
DEPARTMENT OF REHABILITATION AND CORRECTION

Community-based correctional facility reporting

- Requires specified community-based correctional facilities to file an annual financial report, rather than the Department of Rehabilitation and Correction (DRC) filing quarterly financial reports, with the State Auditor.

Local confinement for fifth degree felony prison terms

- Provides, subject to exclusions for certain offenses and categories of offenders, that a person sentenced in a target county or voluntary county to a prison term of 12 months or less for a fifth degree felony (a short-term fifth degree felony prison term) may not serve the term in an institution under the control of DRC.
- Specifies the types of local correctional facilities where the person will serve that prison term.
- Lists the state's ten most populous counties as "target counties," and specifies that any counties in which specified county officials agree to have the county participate in the local confinement provisions are "voluntary counties."
- Allows county officials who have agreed to make their county a voluntary county to terminate the agreement, but the termination takes effect at the end of the state fiscal biennium in which the termination decision is made.

Memorandum of understanding – local confinement

- Requires counties, either separately or jointly, and municipal corporations in the counties in specified circumstances, to submit to DRC a memorandum of understanding that specifies plans for using T-CAP program grant money and reimbursing local correctional facilities for certain offenders.
- Specifies the procedure for determining the *per diem* cost of housing offenders sentenced to a short-term fifth degree felony prison term in local correctional facilities.
- Requires DRC to adopt standards for reviewing and approving submitted memorandums of understanding.

Community-based treatment eligibility

- Changes the "prior convictions" that disqualify a prisoner from eligibility for the community-based substance use disorder treatment program from "any offense of



violence" to "any felony offense of violence" or "any misdemeanor offense of violence within the preceding five years."

Judicial release application

- Reduces the time that an eligible offender confined under a prison term of less than two years must serve before applying for judicial release.

Community corrections subsidies

- Revises the priorities for use of community corrections subsidies provided by DRC to eligible political subdivisions.

Probation improvement, incentive grants

- Specifies what must be included in DRC rules regarding the distribution of the Probation Improvement Grant.
- Makes community-based correctional facilities eligible for probation improvement grants and probation incentive grants.
- Imposes the same requirements for community-based correctional facilities to receive the grants that apply to common pleas, municipal, and county court probation departments.
- Requires that the costs savings estimate calculated by DRC be based on the difference from the average of certain commitments from the preceding five calendar years and the fiscal year under examination.

Certificates of qualification for employment

- Permits an out-of-state resident with an Ohio conviction record to apply for a certificate of qualification for employment (CQE) through the court of common pleas in any county where a conviction was entered against the person.
- Permits DRC to develop criteria that would allow an individual to apply for a CQE earlier than otherwise.
- Removes the requirement that a CQE applicant list the specific collateral sanctions from which the individual is seeking relief, and instead requires the applicant to provide a general statement as to why the individual has applied and how the CQE would assist the individual.



- Provides that a CQE creates a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for employment or a professional license.
- Directs DRC to maintain a database that identifies granted and revoked CQEs and the jobs and types of employers to which the CQEs have most applied, and requires DRC to annually create a publicly available report summarizing the information in the database.
- Requires DRC to review its database of certificates issued to identify those that are subject to revocation, and to note in the database that the CQE has been revoked, the reason for revocation, and the effective date of the revocation.

Earned credit

- Provides an incarcerated person with 90 days of earned credit toward satisfaction of the person's prison term or a 10% reduction of the person's prison term, whichever is less, upon successful completion of an Ohio high school diploma, the criteria for a certificate of achievement and employability, or any of a list of specified treatment or education programs.
- Specifies that the earned credit is available for any imprisoned person, unless the person is serving a mandatory prison term or a term for an offense of violence or a sexually oriented offense.

Prison term as community control violation sanction

- Limits to 90 or 180 days a prison sanction for a technical violation of the conditions of, or for a new misdemeanor criminal offense committed while under, a community control sanction imposed for a fifth degree felony, or for a fourth degree felony that is not an offense of violence or sexually oriented offense.

Warden's report to parole board

- Requires the warden of an institution in which a person eligible for parole is incarcerated to submit a report on the prisoner to the parole board prior to any hearing to determine whether or not that prisoner should be paroled.

Notice to sheriff of felony offender release

- Requires the Adult Parole Authority (APA) to notify the sheriff of the county in which the offender was convicted and the sheriff of the county in which the offender will reside of the offender's release or transfer under a specified time frame.



