

As Passed by the House

124th General Assembly

Regular Session

2001-2002

Am. Sub. H. B. No. 510

REPRESENTATIVES Womer Benjamin, Latta, Willamowski, Coates,
Otterman, Schmidt

A BILL

To amend sections 1901.33, 2151.421, 2301.27, 2301.54, 1
2907.03, 2921.36, 2933.41, 2951.03, 2967.14, 2
2967.26, 2967.27, 2967.28, 5120.01, 5120.21, 3
5120.30, 5120.38, 5120.421, 5120.48, 5120.60, 4
5139.251, 5145.06, 5149.02, 5149.04, 5149.05, 5
5149.06, 5149.10, and 5149.12, to enact section 6
5145.163, and to repeal section 5120.43 of the 7
Revised Code relative to the Department of 8
Rehabilitation and Correction. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1901.33, 2151.421, 2301.27, 2301.54, 10
2907.03, 2921.36, 2933.41, 2951.03, 2967.14, 2967.26, 2967.27, 11
2967.28, 5120.01, 5120.21, 5120.30, 5120.38, 5120.421, 5120.48, 12
5120.60, 5139.251, 5145.06, 5149.02, 5149.04, 5149.05, 5149.06, 13
5149.10, and 5149.12 be amended and section 5145.163 of the 14
Revised Code be enacted to read as follows: 15

Sec. 1901.33. (A) The judge or judges of a municipal court 16
may appoint one or more interpreters, one or more mental health 17
professionals, one or more probation officers, an assignment 18
commissioner, deputy assignment commissioners, and other court 19

aides on a full-time, part-time, hourly, or other basis. Each 20
appointee shall receive the compensation out of the city treasury 21
that the legislative authority prescribes, except that in a 22
county-operated municipal court they shall receive the 23
compensation out of the treasury of the county in which the court 24
is located that the board of county commissioners prescribes. 25
Probation officers have all the powers of regular police officers 26
and shall perform any duties that are designated by the judge or 27
judges of the court. Assignment commissioners shall assign cases 28
for trial and perform any other duties that the court directs. 29

The judge or judges may appoint one or more typists, 30
stenographers, statistical clerks, and official court reporters, 31
each of whom shall be paid the compensation out of the city 32
treasury that the legislative authority prescribes, except that in 33
a county-operated municipal court they shall be paid the 34
compensation out of the treasury of the county in which the court 35
is located that the board of county commissioners prescribes. 36

(B) If a municipal court appoints one or more probation 37
officers, those officers shall constitute the municipal court 38
department of probation unless the court designates other 39
employees as the department of probation for the court. 40

(C) The chief probation officer may grant permission to a 41
probation officer to carry firearms when required in the discharge 42
of the probation officer's official duties, ~~provided that any if~~ 43
~~the~~ probation officer who is granted permission to carry firearms 44
~~in the discharge of the probation officer's official duties,~~ 45
~~within six months of receiving permission to carry a firearm,~~ 46
~~shall~~ has successfully ~~complete~~ completed a basic firearm training 47
program that is ~~conducted at a training school~~ approved by the 48
executive director of the Ohio peace officer training commission 49
~~and that is substantially similar to the basic firearm training~~ 50
~~program for peace officers conducted at the Ohio peace officer~~ 51

~~training academy and receive a certificate of satisfactory~~ 52
~~completion of that program from the executive director of the Ohio~~ 53
~~peace officer training commission. Any probation officer who does~~ 54
~~not successfully complete a basic firearm training program within~~ 55
~~the six-month period after receiving permission to carry a firearm~~ 56
~~shall not carry, after the expiration of that six-month period, a~~ 57
~~firearm in the discharge of the probation officer's official~~ 58
~~duties until the probation officer has successfully completed a~~ 59
~~basic firearm training program. A probation officer who has~~ 60
~~received a certificate of satisfactory completion of a basic~~ 61
~~firearm training program, to maintain the right been granted~~ 62
~~permission to carry a firearm in the discharge of the probation~~ 63
~~officer's official duties, annually shall successfully complete a~~ 64
~~firearms requalification program in accordance with section~~ 65
~~109.801 of the Revised Code.~~ 66

(D) The judge or judges of a municipal court in which the 67
clerk of the court is elected as provided in division (A)(1)(a) or 68
(d) or (A)(2)(b) of section 1901.31 of the Revised Code may 69
appoint an administrative assistant. The administrative assistant 70
shall have charge of personnel related matters of the court and 71
shall perform any other administrative duties assigned by the 72
court. The administrative assistant shall receive the compensation 73
out of the city treasury that the court prescribes, except that, 74
in a county-operated municipal court, the administrative assistant 75
shall receive the compensation out of the treasury of the county 76
in which the court is located that the court prescribes. 77

Sec. 2151.421. (A)(1)(a) No person described in division 79
(A)(1)(b) of this section who is acting in an official or 80
professional capacity and knows or suspects that a child under 81
eighteen years of age or a mentally retarded, developmentally 82
disabled, or physically impaired child under twenty-one years of 83

age has suffered or faces a threat of suffering any physical or 84
mental wound, injury, disability, or condition of a nature that 85
reasonably indicates abuse or neglect of the child, shall fail to 86
immediately report that knowledge or suspicion to the public 87
children services agency or a municipal or county peace officer in 88
the county in which the child resides or in which the abuse or 89
neglect is occurring or has occurred. Division (A)(1)(a) of this 90
section does not apply with respect to inmates who are under 91
eighteen years of age and in the custody of the department of 92
rehabilitation and correction. A person should report known or 93
suspected abuse or neglect involving an inmate of this nature to 94
the state highway patrol in the county in which is located the 95
state correctional institution in which the inmate is confined. If 96
the state highway patrol determines that it is probable that abuse 97
or neglect of an inmate occurred, the patrol shall report its 98
findings to the department and to the court that sentenced the 99
inmate for the offense for which the inmate is in the custody of 100
the department. 101

