

AN ACT

To amend sections 9.06, 103.73, 341.34, 341.41, 753.21, 753.31, 2921.01, 2929.13, 2945.47, and 5120.033 and to enact section 9.07 of the Revised Code to expressly include within the definition of "detention" the confinement in any public or private facility of alleged or convicted offenders or alleged or adjudicated delinquent or unruly children who violate or allegedly violate a law of Ohio, another state, or the United States, to expressly include within the definition of "detention facility" any public or private facility used for detention of that nature, to provide comprehensive criteria for the establishment and operation in Ohio of privately operated correction facilities that house out-of-state prisoners, to clarify the application of the law that prohibits "county correctional officers" and "municipal correctional officers" from affording prisoners with access to weight exercise equipment or to martial arts or fight training, to require the Department of Rehabilitation and Correction to contract for the private operation and management of the initial intensive program prison it establishes for offenders sentenced to a mandatory prison term for fourth degree felony OMVI offenses, and to declare an emergency.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 9.06, 103.73, 341.34, 341.41, 753.21, 753.31, 2921.01, 2929.13, 2945.47, and 5120.033 be amended and section 9.07 of the Revised Code be enacted to read as follows:

Sec. 9.06. (A)(1) ~~The department of rehabilitation and correction, and counties shall contract for the private operation and management pursuant to this section of the initial intensive program prison established pursuant to section 5120.033 Of the Revised Code and may contract for the private operation and management of any other facility under this section. Counties and municipal corporations to the extent authorized in sections 307.93, 341.35, 753.03, and 753.15 of the Revised Code, may contract for the private operation and management of a facility under this section. The contracts~~ A contract entered into under this section shall be for an initial term of ~~no~~ not more than two years, with an option to renew for additional periods of two years. Any

~~contractor who~~

(2) not later than December 31, 1998, the department of REHABILITATION and CORRECTION, by rule, shall adopt minimum criteria and SPECIFICATIONS that a person or entity, other than a person or entity that satisfies the criteria set forth in division (a)(3)(a) of this section and subject to division (i) of this section, must satisfy in order to apply to operate and manage as a contractor pursuant to this SECTION THE initial intensive program prison established pursuant to section 5120.033 of the Revised Code.

(3) subject to division (i) of this section, any person or entity that applies to operate and manage a facility shall be AS A CONTRACTOR PURSUANT TO THIS SECTION SHALL SATISFY ONE OR MORE OF THE FOLLOWING CRITERIA:

(a) The person or entity is accredited by the American correctional association and shall, at the time of the application, operate OPERATES and manage MANAGES one or more facilities accredited by the American correctional association.

Before (b) the person or entity satisfies all of the minimum criteria and SPECIFICATIONS adopted by the department of rehabilitation and correction pursuant to division (a)(2) of this section, PROVIDED THAT THIS ALTERNATIVE SHALL BE AVAILABLE ONLY IN RELATION TO THE INITIAL INTENSIVE PROGRAM PRISON ESTABLISHED PURSUANT TO SECTION 5120.033 OF THE rEViSED cODE.

(4) Subject to division (I) of this section, before a public entity may enter into a contract under this section, the contractor shall convincingly demonstrate to the public entity that it can operate the facility with the inmate capacity required by the public entity and provide the services required in this section and realize at least a five per cent savings over the projected cost to the public entity of providing these same services to

operate the facility that is the subject of the contract. No out-of-state prisoners may be housed in any facility that is the subject of a contract entered into under to this section.

(B) ~~Any~~ Subject to division (I) of this section, any contract entered into under this section shall include all of the following:

(1) A requirement that the contractor retain the contractor's accreditation from the American correctional association throughout the contract term;

(2) A requirement that all of the following conditions be met:

(a) The contractor begins the process of accrediting the facility with the American correctional association no later than sixty days after the facility receives its first inmate.

(b) The contractor receives accreditation of the facility within twelve months after the date the contractor applies to the American correctional association for accreditation.

(c) Once the accreditation is received, the contractor maintains it for the duration of the contract term.

(d) If the contractor does not comply with divisions (B)(2)(a) to (c) of this section, the contractor is in violation of the contract and the public entity may revoke the contract at its discretion.

(3) A requirement that the contractor comply with all rules promulgated by the department of rehabilitation and correction that apply to the operation and management of correctional facilities, including the minimum standards for jails in Ohio and policies regarding the use of force and the use of deadly force, although the public entity may require more stringent standards, and comply with any applicable laws, rules, or regulations of the federal, state, and local governments, including, but not limited to, sanitation, food service, safety, and health regulations. The contractor shall be required to send copies of reports of inspections completed by the appropriate authorities regarding compliance with rules and regulations to the director of rehabilitation and correction or the director's designee and, if contracting with a local public entity, to the governing authority of that entity.

(4) A requirement that the contractor report for investigation all crimes in connection with the facility to the public entity, to all local law enforcement agencies having jurisdiction at the facility, and, for a crime committed at a state correctional institution, to the state highway patrol;

(5) A requirement that, if the facility is a state correctional institution, the contractor provide a written report within specified time limits to the director of rehabilitation and correction or the director's designee of all unusual incidents at the facility as defined in rules promulgated by the department of rehabilitation and correction or, if the facility is a local

correctional institution, that the contractor provide a written report to the governing authority of the local public entity.

(6) A requirement that the contractor maintain proper control of inmates' personal funds pursuant to rules promulgated by the department of rehabilitation and correction, for state correctional institutions, or pursuant to the minimum standards for jails along with any additional standards established by the local public entity, for local correctional institutions, and that records pertaining to these funds be made available to representatives of the public entity for review or audit;

(7) A requirement that the contractor prepare and distribute to the director of rehabilitation and correction or, if contracting with a local public entity, to the governing authority of the local entity, annual budget income and expenditure statements and funding source financial reports;

(8) A requirement that the public entity appoint and supervise a full-time contract monitor, that the contractor provide suitable office space for the contract monitor at the facility, and that the contractor allow the contract monitor unrestricted access to all parts of the facility and all records of the facility except the contractor's financial records;

(9) A requirement that if the facility is a state correctional institution, designated department of rehabilitation and correction staff members be allowed access to the facility in accordance with rules promulgated by the department;

(10) A requirement that the contractor provide internal and perimeter security as agreed upon in the contract;

(11) If the facility is a state correctional institution, a requirement that the contractor impose discipline on inmates housed in a state correctional institution, only in accordance with rules promulgated by the department of rehabilitation and correction;

(12) A requirement that the facility be staffed at all times with a staffing pattern approved by the public entity and adequate both to ensure supervision of inmates and maintenance of security within the facility, and to provide for programs, transportation, security, and other operational needs. In determining security needs, the contractor shall be required to consider, among other things, the proximity of the facility to neighborhoods and schools.

(13) If the contract is with a local public entity, a requirement that the contractor provide the following services and programs, consistent with the minimum standards for jails promulgated by the department of rehabilitation and correction under section 5120.10 of the Revised Code;

(14) A clear statement that no immunity from liability granted to the

state, and no immunity from liability granted to political subdivisions under Chapter 2744. of the Revised Code, shall extend to the contractor or any of the contractor's employees;

(15) A statement that all documents and records relevant to the facility shall be maintained in the same manner required for, and subject to the same laws, rules, and regulations as apply to, the records of the public entity;

(16) Authorization for the public entity to impose a fine on the contractor from a schedule of fines included in the contract for the contractor's failure to perform its contractual duties, or to cancel the contract, as the public entity considers appropriate. If a fine is imposed, the public entity may reduce the payment owed to the contractor pursuant to any invoice in the amount of the imposed fine.

(17) A statement that all services provided or goods produced at the facility shall be subject to the same regulations, and the same distribution limitations, as apply to goods and services produced at other correctional institutions;

(18) Authorization for the department to establish one or more prison industries at a facility operated and managed by a contractor for the department;

(19) A requirement that, if the facility is an intensive program prison established pursuant to section 5120.033 Of the Revised Code, the facility shall comply with all criteria for intensive program prisons of that type that are set forth in that section.

(C) No contract entered into under this section may require, authorize, or imply a delegation of the authority or responsibility of the public entity to a contractor for any of the following:

(1) Developing or implementing procedures for calculating inmate release and parole eligibility dates and recommending the granting or denying of parole, although the contractor may submit written reports that have been prepared in the ordinary course of business;

(2) Developing or implementing procedures for calculating and awarding ~~good time~~ earned credits, approving the type of work inmates may perform and the wage or ~~good time~~ earned credits, if any, that may be ~~given~~ awarded to inmates engaging in such work, and granting, denying, or revoking ~~good time~~ earned credits;

(3) For inmates serving a term imposed for a felony offense committed prior to July 1, 1996, or for a misdemeanor offense, developing or implementing procedures for calculating and awarding good time, approving the good time, if any, that may be awarded to inmates engaging in work, and granting, denying, or revoking good time;

(4) For inmates serving a term imposed for a felony offense committed on or after July 1, 1996, extending an inmate's term pursuant to the provisions of law governing bad time;

(5) Classifying an inmate or placing an inmate in a more or a less restrictive custody than the custody ordered by the public entity;

~~(4)~~(6) Approving inmates for work release;

~~(5)~~(7) Contracting for local or long distance telephone services for inmates or receiving commissions from such services at a facility that is owned by or operated under a contract with the department.

(D) A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 Of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall provide an adequate policy of insurance specifically including, but not limited to, insurance for civil rights claims as determined by a risk management or actuarial firm with demonstrated experience in public liability for state governments. The insurance policy shall provide that the state, including all state agencies, and all political subdivisions of the state with jurisdiction over the facility or in which a facility is located are named as insured, and that the state and its political subdivisions shall be sent any notice of cancellation. The contractor may not self-insure.