- Requires the APA to provide notice to the sheriff at least 60 days before recommending a pardon or commutation for an offender or at least 60 days before an APA hearing regarding parole.

Use of former Ohio River Valley Juvenile Correctional Facility (ORVF)

- Provides that if the Lawrence County sheriff is using a portion of the ORVF as a jail pursuant to a contract under existing law, and if either party has failed to comply with the contractual terms, on September 29, 2017, control of that portion of the ORVF reverts to the state and the sheriff cannot use it as a jail.
- Authorizes the use of the ORVF or a portion of it as a multicounty, municipal-county, or multicounty-municipal correctional center under specified circumstances.

Division of Business Administration

- Allows the Division of Business Administration within DRC to use excess funds in the Property Receipts Fund for specified purposes if, after meeting the required expenditure obligations, the Division determines that the Fund has excess funds.

Community-based correctional facility reporting

(R.C. 2301.56)

The act requires community-based correctional facilities and programs to provide to the State Auditor an annual financial report. The requirement applies to each community-based correctional facility and program, district community-based correctional facility and program, and, to the extent that information is available, private or nonprofit entity that performs the day-to-day operation of any community-based correctional facility and program or district community-based correctional facility and program. This replaces the law that required the Department of Rehabilitation and Correction (DRC) to prepare and provide quarterly financial reports to the State Auditor for each of the above-described facilities and programs.

Local confinement for fifth degree felony prison terms

(R.C. 2929.34)

Local confinement requirement, in general

The act provides an exception, for certain prison terms imposed for a fifth degree felony, to the requirement that a person sentenced to a prison term for a felony must



serve that term in an institution under DRC's control. Under the act's exception, subject to the exclusions described below, on and after July 1, 2018, no person sentenced by a common pleas court of a "target county" or of a "voluntary county" (see below) to a prison term that is 12 months or less for a fifth degree felony may serve that term in a DRC institution. The person must instead serve a term of confinement in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, in a community alternative sentencing center or district community alternative sentencing center, or in a community-based correctional facility (a CBCF). The act specifies that nothing in this provision relieves the state of its obligation to pay for the cost of confinement of the person in a CBCF.

The "target counties" are: Franklin, Cuyahoga, Hamilton, Summit, Montgomery, Lucas, Butler, Stark, Lorain, and Mahoning.

In any other county, the board of county commissioners and the administrative judge of the general division of the common pleas court may agree to have the county participate in the act's local confinement provisions. These counties are "voluntary counties." A board of county commissioners and an administrative judge that enter into such an agreement may terminate the agreement, but a termination takes effect only at the end of the state fiscal biennium in which the termination decision is made.

Exclusions from local confinement

The act's local confinement provisions do not apply to any person to whom any of the following apply:

(1) The fifth degree felony was an offense of violence, a sex offense or drug trafficking offense under state law, or any offense for which a mandatory prison term is required.

(2) The person previously has been convicted of or pleaded guilty to any felony offense of violence.

(3) The person previously has been convicted of or pleaded guilty to any felony sex offense under state law.

(4) The sentence is required to be served concurrently to any other sentence imposed on the person for a felony that is required to be served in a DRC institution.



Memorandum of understanding – local confinement

(R.C. 5149.38)

Development, approval, and amendment

The act requires each target county and each voluntary county (described above) to submit to DRC for its approval a memorandum of understanding (MOU) that addresses funding issues. The MOU must be agreed to and signed by (1) a county commissioner representing the board of county commissioners, (2) the administrative judge of the general division of the common pleas court, (3) the sheriff, and (4) an official from any municipality operating a local correctional facility in the county to which courts sentence offenders. It must be submitted to DRC by October 29, 2017. Two or more target counties or voluntary counties may jointly establish an MOU.

The MOU must do two things. First, it must set forth the plans by which the county will use grant money provided to it in FY 2018 and succeeding fiscal years under the Targeting Community Alternatives to Prison (T-CAP) program. Second, it must specify the manner in which the county will address per diem reimbursement of local correctional facilities for prisoners who serve a prison term in local confinement in the facility under the act's provisions described above. The per diem reimbursement rate must be determined as described below.

DRC must adopt rules establishing standards for approval of MOUs. It must review the MOUs and may require the county or counties that submit an MOU to modify the MOU. DRC's Director must approve MOUs that the Director determines satisfy the adopted standards within 30 days after receiving each MOU submitted.

