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# DEPARTMENT OF REHABILITATION AND CORRECTION

## Post-release control sanctions

- Modifies current law regarding post-release control (PRC) by:
  - Changing the duration of mandatory PRC to “up to five years, but not less than two years” for a first degree felony that is not a felony sex offense; “up to three years, but not less than 18 months” for a second degree felony that is not a felony sex offense; and “up to three years, but not less than one year” for a third degree felony that is an offense of violence and is not a felony sex offense;
  - Changing the duration of discretionary PRC to “up to two years” for a third, fourth, or fifth degree felony that is not subject to mandatory PRC;
  - Removing juvenile court delinquent child adjudications as items that must be considered by the Parole Board or court in determining PRC sanctions;
  - Changing from mandatory to discretionary the use of active GPS monitoring for the first 14 days of a prisoner on PRC who is released before the expiration of the prisoner’s term and who earned over 60 days of earned credit;
  - Modifying the mechanism for shortening or terminating PRC of an offender who is complying with the PRC sanctions;
  - Specifying that if, during the period of PRC, the offender serves as a sanction for violating PRC conditions and the maximum prison sanction time available as a PRC sanction, the PRC terminates;
  - Providing rules for determining the manner in which PRC operates when an offender is simultaneously subject to a period of parole and a period of PRC or is subject to two simultaneous periods of PRC; and
  - Specifying that a period of PRC must not be imposed consecutively to any other period of PRC.

## Community control sanctions

- Changes the authorized duration of community control sanctions imposed for a felony to a maximum of five years for first, second, and third degree felonies and felony sex offenses, three years for fourth degree felonies that are not sex offenses, and two years for fifth degree felonies that are not sex offenses.
- Changes the authorized duration of community control sanctions imposed for a misdemeanor to a maximum of two years.

## Judicial release and 80% release mechanism

- Changes the authorized duration of community control sanctions for prisoners released on judicial release or the 80% release mechanism to a maximum of five years for first, second, or third degree felonies or felony sex offenses, three years for fourth degree

felonies that are not sex offenses, and two years for fifth degree felonies that are not sex offenses.

## **NCIC Protection Order Database and LEADS**

- With respect to five existing types of protection orders:
  - Requires the clerk of the court that issues the order to transmit it to the appropriate law enforcement agency for entry into the National Crime Information Center (NCIC) Protection Order Database maintained by the FBI and into the Law Enforcement Automated Data System, known as LEADS;
  - Requires law enforcement agencies to enter records of the orders received into LEADS by the close of the next business day after the day on which the order is issued;
  - Requires the clerk of the court that issues the order, if the order is terminated or canceled, to notify law enforcement agencies and other specified persons of the termination or cancellation; and
  - Specifies that, upon the termination or cancellation of an order, the court must order the appropriate law enforcement agency to remove the order from LEADS by the close of the next business day and ensure that the order is terminated, cleared, or canceled in the NCIC Protection Order Database.

## **Inclusion in LEADS of findings of IST or NGRI**

- Enacts a mechanism for a court's submission to the Attorney General, for entry into LEADS, of the court's finding that a person charged with a criminal offense is incompetent to stand trial or not guilty by reason of insanity.

## **Entry of arrest warrants into LEADS as extradition warrants**

- Requires that any warrant issued for a "Tier One Offense" (31 serious offenses specified in the bill) must be:
  - Entered into LEADS and the appropriate NCIC database by the law enforcement agency requesting the warrant within 48 hours of receipt of the warrant; and
  - Entered into LEADS by the law enforcement agency that receives the warrant with a full extradition radius as set by Ohio's LEADS administrator.

## **Offense of having firearms while under disability**

- Increases the penalty for the offense of "having weapons while under disability" (currently, always is a third degree felony) so that:
  - If the firearms disability is that the person is under indictment for or has been convicted of a felony offense of violence, the offense generally is a second degree felony, but is a first degree felony if the offender previously has been convicted of any of the five specified firearms disabilities; and

- If the firearms disability is any of the other four specified disabilities, the offense generally is a third degree felony, but is a second degree felony if the offender previously has been convicted of any of the five specified firearms disabilities.

