



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. H.B. 394

132nd General Assembly
(As Reported by H. Criminal Justice)

Reps. Rezabek, Manning, Celebrezze, Rogers

BILL SUMMARY

Transfers from juvenile to criminal court

- Limits the circumstances in which a child's case must be transferred from juvenile court to criminal court to cases in which the child is charged with aggravated murder and was age 16 or 17 at the time of the offense.
- Modifies the factors a juvenile court must consider in determining whether to make a discretionary transfer (bindover) of a child's case from the court to criminal court for prosecution and grants a child the right to appeal a transfer decision.
- Requests that the Supreme Court amend the Rules of Appellate Procedure to expedite the interlocutory appeal of a discretionary transfer.
- Eliminates mandatory serious youthful offender (SYO) dispositions and modifies the circumstances in which a court may impose a discretionary SYO disposition.

Delinquent child confinement credit

- Clarifies the meaning of "confinement" for determining the number of days a child has been confined pending adjudication, disposition, or execution of a court order.
- Provides the juvenile court continuing jurisdiction to consider disputes over a juvenile's confinement credit.
- Specifies that an inaccurate determination of confinement credit is not grounds for setting aside or declaring void a juvenile offender's adjudication or disposition.

Juvenile court costs and fines

- Eliminates the possibility that a court would order payment of the costs of confinement in a DYS institution.
- Requires a court to hold a hearing at disposition to determine a delinquent child's ability to pay any fines or costs imposed.
- Provides that the amount of fines or costs imposed may not exceed the total amount that the child is able to pay.
- Permits the clerk of court, or other persons authorized to collect financial sanctions, to enter into contracts only with public agencies for the collection of amounts due.
- Specifies that the maximum time permitted for payment cannot exceed five years or extend beyond the child's 21st birthday, whichever occurs first.

Restitution

- Requires a juvenile court that orders restitution to consider alternative restorative justice or means to restitution other than cash reimbursement to the victim.
- Specifies that a court order for restitution expires upon satisfaction of the order, completion of the entire disposition ordered by the court, or the 21st birthday of the delinquent child or juvenile traffic offender, whichever is earliest.
- Requires the court to consider the child's ability to pay in addition to any other relevant factors in determining the number and amount of restitution payments.
- Allows an order for restitution by cash reimbursement to be reduced to a civil judgment in favor of the victim that may be enforced by civil collection methods.

Parole eligibility

- Prohibits imposing a sentence of life imprisonment without parole upon any person for an offense that was committed on or after the effective date of the bill.
- Provides special parole eligibility dates for persons with an indefinite sentence or definite sentence of more than 18 years imposed for an offense committed when the person was under age 18, but excludes persons serving a sentence for aggravated murder committed before the bill's effective date.
- Requires the Parole Board to consider specified mitigating factors for persons who are eligible for parole under the special eligibility dates.



- Requires notice to be provided to the Ohio Public Defender and prosecutor before the parole consideration hearing for a prisoner under the special eligibility dates.

Planned permanent living arrangements

- In cases involving abuse or neglect of a child, permits a juvenile court, on its own motion, or a child's guardian ad litem, by request or motion to the court, to seek placement of the child in a planned permanent living arrangement.

Family and Children First Councils

- Eliminates a requirement that each county Family and Children First Council include a representative of the regional DYS office.

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CONTENT AND OPERATION

Transfer from juvenile to criminal court

Currently, when a child (a person under age 18) commits any violation of law that would be a criminal offense if committed by an adult or commits a traffic violation, except as described below, the charges against the child are considered in juvenile court. If the child is found in juvenile court to have committed the violation, the person is adjudicated a delinquent child or a juvenile traffic offender. In certain circumstances, though, the child's case must be transferred, and in other cases it may be transferred, to criminal court for criminal prosecution.