~~The contractor~~ A contractor that has been approved to operate a facility under this section, and a person or entity that enters into a contract for specialized services, as described in division (I) of this section, relative to an intensive program prison established pursuant to section 5120.033 Of the Revised Code to be operated by a contractor that has been approved to operate the prison under this section, shall indemnify, ~~defend,~~ and hold harmless the state, its officers, agents, and employees, and any local government entity in the state having jurisdiction over the facility or ownership of the facility, shall reimburse the state for its costs in defending the state or any of its officers, agents, or employees, and shall reimburse any local government entity of that nature for its costs in defending the local government entity, from all of the following:

(1) Any claims or losses for services rendered by the contractor ~~or~~ person, or entity performing or supplying services in connection with the performance of the contract;

(2) Any failure of the contractor, person, or entity or its officers or employees to adhere to the laws, rules, regulations, or terms agreed to in the

contract;

(3) Any constitutional, federal, state, or civil rights claim brought against the state related to the facility operated and managed by the contractor;

(4) Any claims, losses, demands, or causes of action arising out of the contractor's person's, or entity's activities in this state;

(5) Any attorney's fees or court costs arising from any habeas corpus actions or other inmate suits that may arise from any event that occurred at the facility or was a result of such an event, or arise over the conditions, management, or operation of the facility, which fees and costs shall include, but not be limited to, attorney's fees for the state's representation and for any court-appointed representation of any inmate, and the costs of any special judge who may be appointed to hear such actions.

(E) Private correctional officers of a ~~private~~ contractor operating and managing a facility pursuant to a contract entered into under this section may carry and use firearms in the course of their employment only after being certified as satisfactorily completing an approved training program as described in division (A) of section 109.78 of the Revised Code.

(F) Upon notification by the contractor of an escape from, or of a disturbance at, the facility that is the subject of a contract entered into under this section, the department of rehabilitation and correction and state and local law enforcement agencies shall use all reasonable means to recapture escapees or quell any disturbance. Any cost incurred by the state or its political subdivisions relating to the apprehension of an escapee or the quelling of a disturbance at the facility shall be chargeable to and borne by the contractor. The contractor shall also reimburse the state or its political subdivisions for all reasonable costs incurred relating to the temporary detention of the escapee following recapture.

(G) Any offense that would be a crime if committed at a state correctional institution or jail, workhouse, prison, or other correctional facility shall be a crime if committed by or with regard to inmates at facilities operated pursuant to a contract entered into under this section.

(H) ~~The~~ A contractor operating and managing a facility pursuant to a contract entered into under this section shall pay any inmate workers at the facility at the rate approved by the public entity. Inmates working at the facility shall not be considered employees of the contractor.

(I) In contracting for the private operation and management pursuant to division (A) of this section of the initial intensive program prison established pursuant to section 5120.033 Of the Revised Code or of any other intensive program prison established pursuant to that section, the

partment of rehabilitation and correction may enter into a contract with a contractor for the general operation and management of the prison and may enter into one or more separate contracts with other persons or entities for the provision of specialized services for persons confined in the prison, including, but not limited to, security or training services or medical, counseling, educational, or similar treatment programs. If, pursuant to this division, the department enters into a contract with a contractor for the general operation and management of the prison and also enters into one or more specialized service contracts with other persons or entities, all of the following apply:

(1) The contract for the general operation and management shall comply with all requirements and criteria set forth in this section, and all provisions of this section apply in relation to the prison operated and managed pursuant to the contract.

(2) Divisions (A)(2), (B), and (C) of this section do not apply in relation to any specialized services contract, except to the extent that the provisions of those divisions clearly are relevant to the specialized services to be provided under the specialized services contract. Division (D) of this section applies in relation to each specialized services contract.

(J) As used in this section:

(1) "Public entity" means the department of rehabilitation and correction, or a county or municipal corporation or a combination of counties and municipal corporations, that has jurisdiction over a facility that is the subject of a contract entered into under this section.

(2) "Local public entity" means a county or municipal corporation, or a combination of counties and municipal corporations, that has jurisdiction over a jail, workhouse, or other correctional facility used only for misdemeanants that is the subject of a contract entered into under this section.

(3) "Governing authority of a local public entity" means, for a county, the board of county commissioners; for a municipal corporation, the legislative authority; for a combination of counties and municipal corporation, all the boards of county commissioners and municipal legislative authorities that joined to create the facility.

(4) "Contractor" means a person who enters into a contract under this section to operate and manage a jail, workhouse, or other correctional facility.

(5) "Facility" means the specific county, multicounty, municipal, municipal-county, or multicounty-municipal jail, workhouse, prison, or other type of correctional institution or facility used only for

misdemeanants, or a state correctional institution, that is the subject of a contract entered into under this section.

Sec. 9.07. (A) As used in this section:

(1) "Deadly weapon" has the same meaning as in section 2923.11 of the Revised Code.

(2) "governing authority of a local public entity" means whichever of the following is APPLICABLE:

(a) for a county, the board of county COMMISSIONERS of the county;

(b) for a municipal CORPORATION, the legislative authority of the municipal corporation;

(c) for a COMBINATION of counties, a combination of municipal CORPORATIONS, or a COMBINATION of one or more counties and one or more municipal CORPORATIONS, all boards of county commissioners and legislative authorities of all of the counties and municipal CORPORATIONS that combined to form a local public entity for purposes of this section.

(3) "local public entity" means a county, a municipal CORPORATION, a combination of counties, a COMBINATION of municipal CORPORATIONS, or a combination of one or more counties and one or more MUNICIPAL CORPORATIONS.

(4) "non-contracting political SUBDIVISION" means any political subdivision to which all of the following apply:

(a) a CORRECTIONAL facility for the housing of out-of-state prisoners in this state is or will be located in the political SUBDIVISION.

(b) the correctional facility described in division (a)(4)(a) of this section is being operated and managed, or will be operated and managed, by a local public entity or a private contractor pursuant to a contract entered into prior to the effective date of this section or a contract entered into on or after the effective date of this section under this section.

(c) the political SUBDIVISION is not a party to the contract described in division (a)(4)(b) of this section for the management and OPERATION of the CORRECTIONAL facility.

(5) "out-of-state jurisdiction" means the United States, any state other than this state, and any political subdivision or other JURISDICTION located in a state other than this state.

(6) "out-of-state prisoner" means a person who is convicted of a crime in another state or under the laws of the united states or who is found under the laws of another state or of the united states to be a delinquent child or the substantially equivalent Designation.

(7) "Private contractor" means either of the following:

(a) A person who, on or after the effective date of this section, enters into a contract under this section with a local public entity to operate and manage a CORRECTIONAL facility in this state for out-of-state prisoners.

(b) A person who, pursuant to a contract with a local public entity entered into prior to the effective date of this section, operates and manages on the effective date of this section a CORRECTIONAL facility in this state for housing out-of-state prisoners.

(B) Subject to division (I) of this section, the only entities other than this state that are authorized to operate a CORRECTIONAL facility to house out-of-state prisoners in this state are a local public entity that operates a CORRECTIONAL facility pursuant to this SECTION or a private contractor that operates a CORRECTIONAL facility pursuant to this section under a contract with a local public entity.

Subject to division (I) of this section, a private entity may operate a CORRECTIONAL facility in this state for the housing of out-of-state prisoners only if the private entity is a private contractor that enters into a contract that comports with division (D) of this section with a local public entity for the management and OPERATION of the correctional facility.

(C)(1) Except as provided in this division, on and after the effective date of this section, a local public entity shall not enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state. On and after the effective date of this section, a local public entity may enter into a contract with an out-of-state jurisdiction to house out-of-state prisoners in a correctional facility in this state only if the local public entity and the out-of-state JURISDICTION with which the local public entity intends to contract jointly submit to the department of REHABILITATION and correction a statement that certifies the CORRECTIONAL facility's intended use, intended prisoner POPULATION, and custody level, and the department reviews and comments upon the plans for the design or renovation of the CORRECTIONAL facility regarding their suitability for the intended prisoner population specified in the submitted statement.

(2) if a local public entity and an out-of-state JURISDICTION enter into a contract to house out-of-state prisoners in a CORRECTIONAL facility in this state as authorized under division (C)(1) of this section, in addition to any other provisions it contains, the contract shall include whichever of the following provisions is applicable:

(a) if a private contractor will operate the facility in QUESTION pursuant to a contract entered into in accordance with division (d) of this section, a requirement that, if the facility is closed or ceases to operate for

any reason and if the conversion plan described in division (d)(16) OF THIS SECTION is not complied with, the out-of-state JURISDICTION will be responsible for housing and transporting the prisoners who are in the facility at the time it is closed or ceases to operate and for the cost of so housing and transporting those prisoners;

(b) if a private contractor will not operate the facility in QUESTION pursuant to a contract entered into in accordance with division (d) of this section, a CONVERSION plan that will be followed if, for any reason, the facility is closed or ceases to operate, the CONVERSION plan shall include, but is not limited to, PROVISIONS that specify whether the local public entity or the out-of-state jurisdiction will be responsible for housing and transporting the prisoners who are in the facility at the time it is closed or ceases to operate and for the cost of so housing and transporting those prisoners.