### **Offense of unlawful transactions in weapons**

- Increases the penalty for the offense of “unlawful transactions in weapons” to a third degree felony (currently a fourth degree felony) if the offender, in committing the offense:
  - Recklessly sold, loaned, gave, or furnished a firearm to a person prohibited from acquiring or using a firearm or dangerous ordnance to a person prohibited from acquiring or using any dangerous ordnance; or
  - Possessed a firearm or dangerous ordnance with purpose to dispose of it in violation of the prohibition described in the preceding dot point.
- Increases the penalty for the offense of “unlawful transactions in weapons” to a second degree felony (currently a third degree felony) if the offender, in committing the offense, knowingly:
  - Solicited, persuaded, encouraged, or enticed a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to a person in a manner prohibited by state or federal law;
  - With an intent to deceive, provided materially false information to a federally licensed firearms dealer or private seller; or
  - Procured, solicited, persuaded, encouraged, or enticed a person to act in violation of the prohibition described in either of the two preceding dot points.

### **Offense of improperly furnishing firearms to a minor**

- Increases the penalty for the offense of “improperly furnishing firearms to a minor” to a third degree felony (currently a fifth degree felony).

### **Firearms specification penalty**

- Increases the penalty for a specification that a felony offender had a firearm on or about the offender’s person or under the offender’s control while committing the felony and displayed, brandished, indicated possession of, or used the firearm, to:
  - A prison term of three, four, or five years (currently, three years); or
  - If the offender previously was convicted of a specification of that type or any other firearms specification, a prison term of 54, 66, or 78 months (currently, 54 months).

### **Notification of possible prison term for community control violation**

- Specifies that the notice a court must give to an offender it sentences to a community control sanction for a felony regarding a possible prison term as a violation sanction must indicate “the range from which the term may be imposed.”

## **Community-based substance use disorder treatment**

- Extends eligibility for the community-based substance use disorder treatment program.
- Removes a restriction that prevents those with certain prior offense of violence convictions from participating in the program.

## **Subsidies for community-based corrections programs**

- Modifies the requirements for the program of subsidies for community-based corrections programs.

## **Administrative releases**

- Expands the Adult Parole Authority’s ability to grant an administrative release to include: (1) a “releasee” who is serving another felony sentence in a prison within or outside Ohio for the purpose of consolidating the records or if justice would best be served, or (2) a “releasee” who has been deported from the U.S.

## **Sealing of records related to an unconditional pardon**

- Allows the Governor to include as a condition of an unconditional pardon that the records related to conviction be sealed, and generally provides that the records are not subject to public inspection unless directed by the Governor.

## **Internet access for prisoners**

- Provides greater flexibility for prisons to provide internet access to prisoners.

## **Post-release control sanctions**

(R.C. 2967.28)

### **Background**

The bill modifies some of the provisions regarding post-release control (PRC). PRC is a period of supervision by the Adult Parole Authority (APA) after a prisoner’s release from imprisonment, other than under a term of life imprisonment, that includes one or more post-release control sanctions. “Post-release control sanction” means a residential sanction, nonresidential sanction, or financial sanction authorized for a felony under R.C. 2929.16 to 2929.18 and that is imposed on a prisoner upon the prisoner’s release from a prison term other than a term of life imprisonment.<sup>59</sup>

Under current law, when an offender convicted of a felony is released from prison, in some circumstances the offender must be placed under a period of PRC, and in other circumstances, the PRC is discretionary. When an offender is placed under a PRC period, specified procedures apply regarding the offender, the PRC period, and supervision of the offender. The

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<sup>59</sup> R.C. 2967.01, not in the bill.

Parole Board (or court in certain circumstances) imposes PRC sanctions and conditions on the offender that apply during the PRC period.

### **Mandatory PRC**

If an offender is sentenced to prison for a first or second degree felony, for a felony sex offense, or for a third degree felony that is an offense of violence and is not a felony sex offense, the Parole Board is required to impose a period of PRC of a specified duration on the offender after the offender's release from imprisonment. The bill changes the duration of mandatory PRC:

1. From five years to "up to five years, but not less than two years" for a first degree felony that is not a felony sex offense;
2. From three years to "up to three years, but not less than 18 months" for a second degree felony that is not a felony sex offense; and
3. From three years to "up to three years, but not less than one year" for a third degree felony that is an offense of violence and is not a felony sex offense.

The period for a felony sex offense remains five years.

### **Discretionary PRC**

If an offender is sentenced to a prison term for a third, fourth, or fifth degree felony that is not subject to the mandatory PRC provisions described above, the Parole Board, in accordance with specified procedures, is authorized to impose a PRC period on the offender if it determines that PRC is necessary for the offender. The bill changes the duration of discretionary PRC from up to three years to "up to two years" for a third, fourth, or fifth degree felony that is not subject to mandatory PRC.

