



**S.B. 115**

123rd General Assembly  
(As Reported by S. Judiciary)

**Sens. Mallory, Fingerhut, Hagan, Herington, McLin, Prentiss, Shoemaker, Carnes**

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**BILL 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.
- 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.

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## CONTENT AND OPERATION

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

Under existing 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 bill, 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 bill 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 existing 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 to adequately support the school system. (R.C. 5145.06.)

Under the bill, 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. 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. DRC must adopt rules that prescribe disciplinary actions that may be taken if a prisoner refuses to participate in the aforementioned educational program. The bill further provides that the failure of DRC to provide an opportunity for any prisoner to participate in the aforementioned educational program does not give rise to a claim for damages against DRC. (R.C. 5145.06(B)(1), (2), and (3).)

### **Participation requirements for prisoner employment**

#### **Existing law**

Under existing 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 bill.)

The program must be administered in accordance with any rules adopted pursuant to R.C. 5145.03(B).<sup>1</sup> Additionally DRC must comply with the following

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<sup>1</sup> R.C. 5145.03(B) states "(B) The director of the department of rehabilitation and correction shall adopt rules for the administration of the department's program for employment of prisoners that is established pursuant to section 5145.16 of the Revised Code. The rules shall be adopted, amended, and rescinded pursuant to Chapter 119. of the Revised Code, except that rules governing security shall not be adopted pursuant to that chapter and except that no prisoner who is in the custody of the department and who is incarcerated has any legal right to attend any hearing that is held on the rules pursuant to that chapter and that is held outside the institution in which the prisoner is incarcerated; however, the attorney for any prisoner may attend the hearing on behalf of the prisoner. The director may hold hearings on the rules pursuant to that chapter at any of the department's correctional institutions to receive comment from prisoners, which hearings may be attended by prisoners incarcerated at the institution at which any of the

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 his dependents if the inmate's earnings are sufficient for that to be feasible. (R.C. 5145.161(A)(1).)

### **Operation of the bill**

The bill 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

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*hearings is held. The rules shall 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 the control of the department 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; (10) Any other rules on any subject that are otherwise necessary to administer sections 5145.16 and 5145.161 of the Revised Code or to provide employment for as many prisoners as possible."*

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).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-18-99	pp. 216-217
Reported, S. Judiciary	10-05-99	p. 1026

S0115-RS.123/rss