Any person responsible for agreeing to, signing, and submitting an MOU may delegate the person's authority to do so to an employee of the agency, entity, or officer served by the person. The persons signing an MOU, or their successors in office, may revise the MOU as they determine necessary. Any revision of the MOU must be signed by the required parties and submitted to DRC for its approval within 30 days after the beginning of the state fiscal year.

Per diem reimbursement rate determination

In each county, the sheriff must determine the per diem costs for local correctional facilities in the county for housing prisoners under the act's provisions described above in "**Local confinement for fifth degree felony prison terms.**"

To determine the rate in calendar year 2017, the sheriff must determine, not later than the date on which the county's representatives enter into a contract with DRC



under the T-CAP program, the per diem costs for each of the facilities for housing prisoners serving a prison term for a felony in calendar year 2016. The per diem cost so determined will apply in calendar year 2017. To determine the rate in calendar year 2018 and going forward, on or before February 1, the sheriff must determine the per diem costs for the preceding calendar year for each of the facilities for housing prisoners who serve a term under the act's provisions described above in "**Local confinement for fifth degree felony prison terms.**" The per diem cost so determined will apply in the calendar year in which the determination is made.

The per diem costs of housing determined under these provisions for a facility must be the actual costs of housing the specified prisoners in the facility, on a per diem basis. Under these provisions, a "local correctional facility" is a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, a community alternative sentencing center or district community alternative sentencing center, or a CBCF.

For each county, the per diem cost determined as described above that applies with respect to a facility in a specified calendar year will be the per diem rate of reimbursement in that calendar year, under the T-CAP program, for prisoners who serve a term in the facility under the act's provisions described above in "**Local confinement for fifth degree felony prison terms.**"

Community-based treatment eligibility

(R.C. 5120.035)

The act changes the prior convictions that disqualify a prisoner from DRC's community-based substance use disorder treatment program. Formerly, a prisoner in a DRC institution who previously was convicted of an offense of violence was not eligible for the program. Under the act, a prior offense of violence conviction disqualifies a prisoner from the program only if it was a felony offense of violence or it occurred within the preceding five years and was a misdemeanor offense of violence. The act does not change the other preexisting events that disqualify a prisoner and does not change the program's details.

Judicial release application

(R.C. 2929.20)

The act reduces the time that an eligible offender confined under a prison term of less than two years must serve before applying for judicial release. Under the act, an eligible offender serving an aggregated nonmandatory prison term or terms of less than two years may file the motion at any time after the offender is delivered to a state



correctional institution or, if the prison term includes a mandatory prison term or terms, at any time after the expiration of all of the mandatory terms. Under continuing law, unchanged by the act, an eligible offender serving a longer aggregated nonmandatory prison term or terms must serve a longer period of time before the offender may file a judicial release application.

Community corrections subsidies

(R.C. 5149.36)

Preexisting law authorizes DRC to establish and administer a program of subsidies for eligible counties and groups of counties for felony offenders, and one for eligible municipal corporations, counties, and groups of counties for misdemeanor offenders, for the development, implementation, and operation of community corrections programs.¹⁴⁴ Subject to appropriations by the General Assembly, DRC may award subsidies to eligible municipal corporations, counties, and groups of counties under the subsidy programs only in accordance with criteria that DRC specifies by rule. The criteria must be designed to provide for subsidy awards only on the basis of demonstrated need and the satisfaction of specified priorities.

Under the act, the criteria must require that priority be given to the community corrections programs that reduce the number of persons committed to prisons or to local jails or workhouses. Previously, the criteria required that first priority be given to the continued funding of existing community corrections programs that satisfy DRC's standards and that are designed to reduce the number of persons committed to prisons, and second priority be given to new community corrections programs designed to reduce the number of persons committed to prisons or to local jails or workhouses.

Probation improvement, incentive grants

(R.C. 5149.311)

The act qualifies community-based correctional facilities for the probation improvement grant and the probation incentive grant, subject to the same requirements as probation departments. The act clarifies that eligible probation departments and community-based correctional facilities supervise offenders sentenced by courts of common pleas, municipal courts, *or county courts*. The act also requires that the rules DRC adopts for distributing the probation improvement grant include the allocation of funds for offsetting costs incurred by political subdivisions in relation to offenders who are prohibited from serving the term of imprisonment in a DRC institution under the

¹⁴⁴ R.C. 5149.31, not in the act.



act's provisions described above in "**Local confinement for fifth degree felony prison terms.**"

The act modifies the formula by which the DRC calculates annually any cost savings realized by the state from a reduction in the percentage of people who are incarcerated because their terms of supervised probation were revoked. Instead of the cost savings estimate being based on the difference from FY 2010 and the fiscal year under examination, the estimate will be based on the difference from the average of such commitments from the five calendar years preceding the calendar year in which the application for the grant was made and the fiscal year under examination.