### **Consideration of delinquent child adjudications**

Prior to the release of an offender for whom it will impose PRC sanctions, the Parole Board (or court) must review certain information in determining which PRC sanctions are reasonable under the circumstances. The bill removes juvenile court delinquent child adjudications as items that the Board (or court) must consider in determining PRC sanctions. The bill does not change the other information that must be considered, including the offender's criminal history, results from the single validated risk assessment tool, and the record of the offender's conduct while imprisoned.

### **Use of active GPS monitoring**

Currently, if an offender who is placed on PRC is released from prison before the expiration of the offender's prison term and the offender earned 60 or more days of credit, the APA must supervise the offender with an active GPS device for the first 14 days after the offender's release from imprisonment. The bill changes from mandatory to discretionary the use of active GPS monitoring for supervising the offender in the specified circumstances.

### **Shortening or terminating PRC**

At any time after a prisoner is released from imprisonment and during the PRC period, the APA (or court) may review the releasee's behavior under the PRC sanctions. The APA (or court) may take specified actions after its review. The bill modifies the actions that the APA (or

court) may take. Under the bill, if the APA (or court), based on the review and in accordance with specified standards, determines that the releasee has satisfactorily complied with the sanctions imposed, it may recommend a less restrictive sanction, reduce the PRC period, or, no sooner than a minimum period of time, recommend that the Parole Board (or court) terminate the PRC period. In no case may the Board (or court) reduce the PRC duration imposed for a felony sex offense, described above with regard to mandatory PRC.

Related to the bill's changes, the bill expands a provision that currently requires the DRC to adopt rules that establish standards for certain PRC-related purposes to also require that the rules establish standards to be used by the Parole Board in terminating (or reducing, as currently authorized) the PRC duration when authorized as described in the preceding paragraph or in imposing a less restrictive sanction on a releasee based on results from the single validated risk assessment tool (and, as currently specified, on the releasee's activities, including remaining free from criminal activity and from the abuse of alcohol or other drugs, successfully participating in approved rehabilitation programs, maintaining employment, and paying restitution or meeting the terms of other financial sanctions).

The current provisions regarding the actions the APA (or court) currently may take, repealed by the bill, specify that: (1) if it determines that a more restrictive or a less restrictive sanction is appropriate it may impose a different sanction, (2) the APA may recommend that the Parole Board (or court) increase or reduce the PRC duration, (3) if the APA recommends that the PRC duration be increased, the Board (or court) must review the releasee's behavior and may increase the PRC duration up to eight years, (4) if the APA recommends that the PRC duration be reduced, the Board (or court) must review the releasee's behavior and generally may reduce the PRC duration or, in certain cases, reduce the PRC duration or terminate the PRC, and (5) in no case may the Board (or court) reduce the PRC duration for a felony sex offense to a period less than the length of the prison term included in the prison term originally imposed on the offender, consider any reduction or termination of the PRC duration imposed on a releasee prior to the expiration of one year after the commencement of the PRC period for certain types of indefinite sentences, or permit the releasee to leave Ohio without permission of the court or the releasee's supervising officer.

### **Termination of PRC, if maximum prison time available expires**

If the Parole Board (or court) at a hearing finds that a releasee under a PRC sanction violated the sanction or condition, it may increase the PRC duration up to the maximum authorized duration or impose a more restrictive PRC sanction. When appropriate, the Board (or court) may impose as a PRC sanction a residential sanction that includes a prison term. Subject to one limited exception, a prison term imposed as a PRC sanction under this provision may not exceed nine months, and the maximum cumulative prison term for all violations under this provision may not exceed one-half of the prison term that was originally imposed on the offender. The period of a prison term imposed as a PRC sanction under this provision does not count as, or may not be credited toward, the remaining PRC period. The bill adds a provision specifying that if, during the releasee's PRC period, the releasee serves as a PRC sanction the maximum prison time available as a sanction, the PRC terminates.

## **Simultaneous parole and PRC; ban on consecutive PRC periods**

The bill replaces several provisions that pertain to calculating service of a PRC period. Under the bill:

1. If an offender is simultaneously subject to a period of parole and a PRC period, or is simultaneously subject to two PRC periods, the period of supervision that expires last determines the length and form of supervision for all the periods and related sentences.

2. An offender is to receive credit for PRC supervision during the period of parole, and is not eligible for final release under a separate provision of law<sup>60</sup> until the PRC period otherwise would have ended.

