Fiscal Note & Local Impact Statement

122 nd General Assembly of Ohio

BILL: **Am. Sub. S.B. 111** DATE: **November 18, 1997**

STATUS: **As Passed by the House** SPONSOR: **Sen. B. Johnson**

LOCAL IMPACT STATEMENT REQUIRED: **No — Offsetting savings**

CONTENTS: **Department of Rehabilitation & Correction: administrative changes**

State Fiscal Highlights

STATE FUND	FY 1998	FY 1999	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential annual increase of several $100,000 or more	Potential annual increase of several $100,000 or more	Potential long-term annual savings
Offender Financial Responsibility Fund (new)			
Revenues	Potential annual gain	Potential annual gain	Potential annual gain
Expenditures	Potential annual increase	Potential annual increase	Potential annual increase
Transitional Control Fund (new)			
Revenues	Couple $100,000 annual gain plus $1.3 million onetime transfer	Around $300,000 or more annual gain	Around $300,000 or more annual gain
Expenditures	Increase up to available revenue	Increase up to available revenue	Increase up to available revenue

- A vast assortment of administrative changes to operations of the Department of Rehabilitation and Correction (DRC) carry a mixed bag of fiscal effects, many of which have no discernible or very little fiscal effect. In the short-run though, things like the testing and treatment of contagious diseases will increase annual spending. In the long run, however, the bill creates conditions – through the collection of incarceration of incarceration and supervision costs, the constraining of inmate demand for what are currently free medical services, and a revamped prison release mechanism that may relieve institutional crowding – that should curb the rate of growth in annual GRF spending from what it might otherwise have been.

- Two existing non-GRF accounts – the Furlough Services Fund and the Electronic Detention Fund – that capture user fees charged to offenders enrolled in certain prison release programs are deleted and replaced by the Transitional Control Fund. None of this program revenue is lost, as user fee revenue collected will simply be housed in this new account.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 1997	FY 1998	FUTURE YEARS
Counties			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Mixed fiscal effects, with short-term net uncertain	Mixed fiscal effects, with short-term net uncertain	Mixed fiscal effects, with long-term potential savings
Municipalities			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential increase	Potential increase	Potential savings

- Most of the bill's fiscal effects will fall on counties. In the short-run, the bill presents a mix of opportunities for spending increases and decreases, with the net fiscal effect uncertain. In the longer-term, LBO believes a potential for some sort of expenditure savings is created.

- In the case of municipalities, the principal potential fiscal effects come from language: (1) permitting the testing and treatment of offenders for contagious diseases; and (2) expanding the types of offenders that may be confined in a minimum security jail (MSJ). In the short-term, testing and treatment costs could rise. In the longer term, opportunities for savings could be realized as treatment and liability costs could be minimized. By broadening eligibility for confinement in a MSJ, a potential for efficiencies is introduced, which theoretically at least produces a savings in local criminal justice resources.

Detailed Fiscal Analysis

Various features of the bill, including their fiscal effects if any, are described in the narrative that follows.

Cost Recovery Mechanism

The bill permits the Department of Rehabilitation and Correction (DRC) to recover various costs from offenders in its custody or under its supervision. All moneys collected or returned to DRC through this cost recovery mechanism would be deposited into the Offender Financial Responsibility Fund, which is created in the bill. Moneys credited to the fund would be expended for goods and services of the same type as those for which offenders were assessed recovery costs.

This cost recovery provision clearly creates a potential for revenue to be generated for the state (DRC), though the amount of that potential revenue gain is uncertain. Additionally, some administrative burdens would be created for the state to implement and then operate a cost recovery mechanism.

The bill also permits DRC to request that the Attorney General initiate proceedings to collect the assets of an offender that are in the possession of a third party as part of the process of recovering incarceration and supervision costs. As the nature of the cost recovery system DRC may create is unclear at this time, it is impossible to ascertain the type of burden that might fall on the Attorney General to pursue such matters.