Mandatory transfer of child's case

The bill eliminates all but one circumstance in which a court must transfer a child's case from juvenile court to criminal court for prosecution, commonly referred to as a "mandatory bindover." Under the bill, the court would be required to transfer a child's case to criminal court only in cases in which the child is charged with aggravated murder, the child was age 16 or 17 at the time of the act charged, and there is probable cause to believe that the child committed the act charged.¹ Current law would continue to apply with respect to any alleged violation of law committed before the bill's effective date.²

Currently, the mandatory transfer provisions require a juvenile court to transfer a child's case to a criminal court for criminal prosecution if any of the following applies:³

(1) The child is charged with a "category one offense" (aggravated murder, murder, attempted aggravated murder, or attempted murder) and either: (a) the child was age 16 or 17 at the time of the act charged and there is probable cause to believe that the child committed the act charged, or (b) the child was age 14 or 15 at the time of the act charged, previously was adjudicated a delinquent child for committing a category one or "category two offense" (voluntary manslaughter, kidnapping, rape, aggravated arson, aggravated robbery, aggravated burglary, the former offense of felonious sexual penetration, or a first degree felony offense of involuntary manslaughter), and was committed to the Department of Youth Services (DYS) based

¹ R.C. 2152.10(A) and 2152.12(A).

² R.C. 2152.011, 2152.02, 2152.12, and 2152.26.

³ R.C. 2152.10(A) and 2152.12(A).



on that adjudication and there is probable cause to believe that the child committed the act charged.

(2) The child is charged with a category two offense, the child was age 16 or 17 at the time of the act charged, and either: (a) the child previously was adjudicated a delinquent child for committing a category one or category two offense and was committed to DYS based on that adjudication and there is probable cause to believe that the child committed the act charged, or (b) the child is alleged to have had a firearm on or about the child's person or under the child's control while committing the act charged and to have displayed, brandished, indicated possession of, or used the firearm to facilitate the act charged and there is probable cause to believe that the child committed the act charged.

(3) The child is eligible for a discretionary transfer (i.e., the child is age 14 or older and is charged with a felony) and previously was convicted of a felony in a case that was transferred to a criminal court, or the child is domiciled in another state and is alleged to be a delinquent child for committing a felony, and, if the act charged had been committed in that other state, the child would be subject to criminal prosecution as an adult under the law of that other state without the need for a transfer of jurisdiction from a juvenile, family, or similar noncriminal court to a criminal court.

Because the bill eliminates all but one circumstance in which mandatory transfer is required, the reverse transfer of a case back to juvenile court for determination of a disposition would occur only in cases in which the child was charged with aggravated murder and the child was age 16 or 17 at the time of the offense.⁴

Discretionary transfer of child's case

The bill retains the existing provisions that authorize the discretionary transfer, commonly referred to as the "discretionary bindover," of a child's case from juvenile court to criminal court for criminal prosecution but modifies the factors a juvenile court must consider in determining whether to make such a transfer and grants a child the right to appeal a transfer decision.⁵

In general; right to appeal transfer decision

Under existing law, substantively unchanged by the bill, if a child who is charged in juvenile court with a felony is age 14 or older, the child is eligible for discretionary transfer to criminal court for criminal prosecution, with the juvenile court

⁴ R.C. 2152.121.

⁵ R.C. 2152.12.



required to follow specified procedures in deciding whether to transfer the case.⁶ If a complaint is filed in juvenile court alleging that a child is a delinquent child for committing a felony, the juvenile court at a hearing may transfer the case if the court finds that the child was age 14 or older at the time of the act charged, there is probable cause to believe that the child committed the act charged, and the child is not amenable to care or rehabilitation within the juvenile system and the safety of the community may require that the child be subject to adult sanctions (see below).⁷ Before considering a transfer, the court must order an investigation into the child's social history, education, family situation, and any other factor bearing on whether the child is amenable to juvenile rehabilitation, including a mental examination of the child by a public or private agency or a person qualified to make the examination. The child may waive the examination, and a child's refusal to submit to a mental examination constitutes a waiver.⁸

