



S.B. 115

123rd General Assembly
(As Passed by the General Assembly)

Sens. Mallory, Fingerhut, Hagan, Herington, McLin, Prentiss, Shoemaker, Carnes, Oelslager, Brady, Mumper, Watts, Spada, DiDonato, Latell, Blessing, Harris, Nein, Espy, Ray, White, Armbruster

Reps. Womer Benjamin, Willamowski, Jones, Logan, DePiero, Hughes, Mead, Schuler, Mottley, D. Miller, Perry, Ogg, Allen, Bender, Flannery, Distel, Redfern, Cates, Goodman, Gooding, Smith, Barnes, Patton, Sulzer, Verich, Mettler, Clancy, O'Brien, Metzger, Corbin, R. Miller, Barrett, Austria, Collier, Winkler, Roberts, Britton, Vesper

Effective date: *

ACT SUMMARY

- Requires the Department of Youth Services to require any child committed to the Department who has not attained a diploma or certificate of high school equivalence to participate in courses leading toward a high school diploma or an Ohio certificate.
- Provides that failure of the Department to provide an opportunity for any child to participate in the above-mentioned courses does not give rise to a claim for damages against the Department.
- Requires the Department of Rehabilitation and Correction to require each prisoner who has not obtained a high school diploma to take courses leading toward an Ohio certificate of high school equivalence, an Ohio high school diploma, or vocational training and to adopt disciplinary rules for prisoners who refuse to take those courses.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Requires the Department of Rehabilitation and Correction to encourage a prisoner to participate in a program of advanced studies or training for a skilled trade if the prisoner has obtained a high school diploma.
- Provides that failure of the Department to provide an opportunity for any prisoner to participate in the above-mentioned courses does not give rise to a claim for damages against the Department.
- Prohibits a prisoner from being assigned to any job with the Ohio penal industries or to any other job level or job grade of prisoner employment unless the prisoner has obtained a high school diploma or a certificate of high school equivalence, is incapable of doing so, or was working in the penal industries on a specified date, applied to a program leading to a diploma or certificate as of a certain date, and has been enrolled in that program for less than one year.

CONTENT AND OPERATION

High school diploma or equivalence requirements for children committed to the Department of Youth Services

Under continuing law, the Department of Youth Services (hereinafter DYS) may require participation by a child committed to it in vocational, physical, educational, and corrective training and activities, including training and activities in the conduct and modes of life that seem best adapted to rehabilitate the child and fit the child for return to full liberty without danger to the public welfare (R.C. 5139.07).

Under the act, DYS must require any child committed to it who has not attained a diploma or certificate of high school equivalence to participate in courses leading toward a high school diploma or an Ohio certificate of high school equivalence. This requirement does not apply to a child in an assessment program or treatment intervention program prescribed by DYS. The act further provides that the failure of DYS to provide an opportunity for any child committed to it to participate in courses that lead to a high school diploma or an Ohio certificate of high school equivalence does not give rise to a claim for damages against DYS. (R.C. 5139.07(A)(1)(b) and (A)(2).)

High school diploma or equivalence requirements and vocational training requirements for prisoners committed to the Department of Rehabilitation and Correction

Under continuing law, the Department of Rehabilitation and Correction (hereinafter DRC) is required to establish and operate a school system that is approved and chartered by the Department of Education and designated as the Ohio central school system. The school system's mission is to serve all of the correctional institutions under DRC's control. The school system operated by DRC must provide educational programs for prisoners to allow them to complete adult basic education courses, earn Ohio certificates of high school equivalence, or pursue vocational training. To accomplish this goal, DRC is permitted to employ appropriately certified teachers, administrators, and support staff. DRC is required to provide classrooms, shops, and other appropriate facilities and the necessary furniture, books, stationery, supplies, and equipment. (R.C. 5145.06.)

Under the act, DRC must require each prisoner who has not obtained a high school diploma to take courses leading toward a certificate of high school equivalence, courses leading toward a high school diploma, or courses that provide vocational training. DRC must adopt rules that prescribe disciplinary actions that may be taken if a prisoner refuses to participate in the required educational program. If a prisoner has obtained a high school diploma, DRC is required to encourage the prisoner to participate in a program of advanced studies or training for a skilled trade. The act further provides that the failure of DRC to provide an opportunity for any prisoner to participate in courses leading to a certificate or diploma or provide vocational training does not give rise to a claim for damages against DRC. (R.C. 5145.06(B).)