3. If the period of parole ends prior to the end of the PRC period, the requirements of parole supervision are to be satisfied during the PRC period.

The bill retains a provision specifying that a PRC period may not be imposed consecutively to any other PRC period (although the bill does not include the express statement under existing law that PRC periods are to be served concurrently).

The replaced provisions specify that: (1) a PRC period commences upon an offender's actual release from prison, (2) if a PRC period is imposed and the offender also is subject to a period of parole, and if the PRC period ends prior to the period of parole, the offender is to be supervised on parole and receives credit for PRC supervision during the period of parole and is not eligible for final release until the PRC period otherwise would have ended, (3) if an offender is under a PRC period and also is subject to a period of parole, and if the period of parole ends prior to the PRC period, the offender is to be supervised on PRC and the requirements of parole supervision are to be satisfied during the PRC period, and (4) if an offender is subject to more than one PRC period, the PRC period for all of the sentences is the PRC period that expires last, as determined by the Parole Board (or court).

## **Community control sanctions**

### **Felony community control sanctions**

(R.C. 2929.15)

The bill changes the authorized duration of all community control sanctions that may be imposed on an offender convicted of a felony, from a maximum of five years for all felonies (under current law) to:

1. A maximum of five years for first, second, and third degree felonies and felony sex offenses;

2. A maximum of three years for fourth degree felonies that are not felony sex offenses; and

3. A maximum of two years for fifth degree felonies that are not felony sex offenses.

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<sup>60</sup> R.C. 2967.16, not in the bill.

A “felony sex offense” is a violation of a section contained in R.C. Chapter 2907 that is a felony.

Related to this change, the bill also changes the authorized duration of one type of penalty that may be imposed on an offender who was sentenced to a community control sanction for a felony and who violated the conditions of the sanction or left Ohio without permission of the court or the offender’s probation officer. The type of penalty affected is the imposition of a longer time under the same community control sanction. Under the bill, the court may impose as a penalty a longer time under the same sanction if the total time under the sanctions does not exceed the limit for the felony for which the community control sanction was imposed, as described above. The other types of penalties that may be imposed, unchanged by the bill, are a more restrictive community control sanction or, subject to specified limitations, a prison term from the range of terms that would be applicable to the offense.

As used in these provisions, a “community control sanction” is a sanction imposed for a felony that is not a prison term and that is a residential sanction described in R.C. 2929.16, a nonresidential sanction described in R.C. 2929.17, or a financial sanction described in R.C. 2929.18.<sup>61</sup>

### **Misdemeanor community control sanctions**

(R.C. 2929.25)

The bill changes the authorized duration of all community control sanctions that may be imposed on an offender convicted of a misdemeanor from a maximum of five years (under current law) to a maximum of two years.

Related to this change, the bill also changes the authorized duration of one of the types of penalties that may be imposed as a penalty on an offender who was sentenced to a community control sanction for a misdemeanor and who violated the conditions of the sanction. The type of penalty affected is the imposition of a longer time under the same community control sanction – under the bill, the court may impose as a penalty a longer time under the same sanction if the total time under all of the sanctions does not exceed the two-year limit described in the preceding paragraph (currently, the total time under the sanctions may not exceed five years). The other types of specified penalties that may be imposed, unchanged by the bill, are a more restrictive community control sanction or a combination of community control sanctions, including a jail term.

A “community control sanction” is a sanction that is not a jail term and that is a residential sanction described in R.C. 2929.26, a nonresidential sanction described in R.C. 2929.17, or a financial sanction described in R.C. 2929.18.<sup>62</sup>

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<sup>61</sup> R.C. 2929.01, not in the bill.

<sup>62</sup> R.C. 2929.01, not in the bill.



## Judicial release and 80% release mechanism

(R.C. 2929.20 and 2967.19)

The bill changes the authorized duration of community control sanctions imposed on an offender released from prison on judicial release or under the 80% release mechanism, from a maximum of five years for all offenders (under current law) to a maximum of:

1. Five years if the most serious offense from which the release is granted is a first, second, or third degree felony or a felony sex offense;

2. Three years if the most serious offense from which the release is granted is a fourth degree felony that is not a felony sex offense; and

3. Two years if the most serious offense from which release is granted is a fifth degree felony that is not a felony sex offense.

A “felony sex offense” is a violation of a section contained in R.C. Chapter 2907 that is a felony.