(3) If a local public entity and an out-of-state jurisdiction intend to enter into a contract to house out-of-state prisoners in a correctional facility in this state as authorized under division (C)(1) of this section, or if a local public entity and a private contractor intend to enter into a contract pursuant to division (D) of this section for the private contractor's management and OPERATION of a CORRECTIONAL facility in this state to house out-of-STATE prisoners, prior to entering into the contract the local public entity and the out-of-state jurisdiction, or the local public entity and the private contractor, whichever is applicable, shall conduct a public hearing in accordance with this division, and, prior to entering into the contract, the governing authority of the local public entity in which the facility is or will be located shall authorize the location and operation of the facility. The hearing shall be conducted at a location within the municipal corporation or township in which the facility is or will be located, at least one week prior to conducting the hearing, the local public entity and the out-of-state jurisdiction or private contractor with the duty to conduct the hearing shall cause notice of the date, time, and place of the hearing to be made by publication in the newspaper with the largest general CIRCULATION in the county in which the municipal CORPORATION or township is located, the notice shall be of a sufficient size that it covers at least one-quarter of a page of the newspaper in which it is published. This division applies to a private contractor that, pursuant to the requirement set forth in division (I) of this section, is required to enter into a contract under division (D) of this section.

(D) Subject to division (I) of this section, on and after the effective date of this section, if a local public entity enters into a contract with a private contractor for the management and OPERATION of a CORRECTIONAL

facility in this state to house out-of-state prisoners, the contract, at a minimum, shall include all of the following provisions:

(1) A requirement that the private contractor seek and obtain ACCREDITATION from the American CORRECTIONAL ASSOCIATION for the CORRECTIONAL facility within two years after accepting the first out-of-state prisoner at the CORRECTIONAL facility under the contract and that it maintain that ACCREDITATION for the term of the contract;

(2) A requirement that the private contractor COMPLY with all applicable laws, rules, or REGULATIONS of the government of this state, political subdivisions of this state, and the united states, including, but not limited to, all SANITATION, food service, safety, and health REGULATIONS;

(3) a requirement that the private contractor send copies of reports of inspections completed by appropriate authorities regarding compliance with laws, rules, and REGULATIONS of the type described in division (d)(2) of this section to the director of REHABILITATION and correction or the director's designee and to the governing authority of the local public entity in which the CORRECTIONAL facility is located;

(4) a REQUIREMENT that the private contractor report to the local law enforcement agencies with JURISDICTION over the place at which the CORRECTIONAL facility is located, for INVESTIGATION, all criminal offenses or delinquent acts that are committed in or on the grounds of, or otherwise in connection with, the CORRECTIONAL facility and report to the department of REHABILITATION and correction all escapes from or disturbances at the facility;

(5) a requirement that the private contractor provide a written report to the director of rehabilitation and correction or the director's designee and to the governing authority of the local public entity in which the correctional facility is located of all unusual incidents occurring at the CORRECTIONAL facility. the private contractor shall report the incidents in accordance with the incident reporting rules that, at the time of the incident, are applicable to state correctional facilities for similar incidents occurring at state CORRECTIONAL facilities.

(6) a requirement that the private contractor provide internal and PERIMETER security to protect the public, staff members of the correctional facility, and prisoners in the correctional facility;

(7) a requirement that the CORRECTIONAL facility be staffed at all times with a staffing pattern that is adequate to ensure supervision of inmates and maintenance of security within the CORRECTIONAL facility

and to provide for appropriate programs, transportation, security, and other OPERATIONAL needs. in determining security needs for the correctional facility, the private contractor and the contract REQUIREMENTS shall fully take into account all relevant factors, including, but not limited to, the proximity of the facility to neighborhoods and schools.

(8) a REQUIREMENT that the private contractor provide an adequate policy of insurance that satisfies the requirements set forth in division (d) of section 9.06 of the Revised Code regarding contractors who operate and manage a facility under that section, and that the private contractor indemnify and hold harmless the state, its officers, agents, and EMPLOYEES, and any local public entity in the state with JURISDICTION over the place at which the correctional facility is located or that owns the correctional facility, reimburse the state for its costs in defending the state or any of its officers, agents, or employees, and reimburse any local government entity of that nature for its costs in defending the local government entity, in the manner described in division (d) of that section regarding contractors who operate and manage a facility under that section;

(9) a requirement that the private contractor develop a security CLASSIFICATION schedule for prisoners housed in the CORRECTIONAL facility, classify in accordance with the schedule each prisoner housed in the facility, and house all prisoners in the facility in accordance with their CLASSIFICATION under this division;

(10) a requirement that the private contractor will not accept for housing, and will not house, in the CORRECTIONAL facility any out-of-state prisoner in relation to whom either of the following applies:

(a) the private entity has not obtained from the out-of-state JURISDICTION that imposed the sentence or SANCTION under which the prisoner will be confined in this state a copy of the INSTITUTIONAL record of the prisoner while previously confined in that out-of-state JURISDICTION or a statement that the prisoner PREVIOUSLY has not been confined in that out-of-state JURISDICTION and a copy of all medical records pertaining to that prisoner that are in the POSSESSION of the out-of-state JURISDICTION.

(b) the prisoner, while confined in any out-of-state JURISDICTION, has a record of INSTITUTIONAL violence involving the use of a deadly WEAPON AND a pattern of committing acts of an assaultive nature against employees of, or visitors to, the place of confinement or has a record of escape or attempted escape from secure custody.

(11) a requirement that the private contractor, prior to housing any out-of-state prisoner in the CORRECTIONAL facility under the contract,

enter into a written agreement with the department of REHABILITATION and correction that sets forth a plan and procedure that will be used to coordinate law enforcement activities of state law enforcement agencies and of local law enforcement agencies with jurisdiction over the place at which the facility is located in response to any riot, rebellion, escape, insurrection, or other emergency occurring inside or outside the facility;

(12) a requirement that the private contractor cooperate with the CORRECTIONAL INSTITUTION inspection committee in the committee's performance of its duties under section 103.73 of the Revised Code and provide the committee, its subcommittees, and its staff members, in performing those duties, with access to the correctional facility as described in that section;

(13) a requirement that the private contractor permit any peace officer who serves a law enforcement agency with JURISDICTION over the place at which the CORRECTIONAL facility is located to enter into the facility to investigate any criminal offense or delinquent act that allegedly has been committed in or on the grounds of, or otherwise in CONNECTION with, the facility;

(14) A requirement that the private contractor will not employ any person at the CORRECTIONAL facility until after the private contractor has submitted to the bureau of criminal identification and INVESTIGATION, on a form prescribed by the superintendent of the bureau, a request that the bureau conduct a criminal records check of the person and a requirement that the private contractor will not employ any person at the facility if the records check or other INFORMATION possessed by the contractor indicates that the person PREVIOUSLY has engaged in malfeasance;

(15) A requirement that the private contractor will not accept for housing, and will not house, in the CORRECTIONAL facility any out-of-state prisoner unless the private contractor and the out-of-state JURISDICTION that imposed the sentence for which the prisoner is to be confined agree that, if the out-of-state prisoner is confined in the facility in this state, commits a criminal offense while confined in the facility, is convicted of or pleads guilty to that offense, and is sentenced to a term of confinement for that offense but is not sentenced to death for that offense, the private contractor and the out-of-state jurisdiction will do all of the following:

(a) Unless section 5120.50 of the Revised Code does not apply in RELATION to the offense the prisoner committed while confined in this state and the term of confinement imposed for that offense, the out-of-state JURISDICTION will accept the prisoner pursuant to that section for service

of that term of confinement and for any period of time remaining under the sentence for which the prisoner was confined in the facility in this state, the out-of-state JURISDICTION will confine the prisoner pursuant to that section for that term and that remaining period of time, and the private contractor will transport the prisoner to the out-of-state JURISDICTION for service of that term and that remaining period of time.

(b) If section 5120.50 Of the Revised Code does not apply in relation to the offense the prisoner committed while confined in this state and the term of confinement imposed for that offense, the prisoner shall be returned to the out-of-state jurisdiction or its private contractor for completion of the period of time remaining under the out-of-state sentence for which the prisoner was confined in the facility in this state before starting service of the term of confinement imposed for the offense committed while confined in this state, the out-of-state jurisdiction or its private contractor will confine the prisoner for that REMAINING period of time and will transport the prisoner outside of this state for service of that remaining period of time, and, if the prisoner is confined in this state in a facility operated by the department of rehabilitation and correction, the private contractor will be financially responsible for reimbursing the department at the per diem cost of confinement for the duration of that incarceration, with the amount of the reimbursement so paid to be deposited in the department's prisoner programs fund.

(16) A requirement that the private contractor, prior to housing any out-of-state prisoner in the CORRECTIONAL facility under the contract, enter into an agreement with the local public entity that sets forth a CONVERSION plan that will be followed if, for any reason, the facility is closed or ceases to operate. the CONVERSION plan shall include, but is not limited to, PROVISIONS that specify whether the private contractor, the local public entity, or the out-of-state jurisdictions that imposed the sentences for which the out-of-state prisoners are confined in the facility will be responsible for housing and transporting the prisoners who are in the facility at the time it is closed or ceases to operate and for the cost of so housing and transporting those prisoners.

(17) A schedule of fines that the local public entity shall impose upon the private contractor if the private contractor fails to perform its contractual duties, and a requirement that, if the private contractor fails to perform its contractual duties, the local public entity shall impose a fine on the private contractor from the schedule of fines and, in addition to the fine, may exercise any other rights it has under the contract. Division (F)(2) of this section applies regarding a fine described in this division.

(18) A REQUIREMENT that the private contractor adopt and use in the CORRECTIONAL facility the drug testing and treatment program that the department of REHABILITATION and CORRECTION uses for inmates in state correctional INSTITUTIONS.

