date and time of the hearing to the victim of the offense in the case pursuant to the Ohio Constitution.[71]

Determinations made by the court regarding the application

The bill requires the court to do all of the following:[72]

1. Determine whether the applicant is pursuing sealing a conviction of an offense that is prohibited from being sealed (see, "**Conviction records that cannot be**

[70] R.C. 2953.32(A).

[71] R.C. 2953.32(C).

[72] R.C. 2953.32(D)(1).

sealed," above) or whether the forfeiture of bail was agreed to by the applicant and the prosecutor in the case.

2. Determine whether criminal proceedings are pending against the applicant.
3. Determine whether the applicant has been rehabilitated to the satisfaction of the court.
4. If the prosecutor has filed an objection, consider the reasons against granting the application specified by the prosecutor in the objection.
5. If the victim objected, pursuant to the Ohio Constitution, consider the reasons against granting the application specified by the victim in the objection.
6. Weigh the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed against the legitimate needs, if any, of the government to maintain those records.
7. If the applicant was a specified "eligible offender," determine whether the offender has been rehabilitated to a satisfactory degree.

If the court determines that no criminal proceeding is pending against the applicant, the interests of the applicant in having the records pertaining to the applicant's conviction or bail forfeiture sealed are not outweighed by any legitimate governmental needs to maintain those records, and that the rehabilitation of the applicant has been attained to the satisfaction of the court, the court must order all official records in the case that pertain to the conviction or bail forfeiture sealed and all index references to the case that pertain to the conviction or bail forfeiture deleted. The proceedings in the case that pertain to the conviction or bail forfeiture must be considered not to have occurred and the conviction or bail forfeiture of the person who is the subject of the proceedings must be sealed.[73]

Exceptions to sealing of a conviction record

Notwithstanding the above provisions specifying that if records pertaining to a criminal case are sealed the proceedings in the case must be deemed to have not occurred, sealing of the following records on which the State Board of Pharmacy or State Board of Nursing has based an action will have no effect on the Board's action or any sanction imposed by the Board: (1) records of any conviction, (2) guilty plea, (3) judicial finding of guilty resulting from a plea of no contest, or (4) judicial finding of eligibility for a pretrial diversion program or intervention in lieu of conviction. The Board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.[74]The sealing of conviction records by any court will have no effect upon a prior State Medical Board's or State Chiropractic Board's order or upon the Board's jurisdiction to take action, if based upon: (1) guilty plea, (2) judicial finding of guilt, or (3) a judicial finding of eligibility for an intervention in lieu of conviction, the Board issued a notice of opportunity for a hearing prior to the court's order to seal the records.

[73] R.C. 2953.32(D)(2).

[74] R.C. 4723.28(E), 4729.16(G), 4729.56(E), 4729.57(F), 4729.96(E), and 4752.09(F).

The Board is not required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.[75]

Sealing multiple records

Current law, retained by the bill with technical changes (and addition of a reference to expungement – see below), generally prohibits a person charged with two or more offenses as a result of or in connection with the same act from applying to the court for the sealing of the person's record in relation to any of the charges when at least one of the charges has a final disposition that is different from the final disposition of the other charges until such time as the person would be able to apply to the court and have all of the records pertaining to all of those charges sealed. When a person is charged with two or more offenses as a result of or in connection with the same act and the final disposition of one, and only one, of the charges is a conviction under any section of the Driver's License Law, the law regarding driver's license suspension, cancellation, and revocation, the Traffic Law-Operation of a Motor Vehicle (except OVI and physical control violations), and the Motor Vehicle Crimes Law, or a conviction for a municipal ordinance violation that is substantially similar to any of those laws, and if the records pertaining to all the other charges would be eligible for sealing in the absence of that conviction, the court may order that the records pertaining to all the charges be sealed. In such a case, the court cannot order that only a portion of the records be sealed. This provision does not apply if the person convicted of the offenses currently holds a commercial driver's license or commercial driver's license temporary instruction permit.[76]

Sealing of official records after not guilty finding, dismissal of proceedings, no bill by grand jury, or pardon

The bill continues to allow the sealing of a person's official records related to a finding of not guilty of an offense by a jury or court or in a dismissed complaint, indictment, or information and also allows the sealing of a person's official records in a case in which the person was convicted of an offense and received an absolute and entire pardon, a partial pardon, or a pardon upon conditions precedent or subsequent. The bill continues the requirement that upon the filing of the application for sealing, the court must set a date for the hearing and notify the prosecutor in the case of the hearing. The bill requires the court to hold the hearing not less than 45 days and not more than 90 says from the date of the filing of the application and, if the prosecutor objects to the granting of the application by filing an objection with the court, requires that objection to be in writing and filed with the court not later than 30 days prior to the date set for the hearing.[77]

If a person was granted a pardon upon conditions precedent or subsequent for the offenses for which the person was convicted, the bill requires the court to determine whether

[75] R.C. 4730.25(E), 4731.22(E), 4734.31(F), 4759.07(K), 4760.13(F), 4761.09(J), 4762.13(F), 4774.13(F), and 4778.14(F).

[76] R.C. 2953.61.

