



Sub. H.B. 15

126th General Assembly
(As Reported by H. Criminal Justice)

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BILL SUMMARY

- Requires the Department of Rehabilitation and Correction ("DRC") to establish and operate on the Internet a database that contains (1) specified information for each inmate in the custody of DRC and (2) information as to where any person can send written statements regarding any pending judicial release, pardon, commutation, parole, or transfer to transitional control of an offender serving a sentence of imprisonment or a prison term.
- Specifies that no information included on the database may identify or enable the identification of any victim of any offense committed by an inmate.
- Provides that DRC must update the database every 24 hours, the database is a public record, and DRC is responsible for making the database searchable by inmate name and by the county and zip code where the offender intends to reside after release, if known by DRC.
- Permits any person to submit a written statement for consideration before a person in the custody of DRC is granted a judicial release, pardon, commutation, parole, or a transfer to transitional control.
- Requires a court that schedules a judicial release hearing for an eligible offender to notify the offender and the head of the state correctional institution in which the offender is confined prior to the hearing.

- Specifies that all of the provisions of the bill are to be collectively known as "Laura's Law."

CONTENT AND OPERATION

Database of offenders in the custody of the Department of Rehabilitation and Correction

The bill requires the Department of Rehabilitation and Correction ("DRC"), within 90 days of the bill's effective date but not before January 1, 2006, to establish and operate on the Internet a database that contains all of the following information for each inmate in the custody of DRC under a sentence imposed for a conviction of or a guilty plea to any offense (R.C. 5120.66(A)(1)):

- (1) The inmate's name;
- (2) For each offense for which the inmate was sentenced to a prison term or term of imprisonment and is in DRC's custody all of the following:
 - (a) The name of the offense;
 - (b) The Revised Code section of which the offense is a violation;
 - (c) The gender of each victim of the offense if those facts are known;
 - (d) Whether each victim of the offense was an adult or child, if those facts are known;
 - (e) The range of the possible prison terms or term of imprisonment that could have been imposed for the offense;
 - (f) The actual prison term or term of imprisonment imposed for the offense;
 - (g) The county in which the offense was committed;
 - (h) The date on which the inmate began serving the prison term or term of imprisonment imposed for the offense;
 - (i) Either the date on which the inmate will be eligible for parole relative to the offense if the term is an indefinite term or life term or the date on which the term ends if the prison term is a definite term.
- (3) If applicable and if known to DRC prior to the conduct of a hearing for judicial release, notice of the fact that the inmate will be having a hearing

regarding a possible grant of judicial release, the date of the hearing, and the right of any person, described below in "*Motion for judicial release*," to submit to the court a written statement regarding the possible judicial release.

(4) If the offender is serving a prison term as a sexually violent predator who committed a sexually violent offense, prior notice of any hearing the offender will be having a hearing regarding the determination of whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term, and the date of the hearing.

(5) If applicable, notice that an inmate might be under consideration for a pardon or commutation of a sentence or will be having a hearing regarding a possible grant of parole, notice of the right of any person to submit a written statement regarding the pending action, as described below in "*Recommendations for pardon, commutation, or parole*," and notice of the hearing date regarding a possible grant of parole, at least three weeks before such a recommendation or hearing.

(6) If applicable, notice of a pending transfer to transitional control, the date of the possible transfer, and the right of any person to submit a statement regarding the possible transfer, as described below in "*Transitional control*," at least three weeks before a hearing regarding the transfer.

(7) If applicable, prompt notice of an inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after escape.

(8) If applicable, notice of the inmate's death while in confinement.

(9) Prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, the date of release, and, if applicable, the standard terms and conditions of the release.

(10) If applicable, notice of the inmate's judicial release.

The database must also contain information as to where a person can send written statements as described below in "*Motion for judicial release*," "*Recommendations for pardon, commutation, or parole*," and "*Transitional control*." Additionally, the database may contain information regarding inmates who are listed in the database in addition to the required information (R.C. 5120.66(A)(2) and (B)(3)).