(E) a private CORRECTIONAL officer or other designated employee of a private contractor that operates a CORRECTIONAL facility that houses out-of-state prisoners in this state under a contract entered into prior to, on, or after the effective date of this section may carry and use firearms in the course of the officer's or employee's employment only if the officer or employee is certified as having SATISFACTORILY completed an approved training program designed to qualify persons for positions as SPECIAL police officers, security guards, or persons otherwise privately employed in a police capacity, as described in division (A) of section 109.78 of the REVISED Code.

(E)(1) Upon NOTIFICATION by the private contractor of an escape from, or of a disturbance at, a CORRECTIONAL facility that is operated by a private contractor under a contract entered into prior to, on, or after the effective date of this section and that houses out-of-state prisoners in this state, the department of REHABILITATION and CORRECTION and state and local law ENFORCEMENT agencies shall use all reasonable means to recapture persons who escaped from the facility or quell any disturbance at the facility, in accordance with the plan and procedure included in the written agreement entered into under division (D)(11) of this section in RELATION to contracts entered into on or after the effective date of this section, and in accordance with their normal procedures in RELATION to contracts entered into prior to the effective date of this section. Any cost incurred by this state or a political subdivision of this state relating to the APPREHENSION of a person who escaped from the facility, to the quelling of a disturbance at the facility, or to the investigation or prosecution as described in division (G)(2) of this section of any offense relating to the escape or disturbance shall be chargeable to and borne by the private CONTRACTOR. the contractor also shall reimburse the state or ITS political subdivisions for all reasonable costs incurred relating to the temporary DETENTION of a person who escaped from the facility, following the person's recapture.

(2) If a private contractor that, on or after the effective date of this section, enters into a contract under this section with a local public entity for the operation of a CORRECTIONAL facility that houses out-of-state prisoners fails to perform its contractual duties, the local public entity shall impose upon the private contractor a fine from the schedule of fines

included in the contract and may exercise any other rights it has under the contract. A fine imposed under this division shall be paid to the local public entity that enters into the contract, and the local public entity shall deposit the money so paid into its treasury to the credit of the fund used to pay for community policing. If a fine is imposed under this division, the local public entity may reduce the payment owed to the private contractor pursuant to any invoice in the amount of the fine.

(3) if a private contractor, on or after the effective date of this section, enters into a contract under this section with a local public entity for the OPERATION of a correctional facility that houses out-of-state prisoners in this state, the private contractor shall comply with the insurance, INDEMNIFICATION, hold harmless, and cost reimbursement provisions described in division (d)(8) of this section.

(G)(1) any act or omission that would be a criminal offense or a delinquent act if committed at a state correctional institution or at a jail, workhouse, prison, or other CORRECTIONAL facility operated by this state or by any political subdivision or group of political subdivisions of this state shall be a criminal offense or delinquent act if committed by or with regard to any out-of-state prisoner who is housed at any CORRECTIONAL facility operated by a private contractor in this state pursuant to a contract entered into prior to, on, or after the effective date of this section.

(2) If any political subdivision of this state experiences any cost in the INVESTIGATION or PROSECUTION of an offense committed by an out-of-state prisoner housed in a correctional facility operated by a private contractor in this state pursuant to a contract entered into prior to, on, or after the effective date of this section, the private contractor shall reimburse the political subdivision for the costs so experienced.

(3)(a) except as otherwise provided in this division, the state, and any officer or employee, as defined in section 109.36 of the revised code, of the state is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from, or is related to, the establishment, management, or OPERATION of a CORRECTIONAL facility to house out-of-state prisoners in this state pursuant to a contract between a local public entity and an out-of-state jurisdiction, a local public entity and a private contractor, or a private CONTRACTOR and an out-of-state JURISDICTION that was entered into prior to the effective date of this section or that is entered into on or after the effective date of this section in accordance with its PROVISIONS. the immunity provided in this division does not apply regarding an act or omission of an officer or employee, as defined in section 109.36 of the revised code, of the state that

is manifestly outside the scope of the officer's or employee's official RESPONSIBILITIES or regarding an act or omission of the state, or of an officer or employee, as so defined, of the state that is undertaken with malicious purpose, in bad FAITH, or in a wanton or reckless manner.

(b) except as otherwise provided in this division, a non-contracting political subdivision, and any employee, as defined in section 2744.01 of the revised code, of a non-contracting political subdivision is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from, or is related to, the establishment, management, or OPERATION of a CORRECTIONAL facility to house out-of-state prisoners in this state pursuant to a contract between a local public entity other than the non-contracting political subdivision and an out-of-state jurisdiction, a local public entity other than the non-contracting political subdivision and a private contractor, or a private CONTRACTOR and an out-of-state JURISDICTION that was entered into prior to the effective date of this section or that is entered into on or after the effective date of this section in accordance with its PROVISIONS. the immunity provided in this division does not apply regarding an act or omission of an employee, AS DEFINED IN SECTION 2744.01 OF THE REVISED CODE, of a non-contracting political subdivision that is manifestly outside the scope of the employee's employment or official RESPONSIBILITIES or regarding an act or omission of a non-contracting political subdivision or an employee, as so defined, of a non-contracting political subdivision that is undertaken with malicious purpose, in bad FAITH, or in a wanton or reckless manner.

(c) divisions (G)(3)(a) and (b) of this section do not affect any immunity or defense that the state and its officers and employees or a non-contracting political subdivision and its employees may be ENTITLED to under another section of the revised code or the common law of this state, including, but not limited to, section 9.86 or Chapter 2744. of the revised code.

(H)(1) Upon the COMPLETION of an out-of-state prisoner's term of DETENTION at a correctional facility operated by a private contractor in this state pursuant to a contract entered into prior to, on, or after the effective date of this section, the operator of the correctional facility shall transport the prisoner to the out-of-state jurisdiction that imposed the sentence for which the prisoner was confined before it releases the prisoner from its custody.

(2) No private contractor that operates and manages a correctional facility housing out-of-state prisoners in this state pursuant to a contract entered into prior to, on, or after the effective date of this section shall fail to comply with division (H)(1) of this section.

(3) whoever violates division (H)(2) of this section is guilty of a misdemeanor of the first degree.

(I) Except as otherwise provided in this division, the provisions of divisions (A) to (H) of this section apply in RELATION to any CORRECTIONAL facility operated by a private contractor in this state to house out-of-state prisoners, regardless of whether the facility is operated pursuant to a contract entered into prior to, on, or after the effective date of this section. Division (C)(1) of this section shall not apply in RELATION to any correctional facility for housing out-of-state prisoners in this state that is operated by a private contractor under a contract entered into with a local public entity prior to the effective date of this section. if a private contractor operates a CORRECTIONAL facility in this state for the housing of out-of-state prisoners under a contract entered into with a local public entity prior to the effective date of this section, no later than one hundred eighty days after the EFFECTIVE date of this section, the private contractor shall enter into a contract with the local public entity that comports to the requirements and criteria of division (D) of this section.

Sec. 103.73. (A) The correctional institution inspection committee shall do all of the following:

(1) Subject to division (C) of this section, establish and maintain a continuing program of inspection of each state correctional institution used for the custody, control, training, and rehabilitation of persons convicted of crime and of each private correctional facility. Subject to division (C) of this section, the committee may inspect any local correctional institution used for the same purposes. Subject to division (C) of this section, the committee, and each member of the committee, for the purpose of making an inspection pursuant to this section, shall have access to any state or local correctional institution, to any private correctional facility, or to any part of the institution or facility and shall not be required to give advance notice of, or to make prior arrangements before conducting, an inspection.

(2) Evaluate and assist in the development of programs to improve the condition or operation of correctional institutions;

(3) Prepare a report for submission to the succeeding general assembly of the findings the committee makes in its inspections and of any programs that have been proposed or developed to improve the condition or operation of the correctional institutions in the state. The report shall contain a separate evaluation of the inmate grievance procedure at each state correctional institution. The committee shall submit the report to the succeeding general assembly within fifteen days after commencement of that general assembly's first regular session.

(B) Subject to division (C) of this section, the committee shall make an inspection of each state correctional institution each biennium and of each private correctional facility each biennium. The inspection shall include attendance at one general meal period and one rehabilitative or educational program.

(C) An inspection of a state correctional institution, a private correctional facility, or a local correctional institution under division (A) or (B) of this section or under section 103.74 of the Revised Code is subject to and shall be conducted in accordance with all of the following:

(1) The inspection shall not be conducted unless the chairperson of the committee grants prior approval for the inspection. The grant of prior approval shall specify whether the inspection is to be conducted by a subcommittee appointed under section 103.74 of the Revised Code or is to be conducted other than by a subcommittee appointed under that section.

(2) The inspection shall not be conducted unless one of the following applies:

(a) If the inspection is to be conducted by a subcommittee appointed under section 103.74 of the Revised Code, at least two members appointed to the committee are present for the inspection;

(b) If division (C)(2)(a) of this section does not apply, at least one member appointed to the committee and at least one staff member of the committee are present for the inspection.

(3) Unless the chairperson of the committee determines that the inspection must be conducted outside of normal business hours for any reason, including emergency circumstances or a justifiable cause that perpetuates the mission of the committee, and the chairperson specifies in the grant of prior approval for the inspection that the chairperson has so determined, the inspection shall be conducted only during normal business hours. If the chairperson determines that the inspection must be conducted outside of normal business hours and the chairperson specifies in the grant of prior approval for the inspection that the chairperson has so determined, the inspection may be conducted outside of normal business hours.