It should also be noted that the Legislative Budget Office (LBO) is not certain as to how well the cost recovery mechanism contained in the bill meshes with other similar revenue generation mechanisms already authorized under existing law, e.g., the probation fee collections authorized under Am. Sub. H.B. 406 of the 120th General Assembly and the confinement and sanction cost reimbursement funds permitted under Am. Sub. S.B. 2 of the 121st General Assembly, effective July 1, 1996.

DRC Medical Services

Medical Testing & Treatment. Current law requires DRC to identify and counsel prisoners who are at high risk of infection with the human immunodeficiency virus (HIV), and to offer such prisoners an opportunity to be given an HIV test. The bill alters this policy to permit DRC to test and treat any prisoner who refuses to be tested or treated for tuberculosis, HIV infection, and other contagious diseases.

DRC's current prisoner intake or reception process includes among other things testing for tuberculosis and HIV infection. The problem that DRC has at this time is that HIV infection testing is voluntary and around 20 percent of their annual intake population refuses to be tested at the time of reception, which amounts to around 4,000 refusals. The testing of these additional prisoners at intake will increase DRC's annual spending by approximately $20,000.

In the short-run, or immediate term, as a result of this power to compel testing and treatment, DRC's medical treatment costs may rise as well since they will be able to detect a potentially troublesome and contagious disease earlier than might otherwise have been the case. This means that DRC will be able to stabilize a prisoner medical condition sooner and potentially prevent its spread to other prisoners and employees. In the longer term then, it theoretically reduces medical spending in what otherwise might have become an even more expensive medical situation. Presumably, such proactive testing and treatment potentially minimizes any legal liability the state could incur for exposing staff, visitors, and offenders to these contagious diseases as well.

The bill also stipulates that a juvenile prosecuted as an adult and confined in a DRC correctional institution is considered emancipated for the purpose of consenting to medical treatment. Presumably, this allows DRC to deliver more prompt medical treatment to juveniles in their custody than is currently the case. The reality is that increasing numbers of juveniles are being prosecuted and convicted as adults, and subsequently sentenced to a term of imprisonment. This is a trend that will most certainly accelerate as a result of the mandatory juvenile bindover provisions contained in Am. Sub. H.B. 1 of the 121st General Assembly. Thus, this "emancipation" provision removes what might otherwise develop into a problematic barrier to the provision of timely medical treatment to juveniles as their numbers in the adult prison population grow.

Medical Service Fee. The bill permits DRC to implement a user fee or copayment for various services, including a fee or copayment for sick call visits. The practical effect of instituting such a users fee or copayment will be to: (1) create a potential disincentive to use what is now virtually free-and-unlimited medical care, thus cutting demand and saving GRF-supported medical resources; and (2) generate some amount of non-GRF revenue that can supplement existing medical resources. Any such user fee or copayment collected by DRC would be deposited into the Offender Financial Responsibility Fund, which is created by the bill.

How much revenue might be generated under some sort of medical services user fee or copayment program? First, any such projection would have to be seen as potential revenue since the authority to implement such a program is permissive and not mandatory. That said, several variables make any attempt to perform a revenue potential calculation problematic: types of medical treatments that will be subjected to a fee (doctors, nurses, dentists), the fee amount itself, prisoners whose request for medical treatment will be exempted from any fee (e.g., prisoners who cannot pay and those whose treatment is for a chronic condition), and the drop in current demand for medical services due to the disincentive created by the presence of a fee-for-service arrangement.

Without going into the seemingly endless computational calculations presented by such a mix of variables, and based upon some conversations with DRC medical personnel on this matter, LBO estimates that it is not unreasonable to assume: a $2 copayment fee applied to a doctor call, a 30 percent reduction in doctor calls from an estimated annual baseline of 151,872 such calls; and 50 percent of those still then making doctor calls will be exempted from the $2 co-pay. The annual revenue generated under this doctor sick call scenario runs in at $106,310. The same revenue-generating scenario applied to nursing sick calls using an estimated annual baseline now at 487,257 produces $341,080 annually.