(b) Division (A)(1)(a) of this section applies to any person 102
who is an attorney; physician, including a hospital intern or 103
resident; dentist; podiatrist; practitioner of a limited branch of 104
medicine as specified in section 4731.15 of the Revised Code; 105
registered nurse; licensed practical nurse; visiting nurse; other 106
health care professional; licensed psychologist; licensed school 107
psychologist; speech pathologist or audiologist; coroner; 108
administrator or employee of a child day-care center; 109
administrator or employee of a residential camp or child day camp; 110
administrator or employee of a certified child care agency or 111
other public or private children services agency; school teacher; 112
school employee; school authority; person engaged in social work 113
or the practice of professional counseling; or a person rendering 114
spiritual treatment through prayer in accordance with the tenets 115
of a well-recognized religion. 116

(2) An attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding, except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The attorney-client or physician-patient relationship does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(B) ~~Anyone~~, When the child or person involved is not in the custody of the department of rehabilitation and correction, anyone who knows or suspects that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or

faces a threat of suffering any physical or mental wound, injury, 149
disability, or other condition of a nature that reasonably 150
indicates abuse or neglect of the child, may report or cause 151
reports to be made of that knowledge or suspicion to the public 152
children services agency or to a municipal or county peace 153
officer. A person may report known or suspected abuse or neglect 154
of an inmate who is under eighteen years of age and in the custody 155
of the department of rehabilitation and correction to the state 156
highway patrol. A person making a report of that nature to the 157
state highway patrol shall make the report in the county in which 158
is located the state correctional institution in which the inmate 159
is confined. If the state highway patrol determines that it is 160
probable that abuse or neglect of an inmate occurred, the patrol 161
shall report its findings to the department and to the court that 162
sentenced the inmate for the offense for which the inmate is in 163
the custody of the department. 164

(C) Any report made pursuant to division (A) or (B) of this 165
section shall be made forthwith either by telephone or in person 166
and shall be followed by a written report, if requested by the 167
receiving agency or officer. The written report shall contain: 168

(1) The names and addresses of the child and the child's 169
parents or the person or persons having custody of the child, if 170
known; 171

(2) The child's age and the nature and extent of the child's 172
known or suspected injuries, abuse, or neglect or of the known or 173
suspected threat of injury, abuse, or neglect, including any 174
evidence of previous injuries, abuse, or neglect; 175

(3) Any other information that might be helpful in 176
establishing the cause of the known or suspected injury, abuse, or 177
neglect or of the known or suspected threat of injury, abuse, or 178
neglect. 179

Any person, who is required by division (A) of this section 180

to report known or suspected child abuse or child neglect, may 181
take or cause to be taken color photographs of areas of trauma 182
visible on a child and, if medically indicated, cause to be 183
performed radiological examinations of the child. 184

(D)(1) Upon the receipt of a report concerning the possible 185
abuse or neglect of a child or the possible threat of abuse or 186
neglect of a child, the municipal or county peace officer who 187
receives the report shall refer the report to the appropriate 188
public children services agency. 189

(2) On receipt of a report pursuant to this division or 190
division (A) or (B) of this section, the public children services 191
agency shall comply with section 2151.422 of the Revised Code. 192

(E) No township, municipal, or county peace officer shall 193
remove a child about whom a report is made pursuant to this 194
section from the child's parents, stepparents, or guardian or any 195
other persons having custody of the child without consultation 196
with the public children services agency, unless, in the judgment 197
of the officer, and, if the report was made by physician, the 198
physician, immediate removal is considered essential to protect 199
the child from further abuse or neglect. The agency that must be 200
consulted shall be the agency conducting the investigation of the 201
report as determined pursuant to section 2151.422 of the Revised 202
Code. 203

(F)(1) Except as provided in section 2151.422 of the Revised 204
Code, the public children services agency shall investigate, 205
within twenty-four hours, each report of known or suspected child 206
abuse or child neglect and of a known or suspected threat of child 207
abuse or child neglect that is referred to it under this section 208
to determine the circumstances surrounding the injuries, abuse, or 209
neglect or the threat of injury, abuse, or neglect, the cause of 210
the injuries, abuse, neglect, or threat, and the person or persons 211
responsible. The investigation shall be made in cooperation with 212

the law enforcement agency and in accordance with the memorandum 213
of understanding prepared under division (J) of this section. A 214
failure to make the investigation in accordance with the 215
memorandum is not grounds for, and shall not result in, the 216
dismissal of any charges or complaint arising from the report or 217
the suppression of any evidence obtained as a result of the report 218
and does not give, and shall not be construed as giving, any 219
rights or any grounds for appeal or post-conviction relief to any 220
person. The public children services agency shall report each case 221
to a central registry which the department of job and family 222
services shall maintain in order to determine whether prior 223
reports have been made in other counties concerning the child or 224
other principals in the case. The public children services agency 225
shall submit a report of its investigation, in writing, to the law 226
enforcement agency. 227

(2) The public children services agency shall make any 228
recommendations to the county prosecuting attorney or city 229
director of law that it considers necessary to protect any 230
children that are brought to its attention. 231

(G)(1)(a) Except as provided in division (H)(3) of this 232
section, anyone or any hospital, institution, school, health 233
department, or agency participating in the making of reports under 234
division (A) of this section, anyone or any hospital, institution, 235
school, health department, or agency participating in good faith 236
in the making of reports under division (B) of this section, and 237
anyone participating in good faith in a judicial proceeding 238
resulting from the reports, shall be immune from any civil or 239
criminal liability for injury, death, or loss to person or 240
property that otherwise might be incurred or imposed as a result 241
of the making of the reports or the participation in the judicial 242
proceeding. 243

(b) Notwithstanding section 4731.22 of the Revised Code, the 244

physician-patient privilege shall not be a ground for excluding
evidence regarding a child's injuries, abuse, or neglect, or the
cause of the injuries, abuse, or neglect in any judicial
proceeding resulting from a report submitted pursuant to this
section.