In maintaining the database, the bill requires DRC to update the database every 24 hours to ensure that the information it contains is accurate and current. Also, no information included on the database may identify or enable the

identification of any victim of any offense committed by an inmate. The bill further provides that the database is a public record open for inspection under R.C. 149.43, and DRC is responsible for making the database searchable by inmate name and by the county and zip code where the offender intends to reside after release from a state correctional institution if this information is known to DRC. Finally, the bill specifies that the failure of DRC to comply with the database requirements does not give any rights or any grounds for appeal or post-conviction relief to any inmate. (R.C. 5120.66(B)(1), (2), (4), and (C).)

Motion for judicial release

Current law

Under current law, upon the filing of a motion by an eligible offender¹ or upon its own motion, a sentencing court may reduce the offender's stated prison term through a judicial release. The motion must be filed within a specified time frame depending on the offender's offense and sentence. The court may schedule a hearing on the motion. A motion may be denied without a hearing, but a motion cannot be granted without a hearing. If a court denies a motion without a hearing, the court may consider a subsequent motion for that offender, but a court can hold only one hearing for any eligible offender.

If a court schedules a hearing for a motion for judicial release, the court must notify the eligible offender and the prosecuting attorney of the county in which the eligible offender was indicted. The eligible offender must, then, promptly give a copy of the notice of the hearing to the head of the state correctional institution in which the offender is confined. The prosecuting attorney is responsible for notifying the victim of the offense, or the victim's representative. At the hearing, the eligible offender, the offender's attorney, the prosecuting attorney, the victim or the victim's representative, and any other person with relevant information have the opportunity to present information to the court. After the hearing, the court has ten days to rule on the motion. If the court grants a motion for judicial release, the court must order the release of the offender, and place the offender under an appropriate community control sanction, under appropriate community control conditions, and under the supervision of the probation department serving the court. The court must also reserve the right to reimpose the sentence that it reduced if the offender violates the sanction. (R.C. 2929.20.)

¹ An "eligible offender" means any person serving a stated prison term of ten years or less when either the stated prison term does not include a mandatory prison term or the stated prison term includes a mandatory prison term and the person has served the mandatory prison term (R.C. 2920.20(A)(1), unchanged by the bill).

Operation of the bill

The bill makes four changes with respect to the judicial release of an eligible offender. First, the bill requires a court that schedules a judicial release hearing to notify the head of the state correctional institution in which the offender is confined at the same time that it notifies the eligible offender. The head of the institution must immediately notify the appropriate person at DRC of the hearing. DRC must, within 24 hours, post on the database it maintains under the bill the offender's name and notice of the right of any person to submit a written statement regarding the pending action, as described in the following paragraph. (R.C. 2929.20(D).)

Second, the bill permits any person to submit to the court, at any time prior to the hearing on the eligible offender's motion for judicial release, a written statement concerning the effects of the offender's crime or crimes, the circumstances surrounding the crime or crimes, the manner in which the crime or crimes were perpetrated, and the person's opinion as to whether the offender should be released. This right to make a statement is in addition to and independent of the right of a victim to make a statement pursuant to R.C. 2930.14, 2930.17, or 2946.051 and any right of a person to present written information at a motion for judicial release, as described above. (R.C. 2929.20(J).)

Third, the bill specifies that the court when considering a motion for judicial release from an eligible offender may consider any written statement of any person submitted to the court, as described in the preceding paragraph (R.C. 2929.20(G)).

Fourth, if the court grants a motion for judicial release, the bill requires the court to notify the appropriate person at DRC of the judicial release. DRC must then post notice of the release on the database it maintains under the bill (R.C. 2929.20(I) and 5120.66(A)(1)(c)(viii)).

Recommendations for pardon, commutation, or parole

Current law

Under current law, the Adult Parole Authority ("APA") may recommend to the Governor the pardon, commutation of sentence, or reprieve of any convict or prisoner or grant a parole to any prisoner for whom parole is authorized if in its judgment there is reasonable ground to believe that granting a pardon, commutation, or reprieve to the convict or paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society. Before recommending a pardon, commutation, or reprieve or before granting a

parole, the APA must provide notice as described in the next paragraph and must consider statements from the victim or the victim's representative.