The practical effect of the power to test and treat prisoners, plus collect a medical user fee or copayment, will be to constrain, or decrease, the rate of the increase in DRC's annual medical spending. This obviously presents an opportunity to save money, however, it is most likely that such savings should really be seen as an opportunity to use existing resources to improve the quality of medical care for those who truly need it.

Local Medical Testing & Treatment

The bill permits certain local correctional facilities to test and treat offenders in its custody whom refuse to be tested or treated for tuberculosis, HIV infection, or other contagious diseases. The local governmental entities potentially affected by this provision principally include counties and municipal corporations that operate full service jails, minimum security jails, or community-based correctional facilities (CBCFs).

As we are not uncertain as to what the current testing and treatment practices are around the state, it is difficult to speak to the provision's potential fiscal effect. Assuming for discussion purposes that these testing and treatment practices typically mirror DRC's, then the potential additional costs will result from the testing and possible treatment of offenders who now refuse such medical attention.

Thus, if one of these local correctional facilities opts to implement this permissive testing and treatment policy, then costs rise, at least in the short-term. However, one could probably assert that there is then a potential savings in the longer-term. Offenders are treated before their conditions worsen and hopefully, before other offenders, staff, and visitors are exposed. Additionally, legal liabilities are potentially minimized by not exposing these others to contagious diseases.

Minimum Security Jails (MSJs)

The bill broadens the types of misdemeanants and felons that may be confined in a minimum security jail (MSJ), the practical effect of which is to raise the very real possibility that MSJ beds which might otherwise remain empty will instead be filled. Statewide, this change should promote efficiencies, and thus savings, in the use of local criminal justice resources. Theoretically at least, incarceration costs decrease as offenders will be confined in less costly arrangements. The number of offenders who are on waiting lists to "do some time" locally – because demand for beds exceeds supply – should drop over time, which is a good thing since it is cheaper, and arguably more effective, to sanction an individual now rather than some time in the future. Lastly, pressure to build full service jails may subside, which saves construction and operating costs.

Based on DRC data gleaned from state jail inspections conducted in calendar year 1996, there are 15 MSJs in Ohio. Twelve are operated by counties, while three are operated by municipal corporations. All 15 MSJs are situated in a local jurisdiction that also operates a full service jail. Generally, full service jails run very close to 100 percent of their housing capacity, while MSJs have historically operated in the range of 60 percent to 70 percent of their housing capacity. Since most, if not all, of these MSJs are, or will be, fully operational, the additional expense associated with filling otherwise empty beds comes in the form of marginal costs – meals,

medical care, and so forth. However, we would assert that overall there is a net savings produced in that local jurisdiction because existing criminal justice resources are used more efficiently.

Transitional Control Program

The bill repeals three existing prison release programs – furlough education and work release, conditional release, and electronically monitored release – and essentially consolidates them under a new program termed "transitional control." Under this program, eligible prisoners could be transferred to community supervision during the final 180 days of the prisoner's confinement. Community supervision would include confinement in a halfway house, electronic monitoring in a residence, or conceivably, some mix of both.

Relative to DRC's total inmate population, which stands around 47,000, the total number of offenders currently involved in these three existing prison release programs is very small. The biggest of these three programs is furlough, with around 200 offenders participating at any given time. The number of offenders involved in the conditional release program is only around 14. There are no offenders participating in the electronically monitored release program. To date, problematic contracting language has blocked DRC from implementing this program; thus it is not operational.

Fiscal Effects. At a minimum, DRC gains organizational efficiencies by merging or consolidating three separate prison release programs that compete for similar offenders, but operate under different screening periods and release time frames. What that might translate into as a form of annual cost savings to the department is impossible to estimate or predict.

Perhaps the best way to view this program consolidation is not as producing some cost savings, nor as a potential revenue generator that relieves stress on GRF spending. Perhaps it is more appropriate to see this program consolidation as providing the department with a more functional release mechanism that can ultimately help relieve prison crowding, thus helping to ensuring that appropriate institutional bed space is available for more troublesome offenders.