[77] R.C. 2953.33(A) and (B).

all of those conditions have been met, along with the other determinations the court must make under existing law. If the court determines that the individual was granted by the governor an absolute and entire pardon, a partial pardon, or a pardon upon conditions precedent or subsequent that have been met, the court must issue an order to BCII's Superintendent directing the Superintendent to seal or cause to be sealed the official records in the case consisting of DNA specimens that are in the possession of BCII and all DNA records and DNA profiles. In addition, the bill also requires the court, if the court makes that determination and determines that the interests of the person in having the records pertaining to the case sealed are not outweighed by any legitimate governmental needs to maintain such records, to issue an order directing that all official records pertaining to the case be sealed and that, generally speaking, the proceedings in the case be deemed not to have occurred.[78]

The bill relocates the provisions described above from current R.C. 2953.52 by renumbering the section as R.C. 2953.33.

Relocation of sealing provisions

The bill relocates numerous provisions of the Sealing Law without making substantive changes. These provisions are discussed in more detail below.

Definitions

The bill consolidates the definitions that are in various sections of the Sealing Law into one definitional section in R.C. 2953.31, but does not make any changes to these terms.[79] This includes the definitions of "official records," "investigatory work product," "law enforcement or justice system matter," "expunge," "record of conviction," "victim of human trafficking," "no bill," and "court." The table below shows their current locations and their locations under the bill.

Term	Former R.C. Section	New R.C. Section
Official records	R.C. 2953.51(D)	R.C. 2953.31(C)
Investigatory work product	R.C. 2953.321(A)	R.C. 2953.31(I)
Law enforcement or justice system matter	R.C. 2953.35(A)(1)	R.C. 2953.31(J)
Expunge	R.C. 2953.37(A)(1) and 2953.38(A)(1)	R.C. 2953.31(K)

[78] R.C. 2953.33(B).

[79] R.C. 2953.31, 2953.321, 2953.37, and 2953.38; repeal of R.C. 2953.321, 2953.35, and 2953.51.

Term	Former R.C. Section	New R.C. Section
Record of conviction	R.C. 2953.37(A)(4) and 2953.38(A)(3).	R.C. 2953.31(L)
Victim of human trafficking	R.C. 2953.38(A)(4)	R.C. 2953.31(M)
No bill	R.C. 2953.51(A)	R.C. 2953.31(N)
Court	R.C. 2953.51(C)	R.C. 2953.31(O)

Inspection of sealed records

The bill relocates the list of who may inspect sealed records and the purpose for inspecting those sealed records from R.C. 2953.32(D) to R.C. 2953.34(A).

Proof of admissible prior conviction

The bill relocates the provision that allows proof of any otherwise admissible prior conviction to be introduced and proved, notwithstanding the fact that for any such prior conviction an order of sealing was issued from R.C. 2953.32(E) to R.C. 2953.34(B).

Index of sealed records

The bill relocates the provision that permits the person or governmental agency, office, or department that maintains sealed records pertaining to convictions or bail forfeitures that have been sealed to maintain a manual or computerized index to sealed records from R.C. 2953.32(F) to R.C. 2953.34(C).

Boards of education, State Auditor, and prosecutor permitted to maintain sealed records

The bill maintains the provision that permits a board of education of a city, local, exempted village, or joint vocational school district that maintains records of an individual who has been permanently excluded under R.C. 3301.121 (adjudication procedure to determine whether to permanently exclude pupil) and 3313.662 (adjudication order permanently excluding pupil from public schools) to maintain records regarding a conviction that was used as the basis for the individual's permanent exclusion, regardless of a court order to seal the record and relocates this provision from R.C. 2953.32(G) to R.C. 2953.34(D).

The bill maintains the provision that provides that if the State Auditor or a prosecutor maintains records, reports, or audits of an individual who has been forever disqualified from holding public office, employment, or position of trust or has been convicted of an offense based upon the records, reports, or audits of the State Auditor, the State Auditor or prosecutor is permitted to maintain those records to the extent they were used as the basis for the individual's disqualification or conviction, and must not be compelled by court order to seal those records and relocates this provision from R.C. 2953.32(H) to R.C. 2953.34(E).

DNA records

The bill maintains the prohibition against sealing DNA records collected in the DNA database and fingerprints filed for record by the Superintendent of BCII unless the Superintendent receives a certified copy of a final court order establishing that the offender's conviction has been overturned and relocates this prohibition from R.C. 2953.32(I) to R.C. 2953.34(F).

Sealing of record does not affect points assessment

The bill relocates the provision that states that the sealing of a record does not affect the assessment of points for various violations regarding the operation of a motor vehicle and does not erase points assessed as a result of the sealed record from R.C. 2953.32(J) to R.C. 2953.34(G).

Order to seal records of not guilty finding, dismissal of proceedings, no bill by grand jury, or pardon

The bill relocates the provisions regarding the orders to seal the official records of a not guilty finding, dismissal of proceedings, no bill by grand jury, or pardon from current R.C. 2953.53 (repealed by the bill) to R.C. 2953.34(H).

Subject Matter	Former R.C. Section	New R.C. Section
Notice of order to seal	R.C. 2953.53(A)	R.C. 2953.34(H)(1)
Person may present copy of order to seal	R.C. 2953.53(B)	R.C. 2953.34(H)(2)
Order to seal applies to every public office or agency	R.C. 2953.53(C)	R.C. 2953.34(H)(3)
Public office or agency complying with sealing order	R.C. 2953.53(D)	R.C. 2953.34(H)(4)
Public office or agency may maintain index of sealed records	R.C. 2953.53(D)	R.C. 2953.34(H)(5)

Investigatory work product and divulging confidential information

The bill relocates the provisions regarding investigatory work product and divulging confidential information related to sealed records from current R.C. 2953.321, 2953.35, and 2953.54 (all repealed by the bill) to R.C. 2953.34(H), (I), and (J).