245
246
247
248
249

(2) In any civil or criminal action or proceeding in which it
is alleged and proved that participation in the making of a report
under this section was not in good faith or participation in a
judicial proceeding resulting from a report made under this
section was not in good faith, the court shall award the
prevailing party reasonable attorney's fees and costs and, if a
civil action or proceeding is voluntarily dismissed, may award
reasonable attorney's fees and costs to the party against whom the
civil action or proceeding is brought.

250
251
252
253
254
255
256
257
258

(H)(1) Except as provided in divisions (H)(4), (M), and (N)
of this section, a report made under this section is confidential.
The information provided in a report made pursuant to this section
and the name of the person who made the report shall not be
released for use, and shall not be used, as evidence in any civil
action or proceeding brought against the person who made the
report. In a criminal proceeding, the report is admissible in
evidence in accordance with the Rules of Evidence and is subject
to discovery in accordance with the Rules of Criminal Procedure.

259
260
261
262
263
264
265
266
267

(2) No person shall permit or encourage the unauthorized
dissemination of the contents of any report made under this
section.

268
269
270

(3) A person who knowingly makes or causes another person to
make a false report under division (B) of this section that
alleges that any person has committed an act or omission that
resulted in a child being an abused child or a neglected child is
guilty of a violation of section 2921.14 of the Revised Code.

271
272
273
274
275

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer may, at its discretion, make the report available to the review board.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(J)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a) If there is only one juvenile judge in the county, the

juvenile judge of the county or the juvenile judge's
representative; 308
309

(b) If there is more than one juvenile judge in the county, a
juvenile judge or the juvenile judges' representative selected by
the juvenile judges or, if they are unable to do so for any
reason, the juvenile judge who is senior in point of service or
the senior juvenile judge's representative; 310
311
312
313
314

(c) The county peace officer; 315

(d) All chief municipal peace officers within the county; 316

(e) Other law enforcement officers handling child abuse and
neglect cases in the county; 317
318

(f) The prosecuting attorney of the county; 319

(g) If the public children services agency is not the county
department of job and family services, the county department of
job and family services. 320
321
322

(2) A memorandum of understanding shall set forth the normal
operating procedure to be employed by all concerned officials in
the execution of their respective responsibilities under this
section and division (C) of section 2919.21, division (B)(1) of
section 2919.22, division (B) of section 2919.23, and section
2919.24 of the Revised Code and shall have as two of its primary
goals the elimination of all unnecessary interviews of children
who are the subject of reports made pursuant to division (A) or
(B) of this section and, when feasible, providing for only one
interview of a child who is the subject of any report made
pursuant to division (A) or (B) of this section. A failure to
follow the procedure set forth in the memorandum by the concerned
officials is not grounds for, and shall not result in, the
dismissal of any charges or complaint arising from any reported
case of abuse or neglect or the suppression of any evidence
obtained as a result of any reported child abuse or child neglect 323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338

and does not give, and shall not be construed as giving, any 339
rights or any grounds for appeal or post-conviction relief to any 340
person. 341

(3) A memorandum of understanding shall include all of the 342
following: 343

(a) The roles and responsibilities for handling emergency and 344
nonemergency cases of abuse and neglect; 345

(b) Standards and procedures to be used in handling and 346
coordinating investigations of reported cases of child abuse and 347
reported cases of child neglect, methods to be used in 348
interviewing the child who is the subject of the report and who 349
allegedly was abused or neglected, and standards and procedures 350
addressing the categories of persons who may interview the child 351
who is the subject of the report and who allegedly was abused or 352
neglected. 353

(K)(1) Except as provided in division (K)(4) of this section, 354
a person who is required to make a report pursuant to division (A) 355
of this section may make a reasonable number of requests of the 356
public children services agency that receives or is referred the 357
report to be provided with the following information: 358

(a) Whether the agency has initiated an investigation of the 360
report; 361

(b) Whether the agency is continuing to investigate the 362
report; 363

(c) Whether the agency is otherwise involved with the child 364
who is the subject of the report; 365

(d) The general status of the health and safety of the child 366
who is the subject of the report; 367

(e) Whether the report has resulted in the filing of a 368

complaint in juvenile court or of criminal charges in another court. 369
370

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report. 371
372
373
374

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report. 375
376
377
378
379
380
381
382
383

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions. 384
385
386
387
388
389
390
391
392

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section. 393
394
395

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of 396
397
398
399

division (K) of this section.

400

(L) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

401

402

403

404

405

406

407

408

(M) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

409

410

411

412

413

414

415

416

417

418

419

420

421

422

423

424

425

426

427

428

(N) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes

429

430

431

a disposition of an investigation involving a report of alleged
child abuse or child neglect, or a report of an alleged threat of
child abuse or child neglect, that allegedly occurred in or
involved an out-of-home care entity, the agency shall send written
notice of the disposition of the investigation to the
administrator, director, or other chief administrative officer and
the owner or governing board of the out-of-home care entity. The
agency shall not provide witness statements or police or other
investigative reports.

432
433
434
435
436
437
438
439
440

Sec. 2301.27. (A)(1) The court of common pleas may establish
a county department of probation. The establishment of the
department shall be entered upon the journal of the court, and the
clerk of the court of common pleas shall certify a copy of the
journal entry establishing the department to each elective officer
and board of the county. The department shall consist of a chief
probation officer and the number of other probation officers and
employees, clerks, and stenographers that is fixed from time to
time by the court. The court shall appoint those individuals, fix
their salaries, and supervise their work. The court shall not
appoint as a probation officer any person who does not possess the
training, experience, and other qualifications prescribed by the
adult parole authority created by section 5149.02 of the Revised
Code. Probation officers have all the powers of regular police
officers and shall perform any duties that are designated by the
judge or judges of the court. All positions within the department
of probation shall be in the classified service of the civil
service of the county.