Transitional Control Fund. The bill creates the Transitional Control Fund and permits DRC to require a prisoner who is transferred to transitional control to pay for the department's reasonable expenses incurred in supervising and confining the prisoner while under transitional control. Moneys then collected from such prisoners are credited to the Transitional Control Fund and may only be used to pay for costs related to the operation of the transitional control program.

Additionally, all moneys that remain in the Furlough Services Fund on the bill's effective date must be transferred to the Transitional Control Fund. LBO's best guess is that the amount of this onetime transfer could easily hit $1.3 million or more. Since the transitional control program created by the bill incorporates features of DRC's existing education and work release program, it would appear that, all other conditions remaining the same, at least $200,000 to $300,000 could be generated annually for deposit into the Transitional Control Fund.

Furlough Services Fund. Under current law, DRC is permitted to collect reasonable fees from offenders participating in the department's furlough education and work release program, with all such fees then deposited into the Furlough Services Fund. The bill deletes the fund and requires the transfer of all moneys residing in the fund into the Transitional Control Fund, which is

created by the bill. LBO's best guess is that the amount of that one-time transfer could easily hit $1.3 million or more.

Electronic Detention Fund. Under current law, DRC is permitted to charge offenders a reasonable program fee for receiving electronically monitored release services, with all such fees then deposited into the Electronic Detention Fund. The bill deletes the fund. As the program is not operational, no revenue is lost. Furthermore, any moneys that could be generated through electronic monitoring services in the future would be captured by the Transitional Control Fund, which is created by the bill.

Violation Sanction Centers

The bill permits DRC to operate or contract for one or more violation sanction centers. These centers will allow the department to impose a non-prison residential sanction for certain offenders who violate the terms and conditions of their parole or post release supervision. Under current practice, such violators are returned to prison. (Money to operate a 150-bed violation sanction center during the last four or so months of fiscal year 1999 is built into DRC's budget as contained within the main appropriations act covering the 1997-1999 operating biennium – Sub. H.B. 215 of the 122nd General Assembly.)

Since these violators would have otherwise been shipped back to prison, the fiscal effect of these violator sanction centers will be to reduce DRC's institutional spending on one hand, while increasing nonresidential sanctioning costs incurred by the department's Division of Parole and Community Services on the other hand. The net fiscal effect of this trade-off is uncertain. That said, perhaps the best way to look at this matter is similar to the perspective that we have previously suggested in relation to the creation of a transitional control program. If DRC has appropriate ways to sanction violators short of sending them back to prison – as is the current practice – then the availability of a violator sanction center potentially helps relieve prison crowding and ensures that appropriate institutional bed space is available for more troublesome offenders.

Escorted Visits Program

The bill repeals DRC's existing authority to grant short-term furloughs to trustworthy prisoners for certain purposes and replaces it with a more limited program of "escorted visits." As this change simply codifies DRC's current practice with regard to the granting of these kinds of furloughs, it carries no fiscal effect.

Violators At Large & Absconders

Existing law speaks to the procedure of handling offenders who are released to the supervision of the Adult Parole Authority and subsequently violate the conditions of their release, including absconding from supervision. The bill amends this language to more accurately reflect current practice, as well as ever changing terminology. As this merely ensures that law is more closely aligned with current supervisory practice, it carries no fiscal effect. Existing offenses and penalties related to absconding from supervision remain unchanged by the bill.

Alternative Residential Facilities

The bill modifies the definition of "alternative residential facilities" to require certain residential facilities providing specialized offender services to carry appropriate licenses or certificates. Theoretically at least, this provision makes it more likely that county criminal justice systems will utilize qualified vendors in the delivery of specialized services and less likely to waste resources on vendors who are less able to provide such specialized services.