Subject Matter	Former R.C. Section	New R.C. Section
Delivery of investigatory work product	R.C. 2953.321(B)(1)	R.C. 2953.34(I)(1)(a)

Subject Matter	Former R.C. Section	New R.C. Section
Closing of work product	R.C. 2953.321(B)(2)	R.C. 2953.34(I)(1)(b)
Permitting other law enforcement agency to use work product	R.C. 2953.321(B)(3)	R.C. 2953.34(I)(1)(c)
Permitting the Auditor of State to provide or discuss investigatory work product	R.C. 2953.321(B)(4)	R.C. 2953.34(I)(1)(d)
Prohibition against knowingly releasing investigatory work product	R.C. 2953.321(C)(1)	R.C. 2953.34(I)(2)(a)
Prohibition against using work product for any other purpose	R.C. 2953.321(C)(2)	R.C. 2953.34(I)(2)(b)
Not a violation for BCII to release DNA to person employed by law enforcement	R.C. 2953.321(C)(3)	R.C. 2953.34(M)
Penalty	R.C. 2953.321(D)	R.C. 2953.34(I)(3)
Divulging confidential information	R.C. 2953.35	R.C. 2953.34(J) and (M)
Investigatory work product re: not guilty verdict, dismissal, no bill, or pardon	R.C. 2953.54	R.C. 2953.34(K) and (M)

Inquiries after a not guilty verdict, dismissal, no bill, or pardon and BCII releasing DNA evidence

The bill retains the prohibition against a person, in an application for employment, license, or any other right or privilege, any appearance as a witness, or any other inquiry, being questioned with respect to any record related to a not guilty verdict, dismissal, no bill, or pardon that has been sealed and relocates this provision from current R.C. 2953.55(A) and (B), which are repealed by the bill, to R.C. 2953.34(L). The bill also retains the provision that states that it is not a violation for BCII or any authorized employee of BCII participating in the investigation of criminal activity to release, disseminate, or otherwise make available to, or discuss with, a person directly employed by a law enforcement agency DNA records collected in the DNA database or fingerprints filed for record by the Superintendent of BCII. The bill relocates this provision from current R.C. 2953.55(C), which is repealed by the bill, to R.C. 2953.34(M).

Restoration of rights and privileges

The bill retains the provision that restores a person who had a conviction record related to certain firearms convictions (discussed below in "**Expungement of certain convictions relating to firearms**") expunged or a conviction record sealed to all rights and privileges not otherwise restored by termination of the sentence or community control or by final release on parole or post-release control. The bill relocates this provision from current R.C. 2953.33(A), which is repealed by the bill, to R.C. 2953.34(N)(1). The bill also retains the general prohibition against questioning a person, in any application for employment, license, or other right or privilege, any appearance as a witness, or any other inquiry with respect to convictions that are sealed, bail forfeitures that have been expunged, and bail forfeitures that are sealed, unless the question bears a direct and substantial relationship to the position for which the person is being considered and a person cannot be questioned about any conviction related to "**Expungement of certain convictions relating to firearms**" below that has been expunged. This provision is relocated from current R.C. 2953.33(B), which is repealed by the bill, to R.C. 2953.34(N)(2).

Violations of Sealing Law not basis to exclude or suppress certain evidence

The bill relocates the provision that states that violations of the Sealing Law do not provide the basis to exclude or suppress the following evidence that is otherwise admissible: (1) DNA records collected in the DNA database, (2) fingerprints filed for record by the Superintendent of BCII, or (3) other evidence that was obtained or discovered as the direct or indirect result of divulging or otherwise using those records from current R.C. 2953.56 by renumbering the section as R.C. 2953.37.

Technical changes

As a result of the relocation of numerous sections of the Sealing Law, the bill makes cross reference changes in several sections and outright repeals existing R.C. 2953.321, 2953.33, 2953.35, 2953.36, 2953.51, 2953.53, 2953.54, and 2953.55. [80]

Expungement of criminal record

A record that is expunged is destroyed, deleted, and erased, as appropriate, so that the record is permanently irretrievable.[81]

[80] R.C. 109.11, 2151.358, 2923.12, 2923.125, 2923.128, 2923.1213, 2923.16, 2951.041, 2953.31, 2953.32, 2953.33, 2953.34, 2953.35, 2953.36, 2953.37, 2953.521, 2953.56, 2953.57, 2953.58, 2953.59, 4301.69, 4723.28, 4729.16, 4729.56, 4729.57, 4729.96, and 4752.09.

[81] R.C. 2953.31(K).

Expungement of certain convictions relating to firearms or victims of human trafficking

The bill maintains the existing provision that allows for the expungement of conviction records related to certain firearms offenses and relocates this provision from current R.C. 2953.37 to R.C. 2953.35. The bill relocates the existing provision that allows for the expungement of certain conviction records of a victim of human trafficking from current R.C. 2953.38 to R.C. 2953.36.

Expungement of conviction record

The bill enacts new provisions that authorize a person to apply for expungement of a conviction record in the same manner that a person may apply for sealing of a conviction record.[82] The current sealing mechanism, as modified by the bill, applies with respect to an expungement authorized by the bill (see, "**Sealing of a conviction record**" and "**Relocation of sealing provisions**," above).