441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458

(2) If two or more counties desire to jointly establish a
probation department for those counties, the judges of the courts
of common pleas of those counties may establish a probation
department for those counties. If a probation department is
established pursuant to division (A)(2) of this section to serve

459
460
461
462
463

more than one county, the judges of the courts of common pleas
that established the department shall designate the county
treasurer of one of the counties served by the department as the
treasurer to whom probation fees paid under section 2951.021 of
the Revised Code are to be appropriated and transferred under
division (A)(2) of section 321.44 of the Revised Code for deposit
into the multicounty probation services fund established under
division (B) of section 321.44 of the Revised Code.

464
465
466
467
468
469
470
471

The cost of the administration and operation of a probation
department established for two or more counties shall be prorated
to the respective counties on the basis of population.

472
473
474

(3) Probation officers shall receive, in addition to their
respective salaries, their necessary and reasonable travel and
other expenses incurred in the performance of their duties. Their
salaries and expenses shall be paid monthly from the county
treasury in the manner provided for the payment of the
compensation of other appointees of the court.

475
476
477
478
479
480

(B)(1) In lieu of establishing a county department of
probation under division (A) of this section and in lieu of
entering into an agreement with the adult parole authority as
described in division (B) of section 2301.32 of the Revised Code,
the court of common pleas may request the board of county
commissioners to contract with, and upon that request the board
may contract with, any nonprofit, public or private agency,
association, or organization for the provision of probation
services and supervisory services for persons placed under
community control sanctions. The contract shall specify that each
individual providing the probation services and supervisory
services shall possess the training, experience, and other
qualifications prescribed by the adult parole authority. The
individuals who provide the probation services and supervisory
services shall not be included in the classified or unclassified

481
482
483
484
485
486
487
488
489
490
491
492
493
494
495

civil service of the county.

496

(2) In lieu of establishing a county department of probation under division (A) of this section and in lieu of entering into an agreement with the adult parole authority as described in division (B) of section 2301.32 of the Revised Code, the courts of common pleas of two or more adjoining counties jointly may request the boards of county commissioners of those counties to contract with, and upon that request the boards of county commissioners of two or more adjoining counties jointly may contract with, any nonprofit, public or private agency, association, or organization for the provision of probation services and supervisory services for persons placed under community control sanctions for those counties. The contract shall specify that each individual providing the probation services and supervisory services shall possess the training, experience, and other qualifications prescribed by the adult parole authority. The individuals who provide the probation services and supervisory services shall not be included in the classified or unclassified civil service of any of those counties.

497

498

499

500

501

502

503

504

505

506

507

508

509

510

511

512

513

514

(C) The chief probation officer may grant permission to a probation officer to carry firearms when required in the discharge of official duties, ~~provided that any~~ if the probation officer ~~who is granted permission to carry firearms in the discharge of official duties, within six months of receiving permission to carry a firearm, shall~~ has successfully ~~complete~~ completed a basic firearm training program that is ~~conducted at a training school approved by the executive director of the Ohio peace officer training commission and that is substantially similar to the basic firearm training program for peace officers conducted at the Ohio peace officer training academy and receive a certificate of satisfactory completion of that program from the executive director of the Ohio peace officer training commission.~~ Any

515

516

517

518

519

520

521

522

523

524

525

526

527

~~probation officer who does not successfully complete a basic~~ 528
~~firearm training program within the six-month period after~~ 529
~~receiving permission to carry a firearm shall not carry, after the~~ 530
~~expiration of that six-month period, a firearm in the discharge of~~ 531
~~official duties until the probation officer has successfully~~ 532
~~completed a basic firearm training program. A probation officer~~ 533
~~who has received a certificate of satisfactory completion of a~~ 534
~~basic firearm training program, to maintain the right been granted~~ 535
~~permission to carry a firearm in the discharge of official duties,~~ 536
annually shall successfully complete a firearms requalification 537
program in accordance with section 109.801 of the Revised Code. 538

(D) As used in this section, "community control sanction" has 539
the same meaning as in section 2929.01 of the Revised Code. 540

Sec. 2301.54. Each citizens advisory board appointed under 541
section 2301.53 of the Revised Code shall do all of the following, 542
for each community-based correctional facility and program or 543
district community-based correctional facility and program that 544
was contained in a proposal submitted by the judicial corrections 545
board that appointed it and that was approved by the ~~section on~~ 546
~~probation development and supervision of the adult parole~~ 547
~~authority division of parole and community services:~~ 548

(A) Recommend physical facilities for the use and operation 549
of the facility and program; 550

(B) Provide community relations services for the facility and 551
program; 552

(C) Regularly conduct public meetings in the communities that 553
are served by the facility and program, accept recommendations 554
from the public that are offered at the meetings and that relate 555
to the operation of the facility and program, and refer the 556
recommendations to the judicial corrections board; 557

(D) Encourage the provision of community services by persons, 558

agencies, organizations, or groups in the area served by the 559
facility and program, and seek out persons, agencies, 560
organizations, or groups to provide community services, to the 561
facility and program; 562

(E) Perform other duties relating to the operation of the 563
facility and program that are prescribed by the judicial 564
corrections board. 565

Sec. 2907.03. (A) No person shall engage in sexual conduct 566
with another, not the spouse of the offender, when any of the 567
following apply: 568

(1) The offender knowingly coerces the other person to submit 569
by any means that would prevent resistance by a person of ordinary 570
resolution. 571

(2) The offender knows that the other person's ability to 572
appraise the nature of or control the other person's own conduct 573
is substantially impaired. 574