Mandatory Prison Terms

Under Am. Sub. S.B. 2 of the 121st General Assembly, effective July 1, 1996, illegal conveyance of certain items by an officer or employee of DRC, specifically weapons or drugs, is a felony of the fourth degree, which carries a possible prison term of 6-to-18 months and a fine of up to $5,000. This bill requires a court to impose a mandatory prison term in such cases, with the further stipulation that the length of that sentence could not be reduced pursuant to judicial release, earned credits, and so forth. In other words, if an offender receives a 14-month prison term, then that offender serves fourteen months.

The annual number of these illegal conveyance cases, as well as their outcome, is not readily available. However, DRC has collected information from calendar year 1995, which suggests that, the annual number of illegal conveyance cases involving a DRC officer or employee currently runs around 10 to 20.

The fact that an offender will be facing a mandatory prison term if convicted of illegal conveyance of a weapon or drugs may fiscally affect counties in two ways. First, it may change the amount of time and effort that it takes to resolve a particular matter. Some cases may close faster, others may drag out. In any event, the number of cases that will occur in any given jurisdiction annually will be so small that the practical fiscal effect will be negligible. Second, counties may save a minimal amount in sanctioning costs. Under existing law, a judge would have been able to consider sentencing such an offender to some mix of local residential and non-residential sanctions. The bill removes that discretion in these matters and requires that the judge send that offender to the state prison system.

The state will experience a minimal increase in annual incarceration costs for several reasons. All such offenders will have to be sentenced to prison, whereas under existing law a judge currently has some discretion in this regard. None of these offenders will qualify for any kind of sentence reduction, which would have cut an offender's length of stay and thus incarceration costs. Lastly, since these offenders will have to serve a prison term, upon their release they become a post-release control burden for DRC's Division of Parole and Community Services.

Offense of Assault

Current law specifies the circumstances under which assault of certain criminal justice employees, on or off the grounds of a correctional facility, is enhanced from a misdemeanor of the first degree to a felony of the fifth degree. The bill modifies this language to explicitly incorporate into law current terminology with respect to the kinds of offenders that are released into the supervision and custody of various state and local government agencies. This arguably is

clarifying, and as such this provision should carry no state or local fiscal effects. No new criminal cases will be produced. No existing assault cases will suddenly be enhanced from a misdemeanor offense to a felony offense. If anything, this change may remove a legal ambiguity over which prosecutors and defense counsel might conceivably debate in the determination of whether the particulars of given assault fit the enhancement circumstances.

Inmate Work Programs

Liability Insurance. The bill defines prisoners as state employees for the limited purpose of the state's liability insurance program if they work in a job which requires operation of a motor vehicle. Currently, such prisoners are not covered under the state's liability insurance program when operating a motor vehicle in the performance of their job. However, as DRC's premium payments for motor vehicle liability insurance are a function of the number of vehicles covered, and not the number of drivers, this provision should have no direct and immediate fiscal effect on DRC. In other words, vehicles are insured, not drivers. (These premium payments are collected by the Department of Administrative Services, which administers the state's liability insurance program.)

Additionally, as it is makes clear that a prisoner is an agent of the state under this limited circumstance, legal claims filed by injured parties arising from a motor vehicle accident involving a prisoner may be resolved more promptly.

Work Program Not Employment. Existing language that requires DRC establish a "program for employment" is replaced with the term "work program." The principal intent of this change is to foreclose any potential claim that since prisoners are "employed" they are entitled to protection under the federal Fair Labor Standards Act (FLSA), which covers matters related to minimum wage, workers' compensation, and so forth. The state does not currently face any such claim. However, it does not prevent the future filing of any such claim either. Presumably, this change provides a more favorable legal position from which the state could assert that the FLSA does not apply.

Appointive Powers

The bill amends various provisions of law that speak to the appointive powers of the Director of DRC relative to various unclassified employees (deputy directors, division chiefs, wardens, deputy wardens and so forth), as well as the rights of those employees appointed to unclassified service positions who held a classified civil service position prior to that appointment. There are three important features to note here. First, the bill places the position of deputy warden, of which there are currently around 90, in the unclassified service. This language basically codifies a move made by the Director of DRC in early calendar year 1996 in which all deputy warden positions were moved from the exempt classified service to the unclassified service.