Expungement of unconditional pardon

The bill enacts new provisions that authorize the Governor to issue a writ for the expungement of a conviction record in the same manner that the Governor currently may issue a writ for the sealing of a conviction record. If an unconditional pardon is granted, the bill allows the Governor to include as a condition of the pardon that records related to the conviction may be expunged if the records are related to an offense that is eligible to be expunged. The Governor may issue a writ for the records related to the pardoned conviction or convictions to be expunged. However, such writ must not expunge the records required to be kept and must not have any impact on the Governor's office or on reports required to be made under law. Other than records required to be kept, no records of the Governor's office related to a pardon that have been expunged are subject to public inspection or disclosure unless directed by the Governor. A disclosure of records expunged under a writ issued by the Governor is not a criminal offense.[83]

Expungement of intervention in lieu of conviction

The bill enacts new provisions that authorize a person to apply for expungement of a dismissal for intervention in lieu of conviction in the same manner that the person may apply for sealing of a dismissal. If a court grants an offender's request for intervention in lieu of conviction and finds that the offender has successfully completed the intervention plan for the offender, the court must dismiss the proceedings against the offender. Successful completion of the intervention plan must be without adjudication of guilt and is not a criminal conviction for purposes of any disqualification or disability imposed by law and upon conviction of a crime,

[82] R.C. 2953.31 to 2953.34.

[83] R.C. 2967.04(C).

and the court may order the expungement of records related to the offense in question, as a dismissal of the charges.[84]

Technical and cross-reference changes

The bill makes cross-reference changes in several existing provisions to conform to its changes described above.[85]

Youthful offender parole review

The bill modifies the circumstances in which the law regarding parole review for a youthful offender applies.

Exemption from special youthful offender parole provisions

Under new law the bill enacts, if an offender who is paroled on an offense committed when the offender was under 18 years of age subsequently returned to prison for a violation of parole committed as an adult or for a new felony conviction committed as an adult, that offender will not be eligible for parole under the special youthful offender parole provisions of current law.[86]

Under the special youthful offender parole provisions of current law, unchanged by the bill except for the exemption described above:[87]

1. A prisoner who was under 18 at the time of the offense and who is serving a prison sentence for an offense other than an "aggravated homicide offense," or who is serving consecutive prison sentences for multiple offenses none of which is an "aggravated homicide offense," is eligible for parole as follows: (a) generally, the prisoner is eligible for parole after serving 18 years in prison, (b) if the prisoner is serving a sentence for one or more homicide offenses, none of which are aggravated homicide offenses, and (c) below does not apply, the prisoner is eligible for parole after serving 25 years, (c) if the prisoner is serving a sentence for two or more homicide offenses, none of which are an aggravated homicide offense, and the offender was the principal offender in two or more of those offenses, the prisoner is eligible for parole after serving 30 years, and (d) but if the prisoner is serving a sentence for one or more offenses and the sentence permits parole earlier than the times specified above, the prisoner is eligible for parole after serving the period of time specified in the sentence. Once a prisoner becomes eligible for parole under these provisions, the Parole Board must, within a reasonable time after the prisoner becomes eligible, conduct a hearing to consider the prisoner's release on parole, in the same manner as other parole hearings.

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[84] R.C. 2951.041(E).

[85] R.C. 109.57, 2953.25, 3770.021, and 5120.035.

[86] R.C. 2967.132(I)(2).

[87] R.C. 2967.132(A) to (I)(1).

2. But if the prisoner is serving a sentence for an "aggravated homicide offense," or for the offense of "terrorism" when the most serious underlying specified offense the defendant committed in the violation was aggravated murder or murder, the prisoner is not eligible for parole review other than in accordance with the sentence imposed for the offense.

3. An "aggravated homicide offense" is any of the following that involved the purposeful killing of three or more persons, when the offender is the principal offender in each offense: (a) "aggravated murder" or (b) any other offense or combination of offenses that involved the purposeful killing of three or more persons.

4. A "homicide offense" is "murder," "voluntary manslaughter," "involuntary manslaughter," or "reckless homicide" or "aggravated murder" when it is not an aggravated homicide offense.

Earned credits

Current law provides two separate mechanisms under which a person confined in a prison or placed in the substance use disorder treatment program (a prisoner) generally may earn credit against the person's sentence (current law, unchanged by the bill, provides that certain specified prison terms may not be reduced under the mechanisms[88]). The bill modifies one of the mechanisms:[89]

1. One mechanism provides for an award of days of credit to a prisoner for participation in, or completion in specified circumstances, of programming. Currently, the aggregate days of credit a prisoner may provisionally or finally earn under this mechanism may not exceed 8% of the total number of days in the person's prison term. The bill increases the amount of credit a prisoner may provisionally or finally earn under this mechanism to a maximum grant of 15% of the total number of days in the prisoner's prison term.

   Under this mechanism, a prisoner may provisionally earn one day or five days of credit, based on the offense category specified in the mechanism in which the prisoner is included, toward satisfaction of the prisoner's prison term for each completed month during which the prisoner: (a) if confined in a prison, productively participates in an education program, vocational training, prison industries employment, substance abuse treatment, or any other program developed by DRC, or (b) if in the substance use disorder treatment program, productively participates in the program. A prisoner confined in a prison who successfully completes two programs or activities of that type may additionally earn up to five days of credit toward satisfaction of the prisoner's prison term for the successful completion of the second program or activity, but may not earn any days of credit for the successful completion of the first program or activity or of any program or activity completed after the second one. Any credit earned initially

[88] See, e.g., R.C. 2929.14(B)(1) to (11).