(4) If the inspection is to be conducted by a subcommittee appointed under section 103.74 of the Revised Code, no staff member of the committee may be present on the inspection unless the chairperson of the committee, in the grant of prior approval for the inspection, specifically authorizes staff members to be present on the inspection. If the inspection is to be conducted other than by a subcommittee appointed under that section, staff members may be present on the inspection regardless of whether the grant of prior approval contains a specific authorization for staff members to

be present on the inspection.

(D) As used in this section:

(1) "Local public entity," "out-of-state prisoner," and "private contractor" have the same meanings as in section 9.07 Of the Revised Code.

(2) "Private correctional facility" means a correctional facility in this state that houses out-of-state prisoners and that is operated by a private contractor under a contract with a local public entity pursuant to section 9.07 Of the Revised Code.

Sec. 341.34. (A) As used in this section, "building or structure" includes, but is not limited to, a modular unit, building, or structure and a movable unit, building, or structure.

(B)(1) The board of county commissioners of any county, by resolution, may dedicate and permit the use, as a minimum security jail, of any vacant or abandoned public building or structure owned by the county that has not been dedicated to or is not then in use for any county or other public purpose, or any building or structure rented or leased by the county. The board of county commissioners of any county, by resolution, also may dedicate and permit the use, as a minimum security jail, of any building or structure purchased by or constructed by or for the county. Subject to divisions (B)(3) and (C) of this section, upon the effective date of such a resolution, the specified building or structure shall be used, in accordance with this section, for the confinement of persons who meet one of the following conditions:

(a) The person is sentenced to a term of imprisonment for a traffic violation or a misdemeanor or is sentenced to a residential sanction in the jail for a felony of the fourth or fifth degree pursuant to sections 2929.11 to 2929.19 of the Revised Code, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

(b) The person is an inmate transferred by order of a judge of the sentencing court upon the request of the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in ~~division (H) of~~ section 9.06 of the Revised Code, who is named in the request as being suitable for confinement in a minimum security facility.

(2) The board of county commissioners of any county, by resolution, may affiliate with one or more adjacent counties, or with one or more

municipal corporations located within the county or within an adjacent county, and dedicate and permit the use, as a minimum security jail, of any vacant or abandoned public building or structure owned by any of the affiliating counties or municipal corporations that has not been dedicated to or is not then in use for any public purpose, or any building or structure rented or leased by any of the affiliating counties or municipal corporations. The board of county commissioners of any county, by resolution, also may affiliate with one or more adjacent counties or with one or more municipal corporations located within the county or within an adjacent county and dedicate and permit the use, as a minimum security jail, of any building or structure purchased by or constructed by or for any of the affiliating counties or municipal corporations. Any counties and municipal corporations that affiliate for purposes of this division shall enter into an agreement that establishes the responsibilities for the operation and for the cost of operation of the minimum security jail. Subject to divisions (B)(3) and (C) of this section, upon the effective date of a resolution adopted under this division, the specified building or structure shall be used, in accordance with this section, for the confinement of persons who meet one of the following conditions:

(a) The person is sentenced to a term of imprisonment for a traffic violation, a misdemeanor, or a violation of an ordinance ~~or of~~ any municipal corporation, or is sentenced to a residential sanction in the jail for a felony of the fourth or fifth degree pursuant to sections 2929.11 to 2929.19 of the Revised Code, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

(b) The person is an inmate transferred by order of a judge of the sentencing court upon the request of the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in ~~division (H) of~~ section 9.06 of the Revised Code, who is named in the request as being suitable for confinement in a minimum security facility.

(3) No person shall be confined in a building or structure dedicated as a minimum security jail under division (B)(1) or (2) of this section unless the judge who sentenced the person to the term of imprisonment for the traffic violation or the misdemeanor specifies that the term of imprisonment is to be served in that jail, and division (B)(1) or (2) of this section permits the

confinement of the person in that jail or unless the judge who sentenced the person to the residential sanction for the felony specifies that the residential sanction is to be served in a jail, and division (B)(1) or (2) of this section permits the confinement of the person in that jail. If a rented or leased building or structure is so dedicated, the building or structure may be used as a minimum security jail only during the period that it is rented or leased by the county or by an affiliated county or municipal corporation. If a person convicted of a misdemeanor is confined to a building or structure dedicated as a minimum security jail under division (B)(1) or (2) of this section and the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in ~~division (H) of~~ section 9.06 of the Revised Code determines that it would be more appropriate for the person so confined to be confined in another jail or workhouse facility, the sheriff, administrator, jailer, or other person may transfer the person so confined to a more appropriate jail or workhouse facility.

(C) All of the following apply to a building or structure that is dedicated pursuant to division (B)(1) or (2) of this section for use as a minimum security jail:

(1) To the extent that the use of the building or structure as a minimum security jail requires a variance from any county, municipal corporation, or township zoning regulations or ordinances, the variance shall be granted.

(2) Except as provided in this section, the building or structure shall not be used to confine any person unless it is in substantial compliance with any applicable housing, fire prevention, sanitation, health, and safety codes, regulations, or standards.

(3) Unless such satisfaction or compliance is required under the standards described in division (C)(4) of this section, and notwithstanding any other provision of state or local law to the contrary, the building or structure need not satisfy or comply with any state or local building standard or code in order to be used to confine a person for the purposes specified in division (B) of this section.

(4) The building or structure shall not be used to confine any person unless it is in compliance with all minimum standards and minimum renovation, modification, and construction criteria for minimum security jails that have been proposed by the department of rehabilitation and correction, through its bureau of adult detention, under section 5120.10 of the Revised Code.

(5) The building or structure need not be renovated or modified into a secure detention facility in order to be used solely to confine a person for the purposes specified in divisions (B)(1)(a) and (B)(2)(a) of this section.

(6) The building or structure shall be used, equipped, furnished, and staffed in the manner necessary to provide adequate and suitable living, sleeping, food service or preparation, drinking, bathing and toilet, sanitation, and other necessary facilities, furnishings, and equipment.

(D) Except as provided in this section, a minimum security jail dedicated and used under this section shall be considered to be part of the jail, workhouse, or other correctional facilities of the county or the affiliated counties and municipal corporations for all purposes under the law. All persons confined in such a minimum security jail shall be and shall remain, in all respects, under the control of the county authority that has responsibility for the management and operation of the jail, workhouse, or other correctional facilities of the county or, if it is operated by any affiliation of counties or municipal corporations, under the control of the specified county or municipal corporation with that authority, provided that, if the person was convicted of a felony and is serving a residential sanction in the facility, all provisions of law that pertain to persons convicted of a felony that would not by their nature clearly be inapplicable apply regarding the person. A minimum security jail dedicated and used under this section shall be managed and maintained in accordance with policies and procedures adopted by the board of county commissioners or the affiliated counties and municipal corporations governing the safe and healthful operation of the jail, the confinement and supervision of the persons sentenced to it, and their participation in work release or similar rehabilitation programs. In addition to other rules of conduct and discipline, the rights of ingress and egress of persons confined in a minimum security jail dedicated and used under this section shall be subject to reasonable restrictions. Every person confined in a minimum security jail dedicated and used under this section shall be given verbal and written notification, at the time of the person's admission to the jail, that purposely leaving, or purposely failing to return to, the jail without proper authority or permission constitutes the felony offense of escape.

(E) If a person who has been convicted of or pleaded guilty to an offense is sentenced to a term of imprisonment or a residential sanction in a minimum security jail as described in division (B)(1)(a) or (B)(2)(a) of this section, or if a person is an inmate transferred to a minimum security jail by order of a judge of the sentencing court as described in division (B)(1)(b) or (2)(b) of this section, at the time of reception and at other times the person in charge of the operation of the jail determines to be appropriate, the sheriff or other person in charge of the operation of the jail may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis,

including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the jail may cause a convicted offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

Sec. 341.41. (A) As used in this section:

(1) "Free weight exercise equipment" means any equipment or device that is designed to increase the muscle mass and physical strength of the person using it. "Free weight exercise equipment" includes, but is not limited to, barbells, dumbbells, weight plates, and similar free weight-type equipment and other devices that the department of rehabilitation and correction, in rules adopted under section 5120.423 of the Revised Code, designates as enabling a person to increase muscle mass and physical strength.

(2) "Fixed weight exercise equipment" means any equipment, machine, or device that is not designed primarily to increase muscle mass and physical strength but rather to keep a person in relatively good physical condition. "Fixed weight exercise equipment" includes, but is not limited to, weight machines that utilize weight plates, tension bands, or similar devices that provide weight training resistance like universal and nautilus equipment. "Fixed weight exercise equipment" includes machines that are usually assembled as a unit, are not readily dismantled, and have been specifically modified for prison use so as to make them secure and immobile.

(3) "County correctional officer" means a person who is employed by a county as an employee or officer of a county jail, county workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.

(4) A person is "employed by a county" if the person is employed by, or receives any compensation or benefits from, any official, officer, office, agency, board, commission, department, or other entity that is a branch of county government, that is established by a county, or that serves a county, including, but not limited to, a sheriff.

(5) "Multicounty-municipal" has the same meaning as in section 307.93 of the Revised Code.

(B) No county correctional officer shall do any of the following:

(1) Provide a prisoner access to free weight or fixed weight exercise

equipment;

(2) Allow a prisoner to provide or receive instruction in boxing, wrestling, karate, judo, or another form of martial arts, or any other program that the department of rehabilitation and correction, in rules adopted under section 5120.423 of the Revised Code, designates as enabling a person to improve fighting skills.

(C) Nothing in this section prohibits a county correctional officer from allowing a prisoner to participate in jogging, basketball, stationary exercise bicycling, supervised calisthenics, or other physical activities that are not designed to increase muscle mass and physical strength or improve fighting skills.

