

Executive

As Reported by House Finance and Appropriations

Criminal Sentencing Reforms

DRCCD10 Threshold Amount for Increased Penalties for Theft-Related and Other Crimes

R.C. *926.99, 1333.99, 1707.99, 1716.99, 2909.03, 2909.11, 2913.02 - 2913.04, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42, 2913.421, 2913.43, 2913.45 - 2913.49, 2913.51, 2913.61, 2915.05, 2917.21, 2917.31, 2917.32, 2921.13, 2921.41, 2981.07, Section 803.20*

Increases from \$500 to \$1,000 the threshold amount for determining increased penalties (generally from a misdemeanor to a felony) for theft-related offenses and increases by 50% the other threshold amounts for determining increased penalties for those offenses.

No provision.

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Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. This package of reforms may not have an immediate effect in terms of reducing the Department of Rehabilitation and Correction's institutional operating expenses. Some savings may not be realized for several years. The net effect of these other related criminal sentencing reform provisions will, through FY 2015, reduce the need for several thousand inmate beds and result in a total savings of about \$77.9 million in expenditures related to incarceration. Some of these sentencing reform provisions will shift offenders to one or more community control sanctions increasing demand on local community control sanction systems. This could in turn increase the local demand for DRC's community corrections grants funding. As a result, the annual savings in state incarceration costs will be partially offset by the need to enhance funding for its parole and community services operations.

 DRCCD11 Elements of Vandalism and Corrupt Activity

R.C. 2909.05, 2923.31, Section 803.20

Increases from \$500 to \$1,000 the threshold amount of the value of property or amount of physical harm required to commit vandalism in specified circumstances and increases by 50% the property value thresholds used in determining the penalty for the offense, and increases from \$500 to \$1,000 the property valuations that are used in determining whether certain criminal activity constitutes corrupt activity under the offense of engaging in a pattern of corrupt activity.

No provision.

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Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD24 Workers' Compensation Fraud as Theft Offense

R.C. 2913.01

Includes workers' compensation fraud as a theft offense.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD23 Prosecution of Multiple Theft, Medicaid Fraud, Workers' Compensation Fraud, and Similar Offenses

R.C. 2913.61, Section 803.20

Revises and clarifies the law regarding prosecution of multiple theft, Medicaid fraud, workers' compensation fraud, and similar offenses and the valuation of property or services involved.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

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DRCCD12 Nonsupport of Dependents

R.C. 2919.21

Provides that if "nonsupport of dependents" is based on an abandonment of or failure to support a child or a person to whom a court order requires support and is a felony, the sentencing court generally must first consider placing the offender on one or more community control sanctions.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD21 Distinction between Crack Cocaine and Powder Cocaine in Criminal Penalties

R.C. 2925.03, 2925.05, 2925.11, 2925.01, 2929.01,
 Section 803.10

Eliminates the difference in criminal penalties for drug offenses involving crack cocaine and powder cocaine, provides a penalty for all such drug offenses involving any type of cocaine that generally has a severity that is between the two current penalties, and revises a penalty for possession of cocaine.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

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DRCCD22 Penalties for Trafficking in Marihuana or Hashish and for Possession of Marihuana or Hashish

R.C. 2925.03, 2925.11, Section 803.10

Revises some of the penalties for trafficking in marihuana or hashish and possession of marihuana or hashish.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD13 Ranges of Possible Prison Terms for First and Third Degree Felonies

R.C. 2929.14, Section 803.30

Adds a possible prison term of 11 years to the possible prison term range for a first degree felony and changes the possible prison term range for a third degree felony from 1, 2, 3, 4, or 5 years to 9, 12, 18, 24, or 36 months.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD14 General Community Control Requirement for Nonviolent Fourth and Fifth Degree Felonies

R.C. 2929.14, Section 803.30

Generally requires a community control sanction as a sentence for a fourth or fifth degree felony that is not an offense of violence but authorizes a prison term if the offender possessed or controlled a firearm or caused physical harm to another person.

No provision.

