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## DEPARTMENT OF REHABILITATION AND CORRECTION

- Authorizes a court, on its own motion, to grant judicial release to an offender in a state correctional institution on compassionate medical grounds if the offender has not been sentenced to death or imprisonment for life.
- Allows the Division of Parole and Community Services to expend up to one-half percent of the annual appropriation made for halfway house programs and community-based correctional facility programs for goods or services that benefit those programs.
- Specifies that a term in a halfway house is not considered imprisonment.
- Removes the requirement that the Office of Budget and Management approve prices fixed by the Department of Rehabilitation and Correction (DRC) for labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions.
- Modifies fallback provisions for DRC permanent classified employees, including adding reasons for which the employee may be reinstated to the classified position and specifying reasons for which the employee forfeits the right of reinstatement.
- Eliminates a current law requirement that the managing officer of each DRC institution must file a monthly report with the DRC Director outlining all appointments, resignations, and discharges.
- Limits the ability of employees of community-based correctional facilities and district community-based correctional facilities who were subject to a collective bargaining agreement on June 1, 2005, to collectively bargain with their public employers to allow them to do so only if the public employer only elects.
- Makes these community-based correctional facilities employees ineligible to serve on the Ohio Elections Commission.

### Fund closures

- The bill abolishes the Confinement Cost Reimbursement Fund and the Laboratory Services Fund.



## Judicial release on compassionate medical grounds

(R.C. 2929.20)

The bill authorizes a sentencing court to grant judicial release to an offender in a state correctional institution who is in imminent danger of death, terminally ill, or medically incapacitated and who is neither on death row nor serving a life sentence. The court may grant the release on its own motion when the Director of Rehabilitation and Correction certifies to the court that the offender is in imminent danger of death, terminally ill, or medically incapacitated, so long as the court determines that the release would not create undue risk to public safety. The court may request health care records from the Department of Rehabilitation and Correction (DRC) to verify the certification.

A motion made by the court to release an offender on compassionate medical grounds is subject to all of the notice, hearing, and other procedural requirements that apply to judicial release generally. However, the court may waive the offender's appearance due to the offender's condition and grant the motion without a hearing if the prosecutor and the victim or victim's representative indicate that they do not wish to participate or present relevant information.

After granting judicial release, the court must place the offender under an appropriate community control sanction and under the supervision of the Adult Parole Authority or the court's probation department. The period of the community control must not expire earlier than the date on which all of the offender's mandatory prison terms expire. If the offender violates the community control sanction, the court may revoke the judicial release.

If the offender's health improves so that the offender is no longer terminally ill, medically incapacitated, or in imminent danger of death, the court must revoke the judicial release upon its own motion and specify its findings on the record. The court must hold a hearing concerning the revocation unless the offender waives the hearing. If the court holds a hearing, the court must allow all of the following individuals to present written and oral information relevant to the motion:

- The offender and the offender's attorney;
- The prosecutor;
- The victim or the victim's representative;
- Any other person the court determines is likely to present additional relevant information.



## **Halfway house and community-based correctional facility programs**

(R.C. 1.05, 2967.14, and 5120.112)

DRC or the Adult Parole Authority may require or allow a parolee, a releasee, or a prisoner otherwise released from a state correctional institution to reside in a halfway house or other suitable community residential center. Any county that has a population of 200,000 or more is eligible to formulate a community-based correctional proposal that, upon implementation, would provide a community-based correctional facility and program for the use of that county's common pleas court.<sup>171</sup> The biennial operating budget historically includes an appropriation for halfway house programs and community-based correctional facility programs. The bill allows the Division of Parole and Community Services to expend up to one-half percent of the annual appropriation made for halfway house programs and community-based correctional facility programs for goods or services that benefit those programs.

The bill also specifies that a term in a halfway house is not considered imprisonment.

## **Ohio penal industry prices**

(R.C. 5120.28)

The bill removes the requirement that the Office of Budget and Management approve the prices fixed by DRC at which all labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions are furnished to the state, its political subdivisions, and public institutions, and to private persons.