Participation requirements for prisoner employment

Continuing law

Under continuing law, DRC has established work programs in some form of labor for as many prisoners as possible who are in the custody of DRC. Prisoners who are not able to perform labor because of illness or other health problems, security requirements, routine processing, disciplinary action, or other reasonable circumstances or because they are engaged in educational, vocational, or other training are excepted from the work programs. The labor may be in DRC's manufacturing and service industries and agriculture, in private industry or agriculture that is located within or outside DRC's institutions, in public works, in institutional jobs necessary for the proper maintenance and operation of the institutions under the control of DRC, or in any other appropriate form of labor. DRC must attempt to engage in work programs as many prisoners as possible who are in its custody and who are eligible for the programs. DRC is not required to



engage every eligible prisoner in a work program when sufficient money, facilities, or jobs are not available for the program; however, DRC must continuously seek sources of labor for as many eligible prisoners as possible. (R.C. 5145.16(A), not in the act.)

The program must be administered in accordance with any rules adopted pursuant to R.C. 5145.03(B).¹ Additionally DRC must comply with the following requirements: it must consider the nature of the offense committed by a prisoner, the availability of employment, the security requirements for the prisoner, the prisoner's present state of mind, the prisoner's record in the institution to which the prisoner has been committed, and all other relevant factors when assigning a prisoner to his initial job assignment. DRC, when making a prisoner's initial job assignment, must attempt to develop the prisoner's work skills, provide rehabilitation for the prisoner, consider the proximity to the prisoner's family, and permit the prisoner to provide support for the prisoner's dependents if the prisoner's earnings are sufficient for that to be feasible. (R.C. 5145.161(A)(1).)

¹ R.C. 5145.03(B) requires the Director of DRC to adopt rules for the administration of DRC's program for employment of prisoners that is established pursuant to R.C. 5145.16. The rules generally must be adopted, amended, and rescinded pursuant to the Administrative Procedure Act. The rules must provide for the following: (1) A procedure for seeking the employment of prisoners in penal industries and agriculture, in private industry and agriculture located within or outside the department's institutions, in public works, in institutional jobs necessary for the proper maintenance or operation of the department's institutions, and in other appropriate forms of labor, (2) A system of compensation, allowances, hours, conditions of employment, and advancement for prisoners who are employed in any form of labor, (3) The regulation of the working conditions for prisoners who are employed in any form of labor, (4) The categorization of all jobs performed by prisoners into levels, grades within the levels, or other appropriate categories based upon the skills required to perform the job, the security required for the job, the location at which the job is performed, and any other relevant characteristics of the job, (5) A procedure for the assignment of prisoners to perform jobs in correctional industries and agriculture, and in private industry and agriculture, that are located in institutions under DRC control other than the institutions to which the prisoners are committed, (6) A procedure for the periodic review of each prisoner's performance at his jobs and for the periodic evaluation of the prisoner's qualifications for other jobs at higher grades, levels, or categories, with different skill requirements, with different career potential, with other training potentials, or with other working conditions or schedules, (7) An accounting system for the allocation of the earnings of each prisoner, (8) A procedure for the transportation of prisoners whenever necessary between institutions and to and from private industry or agriculture to perform jobs, (9) A disciplinary procedure for violations of work or security requirements, and (10) Any other rules on any subject that are otherwise necessary to administer R.C. 5145.16 and 5145.161 or to provide employment for as many prisoners as possible.

Operation of the act

The act prohibits any prisoner from being assigned to any job with the Ohio penal industries or to any other job level or job grade of prisoner employment that the Director of DRC may designate unless the prisoner has obtained a high school diploma or a certificate of high school equivalence. This provision does not apply to (1) a prisoner who is determined, in accordance with a procedure approved by the Director, to be incapable of obtaining a diploma or certificate of high school equivalence, or (2) a prisoner working in the Ohio penal industries as of February 1, 1999, who applied on or before May 1, 1999, for enrollment in a program leading to a diploma or a certificate of high school equivalence, and who has been enrolled in that program for less than one year. (R.C. 5145.161(A)(2).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-18-99	pp. 216-217
Reported, S. Judiciary	10-05-99	p. 1026
Passed Senate (33-0)	11-16-00	pp. 2262-2263
Reported, H. Criminal Justice	12-07-00	pp. 2471-2472
Passed House (95-0)	12-12-00	pp. 2489-2490

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