Related to this change, in an existing provision addressing a special type of judicial release that may be granted for a prisoner who is in imminent danger of death, is medically incapacitated, or is suffering from a terminal illness, the bill specifies that the limits on duration enacted in the change does not apply to the period of community control under which the offender is released (currently, the provision specifies that the current five-year limit does not apply to that period of community control).

Judicial release is a mechanism under which the court that sentenced an offender convicted of a felony to prison may, if the offender meets certain qualifications and has served a specified portion of the offender’s sentence, reduce the prison term through a judicial release. The court may do this on its own or on motion of the offender. If the court grants a judicial release, it places the offender on supervised release under an appropriate community control sanction and appropriate conditions, and reserves the right to reimpose the sentence that it reduced if the offender violates the sanction.

The 80% release mechanism is a mechanism under which the court that sentenced an offender convicted of a felony to a prison term may, if the offender is eligible and has served 80% of the prison term that remains after serving all restricting prison terms, and if the DRC Director recommends that the court consider releasing the offender, grant early release from prison. Only an offender recommended by the Director may be considered for early release under this mechanism. If the court grants the early release, it places the offender on supervised release under appropriate community control sanctions and conditions, and reserves the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction.

## **NCIC Protection Order Database and LEADS**

### **Court's filing of protection order with the clerk of court**

(R.C. 2151.34, 2903.213, 2903.214, 2919.26, and 3113.31)

Under the bill, if a court issues any of five existing types of protection orders, the court must file the order with the clerk of the court, so that the clerk can transmit the order to the appropriate law enforcement agency for the purposes described below. More specifically, the requirement applies to the following types of protection orders:

1. A juvenile court protection order against a person under age 18 if the order will be valid after the respondent's 18<sup>th</sup> birthday.

2. A civil protection order against a person: (a) age 18 or older who allegedly committed menacing by stalking or a sexually oriented offense against the person to be protected by the order, or (b) who allegedly has engaged in domestic violence (including any sexually oriented offense) against a specified family or household member, or has engaged in dating violence against a person with whom the respondent was in a dating relationship, who is to be protected under the order.

3. A criminal protection order against a person: (a) charged with a specified assault or menacing offense or aggravated trespass, a substantially equivalent municipal ordinance violation, or a sexually oriented offense against a victim who is not a family or household member of the offender, or (b) charged with criminal damaging or endangering, criminal mischief, burglary, or aggravated trespass, a municipal ordinance violation that is substantially similar to any of those offenses, an offense of violence (including domestic violence), or a sexually oriented offense against an alleged victim who was a family or household member.

### **Transmission of order and entry in NCIC and LEADS**

(R.C. 2151.34, 2903.213, 2903.214, 2919.26, and 3113.31)

The bill specifies that the clerk of the court that issues the order must transmit it to the appropriate law enforcement agency for entry into the Protection Order Database of the National Crime Information Center (NCIC), which is maintained by the FBI, and entry into the Law Enforcement Automated Data System (LEADS). The entry into LEADS must be by the close of the next business day after the day on which the order is issued.

### **Duties upon termination or cancellation of order**

If the court that issues any of the protection orders described above (or the court of common pleas with respect to a criminal protection order when the respondent is bound over to that court) terminates or cancels the order, the clerk of the court must cause delivery of notice of the termination or cancellation to the same persons and entities that were delivered a copy of the order (the petitioner, the respondent, and all law enforcement agencies with jurisdiction to enforce the order), and the court must issue a removal order. Upon the order's termination or cancellation, the court must order the appropriate law enforcement agency to remove the order from LEADS by the close of the business day after the day the termination or cancellation occurred and must ensure that the order is terminated, cleared, or canceled in the NCIC Protection Order Database.

## **Inclusion in LEADS of findings of IST or NGRI**

(R.C. 2945.403)

The bill enacts a mechanism for the entry into LEADS of court findings that a person charged with a criminal offense is incompetent to stand trial (IST) or not guilty by reason of insanity (NGRI). Under the bill, notwithstanding any Revised Code provision to the contrary, if, on or after the bill's effective date, an individual is found by a court to be IST or NGRI, the judge who made the determination must notify the office of the Attorney General (AG) of the individual's identity. The notification must be on the form made available by the AG, as described below, and must be transmitted by the judge not later than seven days after the adjudication or commitment. Upon receipt of the notice, the AG must enter the information into LEADS by the close of the business day after the day the notice is received.