(3) The offender knows that the other person submits because 575
the other person is unaware that the act is being committed. 576

(4) The offender knows that the other person submits because 577
the other person mistakenly identifies the offender as the other 578
person's spouse. 579

(5) The offender is the other person's natural or adoptive 580
parent, or a stepparent, or guardian, custodian, or person in loco 581
parentis of the other person. 582

(6) The other person is in custody of law or a patient in a 583
hospital or other institution, and the offender has supervisory or 584
disciplinary authority over the other person. 585

(7) The offender is a teacher, administrator, coach, or other 586
person in authority employed by or serving in a school for which 587

the state board of education prescribes minimum standards pursuant 588
to division (D) of section 3301.07 of the Revised Code, the other 589
person is enrolled in or attends that school, and the offender is 590
not enrolled in and does not attend that school. 591

(8) The other person is a minor, the offender is a teacher, 592
administrator, coach, or other person in authority employed by or 593
serving in an institution of higher education, and the other 594
person is enrolled in or attends that institution. 595

(9) The other person is a minor, and the offender is the 596
other person's athletic or other type of coach, is the other 597
person's instructor, is the leader of a scouting troop of which 598
the other person is a member, or is a person with temporary or 599
occasional disciplinary control over the other person. 600

(10) The offender is a mental health professional, the other 601
person is a mental health client or patient of the offender, and 602
the offender induces the other person to submit by falsely 603
representing to the other person that the sexual conduct is 604
necessary for mental health treatment purposes. 605

(11) The other person is confined in a detention facility, 606
and the offender is an employee of that detention facility. 607

(B) Whoever violates this section is guilty of sexual 608
battery, a felony of the third degree. 609

(C) As used in this section, "institution of higher 610
education" means a state institution of higher education defined 611
in section 3345.011 of the Revised Code, a private nonprofit 612
college or university located in this state that possesses a 613
certificate of authorization issued by the Ohio board of regents 614
pursuant to Chapter 1713. of the Revised Code, or a school 615
certified under Chapter 3332. of the Revised Code. 616

Sec. 2921.36. (A) No person shall knowingly convey, or 617

attempt to convey, onto the grounds of a detention facility or of 618
an institution that is under the control of the department of 619
mental health or the department of mental retardation and 620
developmental disabilities, any of the following items: 621

(1) Any deadly weapon or dangerous ordnance, as defined in 622
section 2923.11 of the Revised Code, or any part of or ammunition 623
for use in such a deadly weapon or dangerous ordnance; 624

(2) Any drug of abuse, as defined in section 3719.011 of the 625
Revised Code; 626

(3) Any intoxicating liquor, as defined in section 4301.01 of 627
the Revised Code. 628

(B) Division (A) of this section does not apply to any person 629
who conveys or attempts to convey an item onto the grounds of a 630
detention facility or of an institution under the control of the 631
department of mental health or the department of mental 632
retardation and developmental disabilities pursuant to the written 633
authorization of the person in charge of the detention facility or 634
the institution and in accordance with the written rules of the 635
detention facility or the institution. 636

(C) No person shall knowingly deliver, or attempt to deliver, 637
to any person who is confined in a detention facility or to any 638
patient in an institution under the control of the department of 639
mental health or the department of mental retardation and 640
developmental disabilities, any item listed in division (A)(1), 641
(2), or (3) of this section. 642

(D) No person shall knowingly deliver, or attempt to deliver, 643
cash to any person who is confined in a detention facility. 644

(E) No person shall knowingly deliver, or attempt to deliver, 645
to any person who is confined in a detention facility a cellular 646
telephone, two-way radio, or other electronic communications 647
648

device. 649

(F)(1) It is an affirmative defense to a charge under 650
division (A)(1) of this section that the weapon or dangerous 651
ordnance in question was being transported in a motor vehicle for 652
any lawful purpose, that it was not on the actor's person, and, if 653
the weapon or dangerous ordnance in question was a firearm, that 654
it was unloaded and was being carried in a closed package, box, or 655
case or in a compartment that can be reached only by leaving the 656
vehicle. 657

(2) It is an affirmative defense to a charge under division 658
(C) of this section that the actor was not otherwise prohibited by 659
law from delivering the item to the confined person or the patient 660
and that either of the following applies: 661

(a) The actor was permitted by the written rules of the 662
detention facility or the institution to deliver the item to the 663
confined person or the patient. 664

(b) The actor was given written authorization by the person 665
in charge of the detention facility or the institution to deliver 666
the item to the confined person or the patient. 667

~~(F)~~(G)(1) Whoever violates division (A)(1) of this section or 668
commits a violation of division (C) of this section involving an 669
item listed in division (A)(1) of this section is guilty of 670
illegal conveyance of weapons onto the grounds of a detention 671
facility or a mental health or mental retardation and 672
developmental disabilities institution, a felony of the fourth 673
degree. If the offender is an officer or employee of the 674
department of rehabilitation and correction, the court shall 675
impose a mandatory prison term. 676

(2) Whoever violates division (A)(2) of this section or 677
commits a violation of division (C) of this section involving any 678
drug of abuse is guilty of illegal conveyance of drugs of abuse 679

onto the grounds of a detention facility or a mental health or
mental retardation and developmental disabilities institution, a
felony of the third degree. If the offender is an officer or
employee of the department of rehabilitation and correction or of
the department of youth services, the court shall impose a
mandatory prison term.

680
681
682
683
684
685

(3) Whoever violates division (A)(3) of this section or
commits a violation of division (C) of this section involving any
intoxicating liquor is guilty of illegal conveyance of
intoxicating liquor onto the grounds of a detention facility or a
mental health or mental retardation and developmental disabilities
institution, a misdemeanor of the second degree.