[89] R.C. 2967.193.

is a provisional credit – at the end of each calendar month in which a prisoner productively participates in, or successfully completes, such a program or activity, DRC determines and records the total number of days of credit the prisoner provisionally earned in that calendar month. If the prisoner violates prison rules, or violates the substance use disorder treatment program or DRC rules, whichever is applicable, DRC may deny the prisoner a credit that otherwise could have been provisionally awarded or may withdraw any credits previously provisionally earned. DRC finalizes and awards days of credit provisionally earned by a prisoner. The mechanism does not apply with respect to a prisoner who is in any of three specified categories of offenders.

2. Under the other mechanism, unchanged by the bill, a prisoner who completes any of a list of specified activities or programs, earns 90 days of credit toward satisfaction of the prisoner's prison term or a 10% reduction of that term, whichever is less. The activities and programs with respect to which the provision applies are: (a) an Ohio high school diploma or high school equivalence certificate, (b) a therapeutic drug community program, (c) DRC's intensive outpatient drug treatment program, (d) a career-technical vocational school program, (e) a college certification program, and (f) the criteria for a certificate of achievement and employability. The mechanism does not apply with respect to a person who is in any of three specified categories of offenses, and the maximum aggregate total described in the preceding paragraph does not apply regarding the mechanism.

Transitional control and repeal of judicial veto

The bill repeals the "judicial veto" that currently applies when DRC wants to place a prisoner in its transitional control program.

Transitional control in general

Current law in the R.C. authorizes DRC to establish, by rule, a "transitional control program" for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final 180 days of the prisoner's confinement.[90] DRC has established a detailed transitional control program under this authorization, located in O.A.C Chapter 5120-12. Current law in the R.C. regarding the transitional control program:[91]

1. Specifies parameters that must be satisfied by any transitional control program that DRC establishes, and threshold eligibility requirements that must be satisfied at a minimum with respect to a prisoner for the prisoner to be eligible to be transferred under the program – the parameters and threshold eligibility requirements are unchanged by the bill (DRC has expanded the parameters, in O.A.C. 5120-12-01 and 5120-12-02);

2. Provides that if DRC establishes such a program, subject to the "judicial veto" provisions described below, DRC's Division of Parole and Community Services (PCS Division) may

[90] R.C. 2967.26(A).

[91] R.C. 2967.26(A) to (F).

transfer eligible prisoners to transitional control status under the program during the final 180 days of their confinement in accordance with terms and conditions established by DRC and the specified parameters;

3. Requires DRC to adopt rules for transferring eligible prisoners to transitional control, supervising and confining prisoners so transferred, administering the program, and using moneys deposited into the transitional control fund;

4. Establishes the "transitional control fund," authorizes the PCS Division to require a prisoner transferred to transitional control to pay the reasonable expenses incurred in supervising or confining the prisoner while under transitional control, and specifies that the fund may be used solely to pay costs related to the operation of the program; and

5. Specifies that a prisoner transferred to transitional control who violates any DRC rule may be transferred to a prison pursuant to DRC's rules but will receive credit towards completing the prisoner's sentence for the time spent under transitional control, and that a prisoner who successfully completes the period of transitional control may be released on parole or under post-release control pursuant to DRC's rules and the statutes governing those release mechanisms.

Repeal of judicial veto

Current law also establishes a "judicial veto," described in detail below, that applies regarding any transitional control program DRC establishes, and under which: (1) if DRC wishes to transfer a prisoner in a specified category to transitional control, the PCS Division must notify the common pleas court that sentenced the prisoner of the pendency of the transfer, (2) the court may disapprove, within a specified period of time, of the transfer, (3) if the court timely disapproves of the transfer, the Division may not transfer the prisoner to transitional control, and (4) if the court does not timely disapprove the transfer of the prisoner, the Division may transfer the prisoner to transitional control. The bill repeals the judicial veto provisions of current law.[92]

Current law – judicial veto

Under current law's "judicial veto" provisions, repealed by the bill:[93]

1. At least 60 days prior to transferring to transitional control a prisoner who 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, the PCS Division must give notice of the pendency of the transfer to the common pleas court of the county in which the prisoner was indicted and of the fact that the court may disapprove the transfer, and

[92] R.C. 2967.26(A)(2), repealed by the bill; also R.C. 2929.01(B)(1)(b).

[93] R.C. 2967.26(A)(2), repealed by the bill; also R.C. 2929.01(B)(1)(b).

must include the institutional summary report prepared by the head of the prison in which the prisoner is confined.

2. The head of the prison in which the prisoner is confined, upon the request of the PCS Division, must provide to the Division for inclusion in the notice sent to the court an "institutional summary report" on the prisoner's conduct in the prison and in any prison from which the prisoner may have been transferred.
3. 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.
4. If the court disapproves of the transfer of the prisoner to transitional control, it 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.
5. 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.

Victim notification and internet posting

Current law, unchanged by the bill, provides for victim notification in specified circumstances if DRC plans to transfer a prisoner to transitional control under the program. The provisions specify the manners in which the notice must be given. Current law, unchanged by the bill, also requires DRC, prior to transferring a prisoner to transitional control, to post on the internet database it maintains specified information regarding the prisoner. The PCS Division must consider victim input, and input by other persons, in deciding whether to transfer the prisoner to transitional control.[94]

Cross-references and conforming changes

The bill amends several existing R.C. provisions to conform them to its changes described above.[95]

Felony sentencing – Reagan Tokes Law

The bill modifies a provision of the Felony Sentencing Law applicable to first and second degree felonies (part of the Reagan Tokes Law) regarding information DRC must provide to the sentencing court.

