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## **DEPARTMENT OF REHABILITATION AND CORRECTION**

### **Targeted Community Alternatives to Prison (T-CAP)**

- Changes the name “Targeting Community Alternatives to Prison” program to “Targeted Community Alternatives to Prison” program.
- Requires the Department of Rehabilitation and Correction (DRC) to establish deadlines for a voluntary county to indicate its participation in T-CAP before each state fiscal biennium.
- Requires a memorandum of understanding to set forth the plans by which the county will use the grant money provided to the county in the state fiscal years within the specified state fiscal biennium under T-CAP.

### **Public records – correctional and youth services employee**

- Modifies the public records exception for “restricted portions of a body-worn or dashboard camera recording” by adding a reference to correctional employees and youth services employees in each place there is a reference to peace officers and law enforcement.

### **Adult Parole Authority termination of post-release control**

- Modifies provisions that pertain to Adult Parole Authority (APA) functions with respect to the classification, as “favorable” or “unfavorable,” of the termination of an offender’s post-release control.

### **Full board hearings**

- Removes the ability for a board hearing officer, a board member, or the Office of Victims’ Services to petition for a full parole board hearing.
- Provides that if a victim of certain offenses, the victim’s representative, or specified other persons request a full board hearing, those persons must do so through the Office of Victims’ Services.
- Permits certain family members of a victim to request, through the Office of Victims’ Services, for the board to hold a full board hearing and, if such a request is made, the majority of those present at the board meeting must determine whether a full board hearing will be held.
- Requires the parole board to grant a full board hearing request submitted by a prosecuting attorney.
- Allows the State Public Defender, when designated by DRC, to appear at a full board hearing and to give testimony or to submit a written statement.

## **Ohio Penal Industries GED requirement**

- Requires DRC to allow prisoners working toward completion of a high school diploma or equivalent to participate in Ohio Penal Industries.

## **Victim conference communications**

- Provides that communications during a victim conference are confidential and are not public records.

## **Sexual activity for hire – developmental disabilities**

- Makes recklessly inducing, enticing, or procuring sexual activity for hire in exchange for a thing of value from a person with a developmental disability a third degree felony.

## **Disability intimidation**

- Creates the offense of disability intimidation.

## **Targeted Community Alternatives to Prison (T-CAP)**

(R.C. 2929.34 and 5149.38)

The bill changes the name “Targeting Community Alternatives to Prison” program to “*Targeted* Community Alternatives to Prison” program. It clarifies that in any voluntary county, the board of county commissioners and the Administrative Judge of the General Division of the Court of Common Pleas of the county may agree to have the county participate in the Targeted Community Alternatives to Prison (T-CAP) program by submitting a memorandum of understanding (MOU), either as a single county or jointly with other counties, to the Department of Rehabilitation and Correction (DRC) for approval.

The bill requires DRC to establish deadlines for a voluntary county to indicate the voluntary county’s participation in T-CAP before each state fiscal biennium. In reviewing a submitted MOU for approval, DRC must prioritize a voluntary county that has previously been a voluntary county. DRC may review a MOU for a new voluntary county if the General Assembly has appropriated sufficient funds for that purpose. Under current law, the MOU had to be submitted to DRC for approval by no later than September 1, 2022.

The bill requires the MOU to set forth the plans by which the county will use grant money provided to the county in the fiscal years within the state fiscal biennium. Under current law, the MOU must set forth the plans by which the county will use the grant money provided to the county in state FY 2023 and succeeding state fiscal years under T-CAP. Under continuing law, the MOU must specify the manner in which the county will address a per diem reimbursement of local correctional facilities for prisoners who serve a prison term under T-CAP. The per diem reimbursement rate must be determined and specified in the MOU.

## Public records – correctional and youth services employee

(R.C. 149.43)

Under continuing law, “public record” means records kept by any public office. “Restricted portions of a body-worn or dashboard camera recording” is an exception to the Public Records Law. The definition of “restricted portions of a body-worn or dashboard camera recording” contains references to peace officers and law enforcement. When the references are made, the definition sometimes refers to correctional employees and youth services employees. The bill modifies the definition of “restricted portions of a body-worn or dashboard camera recording” by adding a reference to correctional employees and youth services employees in each place there is a reference to peace officers and law enforcement. “Restricted portions of a body-worn or dashboard camera recording” means any visual or audio portion of a body-worn camera or dashboard recording that shows, communicates, or discloses any of the following:<sup>78</sup>

- The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when DRC, Department of Youth Services (DYS), or the law enforcement agency knows or has reason to know the person is a child based on its records or content of the recording (under continuing law);
- The death of a person or a deceased person’s body, unless the death was caused by a correctional employee, youth services employee, or peace officer or the consent of the decedent’s executor or administrator has been obtained (under continuing law);
- The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless the consent of the decedent’s executor or administrator has been obtained (under continuing law);
- Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or the consent of the injured person or the injured person’s guardian has been obtained (under continuing law);
- An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or the consent of the injured person or the injured person’s guardian has been obtained (under continuing law);
- Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless the consent of the injured person or the injured person’s guardian has been obtained (under continuing law);

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<sup>78</sup> The As Introduced version of the bill contains an outdated version of R.C. 149.43, which was amended by Am. Sub. S.B. 288 of the 134<sup>th</sup> General Assembly, effective April 4, 2023. Therefore, the description of continuing law in this analysis (which is written to reflect the most recent version of R.C. 149.43) does not match the language in the bill.