Under the bill, a child who has been found not amenable to care or rehabilitation within the juvenile system under the provisions described above has a right to appeal the transfer. Upon issuing the order for transfer, the juvenile court immediately must stay the transfer for a period of 14 days, unless waived by the child. The bill specifies that failure to appeal the transfer within 14 days does not waive the child's right to appeal the transfer at the conclusion of proceedings in criminal court.⁹ An appeal under this provision is governed by R.C. Chapter 2505.,¹⁰ which in turn subjects the appeal to the Rules of Appellate Procedure and the Rules of Practice of the Supreme Court.¹¹ The bill states that the General Assembly requests the Supreme Court to amend the Rules of Appellate Procedure within one year of the bill's effective date to expedite the interlocutory appeal of a discretionary bindover decision.¹²

Factors to be considered in discretionary transfer decision

Operation of the bill

Existing law specifies factors, changed by the bill, that a court must consider in making its amenability/community safety decision and its final transfer decision at a

⁶ R.C. 2152.10(B).

⁷ R.C. 2152.12(B).

⁸ R.C. 2152.12(C).

⁹ R.C. 2152.12(F) and 2505.02(B)(8).

¹⁰ R.C. 2505.03, not in the bill.

¹¹ R.C. 2505.03 to 2505.05 and other provisions of R.C. Chapter 2505., not in the bill.

¹² Section 3 of the bill.



discretionary transfer hearing. Some of the factors are to be considered in favor of making a transfer and some are to be considered against making a transfer. Under the bill, in making its decision on that issue, the court must consider the following factors that are relevant, and any other relevant factors:¹³

(1) The child's risk level as determined by an evidence-based risk assessment tool administered by a trained court professional, which may be a risk assessment tool developed by the court, a tool endorsed by DYS, or any other tool the court determines to be appropriate;

(2) The level of harm to the victim in the child's alleged act, including the level of physical, psychological, or serious economic harm the victim suffered or whether the child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, and whether the physical or psychological harm the victim suffered was exacerbated because of the victim's physical or psychological vulnerability or age;

(3) The victim's role, including whether the child's relationship with the victim facilitated the act charged, and whether the victim induced or facilitated the act charged or the child acted under provocation in allegedly committing the act charged;

(4) The circumstances of the offense, including whether the child was not the principle actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person, whether the child allegedly committed the act charged for hire or as part of a gang, and whether the child had a firearm on or about the child's person or under the child's control at the time of the act charged, the act charged is not the offense of carrying a concealed weapon, and the child allegedly used, displayed, brandished, or indicated possession of a firearm;

(5) The child's past experience in the juvenile court, including the presence or lack of any prior or current cases and rehabilitative efforts by the court and the availability of a reasonable and appropriate juvenile sanction or program that has not yet been utilized;

(6) The child's individual developmental characteristics, including whether the child is emotionally, physically, or psychologically mature enough for the transfer, and whether the child has a behavioral health issue, including a mental illness, substance abuse disorder, or developmental disability;

¹³ R.C. 2152.12(D).

(7) The child's background, including family and environment, and trauma history;

(8) Whether there is sufficient time to rehabilitate the child within the juvenile system.

The bill requires DYS to develop and provide to each juvenile court a list of standardized, evidence-based risk assessment tools that the department endorses for use in determining a child's risk level. A court may use, but is not required to use, a tool from the endorsed list.¹⁴

Currently

Currently, in considering whether to transfer a child under a discretionary transfer, a juvenile court must consider in favor of a transfer, as relevant: factors similar to some of those listed in paragraphs (2), (3), (4), (6), and (8), above; that the child at the time of the act charged was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction; that the results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system; and any other relevant factors. A juvenile court must consider against a transfer, as relevant, factors similar to some of those listed in paragraphs (2), (3), (4), (5), (6), and (8), above.¹⁵

Serious youthful offender dispositional sentence

The bill modifies the circumstances in which a serious youthful offender dispositional sentence (an SYO sentence) is mandatory or discretionary. An SYO sentence, often referred to as a "split sentence," consists of one part that is a traditional juvenile disposition and another part that is a criminal sentence that could be imposed upon an adult who committed the offense (the "adult sentence portion").

