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## DEPARTMENT OF YOUTH SERVICES

- Allows the Director of Youth Services to request the prosecuting attorney or juvenile court to file a motion with the juvenile court to modify where a person age 18 or older and in the custody of the Department of Youth Services (DYS) is being held, if the person is serving a sentence imposed for being a delinquent child.
- Requires the motion to state that there is probable cause to believe that either of the following misconduct has occurred and that at least one incident of misconduct of that nature occurred after the person turned 18:
  - The person committed an act that is a violation of the rules of the institution and that could be charged as a felony, or the person committed two or more acts that are violations of the rules of the institution and that could be charged as a first degree misdemeanor offense of violence.
  - The person engaged in conduct that creates a substantial risk to the safety or security of the institution or the institution's staff, the community, or the victim.
- Allows the juvenile court to modify the place at which the person is held from a DYS facility to a Department of Rehabilitation and Correction facility if the juvenile court finds the above by clear and convincing evidence.

### Modify place a person is held

(R.C. 2152.26 and 2152.261)

#### Motion to modify

The bill allows the DYS Director to request the prosecuting attorney of the county in which the juvenile court imposed a sentence for being a delinquent child to file a motion with that juvenile court to modify the place at which the person is held if all of the following apply to the person:

- The person is at least 18 years old.
- The person is in the institutional custody, or an escapee from the custody, of DYS.
- The person is serving a sentence imposed for being a delinquent child.

The bill requires the motion to state that there is reasonable cause to believe that either of the following misconduct has occurred and that at least one incident of misconduct of that nature occurred after the person reached 18 years old:

- The person committed an act that is a violation of the rules of the institution and that could be charged as a felony, or the person committed two or more acts that are violations of the rules of the institution and that could be charged as a first degree misdemeanor offense of violence.

- The person engaged in conduct that creates a substantial risk to the safety or security of the institution or the institution's staff, the community, or the victim.

If the prosecuting attorney declines a request to file a motion that was made by DYS or fails to act on a request made by DYS within five days of the request to file a motion, the bill allows DYS to notify the juvenile court of the above circumstances. Upon receiving the notice, the juvenile court may seek to modify the place the person is held upon its own motion.

## **Hearing**

Within 20 days of the filing of the motion to modify, the bill requires the juvenile court to hold a hearing to determine whether to modify the place at which a person is held. At the hearing, the person who is the subject of the motion has the right to be present, to receive notice of the grounds upon which the place at which the person to be held is to be modified, to be represented by counsel, to be advised on the procedures and protections set forth in the Rules of Criminal Procedure, and to present evidence on the person's own behalf, including evidence that the person has a mental illness or intellectual disability. If the person presents evidence that the person has a mental illness or intellectual disability, the juvenile court must consider that evidence in determining whether to modify the place at which the person is held. The person may not waive the right to counsel. The hearing must be open to the public.

## **Order to modify**

The bill allows the juvenile court to modify the place at which the person is held if the juvenile court finds all of the following on the record by clear and convincing evidence:

- The person is at least 18 years old and has been admitted to a DYS facility or criminal charges are pending against the person.
- The person engaged in the misconduct described above.

If a juvenile court issues an order modifying the place at which the person is held, the bill requires DYS to transfer the person to the Department of Rehabilitation and Correction (DRC). The juvenile court must state in its order the total number of days that the person has been held in detention or in a facility operated by, or under contract with, DYS. The time a person must serve on the sentence imposed on the person for being a delinquent child must be reduced by the total number of days the person is held in a juvenile facility or detention after the order is issued and before the person is transferred to the custody of DRC.

## **Community control and post-release control**

The bill specifies that any community control imposed as a part of the adult sentence or as a condition of judicial release from prison must be under the supervision of the entity that provides adult probation services in the county. Any post-release control imposed after the offender otherwise is released from prison must be supervised by the Adult Parole Authority.