- An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- A person's nude body, unless the person's consent has been obtained (under continuing law);
- Protected health information, the identity of the person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter (under the bill);
- Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence (under continuing law);
- Information that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive confidential information to DRC, DYS, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person (under continuing law);
- Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer (under continuing law);
- Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety (under the bill);
- A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency (under the bill);
- A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities (under the bill);
- The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer (under the bill);
- Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location (under the bill).

## **Adult Parole Authority termination of post-release control**

(R.C. 2967.16)

The bill modifies law that currently pertains to functions of the Adult Parole Authority (APA) with respect to the termination of an offender's post-release control (PRC). PRC is imposed on specified categories of offenders convicted of a felony, upon their release from confinement in a state correctional institution. Under continuing law, when a prisoner released under a period of PRC has faithfully performed the conditions and obligations of the prisoner's PRC sanctions and has obeyed the APA's rules and regulations that apply to the prisoner or has the period of PRC terminated by a court, the APA may terminate the period of PRC and issue to the prisoner a certificate of termination. Specifically, the bill:

1. Replaces the provision that currently requires the APA to classify the termination as "favorable" or "unfavorable," depending on the offender's conduct and compliance with the supervision conditions, with a provision that instead authorizes the APA to classify the termination as "unfavorable" if the offender's conduct and compliance with the supervision conditions is unsatisfactory (it does not retain the references to a "favorable" classification);

2. Specifies that if the APA does not classify the termination of PRC as "unfavorable," the offender's conduct and compliance with the supervision conditions may not be considered as an "unfavorable" termination by a court under the provision, when considering the factors described in a specified provision of the Felony Sentencing Law at a future sentencing hearing for a felony. (The specified Felony Sentencing Law provision requires the sentencing court to consider a list of factors as indicating that the felon is likely to commit future crimes – the listed factors include that, at the time of committing the offense, the felon had been "unfavorably" terminated from post-release control for a prior offense, under the provision described above in (1) or under continuing law's R.C. 2929.141.)

3. In a provision that requires DRC, no later than January 6, 2003, to adopt a rule establishing the criteria for classification of a PRC termination as "favorable" or "unfavorable," eliminates the reference to "favorable."

## **Full board hearings**

(R.C. 5149.101)

The bill removes the ability for a board hearing officer, a board member, or the Office of Victims' Services to petition for a full parole board hearing that relates to the proposed parole or re-parole of a prisoner. Under the bill, if a victim of certain offenses, the victim's representative, spouse, parent or parents, sibling, or child or children of a victim requests such a full board hearing, they must do so through the Office of Victims' Services.

A family member of a victim who is not listed above may also request for the board to hold such a full board hearing through the Office of Victims' Services. If such a request is made, the majority of those present at the board meeting must determine whether a full board hearing will be held.

Under the bill, if a prosecuting attorney requests such a full board hearing, the board is required to hold a full board hearing.

The bill allows the State Public Defender, when designated by the DRC, to appear at such a full board hearing and to give testimony or to submit a written statement, as permitted by the board.

## **Ohio Penal Industries GED requirement**

(R.C. 5145.161)

The bill modifies the requirements of DRC's "program for employment of prisoners" by giving prisoners the opportunity to be assigned a job with the Ohio Penal Industries, or any other job level or grade of prisoner employment that the DRC Director may designate, if the prisoner is working toward the completion of, but has not yet obtained, a high school diploma or equivalent.

## **Victim conference communications**

(R.C. 2930.16)

The Victim's Rights Law requires the APA to adopt rules providing for a victim conference upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or is under a sentence of life imprisonment. The rules must contain specified provisions. The bill requires the communications during a victim conference held pursuant to the Victim's Rights Law and the rules adopted by the APA to be confidential, and provides that they are not public records under the Public Records Law.

## **Sexual activity for hire – developmental disabilities**

(R.C. 2907.231)

The bill creates the offense of "engaging in prostitution with a person with a developmental disability," which prohibits a person from recklessly inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability. "Engaging in prostitution with a person with a developmental disability" is a third degree felony.

## **Disability intimidation**

(R.C. 2927.12)

The bill creates the offense of disability intimidation. The new offense prohibits a person from committing aggravated menacing, menacing, criminal damaging or endangering, criminal mischief, or specified telecommunications harassment offenses (see below) by reason of the disability of another person or group of persons if the other person is a person with a disability, the person knows or reasonably should know that the other person is a person with a disability,

and it is the person's specific purpose to commit the offense against a person with a disability. A person who violates the provision is guilty of disability intimidation, an offense of the next higher degree than the offense the commission of which is a necessary element of disability intimidation.

### **Specified telecommunications harassment**

Under continuing law, telecommunications harassment prohibits a person from making or causing to be made a telecommunication, or knowingly permitting a telecommunication to be made from a telecommunications device under a person's control, to another, if the caller engages in various additional conduct.

The disability intimidation offense created by the bill applies only in those cases of telecommunications harassment where the caller (1) commits aggravated menacing during the call, (2) knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged, or (3) knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any persons at those premises.<sup>79</sup>

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<sup>79</sup> R.C. 2917.21(A)(3), (4), and (5), not in the bill.