
DEPARTMENT OF REHABILITATION AND CORRECTION

Local confinement for fifth degree felony prison terms

- Requires that a person sentenced by the common pleas court of any county to a prison term for a fifth degree felony may not serve the term in a DRC institution, subject to exclusions for certain offenses and categories of offenders.
- Requires that each county must submit a memorandum of understanding to DRC for its approval, unless the county has already entered into a memorandum of understanding.

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.

Sacramental wine in specified governmental facility

- Exempts small amounts of sacramental wine from the offense of “illegal conveyance of intoxicating liquor onto the grounds of a specified governmental facility” when the person conveying, delivering, or attempting to convey or deliver the wine is a cleric.

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.

Removing outdated law about the Ohio River Valley Facility

- Removes outdated provisions of the Revised Code that allowed Lawrence County to place inmates in the Ohio River Valley Facility.

Local confinement for fifth degree felony prison terms

Mandatory local confinement

(R.C. 2929.34 with conforming changes in R.C. 5149.311 and 5149.38)

Current law provides, subject to exclusions for certain offenses and categories of offenders, that a person sentenced in a “voluntary county” to a prison term of 12 months or less for a fifth degree felony may not serve the term in a DRC institution.

Under the bill, there are no longer “voluntary counties,” and instead the requirement applies to all counties. On or after September 1, 2022, the bill specifies that no person sentenced by the common pleas court of any county to a prison term 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.

Exceptions

The provisions do not apply to any person to whom any of the following apply: (1) the fifth degree felony was an offense of violence, sex offense, drug trafficking offense, 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, or (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.

Mandatory memorandum of understanding

(R.C. 5149.38)

Current law requires that a memorandum of understanding must be submitted to DRC for its approval.

Under current law, the requirement only applies to “voluntary counties.” Not later than October 29, 2017, each voluntary county was required to submit a memorandum of understanding to DRC for its approval. Also, two or more affiliating voluntary counties may jointly establish a memorandum of understanding to be submitted to DRC for its approval.

Under the bill, the requirement applies to all counties. Not later than September 1, 2022, each county is required to submit a memorandum of understanding to DRC for its approval. Also, two or more affiliating counties may jointly establish a memorandum of understanding to be submitted to DRC for its approval.

The bill provides that if a county submitted a memorandum of understanding prior to September 1, 2022, or if affiliating counties submitted a joint memorandum of understanding prior to September 1, 2022, and the memorandum of understanding remains in effect, the county or affiliating counties are not required to submit a new memorandum of understanding. The persons signing the memorandum of understanding prior to September 1, 2022, or their successors in office, may revise the memorandum of understanding as they determine necessary.

The memorandum of understanding must be agreed to and signed by the following: (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.

The memorandum of understanding must both: (1) set forth the plans by which the county will use grant money provided to it in FY 2023 and succeeding fiscal years under the targeting community alternatives to prison program (T-CAP), and (2) 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 bill's provisions described above.

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.⁹¹

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 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.

⁹¹ R.C. 2967.01, not in the bill.

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 law⁹² 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.

⁹² R.C. 2967.16, not in the bill.

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).

Sacramental wine in specified governmental facility

(R.C. 2921.36)

The bill exempts from the offense of "illegal conveyance of intoxicating liquor onto the grounds of a specified governmental facility" small amounts of wine conveyed or attempted to be conveyed into the facility, or delivered or attempted to be delivered to a person in the facility, when the person engaging in the conduct with the sacramental wine is a "cleric." As used in the exemption, a "cleric" is a member of the clergy, rabbi, priest, Christian Science practitioner, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect.

The prohibitions under the offense prohibit a person from knowingly: (1) conveying, or attempting to convey, onto the grounds of a detention facility or of an institution, office building, or other place under the control of the Department of Mental Health and Addiction Services (OhioMHAS), the Department of Developmental Disabilities (DODD), the Department of Youth Services, or the Department of Rehabilitation and Correction, any intoxicating liquor, as defined in R.C. 4301.01, or (2) delivering, or attempting to deliver, to any person confined in a detention facility, to a child confined in a youth services facility, to a prisoner temporarily released from confinement for a work assignment, or to a patient in an institution under the control of OhioMHAS or DODD, any such intoxicating liquor. The prohibition currently does not apply to a person who conveys or attempts to convey an item onto the grounds of a detention facility or of an institution, office building, or other place under the control of one of the specified Departments with the written authorization of the person in charge of, and in accordance with the written rules of, the detention facility, institution, office building, or other place. A violation of the prohibition is a second degree misdemeanor.

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.⁹³

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.

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.

⁹³ R.C. 2967.01, not in the bill.

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.

Removing outdated law about the Ohio River Valley Facility

(R.C. 307.93 and 341.12; repealed R.C. 341.121)

The bill removes outdated portions of the Revised Code that allowed Lawrence County to use the Ohio River Valley Facility, located in Franklin Furnace, to house inmates pursuant to an agreement. These sections are no longer necessary.