

AN ACT

To enact sections 5120.425, 5120.426, 5120.427, and 5120.428 of the Revised Code to regulate the receipt and retention of specified inflammatory materials and other types of materials by prisoners in state correctional institutions.

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

SECTION 1. That sections 5120.425, 5120.426, 5120.427, and 5120.428 of the Revised Code be enacted to read as follows:

Sec. 5120.425. As used in sections 5120.425 to 5120.428 of the Revised Code:

(A) "Head of a state correctional institution," "prisoner," and "state correctional institution" have the same meanings as in section 2967.01 of the Revised Code.

(B) "Material" means a prerecorded magnetic audio or video tape, book, drawing, magazine, newspaper, pamphlet, poster, print, photograph, or other similar printed, written, recorded, or otherwise produced item.

(C) "Prohibited inflammatory material" means a material that, in the determination of the warden or the warden's designee, is detrimental to, or poses a threat to, the rehabilitation of the inmates or the security, good order, or discipline within or on the grounds of the institution for any reason, including, but not limited to, that it is material with a sexually explicit nature.

(D) "Publication review committee" means the committee created by the director of rehabilitation and correction pursuant to division (C) of section 5120.426 of the Revised Code.

(E) "warden" means the head of a state CORRECTIONAL INSTITUTION.

(F) "warden's designee" means a person or a panel of persons designated by a warden to perform a RESPONSIBILITY that SECTIONS 5120.425 to 5120.428 of the Revised Code generally otherwise impose upon the warden.

Sec. 5120.426. (A) The director of rehabilitation and correction shall adopt rules, and each warden shall adopt regulations that govern the form,

medium, and quantity of materials that each prisoner confined in the warden's institution is permitted to receive and retain. Those rules and regulations shall be consistent with sections 5120.425 to 5120.428 of the Revised Code. The regulations adopted by the warden shall be consistent with the rules that the director of rehabilitation and correction adopts pursuant to this division.

(B) The director of rehabilitation and correction shall adopt a rule establishing a standard for determining whether material is a prohibited inflammatory material. In establishing the standard for determining whether material is a prohibited inflammatory material, the director shall consider all relevant information, including, but not limited to, the standard established for material that is harmful to juveniles in section 2907.01 of the Revised Code; in establishing the standard under this division, the director shall not be governed or limited by the standard established by section 2907.01 of the Revised Code.

(C) The director of rehabilitation and correction shall appoint a publication review committee of one or more persons. The member or members of the committee shall review withholding determinations pursuant to section 5120.428 of the Revised Code.

Sec. 5120.427. (A) Each prisoner confined in a state correctional institution may receive a reasonable number of materials directly from the publishers or other distributors of those materials. With the prior approval of the warden of the state correctional institution in which a prisoner is confined, each prisoner also may receive a reasonable number of materials from a source other than the publisher or other distributor of those materials.

A prisoner's receipt and retention of materials is subject to security inspections conducted by the institution in which the prisoner is confined and to the rules and regulations adopted pursuant to section 5120.426 of the Revised Code. Subject to a contrary decision with respect to a material's nature by the publication review committee following a review pursuant to section 5120.428 of the Revised Code, a prisoner is not entitled to receive or retain any material that a warden or the warden's designee determines during the course of a security inspection to be a prohibited inflammatory material.

(B)(1) For each state correctional institution, the warden or the warden's designee shall inspect each incoming material to determine whether the material is a prohibited inflammatory material or another type of material. The warden or the warden's designee shall not determine a material to be a prohibited inflammatory material solely on the basis of its appeal to a particular ethnic, racial, or religious audience.

(2) If the warden or the warden's designee determines that an incoming

material is not a prohibited inflammatory material, the warden or the warden's designee shall cause the material to be promptly forwarded to the prisoner who is its intended recipient. If the warden or the warden's designee determines that an incoming material is a prohibited inflammatory material, the warden or the warden's designee shall cause the material to be withheld from the prisoner who is its intended recipient and promptly shall provide that prisoner with a written withholding notice containing all of the following:

(a) A general description of the withheld material;

(b) The reason why the material has not been forwarded to the prisoner;

(c) A statement of the prisoner's right under division (A) of section 5120.428 of the Revised Code to have the publication review committee review the withholding decision of the warden or the warden's designee.

(3) Within five working days after a prisoner's receipt of the withholding notice described in division (B)(2) of this section, the prisoner may submit to the warden a written request for a review of the withholding decision. If the prisoner fails to submit a timely written request for a review of that nature, the failure shall constitute the prisoner's acceptance of the withholding decision, and the warden or the warden's designee shall cause the material to be disposed of in the manner that the warden or the warden's designee considered to be most appropriate under the circumstances.

Sec. 5120.428. (A) If a prisoner confined in a state correctional institution submits a timely written review request under division (B)(3) of section 5120.427 of the Revised Code, the warden of the state correctional institution in which the prisoner is confined or the warden's designee promptly shall forward the withheld material to the publication review committee. As soon as is practicable after receipt of the withheld material, the publication review committee shall review the material to determine whether it is a prohibited inflammatory material or another type of material.

(B) If the publication review committee determines that the withheld material is not a prohibited inflammatory material, the committee shall cause the withheld material to be promptly forwarded to the prisoner who requested the review.

(C) If the publication review committee determines that the withheld material is a prohibited inflammatory material, the committee shall forward the material to the warden or the warden's designee for disposal in the manner considered to be most appropriate under the circumstances.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Am. Sub. H. B. No. 62

5

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

Director, Legislative Service Commission.

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Secretary of State.

File No. _____ Effective Date _____