686
687
688
689
690
691

(4) Whoever violates division (D) of this section is guilty
of illegal conveyance of cash onto the grounds of a detention
facility, a misdemeanor of the first degree. If the offender
previously has been convicted of or pleaded guilty to a violation
of division (D) of this section, illegal conveyance of cash onto
the grounds of a detention facility is a felony of the fifth
degree.

692
693
694
695
696
697
698

(5) Whoever violates division (E) of this section is guilty
of illegal conveyance of a communications device onto the grounds
of a detention facility, a misdemeanor of the first degree, or if
the offender previously has been convicted of or pleaded guilty to
a violation of division (E) of this section, a felony of the fifth
degree.

699
700
701
702
703
704

Sec. 2933.41. (A)(1) Any property, other than contraband that
is subject to the provisions of section 2913.34 or 2933.43 of the
Revised Code, other than property that is subject to section
3719.141 of the Revised Code, other than property that is
forfeited under sections 2923.44 to 2923.47 or 2925.41 to 2925.45
of the Revised Code, other than a vehicle that is criminally

705
706
707
708
709
710

forfeited under an order issued under section 4503.233 or 4503.234 711
of the Revised Code and that is to be disposed of under section 712
4503.234 of the Revised Code, other than property that has been 713
lawfully seized under sections 2933.71 to 2933.75 of the Revised 714
Code in relation to a medicaid fraud offense, and other than 715
property that has been lawfully seized in relation to a violation 716
of section 2923.32 of the Revised Code, that has been lost, 717
abandoned, stolen, seized pursuant to a search warrant, or 718
otherwise lawfully seized or forfeited, and that is in the custody 719
of a law enforcement agency shall be kept safely pending the time 720
it no longer is needed as evidence and shall be disposed of 721
pursuant to this section. Each law enforcement agency that has 722
custody of any property that is subject to this section shall 723
adopt a written internal control policy that addresses the keeping 724
of detailed records as to the amount of property taken in by the 725
agency, that addresses the agency's disposition of the property 726
under this section, that provides for the keeping of detailed 727
records of the disposition of the property, and that provides for 728
the keeping of detailed financial records of the amount and 729
disposition of any proceeds of a sale of the property under 730
division (D)(8) of this section and of the general types of 731
expenditures made out of the proceeds retained by the agency and 732
the specific amount expended on each general type of expenditure. 733
The policy shall not provide for or permit the identification of 734
any specific expenditure that is made in an ongoing investigation. 735
The policy is a public record open for inspection under section 736
149.43 of the Revised Code. 737

(2)(a) Every law enforcement agency that has any lost, 738
abandoned, stolen, seized, or forfeited property as described in 739
division (A)(1) of this section in its custody shall comply with 740
its written internal control policy adopted under that division 741
relative to the property. Each agency that has any such property 742
in its custody, except for property to be disposed of under 743

division (D)(4) of this section, shall maintain an accurate
record, in accordance with its written internal control policy, of
each item of the property. The record shall include the date on
which each item of property came into the agency's custody, the
manner in which it was disposed of, the date of its disposition,
the name of the person who received the property if it was not
destroyed, and all other information required by the agency's
written internal control policy; however, the record shall not
identify or enable the identification of the individual officer
who seized any item of property. The record of any property that
no longer is needed as evidence, and all financial records of the
amount and disposition of any proceeds of a sale under division
(D)(8) of this section and of the general types of expenditures
made out of the proceeds retained by the agency and the specific
amount of each general type of expenditure, shall be open to
public inspection during the agency's regular business hours.

744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759

Each law enforcement agency that, during any calendar year,
has any seized or forfeited property as described in division
(A)(1) of this section in its custody shall prepare a report
covering the calendar year that cumulates all of the information
contained in all of the records kept by the agency pursuant to
this division for that calendar year and shall send a copy of the
cumulative report, no later than the first day of March in the
calendar year following the calendar year covered by the report,
to the attorney general. Each report received by the attorney
general is a public record open for inspection under section
149.43 of the Revised Code.

760
761
762
763
764
765
766
767
768
769
770

(b) Each law enforcement agency that receives in any calendar
year any proceeds of a sale under division (D)(8) of this section
shall prepare a report covering the calendar year that cumulates
all of the information contained in all of the public financial
records kept by the agency pursuant to division (D)(2)(a) of this

771
772
773
774
775

section for that calendar year and shall send a copy of the 776
cumulative report, no later than the first day of March in the 777
calendar year following the calendar year covered by the report, 778
to the attorney general. Each report received by the attorney 779
general is a public record open for inspection under section 780
149.43 of the Revised Code. 781

(c) Not later than the fifteenth day of April in the calendar 782
year in which reports are sent to the attorney general under 783
divisions (A)(2)(a) and (b) of this section, the attorney general 784
shall send to the president of the senate and the speaker of the 785
house of representatives a written notification that does all of 786
the following: 787

(i) Indicates that the attorney general has received from law 788
enforcement agencies reports of the type described in division 789
(A)(2)(a), (A)(2)(b), or both (A)(2)(a) and (b) of this section, 790
whichever is applicable, that cover the previous calendar year and 791
indicates that the reports were received under division (A)(2)(a), 792
(A)(2)(b), or both (A)(2)(a) and (b) of this section, whichever is 793
applicable; 794

(ii) Indicates that the reports are open for inspection under 795
section 149.43 of the Revised Code; 796

(iii) Indicates that the attorney general will provide a copy 797
of any or all of the reports to the president of the senate or the 798
speaker of the house of representatives upon request. 799

(B) A law enforcement agency that has property in its 800
possession that is required to be disposed of pursuant to this 801
section shall make a reasonable effort to locate the persons 802
entitled to possession of the property in its custody, to notify 803
them of when and where it may be claimed, and to return the 804
property to them at the earliest possible time. In the absence of 805
evidence identifying persons entitled to possession, it is 806

sufficient notice to advertise in a newspaper of general
circulation in the county, briefly describing the nature of the
property in custody and inviting persons to view and establish
their right to it.