Under current law, mandatory SYO sentencing is specified if the child's offense is: aggravated murder, murder, attempted aggravated murder, or attempted murder committed when the child was age 14 or 15; or a first degree felony committed when the child was 16 or 17 and enhanced by a specified enhancement factor. The bill eliminates mandatory SYO sentencing in those circumstances and allows the court to

¹⁴ R.C. 2152.12(J).

¹⁵ Repealed R.C. 2152.12(D) and (E).

determine whether to impose an SYO sentence if the child's offense is one of the following:¹⁶

- Aggravated murder, murder, attempted aggravated murder, or attempted murder committed when the child was ten or older;
- A first degree felony if the act was allegedly committed when the child was ten or older, the act would be an offense of violence if committed by an adult, and either the offense involved a firearm or the child previously was admitted to a DYS facility for aggravated murder, murder, a first or second degree felony if committed by an adult, or a third degree felony offense of violence if committed by an adult.

As under current law, if a juvenile court imposes an SYO sentence, the prosecuting attorney, DYS, or the child's supervising probation department, depending on the circumstances, may file a motion with the juvenile court to invoke the adult sentence portion if the child is at least 14. Upon the filing of the motion, the court may hold a hearing to determine whether to invoke the adult sentence portion. The bill requires the Ohio Public Defender to be served a copy of any motion to invoke the adult portion of an SYO dispositional sentence when it is filed.¹⁷

Table of delinquent child dispositions

The bill eliminates a table of dispositions that a juvenile court may impose on a delinquent child based on the level of offense and aggravating factors. The table is currently in the Revised Code solely for illustrative purposes.¹⁸

Delinquent child confinement credit

Calculation of days in confinement

Current law, retained by the bill, provides that, when a juvenile court commits a delinquent child to DYS pursuant to the Delinquent Child Law, the court must state in the commitment order the total number of days that the child has been confined in connection with the delinquent child complaint upon which the commitment order is based. DYS must then reduce the minimum period of institutionalization that was ordered by both the total number of days that the child has been confined as stated by the court in the commitment order and the total number of additional days that the

¹⁶ R.C. 2152.11(A), (B), and (C).

¹⁷ R.C. 2152.14.

¹⁸ Repealed R.C. 2152.11(H), (I), and (J).



child has been confined subsequent to the order of commitment but prior to the transfer of physical custody of the child to DYS.

Current law states that the court cannot include days that the child has been under electronic monitoring or house arrest or days that the child has been confined in a halfway house. The bill instead provides that the court must only include days that the child has been "confined," which is defined as placement in any locked and secure facility, either adult or juvenile, in a locked and secure section of any facility, or in any community corrections facility. A "secure facility" is any facility that is designed and operated to ensure that all of its entrances and exits are under the exclusive control of its staff and to ensure that no child may leave without permission or supervision. "Community corrections facility" means a multicounty rehabilitation center for felony delinquents who have been committed to DYS and diverted from care and custody in an institution.¹⁹

Errors in calculating confinement credit

Under the bill, the juvenile court retains continuing jurisdiction to correct any error made in determining a delinquent child's confinement credit. The delinquent child may, at any time after disposition, file a motion in the juvenile court to correct any error made in the determination and the court in its discretion may grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court must cause the entry granting that change to be delivered to DYS without delay. An inaccurate determination of confinement credit is not grounds for setting aside the delinquent child's adjudication or disposition and does not otherwise render the disposition void or voidable.²⁰

Juvenile court costs and restitution

Costs

Under current law, unchanged by the bill, if a child is adjudicated a delinquent child or juvenile traffic offender, the juvenile court may order a variety of financial sanctions specified in statute, unless the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or, in the case of a juvenile traffic offense, could be disposed of by a juvenile traffic violations bureau if one has been established by the court. Under the bill, if the court orders the child to pay restitution, the court may include as costs a surcharge, in an amount not exceeding 5% of the amount of restitution to the entity responsible for collecting and processing the

¹⁹ R.C. 2152.18(B) and (F).

