



**H.B. 203**

127th General Assembly  
(As Introduced)

**Reps. Boyd, Skindell, S. Williams**

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**BILL SUMMARY**

- Requires the Department of Rehabilitation and Correction (DRC) to establish and maintain in a specified manner a multifactored assessment program for covered inmates.
- Requires DRC, as part of its program, to prepare for covered inmates rehabilitation plans that specify an individualized educational, vocational training, employment skills training, social skills training, psychological or psychiatric care, and substance abuse education or treatment regimen with the objective of affording the covered inmate the opportunity to become a productive, socially adjusted, physically and mentally healthy, and law abiding citizen when released from confinement.
- Modifies provisions of DRC law to require that functions specified in that law be performed consistent with the provisions governing the multifactored assessment program for covered inmates.

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## CONTENT AND OPERATION

### Department of Rehabilitation and Correction multifactored assessment program

#### Scope of the program, covered inmates, and their evaluations

The bill requires the Director of the Department of Rehabilitation and Correction (DRC) to adopt rules pursuant to the Administrative Procedure Act to implement a multifactored assessment program (MAP) for "covered inmates" that includes the evaluations described below, that is designed to achieve certain objectives, and that is maintained and otherwise operated in a specified manner. A "covered inmate" is defined as a person who is sentenced on or after the bill's effective date to serve a sentence of imprisonment in a state correctional institution (see "Definitions") for an offense other than aggravated murder for which the death penalty has been imposed. The DRC Director, in the Director's discretion, may extend the MAP or aspects of the MAP to persons who were sentenced prior to the bill's effective date to serve a similar type of sentence. (Sec. 5120.113(A)(4), (B), and (F)(1).)

The bill requires DRC to conduct or cause to be conducted in accordance with the rules mentioned above a "multifactored assessment" of each covered inmate within one year after the inmate begins serving the inmate's sentence of imprisonment under DRC's jurisdiction and control. The multifactored assessment must consist of the following four types of evaluations (sec. 5120.113(C)):

(1) An evaluation of the general intelligence of the inmate, the educational, vocational training, and employment history of the inmate, and the need of the inmate to acquire additional education, vocational training, or employment skills in order to become a productive, socially adjusted, physically and mentally healthy, and law abiding citizen when released from confinement in a state correctional institution under specified circumstances (see "Objectives of the program," below). This evaluation must include, but is not limited to, a determination as to whether the inmate possesses, desires to acquire, or should be permitted or required to pursue a course of study designed to acquire a high school diploma, a certificate of high school equivalence, a certificate of adult basic education, or an undergraduate or postgraduate college or university degree. (See "Definitions".)

(2) A sociological, psychological, and psychiatric evaluation of the inmate, including, but not limited to, an evaluation of the inmate's adaptive behavior, a determination of the inmate's need to receive social skills training or psychological or psychiatric treatment, and a determination as to whether the inmate is a developmentally disabled person, a mentally retarded person, a person who is at

least moderately mentally retarded, or a person who has a mental illness (see "Definitions"). DRC must make this evaluation in conjunction with the examination that existing law requires DRC to conduct as soon as possible after an inmate is admitted to a DRC institution (see **COMMENT 1**). DRC must notify the sentencing court in writing if the evaluation results in the determination that the inmate appears to be a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order (see "Definitions"). This evaluation does not affect the ability of the managing officer of a state correctional institution under existing law to file an affidavit with a probate court alleging that a prisoner is such a person.

(3) An evaluation of other aspects of the inmate's physical and mental health that are not covered by the evaluation described in (2) above. This evaluation must include, but is not limited to, a determination as to whether the inmate is deaf, hard of hearing, orthopedically handicapped, speech handicapped, or visually handicapped, has another health impairment, is a drug dependent person, should be permitted or required to receive substance abuse education or treatment, or is at high risk of infection with the human immunodeficiency virus. (See "Definitions".)

(4) Any other evaluation of the inmate that the Director considers necessary to achieve the objectives of the MAP described below or for another purpose, including, but not limited to, background investigation or classification purposes (see **COMMENT 2**).

### **Objectives of the program**

The objectives of the MAP are: to promote to the extent practicable the rehabilitation of covered inmates and to provide, to the extent practicable and considering other applicable eligibility criteria and factors, each covered inmate with an opportunity to acquire education, vocational training, employment skills, social skills, psychological or psychiatric care, and substance abuse education or treatment that may permit the inmate to live as a productive, socially adjusted, physically and mentally healthy, and law abiding citizen when the inmate is released from confinement in a state correctional institution upon the expiration of the inmate's stated prison term, upon the inmate's parole, or upon the inmate's other lawful release (hereafter, "a covered inmate's release from confinement") (sec. 5120.113(D)(1)).