(C) A person loses any right that the person may have to the
possession, or the possession and ownership, of property if any of
the following applies:

(1) The property was the subject, or was used in a conspiracy
or attempt to commit, or in the commission, of an offense other
than a traffic offense, and the person is a conspirator,
accomplice, or offender with respect to the offense.

(2) A court determines that the property should be forfeited
because, in light of the nature of the property or the
circumstances of the person, it is unlawful for the person to
acquire or possess the property.

(D) Unclaimed or forfeited property in the custody of a law
enforcement agency, other than contraband that is subject to the
provisions of section 2913.34 or 2933.43 of the Revised Code,
other than property forfeited under sections 2923.44 to 2923.47 or
2925.41 to 2925.45 of the Revised Code, and other than property
that has been lawfully seized in relation to a violation of
section 2923.32 of the Revised Code, shall be disposed of on
application to and order of any court of record that has
territorial jurisdiction over the political subdivision in which
the law enforcement agency has jurisdiction to engage in law
enforcement activities, as follows:

(1) Drugs shall be disposed of pursuant to section 3719.11 of
the Revised Code or placed in the custody of the secretary of the
treasury of the United States for disposal or use for medical or
scientific purposes under applicable federal law.

(2) Firearms and dangerous ordnance suitable for police work

may be given to a law enforcement agency for that purpose. 838
Firearms suitable for sporting use or as museum pieces or 839
collectors' items may be sold at public auction pursuant to 840
division (D)(8) of this section. Other firearms and dangerous 841
ordnance shall be destroyed by the agency or shall be sent to the 842
bureau of criminal identification and investigation for 843
destruction by the bureau. 844

(3) Obscene materials shall be destroyed. 845

(4) Beer, intoxicating liquor, or alcohol seized from a 846
person who is not the holder of a permit issued under Chapters 847
4301. and 4303. of the Revised Code or is an offender and 848
forfeited to the state under section 4301.45 or 4301.53 of the 849
Revised Code either shall be sold by the division of liquor 850
control, if the division determines that the beer, intoxicating 851
liquor, or alcohol is fit for sale, or shall be placed in the 852
custody of the investigations unit in the department of public 853
safety and be used for training relating to law enforcement 854
activities. The department, with the assistance of the division of 855
liquor control, shall adopt rules in accordance with Chapter 119. 856
of the Revised Code to provide for the distribution of such beer, 857
intoxicating liquor, or alcohol to state or local law enforcement 858
agencies upon their request. If any tax imposed under Title XLIII 859
of the Revised Code has not been paid in relation to the beer, 860
intoxicating liquor, or alcohol, the proceeds of the sale shall 861
first be used to pay the tax. All other money collected under 862
division (D)(4) of this section shall be paid into the state 863
treasury. Any such beer, intoxicating liquor, or alcohol that the 864
division determines to be unfit for sale shall be destroyed. 865

(5) Money received by an inmate of a correctional institution 867
from an unauthorized source or in an unauthorized manner shall be 868
returned to the sender, if known, or deposited in the inmates' 869

industrial and entertainment fund if the sender is not known. 870
871

(6) Vehicles and vehicle parts forfeited under sections 872
4549.61 to 4549.63 of the Revised Code may be given to a law 873
enforcement agency for use in the performance of its duties. Those 874
parts may be incorporated into any other official vehicle. Parts 875
that do not bear vehicle identification numbers or derivatives of 876
them may be sold or disposed of as provided by rules of the 877
director of public safety. Parts from which a vehicle 878
identification number or derivative of it has been removed, 879
defaced, covered, altered, or destroyed and that are not suitable 880
for police work or incorporation into an official vehicle shall be 881
destroyed and sold as junk or scrap. 882

(7)(a) Computers, computer networks, computer systems, and 883
computer software suitable for police work may be given to a law 884
enforcement agency for that purpose. Other computers, computer 885
networks, computer systems, and computer software shall be 886
disposed of pursuant to division (D)(8) of this section. 887

(b) As used in this section, "computers," "computer 888
networks," "computer systems," and "computer software" have the 889
same meanings as in section 2913.01 of the Revised Code. 890

(8) Other unclaimed or forfeited property, including personal 891
property that is abandoned or relinquished by an inmate of a state 892
correctional institution, with the approval of the court, may be 893
used by the law enforcement agency that has possession of it. If 894
the other unclaimed or forfeited property is not used by the law 895
enforcement agency, it may be sold, without appraisal, at a public 896
auction to the highest bidder for cash, or, in the case of other 897
unclaimed or forfeited moneys, disposed of in another manner that 898
the court considers proper in the circumstances. 899

(E)(1)(a) If the property was in the possession of the law 900
901

enforcement agency in relation to a delinquent child proceeding in a juvenile court, ten per cent of the proceeds from property disposed of pursuant to this section shall be applied to one or more alcohol and drug addiction treatment programs that are certified by the department of alcohol and drug addiction services under section 3793.06 of the Revised Code and that are specified by the court in its order issued under division (D) of this section. A juvenile court shall not specify an alcohol or drug addiction treatment program in the order unless the program is a certified alcohol and drug addiction treatment program and, except as provided in division (E)(1)(a) of this section, unless the program is located in the county in which the court that issues the orders is located or in a contiguous county. If no certified alcohol and drug addiction treatment program is located in any of those counties, the juvenile court may specify in the order a certified alcohol and drug addiction treatment program located anywhere within this state. The remaining ninety per cent of the proceeds shall be applied as provided in division (E)(1)(b) of this section.

902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920

If the property was in the possession of the law enforcement agency other than in relation to a delinquent child proceeding in a juvenile court, all of the proceeds from property disposed of pursuant to this section shall be applied as provided in division (E)(1)(b) of this section.