Generally, the APA must provide the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the offender was found notice of the pendency of a pardon, commutation, or parole at least three weeks before recommending a pardon or commutation or before granting parole. This notice must include the name of the offender, the offense of which the person was convicted, the time of conviction, and the term of the offender's sentence. If requested, the APA must also provide this type of notice to the victim or the victim's representative. If the consideration of the pardon, commutation, or parole is continued, the APA must provide notice, by mail, of this continuation at least ten days prior to the further consideration. (R.C. 2967.03 and 2967.12.)

Operation of the bill

The bill makes three changes with respect to a recommendation for pardon or commutation or a grant of a parole for an offender who is serving a prison term or term of imprisonment for any offense. First, for an offender who is serving a prison term or term of imprisonment for any offense, the bill permits any person to send to the APA at any time prior to the APA's recommendation of a pardon or commutation or the granting of a parole for the offender a written statement relative to the offense and the pending action. This right to make a statement is in addition to and independent of the right of a victim to make a statement as otherwise permitted in a pardon, commutation, or parole consideration, pursuant to R.C. 2930.17, or as otherwise permitted, and this right is in addition to and independent of the authority for a judge or prosecuting attorney to furnish statements and information, make recommendations, and give testimony in a pardon, commutation, or parole consideration, the right of a prosecuting attorney, judge, or victim to give testimony or submit a statement at a full parole board hearing, and any other right or duty of a person to present information or make a statement. (R.C. 2967.12(H).)

Second, the bill requires the APA to consider any written statement of any person, submitted as described in the preceding paragraph, before recommending pardon or commutation of a sentence or before granting a parole to an offender serving a prison term or term of imprisonment for any offense (R.C. 2967.03).

Third, the bill specifies that if an offender is serving a prison term or term of imprisonment for any offense, DRC must post on the database it maintains under the bill the offender's name and notice of the right of any person to submit a written statement regarding the pending pardon, commutation, or parole action. This database entry must be made at the same time the prosecuting attorney and

the judge are notified of the pendency of the pardon, commutation, or parole. DRC must also provide any notice of further consideration of pardon, commutation, or parole on the database at least ten days before the further consideration if the initial notice was posted on the database as required. Failure to comply with this posting requirement does not give any rights or grounds for appeal or post-conviction relief to the person serving the sentence. (R.C. 2967.12(A), (C), and (F).)

Transitional control

Current law

Current law permits DRC to transfer eligible prisoners² to transitional control statute during the final 180 days of their confinement, under terms established by DRC. The APA is required to give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found. The court has the authority to disapprove the transfer. The APA must also provide notice to the victim if the victim has requested notification. The victim has the right to submit a statement regarding the impact of the transfer of the prisoner to transitional control. (R.C. 2967.26.)

Operation of the bill

The bill makes three changes with respect to the transfer of an eligible offender to transitional control if the offender is serving a prison term or term of imprisonment for any offense. First, the bill requires that if a prisoner is serving a prison term or term of imprisonment for any offense, DRC, at least three weeks prior to a hearing to transfer the prisoner to transitional control, must post notice of the transfer and the offender's name on the database it maintains under the bill.

Second, the bill specifies that any person may send the APA at any time prior to a transfer of a prisoner who is serving a prison term or term of imprisonment for any offense to transitional control a written statement regarding

² Under current law, DRC by rule establishes the criteria for determining which offenders are eligible for transitional control. At a minimum, the criteria must provide that: (a) an offender is eligible for transitional control if the person is serving a prison term or term of imprisonment for an offense committed prior to March 17, 1998, and if, at the time that eligibility is being determined, the prisoner would have been eligible for furlough or conditional release under prior law; (b) no prisoner who is serving a prison term or term of life imprisonment without parole under the Sexually Violent Predator Law, and no prisoner who is serving a mandatory term is eligible for the program until after the expiration of the term. (R.C. 2967.26(A)(1).)

the transfer. This right is in addition to and independent of the right of a victim to submit a statement and in addition to and independent of any other right or duty of a person to present information or make a statement. The APA is required to consider this statement, in addition to all information, reports, and statements it considers, in deciding whether to transfer the prisoner to transitional control. (R.C. 2967.26(A)(4).)

The bill's provisions to be known as "Laura's Law"

The bill states that all of the provisions of the bill are to be collectively known as "Laura's Law" (R.C. 5120.66(D)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 82
Reported, H. Criminal Justice	05-26-05	p. 876

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