To achieve those objectives, in addition to considering the eligibility criteria or factors specified in other statutes or rules, DRC, a managing officer of a state correctional institution, and the Adult Parole Authority must consider the previously described evaluations when determining, with respect to a covered inmate: (1) whether the inmate is an eligible offender who, with the approval of

the sentencing judge, will be permitted to serve a sentence of shock incarceration (see **COMMENT 3**), (2) whether the inmate will serve the inmate's sentence of imprisonment in an intensive program prison (see **COMMENT 3**), (3) whether the inmate will be assigned to perform labor on any Ohio public work or otherwise will be employed in penal manufacturing and service industries or in other appropriate forms of labor (see **COMMENT 4**), (4) whether the inmate should be permitted or required to participate in the educational programs of the Ohio Central School System, other educational programs, other vocational training, substance abuse education or treatment, employment skills training, or social skills training (see **COMMENT 5**), and (5) whether to transfer the inmate to transitional control for the purpose of employment, vocational training, or education or to release the inmate on transitional control to gain employment in private industry or agriculture (see **COMMENT 6**) (sec. 5120.113(D)(2)).

**Maintenance and operation of the program**

**Written evaluations and rehabilitation plan.** DRC, for each covered inmate, must cause each evaluation to be in writing and prepare a written rehabilitation plan that specifies an individualized education, vocational training, employment skills training, social skills training, psychological or psychiatric care, and substance abuse education or treatment regimen (hereafter, individualized regimen) and the manner in which the MAP evaluations were considered in formulating that regimen and making the determinations listed under "**Objectives of the program,**" above. DRC is required to cause each evaluation and the rehabilitation plan to be placed in the inmate's records held by the state correctional institution in which the inmate is confined (inmate's records). (Sec. 5120.113(E)(1) and (2).)

**Periodic reviews.** DRC periodically must review the needs of each covered inmate for education, vocational training, employment skills training, social skills training, psychological or psychiatric care, and substance abuse education or treatment and assess the inmate's progress in those areas under the individualized rehabilitation plan. DRC must prepare a written report of the periodic review findings and place it in the inmate's records. Following each periodic review, DRC must modify the inmate's immediately prior individualized regimen if reasonably necessary to achieve the MAP's objectives. (Sec. 5120.113(E)(3).)

**Cumulative release report.** Immediately prior to a covered inmate's release from confinement, DRC must prepare and provide the inmate with a copy of a report (1) that cumulates the information contained in the written evaluations, individualized rehabilitation plan, and periodic reports and modifications to the individualized rehabilitation plan and (2) that the inmate may present to a prospective employer to establish the inmate's progress and status in the areas of education, vocational training, employment skills, social skills, psychological or

psychiatric health, and substance abuse education or treatment (sec. 5120.113(E)(4)).

### **Distinct confinement**

If an evaluation of a covered inmate results in the determination that the covered inmate may have severe psychological or psychiatric problems but does not appear to be a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, DRC must confine the inmate in a state correctional institution, or a portion of a state correctional institution, exclusively devoted to similar inmates (sec. 5120.113(G)).

### **Miscellaneous provisions**

**Unaffected laws.** Except as otherwise specifically provided in the Revised Code, the MAP provisions do not affect an evaluation, assessment, observation, examination, investigation, study, identification, policy, classification, periodic review, rule, report, or other record that DRC is required or permitted to conduct, make, or prepare or cause to be conducted, made, or prepared in connection with a covered inmate under applicable Ohio law (sec. 5120.113(F)(2)).

**Modified DRC-related laws.** The bill modifies the following portions of DRC-related laws for the stated purposes:

(1) Existing law requires DRC, subject to the Governor's approval, to make rules for the government of prisoners that tend to promote their reformation and rules that are necessary for the Employment of Prisoners Law (R.C. Chapter 5145.). The bill requires the DRC's rules for the instruction of prisoners in industrial pursuits and education and for the government of prisoners to be consistent with the MAP Law when it applies. (Sec. 5145.03(A).)

(2) The bill requires DRC's rules that govern penal manufacturing and service industries and agriculture or labor performed by prisoners and that do not govern security and that include a procedure for the periodic review of each prisoner's performance at the prisoner's 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 to be consistent with the MAP Law when applied to covered inmates. (Sec. 5145.03(B).)

(3) Existing law requires DRC to keep a correct daily record of the conduct of each prisoner and of the prisoner's fidelity and diligence in the performance of the prisoner's work. The bill permits DRC to use the daily records in the

preparation of the progress assessment portion of the MAP's reports described in "Periodic reviews," above. (Sec. 5145.03(C).)