²⁰ R.C. 2152.18(B).



restitution payments.²¹ The court may also order the child to reimburse costs incurred for services or sanctions provided or imposed, including:²²

- All or part of the costs of implementing any community control imposed as a disposition, including a supervision fee.
- All or part of the costs of confinement in a residential facility, including a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged while confined.

Current law, repealed by the bill, also allows the court to order payment of the costs of confinement in a DYS facility.²³

The bill makes it mandatory for a juvenile court to hold a hearing at disposition to determine whether a child is able to pay a financial sanction. The amount of any sanction ordered must not exceed the total amount that the child is able to pay. A person required to pay the financial sanction is considered an obligor liable for payment.²⁴

Under the bill, the clerk of court, or other persons authorized to collect financial sanctions imposed by the court, may enter into contracts only with public agencies for the collection of amounts due. Current law also allows for contracts with private vendors.²⁵

Under the bill, the maximum time permitted for payment of financial sanctions cannot exceed five years or extend beyond the child's 21st birthday, whichever occurs first. Under current law, the maximum time permitted is five years. If the obligor elects a payment plan rather than a lump sum payment of a financial sanction, the obligor may be charged a reasonable fee to defray administrative costs.²⁶

Restitution

One of the financial sanctions that a juvenile court may order is restitution. The bill relocates existing provisions relating to restitution from R.C. 2152.20 to a new

²¹ R.C. 2152.203(D).

²² R.C. 2152.20(A)(4).

²³ R.C. 2152.20(A)(4).

²⁴ R.C. 2152.20(C).

²⁵ R.C. 2152.20(E)(1).

²⁶ R.C. 2152.20(E)(2) and (3).

Revised Code section (R.C. 2152.203) and adds cross-references to the new section in statutes that previously referenced only R.C. 2152.20.²⁷ Restitution is made by the delinquent child or juvenile traffic offender to the victim, or to a survivor if the victim is deceased, in an amount based on the victim's economic loss.²⁸ If the court orders restitution, the restitution may be in the form of a cash reimbursement, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim or survivor of the victim, the performance of community service work, any other form of restitution devised by the court, or any combination of those forms of restitution. The bill requires the court to also consider alternative restorative justice or alternative means to restitution, which may include a requirement to return personal property.²⁹

In establishing a payment plan, the court must consider the child's present and future ability to pay in addition to any other factors the court finds relevant in determining the number and amount of restitution payments.³⁰ The bill specifies that a court order for restitution expires upon satisfaction of the order, either through payment, community service, or at the advice of the victim, completion of the entire disposition ordered by the court, or the 21st birthday of the delinquent child or juvenile traffic offender, whichever occurs first.³¹

Under the bill, a court order for restitution may be reduced to a civil judgment in favor of the victim on or after the termination of the juvenile court's jurisdiction following the delinquent child's or juvenile traffic offender's 21st birthday or, if the order has not been satisfied after exhaustion of all options for restitution described above, by order of the court, whichever occurs first. If the order is reduced to a civil judgment, the person required to pay restitution is considered the judgment debtor, and the victim may do any of the following:³²

- Obtain from the clerk of the court a certificate of judgment in the same manner and form as a certificate of judgment issued in a civil action.

²⁷ R.C. 109.42(A)(13) and 2152.21(A)(4).

²⁸ R.C. 2152.20(A)(3) and 2152.203(A).

²⁹ R.C. 2152.203(B).

³⁰ R.C. 2152.203(F).

³¹ R.C. 2152.203(E).

³² R.C. 2152.203(G).

- Obtain execution³³ of the judgment or order through any available procedure, including:
 - An execution against the debtor's property under R.C. Chapter 2329.
 - An execution against the debtor's person under R.C. Chapter 2331.
 - A proceeding in aid of execution under R.C. Chapter 2333., including: a proceeding for the examination of the debtor's property, income, and other means of satisfying the judgment; a proceeding for the attachment of the person of the debtor; or a creditor's suit if the judgment debtor does not have sufficient personal or real property to satisfy the judgment.
 - The attachment (seizure) of the debtor's property.
 - The garnishment of the debtor's property.³⁴
- Obtain an order for the assignment of the debtor's wages³⁵ for the support of a spouse or children.