Sec. 753.21. (A) As used in this section, "building or structure" includes, but is not limited to, a modular unit, building, or structure and a movable unit, building, or structure.

(B)(1) The legislative authority of a municipal corporation, by ordinance, may dedicate and permit the use, as a minimum security jail, of any vacant or abandoned public building or structure owned by the municipal corporation that has not been dedicated to or is not then in use for any municipal or other public purpose, or any building or structure rented or leased by the municipal corporation. The legislative authority of a municipal corporation, by ordinance, also may dedicate and permit the use, as a minimum security jail, of any building or structure purchased by or constructed by or for the municipal corporation. Subject to divisions (B)(3) and (C) of this section, upon the effective date of such an ordinance, the specified building or structure shall be used, in accordance with this section, for the confinement of persons who meet one of the following conditions:

(a) The person is sentenced to a term of imprisonment for a traffic violation, a misdemeanor, or a violation of a municipal ordinance and is under the jurisdiction of the municipal corporation or is sentenced to a residential sanction in the jail for a felony of the fourth or fifth degree pursuant to sections 2929.11 to 2929.19 of the Revised Code, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

(b) The person is an inmate transferred by order of a judge of the sentencing court upon the request of the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as

defined in ~~division (H)~~ of section 9.06 of the Revised Code, who is named in the request as being suitable for confinement in a minimum security facility.

(2) The legislative authority of a municipal corporation, by ordinance, may affiliate with the county in which it is located, with one or more counties adjacent to the county in which it is located, or with one or more municipal corporations located within the county in which it is located or within an adjacent county, and dedicate and permit the use, as a minimum security jail, of any vacant or abandoned public building or structure owned by any of the affiliating counties or municipal corporations that has not been dedicated to or is not then in use for any public purpose, or any building or structure rented or leased by any of the affiliating counties or municipal corporations. The legislative authority of a municipal corporation, by ordinance, also may affiliate with one or more counties adjacent to the county in which it is located or with one or more municipal corporations located within the county in which it is located or within an adjacent county and dedicate and permit the use, as a minimum security jail, of any building or structure purchased by or constructed by or for any of the affiliating counties or municipal corporations. Any counties and municipal corporations that affiliate for purposes of this division shall enter into an agreement that establishes the responsibilities for the operation and for the cost of operation of the minimum security jail. Subject to divisions (B)(3) and (C) of this section, upon the effective date of an ordinance adopted under this division, the specified building or structure shall be used, in accordance with this section, for the confinement of persons who meet one of the following conditions:

(a) The person is sentenced to a term of imprisonment for a traffic violation, a misdemeanor, or a violation of an ordinance of a municipal corporation and is under the jurisdiction of any of the affiliating counties or municipal corporations or is sentenced to a residential sanction in the jail for a felony of the fourth or fifth degree pursuant to sections 2929.11 to 2929.19 of the Revised Code, and the jail administrator or the jail administrator's designee has classified the person as a minimal security risk. In determining the person's classification under this division, the administrator or designee shall consider all relevant factors, including, but not limited to, the person's escape risk and propensity for assaultive or violent behavior, based upon the person's prior and current behavior.

(b) The person is an inmate transferred by order of a judge of the sentencing court upon the request of the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as

defined in ~~division (H)~~ of section 9.06 of the Revised Code, who is named in the request as being suitable for confinement in a minimum security facility.

(3) No person shall be confined in a building or structure dedicated as a minimum security jail under division (B)(1) or (2) of this section unless the judge who sentenced the person to the term of imprisonment for the traffic violation or the misdemeanor specifies that the term of imprisonment is to be served in that jail, and division (B)(1) or (2) of this section permits the confinement of the person in that jail or unless the judge who sentenced the person to the residential sanction for the felony specifies that the residential sanction is to be served in a jail, and division (B)(1) or (2) of this section permits the confinement of the person in that jail. If a rented or leased building or structure is so dedicated, the building or structure may be used as a minimum security jail only during the period that it is rented or leased by the municipal corporation or by an affiliated county or municipal corporation. If a person convicted of a misdemeanor is confined to a building or structure dedicated as a minimum security jail under division (B)(1) or (2) of this section and the sheriff, administrator, jailer, or other person responsible for operating the jail other than a contractor as defined in division (H) of section 9.06 of the Revised Code determines that it would be more appropriate for the person so confined to be confined in another jail or workhouse facility, the sheriff, administrator, jailer, or other person may transfer the person so confined to a more appropriate jail or workhouse facility.

(C) All of the following apply in relation to a building or structure that is dedicated pursuant to division (B)(1) or (2) of this section for use as a minimum security jail:

(1) To the extent that the use of the building or structure as a minimum security jail requires a variance from any municipal corporation, county, or township zoning ordinances or regulations, the variance shall be granted.

(2) Except as provided in this section, the building or structure shall not be used to confine any person unless it is in substantial compliance with any applicable housing, fire prevention, sanitation, health, and safety codes, regulations, or standards.

(3) Unless such satisfaction or compliance is required under the standards described in division (C)(4) of this section, and notwithstanding any other provision of state or local law to the contrary, the building or structure need not satisfy or comply with any state or local building standard or code in order to be used to confine a person for the purposes specified in division (B) of this section.

(4) The building or structure shall not be used to confine any person unless it is in compliance with all minimum standards and minimum renovation, modification, and construction criteria for minimum security jails that have been proposed by the department of rehabilitation and correction, through its bureau of adult detention, under section 5120.10 of the Revised Code.

(5) The building or structure need not be renovated or modified into a secure detention facility in order to be used solely to confine a person for the purposes specified in divisions (B)(1)(a) and (B)(2)(a) of this section.

(6) The building or structure shall be used, equipped, furnished, and staffed to provide adequate and suitable living, sleeping, food service or preparation, drinking, bathing and toilet, sanitation, and other necessary facilities, furnishings, and equipment.

(D) Except as provided in this section, a minimum security jail dedicated and used under this section shall be considered to be part of the jail, workhouse, or other correctional facilities of the municipal corporation or the affiliated counties and municipal corporations for all purposes under the law. All persons confined in such a minimum security jail shall be and shall remain, in all respects, under the control of the authority of the municipal corporation that has responsibility for the management and operation of the jail, workhouse, or other correctional facilities of the municipal corporation or, if it is operated by any affiliation of counties or municipal corporations, under the control of the specified county or municipal corporation with that authority, provided that, if the person was convicted of a felony and is serving a residential sanction in the facility, all provisions of law that pertain to persons convicted of a felony that would not by their nature clearly be inapplicable apply regarding the person. A minimum security jail dedicated and used under this section shall be managed and maintained in accordance with policies and procedures adopted by the legislative authority of the municipal corporation or the affiliated counties and municipal corporations governing the safe and healthful operation of the jail, the confinement and supervision of the persons sentenced to it, and their participation in work release or similar rehabilitation programs. In addition to other rules of conduct and discipline, the rights of ingress and egress of persons confined in a minimum security jail dedicated and used under this section shall be subject to reasonable restrictions. Every person confined in a minimum security jail dedicated and used under this section shall be given verbal and written notification, at the time of the person's admission to the jail, that purposely leaving, or purposely failing to return to, the jail without proper authority or permission

constitutes the felony offense of escape.

(E) If a person who has been convicted of or pleaded guilty to an offense is sentenced to a term of imprisonment or a residential sanction in a minimum security jail as described in division (B)(1)(a) or (B)(2)(a) of this section, or if a person is an inmate transferred to a minimum security jail by order of a judge of the sentencing court as described in division (B)(1)(b) or (2)(b) of this section, at the time of reception and at other times the person in charge of the operation of the jail determines to be appropriate, the person in charge of the operation of the jail may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the jail may cause a convicted offender in the jail who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

Sec. 753.31. (A) As used in this section:

(1) "Free weight exercise equipment" means any equipment or device that is designed to increase the muscle mass and physical strength of the person using it. "Free weight exercise equipment" includes, but is not limited to, barbells, dumbbells, weight plates, and similar free weight-type equipment and other devices that the department of rehabilitation and correction, in rules adopted under section 5120.423 of the Revised Code, designates as enabling a person to increase muscle mass and physical strength.

(2) "Fixed weight exercise equipment" means any equipment, machine, or device that is not designed primarily to increase muscle mass and physical strength but rather to keep a person in relatively good physical condition. "Fixed weight exercise equipment" includes, but is not limited to, weight machines that utilize weight plates, tension bands, or similar devices that provide weight training resistance like universal and nautilus equipment. "Fixed weight exercise equipment" includes machines that are usually assembled as a unit, are not readily dismantled, and have been specifically modified for prison use so as to make them secure and immobile.

(3) "Municipal correctional officer" means a person who is employed by a municipal corporation as an employee or officer of a municipal jail, municipal workhouse, minimum security jail, joint city and county workhouse, municipal-county correctional center, multicounty-municipal correctional center, municipal-county jail or workhouse, or multicounty-municipal jail or workhouse.

(4) A person is "employed by a municipal corporation" if the person is employed by, or receives any compensation or benefits from, any official, officer, office, agency, board, commission, department, or other entity that is a branch of municipal government, that is established by a municipal corporation, or that serves a municipal corporation, including, but not limited to, a chief law enforcement officer of a municipal corporation.

(5) "Multicounty-municipal" has the same meaning as in section 307.93 of the Revised Code.

(B) No municipal correctional officer shall do any of the following:

(1) Provide a prisoner access to free weight or fixed weight exercise equipment;

(2) Allow a prisoner to provide or receive instruction in boxing, wrestling, karate, judo, or another form of martial arts, or any other program that the department of rehabilitation and correction, in rules adopted under section 5120.423 of the Revised Code, designates as enabling a person to improve fighting skills.