Background

Under the Felony Sentencing Law, an offender sentenced to a prison term for a first or second degree felony committed on or after March 22, 2019, is sentenced to an indefinite prison term consisting of a minimum term selected by the court from the applicable range of

[94] R.C. 2967.26(A)(3), redesignated by the bill as division (A)(2).

[95] R.C. 2929.01, 2929.20, 2930.03, 2930.06, 2930.16, 2967.12, 2967.28, and 5149.101.

terms for the offense, and a maximum term linked to the duration of the minimum term. Each offender serving such a term has a presumptive release date, which is at the end of the offender's minimum term. DRC may rebut the presumption of release, under specified procedures and criteria, and if it is rebutted, may continue the offender's confinement up to the maximum term.

DRC's Director generally may notify the sentencing court in writing that the Director recommends a reduction of the offender's minimum term for the offender's exceptional conduct while incarcerated or the offender's adjustment to incarceration. If the Director makes such a recommendation to the court, there is a rebuttable presumption that the court must grant the recommended reduction. The Director must include with the notice an institutional summary report that covers the offender's participation in rehabilitative programs and activities and any disciplinary action taken against the offender while confined, and any other available documentation requested by the court.

After receiving the Director's recommendation, the court holds a hearing on the matter under specified procedures and considers information submitted by the Director, the prosecutor, and victims. Unless the court finds that the presumption in favor of the recommended reduction has been rebutted and disapproves the recommended reduction, the court must grant the reduction. The court may find that the presumption has been rebutted and disapprove the recommended reduction only if it determines at the hearing that one or more of five specified factors applies.[96]

The specified factors are: (1) regardless of the offender's security level at the time of the hearing, the offender during the incarceration committed institutional rule infractions that involved compromising the security of a prison or the safety of prison staff or its inmates, or physical harm or the threat of physical harm to prison staff or inmates, or committed a violation of law that was not prosecuted, and the infractions or violations demonstrate that the offender has not been rehabilitated, (2) the offender's behavior while incarcerated demonstrates that the offender continues to pose a threat to society, (3) at the time of the hearing, the offender is classified by DRC as a Security Level 3, 4, or 5, or at a higher security level, (4) the offender, during incarceration, did not productively participate in a majority of the rehabilitative programs and activities DRC recommended, or participated in a majority of such recommended programs or activities but did not successfully complete a reasonable number of them, and (5) after release, the offender will not be residing in a licensed halfway house, reentry center, or community residential center licensed and, after release, does not have any other place to reside at a fixed residence address.[97]

All of these provisions were enacted as part of the Reagan Tokes Law.[98]

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[96] R.C. 2929.14 and 2967.271; R.C. 2929.144, not in the bill.

[97] R.C. 2967.271(F)(4).

[98] See R.C. 2901.011, not in the bill.

Operation of the bill

Under the bill, if DRC's Director notifies the sentencing court under the provisions described above that the Director is recommending that the court grant a reduction in the minimum prison term imposed on an offender, in addition to the Director including with the notice the currently required institutional summary report and other available information requested by the court, the Director also must include all relevant information that will enable the court to determine whether any factor specified in clauses (1) to (5) or the preceding paragraph applies with respect to the offender, if available.[99]

Operating a vehicle while impaired (OVI) and traffic law changes

The bill makes a series of changes in the laws regarding OVI, driving under a suspended driver's license in violation of certain laws, and certain speeding violations.

Prison term for a third degree felony OVI offense

The bill modifies the prison term that may be imposed for a third degree felony OVI (operating a vehicle while under the influence of drugs, alcohol, or both) offense. An OVI offense is a third degree felony when the offender has previously been convicted of, or pleaded guilty to, a felony OVI offense. Generally, this means that the offender has been convicted of, or pleaded guilty to, at least four prior OVI offenses or equivalent offenses (for example, operating a watercraft while intoxicated).[100]

The prison term that may be imposed for a third degree felony OVI offense depends on the following three factors:

1. Whether the offender pleads guilty to or is convicted of the "repeat offender specification," which applies if the offender has been convicted of or pleaded guilty to five or more OVIs or equivalent offenses within 20 years of the OVI offense;[101]
2. Whether the offender pleads guilty to or is convicted of having a standard level prohibited concentration of alcohol in the person's blood, breath, or urine (below 0.17% blood alcohol content) or pleads guilty to or is convicted of a high level prohibited concentration of alcohol in the person's blood, breath, or urine (at or above 0.17% blood alcohol content); or

[99] R.C. 2967.271(F)(1).

[100] The first circumstance in which an OVI offense becomes a felony, rather than a misdemeanor, is when the offender has four prior OVIs within ten years of the offender's current offense. See R.C. 4511.19(G)(1)(d).

[101] R.C. 2941.1413.

3. Whether the person has been convicted of an OVI offense within the past 20 years and, upon arrest for a felony OVI offense, refuses to take a chemical test and is convicted of the OVI offense.[102]

Reading the changes in the bill in concert with existing law, a third degree felony offender is subject to the following prison terms:[103]

Penalties for a third degree felony OVI offense under the bill	
For a "standard level" OVI without a repeat offender specification	A mandatory prison term of 60 consecutive days and a discretionary additional prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months (up to a maximum cumulative total of 5 years).
For a "standard level" OVI with a repeat offender specification	A discretionary prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months for the underlying offense and a mandatory additional prison term of 1, 2, 3, 4, or 5 years for the specification.
For a "high level" OVI or prior felony OVI plus refusal of a chemical test without a repeat offender specification	A mandatory prison term of 120 consecutive days and a discretionary additional prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months (up to a maximum cumulative total of 5 years).
For a "high level" OVI or prior felony OVI plus refusal of a chemical test with a repeat offender specification	A discretionary prison term of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months for the underlying offense and a mandatory additional prison term of 1, 2, 3, 4, or 5 years for the specification.