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Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD15 Risk Reduction Sentencing

R.C. 2929.143, 5120.036, 2929.01, 2930.12, 5120.16, 5120.331, 5120.48

Allows a judge in specified circumstances to recommend risk reduction sentencing for an offender sentenced to prison for a felony, requires the Department of Rehabilitation and Correction to provide risk reduction programming and treatment for such an offender who meets specified eligibility criteria, and requires such an offender who completes such treatment or programming to be released to supervised release after serving at least 75% of the prison term.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

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DRCCD16 **Sentencing to a Community Corrections Program****R.C. 2929.15**

Allows a court to sentence a felony offender to a "community-based corrections program" if the offender is convicted of a first, second, or third degree felony, is convicted of a fourth or fifth degree felony and found to be a high risk of reoffending or violating a term of supervision under the bill's single validated risk assessment tool, or has had one or more community residential or nonresidential sanctions revoked and is a medium or high risk under that assessment tool.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD17 **Sentencing to a Community-Based Correctional Facility****R.C. 2929.16**

Specifies that a term at a community-based correctional facility is a community residential sanction if the relevant felony offender is convicted of a first or second degree felony, is convicted of a third degree felony and is a medium or high risk of reoffending or violating a term of supervision under the bill's single validated risk assessment tool, is convicted of a fourth or fifth degree felony and is a high risk under that assessment tool, or has had one or more community residential sanctions or nonresidential sanctions revoked and is a medium or high risk under that assessment tool.

No provision.

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Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD19 Release Mechanism for Certain Prisoners Who Have Served At Least 85% of Their Prison Term

R.C. 2967.19, 109.42, 2929.13, 2929.14, 2930.16, 2930.17, 2950.99, 5120.66

Authorizes the Director of Rehabilitation and Correction to petition the sentencing court for the judicial release of an inmate who is serving a stated prison term of one year or more, who is eligible under specified eligibility criteria, and who has served at least 85% of his or her term remaining after becoming eligible, and requires that an inmate released under this mechanism be placed under Adult Parole Authority supervision and be under GPS monitoring in specified cases.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

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DRCCD18

Earned Credits for Prisoners

R.C. 2967.193

(1) Revises the earned credits mechanism to authorize certain eligible prisoners to earn five days of credit for each month of productive participation in a specified prison program, certain eligible prisoners imprisoned for specified, serious offenses to earn one day of credit for each month of such productive participation in a program, and any such eligible prisoner to earn days of credit for successful completion of such a program.

(1) No provision.

(2) Limits the aggregate days of credit a prisoner may so earn to not more than 8% of the total number of days in the prisoner's stated prison term.

(2) No provision.

(3) Eliminates days of credit for sex offender treatment programs.

(3) No provision.

(4) Makes prisoners sentenced for a sexually oriented offense on or after the bill's effective date ineligible for such credit.

(4) No provision.

Fiscal effect: These provisions are part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

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DRCCD25 Selection of Single Validated Offender Risk Assessment Tool

R.C. 5120.114, 2929.15, 2929.16, 2967.28,
5149.31, 5149.32, 5149.34

(1) Requires the Department of Rehabilitation and Correction to select a "single validated risk assessment tool" for assessing the likelihood of a person reoffending or violating a term of supervision to be used by courts, probation departments, correctional facilities, the Adult Parole Authority, and the Parole Board.

(1) No provision.

(2) Requires training and certification for all employees of those entities who will use the assessment tool.

(2) No provision.

(3) Requires each entity that uses the assessment tool to develop specified policies and protocols related to it.

(3) No provision.

Fiscal effect: These provisions are part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD29 Community Corrections Programs and Subsidies

R.C. 5149.31, 5149.32, 5149.33, 5149.34, 5149.36

(1) Specifies that, in order to be eligible for a Department of Rehabilitation and Correction community corrections subsidy, counties, groups of counties, and municipalities satisfy all applicable probation department requirements, utilize the bill's single validated risk assessment tool, and deliver programming that addresses the needs of high risk offenders.

(1) No provision.

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(2) Requires that the county comprehensive plan adopted by the local corrections planning board of a county that desires to receive a subsidy include a description of the offender population's assessed needs and the capacity to deliver services and programs within the county and surrounding region that address those needs.

(2) No provision.

(3) Authorizes, instead of requiring, the Department to discontinue subsidy payments to a political subdivision that receives a subsidy and that reduces, by any amount, the amount of local, nonfederal funds it expends for corrections or that uses any portion of the subsidy to make capital improvements.