(C) Nothing in this section prohibits a municipal correctional officer from allowing a prisoner to participate in jogging, basketball, stationary exercise bicycling, supervised calisthenics, or other physical activities that are not designed to increase muscle mass and physical strength or improve fighting skills.

Sec. 2921.01. As used in sections 2921.01 to 2921.45 of the Revised Code:

(A) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers.

(B) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;

(3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

(C) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(D) "Official proceeding" means any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with an official proceeding.

(E) "Detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; or supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution. For a person confined in a county jail who participates in a county jail industry program pursuant to section 5147.30 of the Revised Code, "detention" includes time spent at an assigned work site and going to and from the work site.

(F) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(G) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(H) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," and "political party" have the same meanings as in section 3517.01 of the Revised Code.

(I) "Provider agreement" and "medical assistance program" have the

same meanings as in section 2913.40 of the Revised Code.

Sec. 2929.13. (A) Except as provided in division (E), (F), or (G) of this section and unless a specific sanction is required to be imposed or is precluded from being imposed pursuant to law, a court that imposes a sentence upon an offender for a felony may impose any sanction or combination of sanctions on the offender that are provided in sections 2929.14 to 2929.18 of the Revised Code. The sentence shall not impose an unnecessary burden on state or local government resources.

If the offender is eligible to be sentenced to community control sanctions, the court shall consider the appropriateness of imposing a financial sanction pursuant to section 2929.18 of the Revised Code or a sanction of community service pursuant to section 2929.17 of the Revised Code as the sole sanction for the offense. Except as otherwise provided in this division, if the court is required to impose a mandatory prison term for the offense for which sentence is being imposed, the court also may impose a financial sanction pursuant to section 2929.18 of the Revised Code but may not impose any additional sanction or combination of sanctions under section 2929.16 or 2929.17 of the Revised Code.

If the offender is being sentenced for a fourth degree felony OMVI offense, in addition to the mandatory term of local incarceration or the mandatory prison term required for the offense by division (G)(1) or (2) of this section, the court shall impose upon the offender a mandatory fine in accordance with division (B)(3) of section 2929.18 of the Revised Code and may impose whichever of the following is applicable:

(1) If division (G)(1) of this section requires that the offender be sentenced to a mandatory term of local incarceration, an additional community control sanction or combination of community control sanctions under section 2929.16 or 2929.17 of the Revised Code;

(2) If division (G)(2) of this section requires that the offender be sentenced to a mandatory prison term, an additional prison term as described in division (D)(4) of section 2929.14 of the Revised Code.

(B)(1) Except as provided in division (B)(2), (E), (F), or (G) of this section, in sentencing an offender for a felony of the fourth or fifth degree, the sentencing court shall determine whether any of the following apply:

(a) In committing the offense, the offender caused physical harm to a person.

(b) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.

(c) In committing the offense, the offender attempted to cause or made an actual threat of physical harm to a person, and the offender previously

was convicted of an offense that caused physical harm to a person.

(d) The offender held a public office or position of trust and the offense related to that office or position; the offender's position obliged the offender to prevent the offense or to bring those committing it to justice; or the offender's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.

(e) The offender committed the offense for hire or as part of an organized criminal activity.

(f) The offense is a sex offense that is a fourth or fifth degree felony violation of section 2907.03, 2907.04, 2907.05, 2907.22, 2907.31, 2907.321, 2907.322, 2907.323, or 2907.34 of the Revised Code.

(g) The offender previously served a prison term.

(h) The offender previously was subject to a community control sanction, and the offender committed another offense while under the sanction.

(2)(a) If the court makes a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a prison term is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code and finds that the offender is not amenable to an available community control sanction, the court shall impose a prison term upon the offender.

(b) Except as provided in division (E), (F), or (G) of this section, if the court does not make a finding described in division (B)(1)(a), (b), (c), (d), (e), (f), (g), or (h) of this section and if the court, after considering the factors set forth in section 2929.12 of the Revised Code, finds that a community control sanction or combination of community control sanctions is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code, the court shall impose a community control sanction or combination of community control sanctions upon the offender.

(C) Except as provided in division (E) or (F) of this section, in determining whether to impose a prison term as a sanction for a felony of the third degree or a felony drug offense that is a violation of a provision of Chapter 2925. of the Revised Code and that is specified as being subject to this division for purposes of sentencing, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code.

(D) Except as provided in division (E) or (F) of this section, for a felony of the first or second degree and for a felony drug offense that is a violation

of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable, it is presumed that a prison term is necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code. Notwithstanding the presumption established under this division, the sentencing court may impose a community control sanction or a combination of community control sanctions instead of a prison term on an offender for a felony of the first or second degree or for a felony drug offense that is a violation of any provision of Chapter 2925., 3719., or 4729. of the Revised Code for which a presumption in favor of a prison term is specified as being applicable if it makes both of the following findings:

(1) A community control sanction or a combination of community control sanctions would adequately punish the offender and protect the public from future crime, because the applicable factors under section 2929.12 of the Revised Code indicating a lesser likelihood of recidivism outweigh the applicable factors under that section indicating a greater likelihood of recidivism.

(2) A community control sanction or a combination of community control sanctions would not demean the seriousness of the offense, because one or more factors under section 2929.12 of the Revised Code that indicate that the offender's conduct was less serious than conduct normally constituting the offense are applicable, and they outweigh the applicable factors under that section that indicate that the offender's conduct was more serious than conduct normally constituting the offense.

(E)(1) Except as provided in division (F) of this section, for any drug offense that is a violation of any provision of Chapter 2925. of the Revised Code and that is a felony of the third, fourth, or fifth degree, the applicability of a presumption under division (D) of this section in favor of a prison term or of division (B) or (C) of this section in determining whether to impose a prison term for the offense shall be determined as specified in section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, or 2925.37 of the Revised Code, whichever is applicable regarding the violation.

(2) If an offender who was convicted of or pleaded guilty to a felony drug offense in violation of a provision of Chapter 2925., 3719., or 4729. of the Revised Code violates the conditions of a community control sanction imposed for the offense solely by possession or using a controlled substance and if the offender has not failed to meet the conditions of any drug treatment program in which the offender was ordered to participate as a sanction for the offense, the court, as punishment for the violation of the

sanction, shall order that the offender participate in a drug treatment program or in alcoholics anonymous, narcotics anonymous, or a similar program if the court determines that an order of that nature is consistent with the purposes and principles of sentencing set forth in section 2929.11 of the Revised Code. If the court determines that an order of that nature would not be consistent with those purposes and principles or if the offender violated the conditions of a drug treatment program in which the offender participated as a sanction for the offense, the court may impose on the offender a sanction authorized for the violation of the sanction, including a prison term.

(F) Notwithstanding divisions (A) to (E) of this section, the court shall impose a prison term or terms under sections 2929.02 to 2929.06, section 2929.14, or section 2971.03 of the Revised Code and except as specifically provided in section 2929.20 of the Revised Code or when parole is authorized for the offense under section 2967.13 of the Revised Code, shall not reduce the terms pursuant to section 2929.20, section 2967.193, or any other provision of Chapter 2967. or Chapter 5120. of the Revised Code for any of the following offenses:

(1) Aggravated murder when death is not imposed or murder;

(2) Any rape, regardless of whether force was involved and regardless of the age of the victim, or an attempt to commit rape by force when the victim is under thirteen years of age;

(3) Gross sexual imposition or sexual battery, if the victim is under thirteen years of age, if the offender previously was convicted of or pleaded guilty to rape, the former offense of felonious sexual penetration, gross sexual imposition, or sexual battery, and if the victim of the previous offense was under thirteen years of age;

(4) A felony violation of section 2903.06, 2903.07, or 2903.08 of the Revised Code if the section requires the imposition of a prison term;

(5) A first, second, or third degree felony drug offense for which section 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, 2925.11, 2925.13, 2925.22, 2925.23, 2925.36, 2925.37, 3719.99, or 4729.99 of the Revised Code, whichever is applicable regarding the violation, requires the imposition of a mandatory prison term;

(6) Any offense that is a first or second degree felony and that is not set forth in division (F)(1), (2), (3), or (4) of this section, if the offender previously was convicted of or pleaded guilty to aggravated murder, murder, any first or second degree felony, or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to one of those offenses;

(7) Any offense, other than a violation of section 2923.12 of the Revised Code, that is a felony, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony, with respect to a portion of the sentence imposed pursuant to division (D)(1)(a) of section 2929.14 of the Revised Code for having the firearm;

(8) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(9) Any sexually violent offense for which the offender also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging the sexually violent offense;

(10) A violation of division (A)(1) or (2) of section 2921.36 of the Revised Code, or a violation of division (C) of that section involving an item listed in division (A)(1) or (2) of that section, if the offender is an officer or employee of the department of rehabilitation and correction.

(G) Notwithstanding divisions (A) to (E) of this section, if an offender is being sentenced for a fourth degree felony OMVI offense, the court shall impose upon the offender a mandatory term of local incarceration or a mandatory prison term in accordance with the following:

(1) Except as provided in division (G)(2) of this section, the court shall impose upon the offender a mandatory term of local incarceration of sixty days as specified in division (A)(4) of section 4511.99 of the Revised Code and shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. The court that imposes a mandatory term of local incarceration under this division shall specify whether the term is to be served in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility, and the offender shall serve the term in the type of facility specified by the court. The court shall not sentence the offender to a prison term and shall not specify that the offender is to serve the mandatory term of local incarceration in prison. A mandatory term of local incarceration imposed under division (G)(1) of this section is not subject to extension under section 2967.11 of the Revised Code, to a period of post-release control under section 2967.28 of the Revised Code, or to any other Revised Code provision that pertains to a prison term.