## **Classified employee fallback rights**

(R.C. 5120.38, 5120.381, and 5120.382)

Continuing law allows a DRC employee who moves from a classified position to an unclassified position (as a managing officer, deputy warden, or otherwise), to resume the classified position held by the employee immediately prior to the move. The bill expands these "fallback rights" to allow the employee to resume the classified position (or a substantially equal position, as certified by the DRC Director and approved by the Director of Administrative Services (DAS)) even if the employee has held multiple unclassified positions since the move. If the employee's prior classified position has been placed in the unclassified service or is otherwise unavailable, the DRC

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<sup>171</sup> R.C. 2301.51, not in the bill.



Director must appoint the employee to a classified DRC position that is comparable in compensation to the prior position, as certified by the DAS Director.

### **Triggering fallback rights**

Under the bill, fallback rights for DRC employees are triggered only when the employee is demoted to a pay range lower than the employee's current pay range or when the DRC Director revokes the employee's appointment to the unclassified service. And an employee forfeits the right to resume the classified position if the employee is removed from the unclassified position due to incompetence; inefficiency; dishonesty; drunkenness; immoral conduct; insubordination; discourteous treatment of the public; neglect of duty; a violation of DRC law or DRC or DAS rules; any other failure of good behavior; any other acts of misfeasance, malfeasance, or nonfeasance in office; or a conviction of or plea of guilty to a felony. An employee who transfers to a different agency also loses any right to resume a classified position with DRC upon that transfer.

Currently, fallback rights are triggered when an employee is relieved of the employee's duties in the unclassified service. Current law does not specify employee behavior that may result in a forfeiture of the rights.

### **Treatment of a DRC employee who exercises fallback rights**

If a DRC employee utilizes the bill's fallback rights, the bill requires that the employee's unclassified DRC service be counted toward that employee's service in the prior classified position. Under current law, only service in an unclassified position held pursuant to the appointment from the classified service is counted toward the employee's service in the prior classified position. The bill also entitles a DRC employee using these fallback provisions to all rights and benefits and any status that the classified position accrued during the employee's unclassified service. Current law instead entitles such an employee to the rights and emoluments accrued during that time.

### **Monthly personnel report**

(R.C. 5120.38)

The bill eliminates a current law requirement that the managing officer of each DRC institution file with the DRC Director a monthly report of all appointments, resignations, and discharges.



## Community-based correctional officer collective bargaining

(R.C. 4117.01(C))

The bill limits the ability of employees of community-based correctional facilities and district community-based correctional facilities who were subject to a collective bargaining agreement on June 1, 2005, to collectively bargain with their public employers. Under the bill, these employees can collectively bargain with their public employer only if the public employer elects to do so, similar to current law with respect to community-based correctional facility employees who were not covered by a collective bargaining agreement on that date. The public employer cannot be compelled to bargain with these employees.

Currently, these employees have the right to collectively bargain with their public employer, and thus the public employer is required to do so if certain procedures contained in continuing law are satisfied.<sup>172</sup>

### Membership on the Ohio Elections Commission

Because the community-based correctional facilities employees described under "**Community-based correctional officer collective bargaining**" above under the bill are no longer considered to be public employees for purposes of collective bargaining, those employees also become ineligible to serve on the Ohio Elections Commission. Under continuing law, a person or employee excluded from the definition of "public employee" under the Public Employees' Collective Bargaining Law cannot be a Commission member.<sup>173</sup>

### Fund closures

(R.C. 2929.18, 2969.14, and 5120.135)

Current law requires offenders to reimburse DRC for certain costs it incurs in operating prisons or other facilities used to confine offenders. Those reimbursements are deposited into the Confinement Cost Reimbursement Fund and used by DRC to fund the operation of those prisons and facilities. The bill abolishes the Fund but retains the reimbursement requirement.

The bill also abolishes the Laboratory Services Fund, which consists of payments made by state agencies, local governments, and other entities for laboratory services provided to them by DRC, and removes the payment requirement.

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<sup>172</sup> R.C. 4117.03, not in the bill.

<sup>173</sup> R.C. 3517.152, not in the bill.