Certificates of qualification for employment

(R.C. 2953.25)

The act makes several changes to the procedure for obtaining a certificate of qualification for employment (CQE). A CQE lifts the automatic bar to certain forms of employment resulting from a conviction, so that a decision-maker must consider on a case-by-case basis whether to hire an applicant for employment or issue an occupational license.

CQE application process

The act permits an out-of-state resident to apply for a CQE by filing a petition with the court of common pleas in the county where the conviction or guilty plea from which the individual seeks relief was entered, or with a designee of the deputy director of DRC's Division of Parole and Community Services. To conform with this change, the act provides that an application must state the length of time the applicant has resided in the person's current state of residence, rather than the applicant's time residing in this state.

The act permits DRC to establish criteria by rule that would allow an individual to apply for a CQE before the expiration of six months or one year from final release from incarceration or supervision, whichever applies. Formerly, a person could only apply after six months from the date of release if the conviction was for a misdemeanor, or one year after release if the conviction was for a felony.

The act removes the requirement that an applicant for a CQE list the specific collateral sanctions from which the individual seeks relief, and instead requires the applicant to provide a general statement as to why the individual has applied and how the CQE would assist the individual. Additionally, the act removes a provision that prohibited a court from issuing a CQE that grants relief from certain collateral sanctions, and instead specifies that a CQE does not create relief from those sanctions.



Effect of CQE on employment and licensing

Under the act, a CQE creates a rebuttable presumption that the person's criminal convictions are insufficient evidence that the person is unfit for the license, employment opportunity, or certification in question. However, notwithstanding that presumption, the agency may deny the license or certification if it determines that the person is unfit for issuance of the license. A similar presumption applies if an employer has hired a person with a CQE and applies to a licensing agency for a license or certification that otherwise would be barred due to the person's conviction record. The CQE constitutes a rebuttable presumption that the person's criminal convictions are insufficient evidence that the employer is unfit for the license or certification.

The act uses the terms, "discretionary civil impact," "licensing agency," and "mandatory civil impact," as defined in preexisting law regarding certificates of achievement and employability.

DRC database of CQEs

The act directs DRC to maintain a database that identifies granted and revoked CQEs and the jobs and types of employers to which the CQEs have most applied. It requires DRC to annually create a publicly available report summarizing the information maintained in the database, and to make the report available on DRC's website.

The act requires DRC to revoke a CQE if the individual is convicted of or pleads guilty to a felony offense after receiving the CQE. DRC must periodically review its database to identify certificates that are subject to revocation. Upon identifying a CQE subject to revocation, DRC must note in the database that the CQE has been revoked, the reason for revocation, and the effective date of revocation. The effective date of revocation is considered the date of the conviction or guilty plea that occurred after issuance of the CQE.

Earned credit

(R.C. 2967.193)

The act allows an incarcerated person to receive 90 days of earned credit toward completion of the person's stated prison term, or a 10% reduction of the person's stated prison term, whichever is less, upon successful completion of either (1) an Ohio high school diploma or certificate of high school equivalence certified by the Ohio Central School System, (2) a therapeutic drug community program, (3) all three phases of DRC's intensive outpatient drug treatment program, (4) a career-technical vocational school program, (5) a college certification program, or (6) the criteria for a certificate of



achievement and employability. For this purpose, the act creates an exception to preexisting law, which caps the aggregate days of credit an offender may earn at 8% of the total number of days in the person's stated prison term. An offender may not earn credit under this provision if the offender is serving a mandatory prison term or a prison term for an offense of violence or sexually oriented offense.

Prison term as community control violation sanction

(R.C. 2929.15)

The act imposes new limits that apply, in addition to preexisting limits, to a prison term imposed as a penalty for violating the conditions of, or for a new misdemeanor criminal offense committed while under, a community control sanction. Under the act's additional limits:

(1) If the prison term is imposed for a technical violation of the conditions of a community control sanction imposed for a fifth degree felony, or for a violation of law committed while under a community control sanction imposed for such a felony that is a new misdemeanor criminal offense, the prison term may not exceed 90 days.

(2) If the prison term is imposed for a technical violation of the conditions of a community control sanction imposed for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense, or for a violation of law committed while under a community control sanction imposed for such a felony that is a new misdemeanor criminal offense, the prison term may not exceed 180 days.