(3) No provision.

Fiscal effect: These provisions are part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

DRCCD20

Parole Board Review of Cases of Elderly Parole-Eligible Inmates

Section: 729.10

Requires the Chair of the Parole Board or the Chair's designee to review the cases of all parole-eligible inmates who are 65 or older and who have had a parole consideration hearing, requires the Chair to present to the Board the cases of those offenders, and authorizes the Board to choose to rehear the offender's case for possible parole.

No provision.

Fiscal effect: This provision is part of the bill's package of criminal sentencing reforms. For a complete discussion of the fiscal effects of the package of reforms, see the fiscal effects entry under DRCCD10.

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Other Provisions

DRCCD9

Corrections Commissions and Medical Care Reimbursement Rate for Confined Persons

R.C. 307.93, 341.192

- (1) Eliminates as members of a corrections commission the presiding common pleas court judge of each county, and the municipal court judge of each municipal corporation, participating in the establishment of a multicounty, municipal-county, or multicounty-municipal correctional center, and requires that a member of the board of county commissioners, rather than the president of the board, be a member of the corrections commission.
- (2) Creates a judicial advisory board to make recommendations to a corrections commission about bed allocation, expansion of the correctional center the commission oversees, community corrections or diversion programs, the administration of sentences, and any other matters the commission considers appropriate.
- (3) Establishes the Medicaid reimbursement rate as the amount to be paid to a medical provider who is not employed by or under contract with a municipal corporation or township for providing medical services to persons confined in multicounty, municipal-county, or multicounty-municipal correctional centers.

Fiscal effect: Provisions (1) and (2) are organizational in nature and have no direct fiscal effect. Provision (3) could create savings for certain counties and municipalities if they obtain Medicaid reimbursement rates for medical services delivered to locally confined persons.

R.C. 307.93, 341.192

- (1) No provision.
- (2) No provision.
- (3) Same as the Executive.

Fiscal effect: Same as the Executive.

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DRCCD26 Probation Department Administrative Changes

R.C. 2301.27, 2301.271, 2301.30

Requires a court of common pleas to follow specified procedures when appointing a chief probation officer, requires that probation officers be trained in accordance with minimum Adult Parole Authority standards, and requires a court of common pleas to require the probation department to publish specified policies for probationer supervision and provide the Department of Rehabilitation and Correction with a monthly report of specified statistical data.

No provision.

Fiscal effect: Under current law, local jurisdictions that receive Community Corrections Act (CCA) grants from Rehabilitation and Correction to support probation services are already required to have probation officers trained in accordance with Adult Parole Authority (APA) standards. For those local jurisdictions that do not receive any CCA grant funding, this provision will require those probation officers to have APA-approved training. Some jurisdictions will incur costs to train their probation personnel as required. The costs for any such affected local jurisdiction will depend upon the number of personnel to be trained and the cost of the training.

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DRCCD4 Felony Sentencing Law

R.C. *2929.14, 2929.19, 2929.41, Section 815.10*

Reenacts provisions in the state's Felony Sentencing Law that were invalidated and severed by the Ohio Supreme Court's decision in *State v. Foster* (2006), and that now are, regarding some provisions, or arguably are, regarding other provisions, subject to reenactment under the U.S. Supreme Court's decision in *Oregon v. Ice* (2009) and the Ohio Supreme Court's decision in *State v. Hodge* (2010).

No provision.

Fiscal effect: This provision will lead to a gradual reduction in the prison population. This reduction could reduce the annual incarceration costs for the Department of Rehabilitation and Correction by \$15.1 million to \$19.4 million over five or more years.

DRCCD27 Supervision of Concurrent Supervision Offenders by a Single Court

R.C. *2951.022*

Establishes a mechanism for the supervision by a single entity of offenders who are not incarcerated, who are subject to supervision by multiple supervisory authorities (courts), and to whom other specified criteria apply.

No provision.

Fiscal effect: This provision will relieve some courts of the responsibility of supervising certain offenders with concurrent multiple convictions. The reduction of their caseloads will produce some savings.

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DRCCD28 Notice of Arrest and Court Appearance of Community Control Sanction Violator

R.C. 2951.08

Modifies the time at which notice must be given to the probation officer of a person serving a community control sanction if the person is arrested and the time at which the arrested person must be brought before a court.