(2) If the offender previously has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth degree felony OMVI offense, the court shall impose upon the offender a mandatory prison term of sixty days as specified in division (A)(4) of

section 4511.99 of the Revised Code and shall not reduce the term pursuant to section 2929.20, 2967.193, or any other provision of the Revised Code. In no case shall an offender who once has been sentenced to a mandatory term of local incarceration pursuant to division (G)(1) of this section for a fourth degree felony OMVI offense be sentenced to another mandatory term of local incarceration under that division for a fourth degree felony OMVI offense. The court shall not sentence the offender to a community control sanction under section 2929.16 or 2929.17 of the Revised Code. The department of rehabilitation and correction may place an offender sentenced to a mandatory prison term under this division in an intensive program prison established pursuant to section 5120.033 of the Revised Code if the department gave the sentencing judge prior notice of its intent to place the offender in an intensive program prison established under that section and if the judge did not notify the department that the judge disapproved the placement. Upon the establishment of the initial intensive program prison pursuant to section 5120.033 Of the Revised Code that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 Of the Revised Code, both of the following apply:

(a) The department of rehabilitation and correction shall make a reasonable effort to ensure that a sufficient number of offenders sentenced to a mandatory prison term under this division are placed in the privately operated and managed prison so that the privately operated and managed prison has full occupancy.

(b) Unless the privately operated and managed prison has full occupancy, the department of rehabilitation and correction shall not place any offender sentenced to a mandatory prison term under this division in any intensive program prison established pursuant to section 5120.033 Of the Revised Code other than the privately operated and managed prison.

(H) If an offender is being sentenced for a sexually oriented offense committed on or after the effective date of this amendment, the judge shall require the offender to submit to a DNA specimen collection procedure pursuant to section 2901.07 of the Revised Code if either of the following applies:

(1) The offense was a sexually violent offense, and the offender also was convicted of or pleaded guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging the sexually violent offense.

(2) The judge imposing sentence for the sexually oriented offense determines pursuant to division (B) of section 2950.09 of the Revised Code that the offender is a sexual predator.

(I) If an offender is being sentenced for a sexually oriented offense committed on or after the effective date of this amendment, the judge shall include in the sentence a summary of the offender's duty to register pursuant to section 2950.04 of the Revised Code, the offender's duty to provide notice of a change in residence address and register the new residence address pursuant to section 2950.05 of the Revised Code, the offender's duty to periodically verify the offender's current residence address pursuant to section 2950.06 of the Revised Code, and the duration of the duties. The judge shall inform the offender, at the time of sentencing, of those duties and of their duration and, if required under division (A)(2) of section 2950.03 of the Revised Code, shall perform the duties specified in that section.

Sec. 2945.47. (A)(1) As used in this section, "detention facility" has the same meaning as in section 2921.01 Of the Revised Code.

(2) If it is necessary in a criminal proceeding before the court to procure the testimony of a person who is imprisoned in a ~~workhouse, juvenile detention facility, jail,~~ or state correctional institution within this state, or who is in the custody of the department of youth services, the court may require that the person's testimony be taken by deposition pursuant to Criminal Rule 15 at the place of the person's confinement, if the person is not a defendant in the case and if the court determines that the interests of justice do not demand that the person be brought before the court for the presentation of ~~his~~ the person's testimony. All witnesses for the prosecution shall be brought before the court. The defendant may waive any right to compel the appearance of a person brought before the court pursuant to this division.

(B) ~~If~~ Subject to division (C) of this section, if it is necessary in a criminal proceeding before the court to procure the testimony of a person who is imprisoned in a ~~workhouse, a juvenile detention facility, or a jail~~ within this state, the court may order a subpoena to be issued, directed to the keeper of the institution, commanding ~~him~~ the keeper to bring the prisoner named in the subpoena before the court.

The keeper, upon receiving the subpoena, shall take the witness before the court at the time and place named in the subpoena, and hold ~~him~~ the witness until ~~he~~ the witness is discharged by the court. When discharged, ~~he~~ the witness shall be returned in the custody of such officer to the place of imprisonment from which ~~he~~ the witness was taken, and the officer may command any assistance that ~~he~~ the officer considers proper for the transportation of the witness.

(C) If it is necessary in a criminal proceeding before the court to procure

the testimony of a person who is imprisoned in a state correctional institution within this state, or who is in the custody of the department of youth services, the court may order a subpoena to be issued directed to the sheriff of the county in which the indictment or grand jury proceeding is pending. When a copy of the subpoena is presented by the sheriff to the warden or superintendent of a state correctional institution, or to the person in charge of the facility in which a juvenile is confined, ~~he shall deliver~~ the witness shall be delivered at the institution or facility to the sheriff who shall take ~~him~~ the witness before the court at the time and place named in the subpoena and hold ~~him~~ the witness until ~~he~~ the witness is discharged by the court. When discharged, ~~he~~ the witness shall be returned in the custody of the sheriff to the place of imprisonment from which ~~he~~ the witness was taken.

(D) The court ~~shall~~, in the manner provided in Chapter 120. of the Revised Code, shall either assign counsel or designate a public defender to represent a juvenile subpoenaed as a witness under this section. Compensation for assigned counsel shall be made pursuant to section 2941.51 of the Revised Code.

(E) When a person's testimony is taken by deposition pursuant to division (A) of this section, the deposition shall be upon oral examination if either the prosecuting authority or the defendant who is taking the deposition requests that the deposition be upon oral examination, and may be videotaped if either the prosecuting authority or the defendant who is taking the deposition requests that it be recorded by means of videotape.

The person requesting the testimony of the person whose deposition is taken pursuant to division (A) of this section shall pay the expense of taking the deposition, except that the court may tax the expense as court costs in appropriate cases.

Sec. 5120.033. (A) As used in this section, "fourth degree felony OMVI offense" has the same meaning as in section 2929.01 of the Revised Code.

(B) Within eighteen months after the effective date of this section, the department of rehabilitation and correction shall develop and implement intensive program prisons for male and female prisoners who are sentenced pursuant to division (G)(2) of section 2929.13 of the Revised Code to a mandatory prison term for a fourth degree felony OMVI offense. The department shall contract pursuant to section 9.06 Of the Revised Code for the private operation and management of the initial intensive program prison established under this section and may contract pursuant to that section for the private operation and management of any other intensive program prison established under this section. The intensive program prisons established

under this section shall include prisons that focus on educational achievement, vocational training, alcohol and other drug abuse treatment, community service and conservation work, and other intensive regimens or combinations of intensive regimens.

(C) Except as provided in division (D) of this section, the department may place a prisoner who is sentenced to a mandatory prison term for a fourth degree felony OMVI offense in an intensive program prison established pursuant to division (B) of this section if the sentencing judge, upon notification by the department of its intent to place the prisoner in an intensive program prison, does not notify the department that the judge disapproves the placement. If the stated prison term imposed on a prisoner who is so placed is longer than the mandatory prison term that is required to be imposed on the prisoner, the department may reduce the stated prison term upon the prisoner's successful completion of the prisoner's mandatory prison term in an intensive program prison. A prisoner whose term has been so reduced shall be required to serve an intermediate, transitional type of detention followed by a release under post-release control sanctions or, in the alternative, shall be placed under post-release control sanctions, as described in division (B)(2)(b)(ii) of section 5120.031 of the Revised Code. In either case, the placement under post-release control sanctions shall be under terms set by the parole board in accordance with section 2967.28 of the Revised Code and shall be subject to the provisions of that section with respect to a violation of any post-release control sanction. Upon the establishment of the initial intensive program prison pursuant to division (B) of this section that is privately operated and managed by a contractor pursuant to a contract entered into under section 9.06 Of the Revised Code, the department shall comply with divisions (G)(2)(a) and (b) of section 2929.13 Of the Revised Code in placing prisoners in intensive program prisons under this section.

(D) A prisoner who is sentenced to a mandatory prison term for a fourth degree felony OMVI offense is not eligible to participate in an intensive program prison established under division (B) of this section if any of the following applies regarding the prisoner:

(1) In addition to the mandatory prison term for the fourth degree felony OMVI offense, the prisoner also is serving a prison term of a type described in division (B)(2)(a), (b), or (c) of section 5120.032 of the Revised Code.

(2) The prisoner previously has been imprisoned for an offense of a type described in division (B)(2)(a) or (c) of section 5120.032 of the Revised Code or a comparable offense under the law in effect prior to July 1, 1996.

(E) Intensive program prisons established under division (B) of this

section are not subject to section 5120.032 of the Revised Code.

SECTION 2. That existing sections 9.06, 103.73, 341.34, 341.41, 753.21, 753.31, 2921.01, 2929.13, 2945.47, and 5120.033 of the Revised Code are hereby repealed.

SECTION 3. Section 2929.13 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 32 and Am. Sub. S.B. 111 of the 122nd General Assembly, with the new language of neither of the acts shown in capital letters. This is in recognition of the principle stated in division (B) of section 1.52 of the Revised Code that such amendments are to be harmonized where not substantively irreconcilable and constitutes a legislative finding that such is the resulting version in effect prior to the effective date of this act.

SECTION 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that immediate action is crucial for the protection of Ohio residents from potential problems that might arise due to the housing of out-of-state prisoners in private detention facilities in Ohio. Therefore, this act shall go into immediate effect.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ___ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____