Second, the bill allows for all of the employees of the Adult Parole Authority (APA) who are not members of a bargaining unit (classified service) to be shifted to unclassified service status. Under current law, all positions in the APA, excepting around five, are in the classified civil service. LBO has discussed this language change with DRC and was told that the intent is not to move currently "exempt" classified service APA employees to the unclassified service.

Rather the change is to mirror the appointive power that the Director currently has in all other areas of departmental operations.

Currently, there are around 900 staff associated with the APA. Of that number, five are in the unclassified service, 148 are in the exempt classified service, and the remainder are all in the classified service. The department has indicated that this language change gives them more appointive flexibility for those APA staff with exempt classified status. According to DRC, at this time, only around 21 (Parole Board members, regional parole supervisors, and some hearing officers) of those 148 staff would be under consideration for movement from their exempt classified service to the unclassified service.

Third, the bill grants to deputy wardens and all unclassified service employees generally certain reinstatement protections if they were appointed from the classified service. Specifically, they are given a fall back right to an equivalent level of their last position in the classified service, their service in the unclassified service is counted as service in the classified service, and they are entitled to all rights and emoluments accruing to the position during the time of their service in the unclassified service. It should be noted that generally these sorts of reinstatement protections are not unusual in state government, and that, under current law, division chiefs and wardens have such reinstatement protections. Although it is very difficult to predict the fiscal effect of these sorts of reinstatement protections, LBO believes that, while individual employees may gain or lose financial ground in terms of pay and benefits by moving from the classified service to the unclassified service and back to the classified service, in aggregate the fiscal effect on DRC will be negligible.

Nonagenarian Escapees

The bill permits DRC to grant an administrative release for offenders who escaped from a state correctional institution twenty years or more years ago and whose whereabouts are unknown at the time that they turn 90-years-old. (DRC currently has similar authority to administratively close out a parole violator at large whose case has been inactive for at least ten years.)

The best numbers that LBO has been able to procure relative to the approximate size of this potential population of nonagenarian escapees comes from data that DRC gathered as of March 1994 with respect to offenders that had escaped and would have been at least 100-years-old were they still living. DRC found that there were 56 such escapees. Given that more than two years have passed since these data were collected, and the fact that the bill lowers the age release threshold to 90, the number of nonagenarian escapees that might potentially qualify for an administrative release under the bill would have to be somewhat larger. However, one would have to wonder how many of these nonagenarian escapees are still living.

This provision of the bill carries two separate fiscal effects. First, although DRC is carrying these as open escape cases, in all likelihood, they are inactive. Thus, by allowing DRC to selectively close out what are basically a relatively small number of inactive cases, the department can realize a negligible administrative savings. Second, by administratively closing out some of these escapes, DRC potentially decreases expenses that might otherwise have been incurred by the state and counties. Simply put, if these escapees had been captured, then they would have theoretically been re-incarcerated to serve out the remainder of their term and would possibly also

have been prosecuted for escape. At this stage in their lives, these escapees could incur considerable medical expenses while in prison, costs that DRC could forego as a result of this language. By DRC closing out administratively certain nonagenarian escapees under the authority granted by the bill, those potential costs to the state and counties are eliminated.

Halfway Houses

Eligible Population. The bill broadens the class of offenders eligible to stay in halfway house beds that are under contract to DRC. The fiscal effect of this provision on counties looks something like this. Counties may have access to a state-paid halfway house bed for an offender who might not otherwise qualify for such a placement. On first blush, from the county's perspective, this appears to offer some sort of savings. However, that depends on what would have been the disposition of that given offender in the absence of this broadening language. If a judge, lacking the ability to place that offender in a state-paid halfway house bed, would have sent that offender off to prison, then the county actually incurs some cost since it may now bear the other costs that would have been absorbed by the state, e.g., post-release control. If, on the other hand, that offender would have been sanctioned locally anyhow, this then saves some of the local sanctioning costs that are picked up by the state-paid halfway house bed.