If a judge provides the notice to the AG and the individual subsequently is found to be competent, is discharged, or has a final termination of commitment, the judge must notify the AG's office of the individual's identity and of the finding, discharge, or final termination. The notification must be on the form made available by the AG and must be transmitted by the judge not later than seven days after the finding, discharge, or final termination. Upon receipt of the notice, the AG must take all steps necessary to ensure that the information in the notice previously received is removed from LEADS by the close of the business day after the notice is received, and that it is terminated, cleared, or canceled in the FBI-maintained NCIC database in which the notice is maintained.

The bill requires the AG, by rule, to prescribe and make available to all judges forms to be used by them for making the notifications required by the provisions described in the preceding two paragraphs.

## **Entry of arrest warrants into LEADS as extradition warrants**

(R.C. 2935.10 and 2935.01)

The bill requires that any warrant issued for a "Tier One Offense" must be entered into LEADS, and the appropriate database of the NCIC maintained by the FBI, by the law enforcement agency requesting the warrant within 48 hours of receipt of the warrant. It also requires that all warrants issued for "Tier One Offenses" must be entered into LEADS by the law enforcement agency that receives the warrant with a full extradition radius as defined by the Ohio LEADS administrator.

A "tier one offense" is any of the following:

aggravated murder	illegal use of a minor in a nudity-oriented material or performance
murder	
voluntary manslaughter	
involuntary manslaughter	aggravated arson
aggravated vehicular homicide	arson
vehicular homicide	terrorism
vehicular manslaughter	aggravated robbery
felonious assault	robbery
aggravated assault	aggravated burglary
aggravated menacing	domestic violence
menacing by stalking	escape
kidnapping	
abduction	improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function
trafficking in persons	
rape	
sexual battery	
unlawful sexual conduct with a minor	
gross sexual imposition	
pandering obscenity involving a minor	any offense involving a failure to perform a duty imposed under the Sex Offender Registration and Notification Law
pandering sexually oriented matter involving a minor	

## **Penalty increases for certain firearms-related offenses**

### **Having weapons while under disability**

(R.C. 2923.13)

The bill increases the penalty for the offense of “having weapons while under disability.” Currently, the offense always is a third degree felony. The prohibition under the offense prohibits a person, unless relieved from disability under operation of law or legal process, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance if any of five specified firearms disabilities apply.

Under the bill, if the firearms disability that is the basis of the conviction is that the person is under indictment for or has been convicted of or adjudicated a delinquent child for committing a felony offense of violence, the offense generally is a second degree felony, but it is a first degree felony if the offender previously has been convicted of or pleaded guilty to any of the five specified firearms disabilities.

And under the bill, if the firearms disability that is the basis of the conviction is any of the other four specified disabilities, the offense generally is a third degree felony, but it is a second degree felony if the offender previously has been convicted of or pleaded guilty to any of the five specified firearms disabilities. The four firearms disabilities with respect to which this penalty provision applies are: (1) being a fugitive from justice, (2) being under indictment for or having

been convicted of or adjudicated a delinquent child for committing any felony drug abuse offense involving the illegal possession, use, sale, administration, distribution, or trafficking in a drug of abuse, (3) being drug dependent, in danger of drug dependence, or a chronic alcoholic, or (4) being under adjudication of mental incompetence, having been adjudicated as a mental defective, having been committed to a mental institution, having been found by a court to be a mentally ill person subject to court order, or being an involuntary patient other than for purposes of observation.

## **Unlawful transactions in weapons**

(R.C. 2923.20)

### **Modified penalties**

The bill increases the penalty to a third degree felony, from a fourth degree felony under current law, if a person is convicted of the prohibition against: (1) recklessly selling, lending, giving, or furnishing any firearm to any person prohibited under the offense of “having weapons while under disability” or “using weapons while intoxicated” from acquiring or using any firearm, or recklessly selling, lending, giving, or furnishing any dangerous ordnance to any person prohibited by either of those two offenses, the offense of “unlawful possession of dangerous ordnance,” or the offense of “illegally manufacturing or processing explosives” from acquiring or using any dangerous ordnance, or (2) possessing any firearm or dangerous ordnance with purpose to dispose of it in violation of the prohibition described in clause (1) of this paragraph.