No provision.

Fiscal effect: At most, minimal annual cost for the appropriate local authority to notify probation officers of the arrest and court appearance time of persons serving a community control sanction.

DRCCD33 Community-Based Correctional Officer Collective Bargaining

No provision.

R.C. 4117.01

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 the employees to bargain 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.

Fiscal effect: The fiscal effect of this provision on the annual payroll-related expenses of certain local public employers is uncertain.

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DRCCD6 Laboratory Services

R.C. 5120.135

(1) Permits, rather than requires, the Department of Rehabilitation and Correction to provide laboratory services to itself and the departments of Mental Health, Developmental Disabilities, and Youth Services.

(2) Eliminates an existing resolution process for the departments to follow if the Rehabilitation and Correction provides unsatisfactory laboratory services.

Fiscal effect: Potential revenue loss and expenditure savings, net annual effect uncertain.

R.C. 5120.135

(1) Same as the Executive.

(2) Same as the Executive.

Fiscal effect: Same as the Executive.

DRCCD7 Definition of Psychiatric Hospital

R.C. 5120.17

Expands the definition of a Department of Rehabilitation and Correction "psychiatric hospital" operated for the treatment of inmates to include a portion of the psychiatric hospital, and provides that a psychiatric hospital is no longer limited to those operated by Rehabilitation and Correction but also includes those operated by a contractor of the Department.

Fiscal effect: It is unclear as to whether these changes in definition will or might generate a cost savings.

R.C. 5120.17

Same as the Executive, but amends the definition of "psychiatric hospital" for purposes of the law governing the transfer of an inmate to a psychiatric hospital, in regard to which facilities qualify as a psychiatric hospital and by providing that parts of a facility can meet the definition of a psychiatric hospital and provides that the Department of Rehabilitation and Correction is responsible for meeting specified ongoing provisions governing the care and treatment of inmate patients.

Fiscal effect: Same as the Executive.

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As Reported by House Finance and Appropriations

DRCCD8 Institutional Services Fund

R.C. 5120.28, 5120.29

- (1) Renames the Services and Agricultural Fund (Fund 1480) the Institutional Services Fund.
- (2) Provides that any money received by the Department of Rehabilitation and Correction for "agricultural products produced" in penal and correctional institutions be deposited into the Ohio Penal Industries Manufacturing Fund (Fund 2000) instead of Fund 1480 as under current law.
- (3) Modifies the purposes for which money in Fund 1480 and Fund 2000 may be used.

No provision.

Fiscal effect: These provisions may produce some administrative cost savings for the Department of Rehabilitation and Correction by simplifying its accounting practices to some degree.

R.C. 5120.28, 5120.29

- (1) Same as the Executive.
- (2) Replaces the Executive provision with a provision that requires any money received by the Department of Rehabilitation and Correction for "articles manufactured" in penal and correctional institutions be deposited into Fund 1480 instead of Fund 2000 as under current law.
- (3) Same as the Executive.
- (4) Eliminates the funding source for the Ohio Penal Industries Manufacturing Fund (Fund 2000)

Fiscal effect: Same as the Executive.

DRCCD30 Probation Improvement Grant and Probation Incentive Grant

R.C. 5149.311

Requires the Department of Rehabilitation and Correction to establish and administer a Probation Improvement Grant and a Probation Incentive Grant for court of common pleas probation departments that supervise felony offenders and specifies the purposes and uses of, stipulations that apply to, and controls regarding, the grants.

No provision.

Executive

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Fiscal effect: The Department will be able to absorb the cost of administering these grant programs within the normal daily cost of doing business.