Parole eligibility

Background

The Pardon, Parole, and Probation Law specifies when an offender who is imprisoned in a state correctional institution under a life sentence or indefinite sentence becomes eligible for parole and provides the Adult Parole Authority (APA) with the authority, subject to the restrictions and procedures set forth in the Law, to grant an eligible prisoner parole.³⁶ Currently, a prisoner's eligibility for parole is not affected by the prisoner's age at the time of the prisoner's offense and the APA is not required to consider the prisoner's age at the time of the offense in determining the prisoner's fitness for parole.

³³ An execution is a process of a court directed to the sheriff of a county.

³⁴ The money, property, or credits, other than the personal earnings, of the judgment debtor. *See* R.C. 2716.11, not in the bill.

³⁵ The transfer of the judgment debtor's right to collect wages to the victim.

³⁶ R.C. Chapter 2967.

Applicability

The bill enacts a section in the Pardon, Parole, and Probation Law that applies to a prisoner who is serving an indefinite sentence or a definite sentence of more than 18 years for an offense or offenses that occurred when the prisoner was under age 18 (hereafter, "prisoner"). Regardless of whether the prisoner's stated prison term includes any mandatory time, the section applies automatically and cannot be limited by the sentencing court.³⁷

Life imprisonment without parole

The bill prohibits imposing a sentence of life imprisonment without parole upon any person for an offense that was committed on or after the effective date of the bill when the person was under age 18. The prohibition does not apply retroactively to any sentence imposed for an offense committed before the effective date of the bill.³⁸

Special eligibility for parole

The bill sets forth when the prisoner is eligible for parole. This provision of the bill applies notwithstanding any conflicting provision of the Revised Code and applies to determine the parole eligibility of all prisoners who committed an offense prior to, on, or after the bill's effective date, other than aggravated murder committed prior to the bill's effective date, regardless of when the prisoner was sentenced for the offense.³⁹

Under the bill, the prisoner is eligible for parole as follows:⁴⁰

(1) Except as provided in (2) or (3) below, the prisoner is eligible for parole after serving 18 years in prison.

(2) If the prisoner is serving a sentence for aggravated murder that permits parole after more than 25 years, the prisoner is eligible for parole after serving 25 years in prison.

(3) If the prisoner is serving a sentence that permits parole earlier than the parole eligibility dates specified above, the prisoner is eligible for parole after serving the period of time in prison specified in the sentence.

³⁷ R.C. 2967.132(A).

³⁸ R.C. 2151.23(H) and (I), 2152.12(I), 2929.02(A), and 2929.07.

³⁹ R.C. 2967.132(B) and (G).

⁴⁰ R.C. 2967.132(B)(1) to (3).



If a prisoner is serving a sentence of life without parole for aggravated murder and the offense was committed prior to the effective date of the bill, the prisoner remains ineligible for parole.⁴¹

Consideration of an eligible prisoner's release; mitigating factors

Under the bill, once a prisoner becomes eligible for parole, the Parole Board is required, within a reasonable time after the prisoner becomes eligible, to conduct a hearing to consider the prisoner's release onto parole supervision. The Parole Board is required to conduct the hearing in accordance with the Victim's Rights Law,⁴² the Pardon, Parole, and Probation Law,⁴³ and the APA Law,⁴⁴ and in accordance with the Board's policies and procedures. The Parole Board's policies and procedures must permit the prisoner's privately retained counsel or the Ohio Public Defender to appear at the prisoner's hearing to make a statement in support of the prisoner's release.⁴⁵

The bill requires the Parole Board to ensure that the Board's review process provides the prisoner a meaningful opportunity to obtain release. In addition to any other factors the Parole Board is required or authorized to consider by rule or statute, the Board is required to consider the following factors as mitigation:⁴⁶

- (1) The age of the offender at the time of the offense;
- (2) The diminished culpability of youth;
- (3) Common characteristics of youth, including immaturity and failure to appreciate risks and consequences;
- (4) The family and home environment of the offender at the time of the offense;
- (5) Any subsequent growth or increase in the offender's maturity during imprisonment.