This provision could also affect the state in at least two ways. First, it could cut incarceration costs if it diverts certain offenders into local sanctions who would otherwise have been sent to prison. Second, and in an opposite and more indirect way, it could drive up DRC's spending on halfway house agreements. This relates to the notions of capacity, use, and appropriations. If this provision causes DRC to use more of its contracted halfway house bed capacity to cover more locally sanctioned offenders than it might have otherwise, then some amount of GRF money that might have otherwise been lapsed will be spent. In other words, a halfway house bed that might otherwise have been unoccupied for some period of time will instead be filled. Also, this broadening may create pressures to expand the number of contract beds in the state's halfway house network, a move that would require additional GRF money.

Construction. DRC currently has a $3.55 million capital appropriation for the construction of halfway house beds – CAP-041, Community Residential Program Renovations – provided through Am. Sub. H.B. 904 of the 119th General Assembly. To date, none of that money has been released for its intended purpose because of legal problems related to the state's authority to release such money to a private, non-for-profit entity. The bill amends existing law to clear up this legal snag and allows the state to disburse this capital money, thus spurring the building of an additional 150 halfway house beds. (Moneys to pay for the costs associated with the actual placement of offenders in these newly constructed beds is currently built into the fiscal year 1998 and 1999 appropriations for DRC's GRF line item 501-405, Halfway House.)

Although these specific halfway house beds can only be filled or occupied by offenders under the supervision of DRC, the practical effect of this building program may be to free up other state-funded beds within DRC's existing halfway house network for use by common pleas courts as an option for the local sanctioning of felony offenders. Whether the availability of these latter halfway house beds at state expense will or will not save counties money depends upon how a given sentencing judge would have sanctioned a particular felon in the absence of such beds.

Firearms Training

The bill revises existing law so that it conforms to the current practice of providing basic firearm training and firearms requalification for state parole and field officers who are permitted to carry a firearm in the performance of their duties. Current law requires that these officers attend a training school approved by the Ohio Peace Officer Training Council (POTC), receive a certificate of satisfactory completion from the executive director of POTC, and that such officers successfully complete a firearms requalification program annually thereafter. At this time, DRC provides its own firearm training programs, which are approved by the POTC. Annually, around 600 officers require annual requalification; while around 60 to 70 or so officers receive basic firearm training.

The bill does not appear to fundamentally alter this process except to delete the requirement that the executive director of POTC issue certificates of successful completion. At this time, the executive director of POTC does not issue these certificates of successful completion, though DRC does send the POTC a list of those individuals who have successfully completed various firearms training programs. Thus, this change does not appear to carry any fiscal effect relative to current practice for either DRC or the POTC. However, that said, it should be noted that this bill does not alter POTC's requirement to approve firearms training programs, issue certificates for satisfactory completion, and collect fees pursuant to sections 109.78 of the Revised Code.

Community Corrections Programs

Local corrections planning boards. The bill amends current law to require that any county which desires to receive a community corrections subsidy from DRC establish and maintain a 13-plus member local corrections planning board. In one sense, this change carries no fiscal effect as all of the state's eighty-eight counties currently maintain such a local board. Thus, the bill basically codifies that reality.

However, it appears that by amending existing law, the bill removes the permissive nature under which certain counties, perhaps as many as 62 of the eighty-eight, formed a local board in order to qualify for community corrections planning and programming subsidies to implement the felony sentencing reform contained in Am. Sub. S.B. 2 of the 121st General Assembly. As a result of S.B. 111, certain counties that would theoretically have been permitted, in the future, to opt out of maintaining a local board and still be eligible for a community corrections subsidy, would not be permitted to do so.