DRCCD31

Private Operation and Transfer of State Correctional Facilities to Private Owner

Sections: *753.10, R.C. 9.06, 5120.092*

- (1) Expressly authorizes the Director of Rehabilitation and Correction and the Director of Administrative Services to contract with a private person or entity for the private operation of the Lake Erie Correctional Facility, the Grafton Correctional Institution, the North Coast Correctional Treatment Facility, the North Central Correctional Institution, and the vacated correctional facility previously operated by the Department of Youth Services that is adjacent to the North Central Correctional Institution and the transfer of the state's right, title, and interest in the facility and surrounding land to the private person or entity.
- (2) Authorizes the sale of the state's right, title, and interest in the real property on which any facility identified in (1) and any surrounding land to the private person or entity privately contracted to operate and specifies provisions that must be included in the deed of sale.
- (3) Requires the proceeds of the conveyance of any of the five specified facilities be deposited into the state treasury to the credit of the Adult and Juvenile Correctional Facilities Bond Retirement Fund, which the bill creates, requires the proceeds be used to redeem or defease the outstanding portion of any state bonds issued for the facilities sold, and requires any remaining proceeds be transferred to the GRAF.

Sections: *753.10, R.C. 9.06, 5120.092*

- (1) Same as the Executive, except transfers from the Department of Youth Services to the Department of Rehabilitation and Correction jurisdiction of the correctional facility vacated by the Department of Youth Services and renames that facility as the North Central Correctional Institution Camp.
- (2) Same as the Executive, but removes a deed restriction prohibiting use of the sold real estate for anything other than a correctional institution, and states the approximate acreage of the land that may be sold with each of the facilities.
- (3) Same as the Executive, but corrects language regarding the use of the proceeds of the sale of any of the specified facilities.

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(4) Specifies that the provisions described in (1) and (2) do not restrict the Department of Rehabilitation and Correction from contracting only for the private operation and management of any facility identified in (1).

(4) Same as the Executive.

(5) Revises the authority of the Department of Rehabilitation and Correction, a county, or a municipality to contract for the private operation and management of a correctional facility by a private person or entity by repealing a 2-year limitation on the duration of an initial contract and repealing a requirement that the contractor generally must be accredited by the American Correctional Association.

(5) Same as the Executive.

(6) No provision.

(6) Permits the Director of Rehabilitation and Correction to transfer the Braille printing press and associated programs located at the Grafton Correctional Institution to another state correctional institution.

(7) No provision.

(7) Specifies that any of the five specified facilities transferred must be returned to the county auditor's tax list and duplicate and is subject to all real property taxes and assessments, that no exemption from real property taxation under R.C. Chapter 5709. applies to any facility sold under the provisions, and that the gross receipts and income of a contractor to whom any facility is sold under the provisions that are derived from operating the facility are exempt from gross receipts and income taxes levied by the state and its subdivisions.

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Fiscal effect: It is anticipated that up to \$200 million or more in onetime cash will be generated to redeem or repay the outstanding state bonds, with any remaining proceeds transferred to the GRF. With regard to the private management and operation of a state or local correctional facility, current law requires that a private contractor operate that facility at a rate of at least 5% less than the cost of the state operating the facility.

Fiscal effect: Same as the Executive, except the tax provisions: (1) make it clear that, subsequent to such a sale, local property taxes and assessments become applicable against the property in the county where the sold facility is located, and (2) may forgo certain state and local tax revenues that might otherwise have been collected.

Appropriation Language

DRCCD1 Transfer of Operating Appropriations to Implement Criminal Sentencing Reforms

Section: 373.10

Permits, for the purposes of implementing criminal sentencing reforms, the Director of Budget and Management, at the request of the Director of Rehabilitation and Correction, to transfer up to \$14,000,000 in appropriation, in each of FY 2012 and FY 2013, from GRAF appropriation item 501321, Institutional Operations, to certain GRAF appropriation items that fund community-based corrections programs.

Section: 373.10

Same as the Executive.

DRCCD2 Ohio Building Authority Lease Payments

Section: 373.10

Requires GRAF appropriation item 501406, Lease Rental Payments, be used for payments to the Ohio Building Authority for the purpose of covering the principal and interest on outstanding bonds issued to finance capital projects through the state's Adult Correctional Building Fund (Fund 7027).

Section: 373.10

Same as the Executive.

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DRCCD3

OSU Medical Charges

Section: 373.10

Requires The Ohio State University Medical Center, at the request of the Department of Rehabilitation and Correction, to provide necessary care to persons who are confined in state adult correctional facilities, and the provision of necessary care be billed to the Department at a rate not to exceed the authorized reimbursement rate for the same service established by the Department of Job and Family Services under the Medical Assistance Program.

Section: 373.10

Same as the Executive.