Under current law, the prison term that may be imposed on a third degree felony OVI offender, particularly where the offender also pleads guilty to or is convicted of the repeat offender specification, is unclear. In *State v. South*, the Ohio Supreme Court considered whether a third degree felony OVI offender who was also convicted of the repeat offender specification was subject to a discretionary prison term of 9, 12, 18, 24, 30, or 36 months (up to three years) or 12, 18, 24, 30, 36, 42, 48, 54, or 60 months (up to five years) for the underlying OVI offense. The court interpreted the R.C. as authorizing the court to impose a discretionary term of 9, 12, 18, 24, 30, or 36 months for the underlying offense and a mandatory 1, 2, 3, 4, or 5 year prison term for the specification upon such an offender.[104]

[102] R.C. 4511.19(G)(1)(e)(ii).

[103] R.C. 2929.13(G)(2); 2929.14(A)(3)(a) and (B)(4); 2941.1413; and 4511.19(G)(1)(e)(i) and (ii).

[104] *State v. South*, 144 Ohio St.3d 295, 2015-Ohio-3930.

Expansion of the OVI law to include "harmful intoxicants"

For vehicles

The bill expands the scope of the OVI law by including a "harmful intoxicant" as a "drug of abuse" for purposes of that law and, as a result, making the existing OVI prohibition against operating a vehicle while under the influence of a "drug of abuse" or other specified substances also apply with respect to a "harmful intoxicant." A "harmful intoxicant is any of the following:

1. Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:
    a. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;
    b. Any aerosol propellant;
    c. Any fluorocarbon refrigerant; or
    d. Any anesthetic gas.
2. Gamma Butyrolactone; or
3. 1, 4 Butanediol.[105]

The existing OVI law, which as described above will cover harmful intoxicants under the bill, prohibits the operation of any vehicle while under the influence of alcohol, a drug of abuse, or a combination of both.[106] A "drug of abuse" currently is any of the following:

1. Any controlled substance (i.e., any substance classified as a controlled substance under the federal Controlled Substances Act, any substance classified as a schedule I, II, III, IV, or V controlled substance under federal rules, or any drug of abuse);[107]
2. Any dangerous drug (i.e., any drug that may be dispensed only upon a prescription, any drug that contains a schedule V controlled substance that is exempt from the state Controlled Substances Act, or any drug intended for administration by injection into the human body other than through a natural orifice);[108] or

[105] R.C. 2925.01(I), not in the bill; R.C. 4506.01(M) and 4511.19.

[106] R.C. 4511.19.

[107] R.C. 4506.01(E).

[108] R.C. 4506.01(M); R.C. 4729.01(F), not in the bill.

3. Any over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.[109]

OVI-related provisions for commercial driver's license (CDL) holders

As a result of its expansion of the definition of "drug of abuse" to also include any "harmful intoxicant," as described above, the bill also prohibits a person who holds a commercial driver's license ("CDL") or CDL temporary instruction permit, or who operates a motor vehicle for which a CDL is required, from driving a motor vehicle while under the influence of a harmful intoxicant. Current law prohibits such a person from doing either of the following:

1. Driving a commercial motor vehicle while having a measurable or detectable amount of alcohol or a controlled substance in the person's blood, breath, or urine; or
2. Driving a motor vehicle while under the influence of a controlled substance. A controlled substance is any substance classified as a controlled substance under the federal Controlled Substances Act, any substance classified as a schedule I, II, III, IV, or V controlled substance under federal rules, or any "drug of abuse."[110]

Watercraft OVI offenses

As a result of its expansion of the definition of "drug of abuse" to also include any "harmful intoxicant," as described above, the bill also prohibits the operation of any vessel or the manipulation of any water skis, aquaplane, or similar device on the waters of Ohio if, at the time of the operation, control, or manipulation, the operator is under the influence of a harmful intoxicant. Current law prohibits such operation while under the influence of alcohol, a "drug of abuse," or a combination of them.[111]

Affirmative defenses for certain driving offenses

Expansion of the existing "emergency" defense

The bill allows a person to assert that the person was driving due to a substantial emergency and that no other person was reasonably available to drive as an affirmative defense to the following offenses:

1. Driving under a 12-point suspension; and
2. Driving under a suspension imposed for a specified juvenile or underage drinking-related offense, failure to appear in court, failure to pay a fine imposed by the court, or failure to comply with a child support order or with a subpoena or warrant issued by a child support agency.[112]

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[109] R.C. 4506.01(M); R.C. 4511.181(E), not in the bill.

[110] R.C. 4506.01(E); R.C. 4506.15(A)(1) and (5), not in the bill.

[111] R.C. 1546.01 and 1547.11(A)(1), not in the bill.

[112] R.C. 4510.04; R.C. 4510.037(J) and 4510.111, not in the bill.