(4) Existing law requires DRC to maintain control over prisoners in its custody that prevents them from committing crime, secures their self-support, and accomplishes their reformation. The bill requires that the prisoners' reformation be accomplished consistent with the MAP Law when a prisoner is a covered inmate. (Sec. 5145.04.)

(5) Existing law requires DRC, when a prisoner is received into a state correctional institution upon direct sentence to the institution, to enter in a register specified information and then to estimate the condition of the prisoner and the best probable plan for the prisoner's treatment. The bill requires that the treatment estimate be consistent with the MAP Law when a prisoner is a covered inmate. (Sec. 5145.04.)

(6) Existing law requires DRC to establish a program for the employment in some form of labor of as many prisoners as possible who are in its custody, except prisoners who are unable 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. Under the bill, the program for the employment of as many prisoners as possible also is subject to individualized reformation plans prepared under the MAP Law. In establishing and administering the prisoners' employment program, DRC (among other items) must establish for each of its institutions a system for assigning prisoners to perform jobs and for periodically evaluating job performance and the qualifications of each prisoner for other jobs. Under the bill, DRC's prisoners' employment program must be consistent with the MAP Law when a prisoner is a covered inmate. (Secs. 5145.16(A) and (B)(2) and 5145.161(A) and (B).)

### **Definitions**

(1) In connection with the DRC multifactored assessment programs, the bill defines the following terms (secs. 5120.113(A)(1) to (3) and (5) to (14) and 5139.01(A)(29) to (31) and (33) to (41)):

(a) "Adaptive behavior" means the effectiveness with which an individual copes with the natural and social demands of the individual's environment, including the degree to which the individual is able to function and maintain the individual's own self independently and the degree to which the individual satisfactorily meets the culturally imposed demands of personal and social responsibilities.

(b) "Another health impairment" means limited strength, vitality, or alertness that is due to a chronic or acute heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or another health problem and that adversely affects an individual's potential educational achievement, vocational training achievement, or employment performance.

(c) "Certificate of high school equivalence" means a statement that is issued by the State Board of Education or an equivalent agency of another state and that indicates that its holder has achieved the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American Council on Education (by cross-reference to sec. 5120.031--not in the bill).

(d) "Certificate of adult basic education" means a statement that is issued by DRC through the Ohio Central School System approved by the State Board of Education and that indicates that its holder has achieved a 6.0 grade level, or higher, as measured by scores of nationally standardized or recognized tests (by cross-reference to sec. 5120.031--not in the bill).

(e) "Deaf" means a hearing impairment that is so severe that an individual is impaired in processing linguistic information through hearing, with or without amplification, and that adversely affects the individual's potential educational achievement, vocational training achievement, or employment performance.

(f) "Developmentally disabled person" means a person who has a severe, chronic disability that is characterized by all of the following: (i) it is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness, (ii) it is manifested before 22 years of age, (iii) it is likely to continue indefinitely, (iv) it results in, in the case of a person under three years of age, at least one developmental delay or an established risk, or, in the case of a person at least three years but less than six years of age, at least two developmental delays or an established risk, or, in the case of a person six years of age or older, a substantial functional limitation in at least three of specified areas of major life activity as appropriate for the person's age, and (v) it causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person (by cross-reference to sec. 5123.01--not in the bill).

(g) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies

in adaptive behavior, manifested during the developmental period (by cross-reference to sec. 5123.01--not in the bill).

(h) "Mentally retarded person subject to institutionalization by court order" means a person who is 18 years of age or older, who is at least moderately mentally retarded, and with respect to whom, because of retardation, either of the following conditions exist: (i) the person represents a very substantial risk of physical impairment or injury to himself or herself as manifested by evidence that the person is unable to provide for and is not providing for his or her most basic physical needs and that provision for the physical needs is not available in the community or (ii) the person needs and is susceptible to significant habilitation in an institution (by cross-reference to sec. 5123.01--not in the bill).

(i) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the Manual of Terminology and Classification in Mental Retardation published by the American Association on Mental Retardation (by cross-reference to sec. 5123.01--not in the bill).

(j) "Evaluation" means an observation, investigation, or examination of, or a consultation with, a covered inmate by one or more qualified officers or employees of DRC or of the Adult Parole Authority or by other qualified individuals in connection with a matter listed in proposed section 5120.113(C), and the subsequent appraisal of the results of the observation, investigation, examination, or consultation.

(k) "Hard of hearing" means a permanent or fluctuating hearing impairment that adversely affects an individual's potential educational achievement, vocational training achievement, or employment performance and that is not a hearing impairment described in the definition of "deaf" above.

(l) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life (by cross-reference to sec. 5122.01--not in the bill).