The bill increases the penalty to a second degree felony, from a third degree felony under current law, if (subject to the exception described below) a person is convicted of the prohibition against: (1) knowingly soliciting, persuading, encouraging, or enticing a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law, (2) with an intent to deceive, knowingly providing materially false information to a federally licensed firearms dealer or private seller, or (3) knowingly procuring, soliciting, persuading, encouraging, or enticing a person to act in violation of the prohibition described in clause (1) or (2) of this paragraph. These prohibitions do not apply to a law enforcement officer acting within the scope of the officer’s duties or to a person acting in accordance with directions given by a law enforcement officer acting within the scope of the officer’s duties.

## **Improperly furnishing firearms to a minor**

(R.C. 2923.21)

The bill increases the penalty for the offense of “improperly furnishing firearms to a minor” to a third degree felony from a fifth degree felony. The prohibitions under the offense prohibit a person from:

1. Subject to a law enforcement officer exemption, selling any firearm to a person who is under age 18;
2. Subject to a law enforcement officer exemption, selling any handgun to a person who is under age 21;

3. Furnishing any firearm to a person who is under 18 or, possibly subject to a law enforcement officer exemption, furnishing any handgun to a person who is under 21, except for lawful hunting, sporting, or educational purposes, including specified supervised safety, care, etc., purposes;

4. Selling or furnishing a firearm to a person who is 18 or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the firearm for the purpose of selling the firearm in violation of paragraph (1) to a person who is under 18 or for the purpose of furnishing the firearm in violation of paragraph (3) to a person who is under 18;

5. Selling or furnishing a handgun to a person who is 21 or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the handgun for the purpose of selling the handgun in violation of paragraph (2) to a person who is under 21 or for the purpose of furnishing the handgun in violation of paragraph (3) to a person who is under 21;

6. Purchasing or attempting to purchase any firearm with the intent to sell the firearm in violation of paragraph (1) to a person who is under 18 or with the intent to furnish the firearm in violation of paragraph (3) to a person who is under 18; or

7. Purchasing or attempting to purchase any handgun with the intent to sell the handgun in violation of paragraph (2) to a person who is under 21 or with the intent to furnish the handgun in violation of paragraph (3) to a person who is under 21.

### **Firearm specification penalties**

(R.C. 2929.14, 2941.141, 2941.144, and 2941.145)

The bill increases the penalty imposed on an offender for one type of firearm specification, when the offender is convicted of a felony, the specification pertains to the commission of the felony, and the offender also is convicted of the specification. The bill does not change the penalties required for conviction of the other two types of firearm specifications. The specification penalties do not apply to a person convicted of “carrying a concealed weapon,” “illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse,” “illegal possession of a deadly weapon or dangerous ordnance in a courthouse,” “illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone” in certain cases, “illegal possession of an object indistinguishable from a firearm in a school safety zone” in certain cases, “improperly handling firearms in a motor vehicle,” “illegal possession of a firearm in liquor permit premises,” or “having weapons while under disability” in certain cases.

### **Specification – offender had firearm while committing offense**

Under the bill, the court must impose a prison term of three, four, or five years (changed from three years under current law), if an offender who is convicted of a felony also is convicted of a specification charging that the offender had a firearm on or about the offender’s person or under the offender’s control while committing the felony and displayed, brandished, or indicated possession of the firearm, or used the firearm to facilitate the felony offense, subject to the provision described in the next paragraph. However, the court must impose a prison term of three years (and does not have the option of four or five years) if the offender also is sentenced to a consecutive prison term under the existing provisions that require a consecutive prison term after being convicted of a specification that the offender is a repeat violent offender or a

specification that the offender is a violent career criminal and a firearm was present or involved in the offender's felony in a specified manner.

Under the bill, if an offender who is convicted of a felony also is convicted of a firearm specification of the type described in the preceding paragraph and the offender previously has been convicted of a specification of that type or any other type of firearms specification, the court must impose on the offender a prison term of 54, 66, or 78 months (changed from 54 months under current law). However, the court must impose a prison term of 54 months (and does not have the option of 66 or 78 months) if the offender also is sentenced to a consecutive prison term under the existing provisions that require a consecutive prison term after being convicted of a specification that the offender is a repeat violent offender or a specification that the offender is a violent career criminal and a firearm was present or involved in the offender's felony in a specified manner.

### **Service of prison term imposed for firearm specification**

If a court imposes a prison term on an offender for the firearm specification described above (or for any of the other existing firearms specifications), the prison term may not be reduced by earned credit, by judicial release, or under the 80% release mechanism under existing law, or under any other provision of R.C. Chapter 2967 or 5120. A mandatory prison term imposed for any of the firearm specifications must be served consecutively to any other mandatory prison term imposed for a specification, consecutively to and prior to any prison term imposed for the underlying felony, and consecutively to any other prison term or mandatory prison term previously or subsequently.