Under current law, a person may assert that affirmative defense with respect to the following offenses:[113]

1. Driving under a general license suspension or under a suspension imposed for the violation of a CDL-related requirement or of a license restriction;[114]
2. Driving under an OVI suspension (including a suspension imposed under the Implied Consent or the Physical Control Law);
3. Driving under a financial responsibility law suspension or cancellation or under a nonpayment of judgment suspension; or
4. Failure to reinstate a license.[115]

Enhanced penalties for speeding violations

Current law establishes an "enhanced penalty" that applies to a first-time speeding offense if the offender operated a motor vehicle faster than:

1. 35 miles per hour ("MPH") in a business district (a 25 MPH zone);
2. 50 MPH in other portions of a municipal corporation (generally a 35 MPH zone); or
3. 35 MPH in a school zone during a time when the 20 MPH speed limit is in effect.

The "enhanced penalty" is a fourth degree misdemeanor. The bill expands the scope of the "enhanced penalty" so that it applies when the offender operated the vehicle faster than one of the specified speeds in the specified circumstance, regardless of how many prior speeding offenses the offender has committed.

Accordingly, under the bill, the following penalties apply to speeding offenses:

Penalties for speeding offenses under the bill		
Number of times an offense is committed	**Standard penalty for speeding**	**Penalty for speeding when the enhanced penalty applies**
1st or 2nd offense within one year	Minor misdemeanor	4th degree misdemeanor
3rd offense within one year	4th degree misdemeanor	Standard penalty applies
4th or subsequent offense within one year	3rd degree misdemeanor	Standard penalty applies

[113] R.C. 4510.04.

[114] R.C. 4510.11(D), not in the bill.

[115] R.C. 4510.14(B), 4510.16(D), and 4510.21(C), not in the bill.

As noted in the table above, if the offense is the offender's first or second offense within one year, the "enhanced penalty" increases the applicable penalty from a minor misdemeanor to a fourth degree misdemeanor. If the offense is the offender's third offense within one year or fourth or subsequent offense within one year, the bill clarifies that the standard penalty in that case applies (fourth and third degree misdemeanor, respectively).[116]

Department of Youth Services

The bill permits the Department of Youth Services to develop a program to assist a youth leaving its supervision, control, and custody at 21 years of age and requires the Department's Director to appoint a central office quality assurance committee.

Transitional services program

Under new law enacted in the bill, the Department of Youth Services (DYS) is permitted to develop a program to assist a youth leaving the supervision, control, and custody of the Department at age 21. DYS may coordinate with other agencies as deemed necessary in developing the program. The program must provide supportive services for specific educational or rehabilitative purposes under conditions agreed upon by both DYS and the youth and terminable by either. Services provided under the program will end no later than when the youth reaches age 22, and may not be construed as extending control of a child beyond discharge as described in general law governing DYS (i.e., unless the child has already received a final discharge, DYS's control of a child committed as a delinquent child ceases when the child reaches age 21[117]).[118]

The services provided by the program must be offered to the youth prior to the youth's discharge date, but a youth may request the services up to 90 days after the youth's effective date of discharge. DYS must consider any such request, even if the youth has previously declined services.[119]

Under the bill, DYS's Director is required to appoint a central office quality assurance committee consisting of staff members from relevant DYS divisions. The managing officer of an institution is also permitted to appoint an institutional quality assurance committee.[120] Members of the quality assurance committee or persons who are performing a function that is part of a quality assurance program are not permitted or required to testify in a judicial or administrative proceeding with respect to a quality assurance record or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee,

[116] R.C. 4511.21(P).

[117] R.C. 5139.10, not in the bill.

[118] R.C. 5139.101(A).

[119] R.C. 5139.101(B).

[120] R.C. 5139.45(B).

member, or person, unless a list exception applies.[121] No person testifying before a quality assurance committee or person who is a member of a quality assurance committee will be prohibited from testifying about matters within the person's knowledge, but the person will not be asked about an opinion formed by the person as a result of the quality assurance committee proceedings.[122] These provisions replace provisions of current law that establish an Office of Quality Assurance and Improvement in DYS, and that apply the testimony provisions described in this paragraph to employees of that office; related to this, the bill also replaces several current references to that office with references to the committee.[123]

Definitions

Under new law it enacts, the bill defines "quality assurance committee" as a committee that is appointed in the DYS central office by DYS's Director, a committee appointed at an institution by the managing officer of the institution, or a duly authorized subcommittee of that nature and that is designated to carry out quality assurance program activities.[124]

The bill expands the current definition of "quality assurance program" to mean a comprehensive program within DYS to systematically review and improve the quality of "comprehensive services, including but not limited to," (currently, "programming, operations, education,") medical and mental health services within DYS and its institutions, the safety and security of person's receiving care and services within DYS and its institutions, and the efficiency and effectiveness of the utilization of staff and resources in the delivery of services within DYS and its institutions.[125] Similarly, the bill expands the definition of "quality assurance program activities" to mean the activities of a quality assurance committee, including but not limited to, credentialing, infection control, utilization review including access to patient care, patient care assessments, medical and mental health records, medical and mental health resource management, mortality and morbidity review, identification and prevention of medical or mental health incidents and risks, and other comprehensive service activities whether performed by a quality assurance committee or by persons who are directed by a quality assurance committee (currently, the definition refers to the Office of Quality Assurance and Improvement that the bill repeals).

[121] R.C. 5139.45(D)(2).

[122] R.C. 5139.45(D)(3).

[123] R.C. 5139.45(B), (D)(2) and (3), (E)(2), (F)(1), and (G).

[124] R.C. 5139.45(A)(1).

[125] R.C. 5139.45(A)(3).

HISTORY

Action	Date
Introduced	06-13-22

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