The bill also adds language permitting a board of county commissioners to specify any other duties that a local corrections planning board is to assume. Under current law, a local corrections planning board is required to establish, and periodically revise, a comprehensive plan for the development, implementation, and operation of corrections services in the county. This new language clearly creates a potential trigger for additional burdens to be placed on a local corrections planning board, but they would be at the call of the board of county commissioners and there is no way to predict at this time what those tasks might be nor what they might cost to perform.

Subsidy Eligibility. Under current law, if a county: (1) does not have a probation department; (2) receives probation services from the state; and (3) wants to receive a community corrections subsidy to handle felony offenders, then that county must contract with DRC for the operation of that program as an extension of the probation services that the state already provides to that county. LBO's understanding is that the actual process of negotiating these kinds of contractual arrangements has been problematic to the point that none have been implemented. The bill deletes this requirement, thus creating a potential opportunity for counties that have been blocked by this troublesome contractual language to actually receive a community corrections subsidy.

LBO believes that, given these contractual difficulties, DRC is generally trying to assist such counties by enhancing, to the degree that appropriations will support it, state-provided probation services that are currently funded through GRF line item 503-321, Parole and Community Operations. (This is a departmental operating expense account that funds the Division of Parole and Community Services, including parole and probation services.) Thus, not only does this language change potentially unlock some community corrections subsidy money for certain counties, it also potentially frees up state-provided probation services that are assisting those same counties in the interim.

Training & Technical Assistance. The bill appears to amend existing law in such a way as to expand the opportunities for local governments to receive training or technical assistance from DRC, but leaves unchanged language that makes such state help contingent upon available resources.

Joint County Corrections Planning Boards. New language in the bill also provides more flexibility in circumstances where counties may want to come together in some fashion to jointly develop, implement, and operate community corrections programs. An existing requirement that counties desirous of doing this must be contiguous is deleted, as is a requirement that under such arrangements the involved counties must form a joint county corrections planning board. It is highly possible that local entities were ignoring these as technical restrictions that constrained the sharing of resources across county boundaries, therefore there is no likely practical fiscal effect.

Confidential Medical & Mental Health Information

The bill relocates and expands existing law as it relates to the confidentiality of medical and mental health service information or records gathered for a quality assurance committee operating under the auspices of the departments of Rehabilitation and Correction and Mental Health. In addition to defining terms, the new language carves out some explicit exceptions to the confidential nature of such information and creates a new criminal offense which makes willful disclosure of confidential information subject to a fine not to exceed $2,500 on first offense and not more than $25,000 on a subsequent offense.

Except for this fine, there is no other potential sentence associated with a violation of this confidentiality provision. Additionally, since this violation is not clearly specified as a felony, it would be treated as a misdemeanor for the purpose of a criminal prosecution and fall under the jurisdiction of a municipal or county court. The number of additional criminal cases that might be generated as a result of this new offense is uncertain, though LBO suspects the number will be

relatively small. As a result, the additional fine and court cost revenue that may be generated for counties and the state will be relatively small as well.

Confinement Location of Indicted Convict

When a prisoner is indicted for a felony committed while in a DRC correctional institution, current law requires such a prisoner remain at that correctional institution subject to the order of the common pleas court in that county. The bill deletes the language that subjects the moving of a prisoner under such a circumstance to the order of that county's common pleas court, which in turn makes it a bit easier for DRC to move such a prisoner when security and investigative matters dictate that as an appropriate course of action. This change no doubt will save both DRC and common pleas courts some amount of time and effort currently being expended to accomplish the movement of prisoners under felony indictments, though LBO suspects as far as a cost savings goes it will be fairly negligible.

Interstate Agreement on Detainers

With regard to the Interstate Agreement on Detainers, the bill conforms existing language to the reality that the chief of the Adult Parole Authority is no longer the Ohio administrator by assigning that duty to the Director of DRC generally. This change carries no fiscal effect as it simply recognizes current practice.

❑ *LBO staff: Jeffrey E. Golon, Senior Analyst*

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