Under preexisting law, otherwise unchanged by the act, if a court sentences an offender convicted of a felony to one or more community control sanctions and the offender violates any condition of the sanctions or any condition of release under a sanction, violates any law, or departs Ohio without permission, the person or entity that administers the program or activity under the sanction or the offender's supervising officers must report the violation or departure to the sentencing court. The sentencing court may impose upon the violator a longer time under the same sanction (the total time under the sanctions may not exceed a specified five-year limit), a more restrictive community control sanction, a prison term, or a combination of those penalties.

Warden's report to parole board

(R.C. 5120.68 and 5149.10)

The act requires the warden of a correctional institution to submit a report to the parole board prior to any hearing to determine whether a prisoner incarcerated in that institution should be paroled. The report must address the prisoner's ability to seek and



obtain employment upon release, participation in programs, and compliance or noncompliance with rules while at the institution. The parole board must adopt rules that provide procedures for considering the warden's report in a parole hearing.

Notice to sheriff of felony offender release

(R.C. 2967.122)

At least two weeks before a felon is released from confinement in a state correctional institution, or at least 60 days before a felon is transferred to transitional control, the act requires the Adult Parole Authority (APA) to provide notice of the release or transfer to the sheriff of the county in which the offender was convicted and to the sheriff of the county in which the offender will reside. The APA must also provide notice to these sheriffs at least 60 days before recommending a pardon or commutation of sentence for an offender or at least 60 days before an APA hearing regarding parole.

These notices must contain the offender's name, the date of the offender's release, the offense that resulted in the offender's conviction and incarceration, the conviction date, the sentence imposed for that conviction, the length of any supervision that the offender will be under, the contact information of the offender's supervising officer if the offender will be supervised, and the address at which the offender will reside.

The notice may be contained in a weekly list of all offenders who are scheduled for release and does not apply to an offender who will serve less than 14 days of a sentence in a state correctional institution.

Use of former Ohio River Valley Juvenile Correctional Facility (ORVF)

(R.C. 307.93, 341.12, and 341.121)

Use as Lawrence County jail

Under preexisting law, the Lawrence County Board of County Commissioners and the Director of DAS may enter into a contract pursuant to which the Lawrence County sheriff may use a specified portion of the ORVF, which is in Scioto County, as a jail for Lawrence County. The contract may not provide for transfer of ownership of any portion of the ORVF to Lawrence County. Other counties may contract with the Lawrence County sheriff to allow them to also have persons confined in the portion of the ORVF specified in the contract, if they have a shortage of jail space or staff. If the Lawrence County sheriff uses the ORVF for confinement of persons, and subsequently ceases to so use it, the sheriff must vacate the ORVF, and control of that portion immediately reverts to the state.



The act provides another circumstance for the potential reversion to the state. Under the act, if, prior to September 29, 2017, the Lawrence County Board of County Commissioners and the Director of DAS have contracted for the Lawrence County sheriff's use of a portion of the ORVF as a county jail, and if either party has failed to comply with the contractual terms, on September 29, 2017, control of that portion of the ORVF immediately reverts to the state, the sheriff cannot use it as a jail, and neither Lawrence County nor any other county may have persons confined in the ORVF.

Use as a multi-jurisdictional local correctional center

The act provides that the acquisition by multiple counties, or by counties and municipal corporations, of a multi-jurisdictional local correctional center may include, to the extent appropriate, leasing the ORVF or a portion of it, in specified circumstances. Under the act, subject to the limitation described below, the county commissioners that contract or have contracted for establishment of a multicounty correctional center, or the county commissioners and municipal legislative authorities that contract or have contracted for establishment of a municipal-county or multicounty-municipal correctional center, may enter into a contract with the DAS Director to use the ORVF or a specified portion of it as the correctional center. One or more of the contracting counties must be adjacent to Scioto County.

DAS may enter into such a contract at any time on or after September 29, 2017, or, if DAS had entered into an agreement for use of a portion of ORVF as a jail for Lawrence County, at any time on or after the date that control of that portion of the ORVF reverts to the state as described above.

Division of Business Administration

(R.C. 5120.22)

Ongoing law requires the Division of Business Administration within DRC to deposit all money collected for rent, utilities, leasing, and services performed in accordance with a lease or agreement into the Property Receipts Fund. The act provides that if, after meeting the expenditure obligations required by law, the Division determines that the Property Receipts Fund has excess funds, the Division may use money in the Fund for services performed, construction, maintenance, repair, reconstruction, or demolition of any other facilities or property owned by DRC.