### **Notification of possible prison term for community control violation**

(R.C. 2929.19 and 2929.15)

Currently, a court that sentences an offender to a community control sanction for a felony must notify the offender that, if the offender violates the sanction conditions, commits a violation of any law, or leaves Ohio without permission of the court or the offender's probation officer, the court may impose any of several types of sanctions. The notice must identify the specified types of sanctions.

The bill changes the reference to one of the types of sanctions, which is a possible prison term. Under the bill, instead of indicating "the specific prison term" that may be imposed for the violation out of the range of terms available for the offense under the Felony Sentencing Law, as required under current law, the notice must indicate the "range from which" the prison term may be imposed for the violation, which must be the range of terms available for the offense under that Law. The bill does not change the references that must be included in the notice to the other types of sanctions that may be imposed, which are a longer time under the same community control sanction or a more restrictive community control sanction. The bill also conforms a cross-reference to that notification in the existing provision governing the imposition of a prison term for such a violation or leaving of the state.

## **Community-based substance use disorder treatment**

(R.C. 5120.035)

The bill extends eligibility for the community-based substance use disorder treatment program to nonviolent third degree felony offenders, and removes a restriction that prevents those with any prior conviction of a felony offense of violence or a prior conviction of a misdemeanor offense of violence within the preceding five years from participating in the program.

Continuing law requires DRC to operate a program for community-based substance use disorder treatment of qualified nonviolent fourth and fifth degree felony offenders who are in their final year of imprisonment.

## **Subsidies for community-based corrections programs**

(R.C. 5149.31)

The bill modifies the requirements for the program of subsidies for community-based corrections programs by also making the subsidies contingent upon the outcomes of any performance-based standards established by DRC. It requires DRC's standards for community-based corrections programs to be designed to support evidence-based policies and practices, as defined by DRC.

## **Administrative releases**

(R.C. 2967.17)

The bill expands an existing provision that allows the Adult Parole Authority (APA) to grant an administrative release to certain categories of convicted offenders under specified conditions to also allow the APA, in its discretion, to grant an administrative release to a "releasee" who is: (1) serving another felony sentence in a prison within or outside Ohio for the purpose of consolidation of the records or if justice would best be served, or (2) taken into custody by the U.S. Immigration and Naturalization Service and deported from the U.S. An "administrative release" is a termination of jurisdiction over a particular sentence or prison term by the APA for administrative convenience. A "releasee" is an inmate who has been released from confinement at the expiration of a prison term under a period of post-release control that includes one or more post-release control sanctions.<sup>63</sup>

The existing conditions regarding an administrative release, unchanged by the bill, specify that: (1) the APA may not grant an administrative release except upon concurrence of a majority of the Parole Board and approval of the APA's Chief, (2) an administrative release does not restore for the recipient rights and privileges forfeited by conviction, and (3) a recipient may subsequently apply for a commutation of sentence to regain the rights and privileges forfeited by conviction, except that specified election-related privileges may not be restored and the privilege of holding a position of honor, trust, or profit may not be restored under this provision to a recipient convicted of specified offenses in certain circumstances.

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<sup>63</sup> R.C. 2967.01, not in the bill.



The categories of offenders for whom the APA currently may grant an administrative release are: (1) parole violators or release violators serving another felony sentence in a prison within or outside Ohio for the purpose of consolidation of the records or if justice would best be served, (2) parole violators at large or release violators at large whose case has been inactive for at least ten years following the declaration of the violation, and (3) parolees taken into custody by the U.S. Immigration and Naturalization Service and deported from the U.S.

### **Sealing of records related to unconditional pardon**

(R.C. 2967.04)

The bill allows the Governor to include as a condition of an unconditional pardon that the records related to conviction be sealed, and generally provides that the records are not subject to public inspection unless directed by the Governor. Inspection of the records or disclosure of information contained in them may be made pursuant to the Sealing Law regarding the inspection of sealed records or as the Governor may direct. A disclosure of records sealed under a writ issued by the Governor is not a criminal offense.

### **Internet access for prisoners**

(R.C. 5120.62 and 5145.31)

The bill provides greater flexibility for prisons to provide internet access to prisoners by replacing existing law that allows prisoner internet access while “participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes,” with a provision that allows prisoner access to the internet for uses or purposes approved by the prison’s managing officer or the managing officer’s designee.