⁴¹ R.C. 2967.132(C) and (H).

⁴² R.C. Chapter 2930.

⁴³ R.C. Chapter 2967.

⁴⁴ R.C. Chapter 5149.

⁴⁵ R.C. 2967.132(C).

⁴⁶ R.C. 2967.132(C)(1) to (5).



If the Parole Board grants the prisoner parole, the Board must impose appropriate terms and conditions of release upon the prisoner as provided under the Pardon, Parole, and Probation Law.⁴⁷

If the Parole Board denies the prisoner release, the Board is required to conduct a subsequent release review not later than ten years after denying release.⁴⁸

Notification of prisoner's eligibility for review

In addition to any other notice required by rule or statute, the bill requires the Parole Board to notify the Ohio Public Defender and the appropriate prosecuting attorney of a prisoner's eligibility for review under the bill's provisions at least 60 days before the Board begins any review or proceedings involving the prisoner.⁴⁹

Conforming changes required

The bill specifies that its provisions regarding parole eligibility of a prisoner for offenses committed when the prisoner was under 18 years of age are exceptions to the current law provisions in the Pardon, Parole, and Probation Law governing parole eligibility.⁵⁰

The bill amends the current laws governing the sentencing of a person who is convicted of or pleads guilty to murder,⁵¹ specified offenses that are subject to the Sexually Violent Predator Sentencing Law,⁵² or other felonies,⁵³ to state that if an offender is sentenced under any of those laws to life imprisonment without parole, life imprisonment, a definite prison term of more than 18 years, or to an indefinite prison term, the offender's parole eligibility must be determined under the bill's parole eligibility provisions for an offense committed when the offender was less than 18 years at the time of the offense.

The bill also amends the law allowing a Parole Board hearing officer, a Parole Board member, or the Office of Victims' Services to petition the Board for a full Board hearing that relates to a proposed parole or re-parole of a prisoner to specifically

⁴⁷ R.C. 2967.132(D), and R.C. 2967.131, not in the bill.

⁴⁸ R.C. 2967.132(E).

⁴⁹ R.C. 2967.132(F).

⁵⁰ R.C. 2967.13.

⁵¹ R.C. 2929.02(C).

⁵² R.C. 2971.03(G).

⁵³ R.C. 2929.14(L).



include any prisoner described by the bill's parole eligibility provisions for offenses committed when the prisoner was under 18 years of age at the time of the offense.⁵⁴

Additional changes to juvenile law

Planned permanent living arrangements

When a child who is 16 or older has been adjudicated an abused, neglected, or dependent child or is under temporary custody of a public children services agency (PCSA) or private child placing agency (PCPA), the bill permits a juvenile court, on its own motion, or a child's guardian ad litem, by request or motion to the court, to seek placement of the child in a planned permanent living arrangement. A "planned permanent living arrangement" gives legal custody of a child to a PCSA or PCPA without terminating parental rights. A court may place a child in a planned permanent living arrangement only if the court finds, by clear and convincing evidence, that the child is age 16 or older, it is in the child's best interest, and (1) the child has physical, mental, or psychological needs that render the child unable to function in a family-like setting, (2) the parents of the child have significant physical, mental, or psychological problems that render them unable to care for the child, adoption is not in the best interest of the child, and the child retains a significant and positive relationship with a parent or relative, or (3) the child is unwilling to accept or unable to adapt to a permanent placement and is in a program preparing the child for independent living.⁵⁵

Family and Children First Councils

The bill eliminates a requirement in current law that each county Family and Children First Council include a representative of the regional DYS office. County Family and Children First Councils exist to streamline and coordinate existing government services for families seeking services for their children.⁵⁶

HISTORY

ACTION	DATE
Introduced	10-26-17
Reported, H. Criminal Justice	05-23-18

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⁵⁴ R.C. 5149.101.

⁵⁵ R.C. 2151.011(B)(38), not in the bill, 2151.353(A)(5), 2151.415(A) and (C), and 2152.42.

⁵⁶ R.C. 121.37(B).