(m) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of illness, either represents a substantial risk of physical harm to himself or herself as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm, or represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable

fear of violent behavior and serious physical harm, or other evidence of present dangerousness, or represents a substantial and immediate risk of serious physical impairment or injury to himself or herself as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of mental illness and that appropriate provision for those needs cannot be made immediately available in the community, or would benefit from treatment in a hospital for the person's mental illness and is in need of that treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person (by cross-reference to sec. 5122.01--not in the bill).

(n) "Multifactor assessment" means the assessment of a covered inmate that consists of the evaluations in proposed section 5120.113(C).

(o) "Orthopedically handicapped" means a severe orthopedic impairment that adversely affects an individual's potential educational achievement, vocational training achievement, or employment performance, including, but not limited to, an impairment caused by a congenital anomaly, disease, amputation, fracture, burn, or other cause.

(p) "Speech handicapped" means stuttering, impaired articulation, a language or voice impairment, or another communicative disorder that adversely affects an individual's potential educational achievement, vocational training achievement, or employment performance.

(q) "State correctional institution" means any institution or facility that is operated by DRC and that is used for the custody, care, or treatment of criminal, delinquent, or psychologically or psychiatrically disturbed offenders (by cross-reference to sec. 2967.01--not in the bill).

(r) "Visually handicapped" means a visual impairment that, even with correction, adversely affects an individual's potential educational achievement, vocational training achievement, or employment performance, including, but not limited to, partial sight and blindness.

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## COMMENT

1. Section 5120.11 of the Revised Code (not in, but referred to in, the bill) establishes within DRC a Bureau of Examination and Classification that is required to conduct or provide for a sociological, psychological, and psychiatric examination of each inmate in a state correctional institution. The examination must be made as soon as possible after an inmate is admitted to a state correctional institution, and further examinations may be made if advisable. If an inmate is determined to be a mentally retarded or developmentally disabled person, the

Bureau must notify the sentencing court in writing of its determination within 45 days after the inmate's sentencing.

The Bureau also generally must keep a record of the health, activities, and behavior of an inmate while the inmate is in the state's custody, and the record, including the findings and recommendations of the Bureau, must be made available to the Adult Parole Authority for certain purposes, including in making parole, post-release, and rehabilitation plans for the inmate when the inmate leaves a state correctional institution.

2. Section 5120.16 of the Revised Code (not in, but referred to in, the bill) permits the DRC Director or a designee to direct that persons sentenced to DRC first be conveyed to an appropriate facility established and maintained by DRC for reception, examination, observation, and classification of the persons. If a specified type of presentence investigation report was not previously prepared in connection with the person, the DRC Director or the designee may order DRC's field staff to conduct an offender background investigation and prepare an offender background investigation report regarding the person.

3. Under section 5120.031 (not in, but referred to in, the bill), the DRC Director must establish a shock incarceration program ("boot camp") that may be used for eligible offenders who are sentenced to serve a term of imprisonment under DRC's custody and whom DRC, subject to the approval of the sentencing judge, may permit to serve their sentence as a sentence of shock incarceration in a statutorily prescribed manner, including a period of imprisonment at a state correctional institution of 90 days that consists of a military style combination of discipline, physical training, and hard labor and substance abuse education, employment skills training, social skills training, and psychological treatment. If an eligible offender does not hold a high school diploma or certificate of high school equivalence, the eligible offender may elect to participate in an education program that is designed to award a certificate of adult basic education or an education program that is designed to award a certificate of high school equivalence to those eligible offenders who successfully complete the education program, whether the completion occurs during or subsequent to the 90-day period.

Section 5120.032 of the Revised Code (not in, but referred to in, the bill) requires DRC to develop and implement intensive program prisons for male and female prisoners that would include institutions at which "boot camp" type imprisonment as described above is provided and prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

4. Under section 5120.04 of the Revised Code (not in, but referred to in, the bill), DRC, with the Governor's approval and in accordance with certain rules, may assign prisoners who are committed or transferred to DRC institutions to perform labor on any Ohio public work.

5. Under section 5145.06 of the Revised Code (not in, but referred to in, the bill), DRC must establish and operate a school system that is approved and chartered by the Ohio Department of Education and designated as the Ohio Central School System to serve all state correctional institutions. That system 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.

6. Section 2967.26 of the Revised Code (not in, but referred to in, the bill) permits the Adult Parole Authority, in accordance with certain standards, to transfer certain eligible prisoners to transitional control status during the final 180 days of their confinement for the purpose of employment, vocational training, educational programs, or other programs designated by the DRC Director, within Ohio. Section 2967.26 of the Revised Code also permits DRC, in accordance with specified standards, to grant transitional control status to certain prisoners confined in a state correctional facility for the purpose of visiting a dying relative, attending the funeral of a relative, visiting with family, or otherwise aiding in the rehabilitation of the inmate.

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## HISTORY

ACTION	DATE
Introduced	05-03-07

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