921
922
923
924
925

(b) Except as provided in divisions (D)(4), (5), and (E)(2) of this section and after compliance with division (E)(1)(a) of this section when that division is applicable, the proceeds from property disposed of pursuant to this section shall be placed in the general fund of the state, the county, the township, or the municipal corporation, of which the law enforcement agency involved is an agency.

926
927
928
929
930
931
932

(2) Each board of county commissioners that recognizes a

933

citizens' reward program as provided in section 9.92 of the
Revised Code shall notify each law enforcement agency of that
county and each law enforcement agency of a township or municipal
corporation wholly located in that county of the official
recognition of the citizens' reward program by filing a copy of
its resolution conferring that recognition with each of those law
enforcement agencies. When the board of county commissioners of a
county recognizes a citizens' reward program and the county
includes a part, but not all, of the territory of a municipal
corporation, the board shall so notify the law enforcement agency
of that municipal corporation of the official recognition of the
citizens' reward program only if the county contains the highest
percentage of the municipal corporation's population. Upon receipt
of a notice described in this division, each law enforcement
agency shall pay twenty-five per cent of the proceeds from each
sale of property disposed of pursuant to this section to the
citizens' reward program for use exclusively for the payment of
rewards. No part of those funds may be used to pay for the
administrative expenses or any other expenses associated with a
citizens' reward program. If a citizens' reward program that
operates in more than one county or in another state or states in
addition to this state receives funds pursuant to this section,
the funds shall be used to pay rewards only for tips and
information to law enforcement agencies concerning felonies,
offenses of violence, or misdemeanors that have been committed in
the county from which the funds were received.

934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959

(F) This section does not apply to the collection, storage,
or disposal of abandoned junk motor vehicles. This section shall
not be construed to rescind or restrict the authority of a
municipal law enforcement agency to keep and dispose of lost,
abandoned, stolen, seized, or forfeited property under an
ordinance of the municipal corporation or under sections 737.29 to

960
961
962
963
964
965

737.33 of the Revised Code, provided that, when a municipal corporation that has received notice as provided in division (E)(2) of this section disposes of property under an ordinance, it shall pay twenty-five per cent of the proceeds from any sale or auction to the citizens' reward program as provided under that division. 966
967
968
969
970
971

(G) The receipt of funds by a citizens' reward program pursuant to division (E) of this section does not make it a governmental unit for purposes of section 149.43 of the Revised Code and does not subject it to the disclosure provisions of that section. 972
973
974
975
976

(H) This section does not apply to the disposal of stolen or other property recovered by township law enforcement agencies pursuant to sections 505.105 to 505.109 of the Revised Code. 977
978
979

(I)(1) Subject to divisions (D)(1) to (7) of this section, and otherwise notwithstanding the provisions of this section, personal property that is subject to this section and that is abandoned or relinquished by an inmate of a state correctional institution may be destroyed or used by order of the warden of the institution, if either of the following apply: 980
981
982
983
984
985

(a) The value of the item is one hundred dollars or less, the state correctional institution has attempted to contact or identify the owner of the personal property, and those attempts have been unsuccessful. 986
987
988
989

(b) The inmate who owns the personal property agrees in writing to the disposal of the personal property in question. 990
991

(2) The department of rehabilitation and correction shall record the seizure and disposition of any personal property pursuant to division (I)(1) of this section, any attempts to contact or identify the owner of the personal property pursuant to division (I)(1)(a) of this section, and any agreement made 992
993
994
995
996

pursuant to division (I)(1)(b) of this section.

997

(J) For purposes of this section, "law enforcement agency" includes correctional institutions, and "citizens' reward program" has the same meaning as in section 9.92 of the Revised Code. As used in division (H) of this section, "township law enforcement agencies" means an organized police department of a township, a township police district, a joint township police district, or the office of a township constable.

998

999

1000

1001

1002

1003

1004

Sec. 2951.03. (A)(1) No person who has been convicted of or pleaded guilty to a felony shall be placed under a community control sanction until a written presentence investigation report has been considered by the court. If a court orders the preparation of a presentence investigation report pursuant to this section, section 2947.06 of the Revised Code, or Criminal Rule 32.2, the officer making the report shall inquire into the circumstances of the offense and the criminal record, social history, and present condition of the defendant, all information available regarding any prior adjudications of the defendant as a delinquent child and regarding the dispositions made relative to those adjudications, and any other matters specified in Criminal Rule 32.2. Whenever the officer considers it advisable, the officer's investigation may include a physical and mental examination of the defendant. A physical examination of the defendant may include a drug test consisting of a chemical analysis of a blood or urine specimen of the defendant to determine whether the defendant ingested or was injected with a drug of abuse. If, pursuant to section 2930.13 of the Revised Code, the victim of the offense of which the defendant has been convicted wishes to make a statement regarding the impact of the offense for the officer's use in preparing the presentence investigation report, the officer shall comply with the requirements of that section.

1005

1006

1007

1008

1009

1010

1011

1012

1013

1014

1015

1016

1017

1018

1019

1020

1021

1022

1023

1024

1025

1026

1027

1028

(2) If a defendant is committed to any institution, the presentence investigation report shall be sent to the institution with the entry of commitment. If a defendant is committed to any institution and a presentence investigation report is not prepared regarding that defendant pursuant to this section, section 2947.06 of the Revised Code, or Criminal Rule 32.2, the director of the department of rehabilitation and correction or the director's designee may order that an offender background investigation and report be conducted and prepared regarding the defendant pursuant to section 5120.16 of the Revised Code. An offender background investigation report prepared pursuant to this section shall be considered confidential information and is not a public record under section 149.43 of the Revised Code.

(3) The department of rehabilitation and correction may use any presentence investigation report and any offender background investigation report prepared pursuant to this section for penological and rehabilitative purposes. The department may disclose any presentence investigation report and any offender background investigation report to courts, law enforcement agencies, community-based correctional facilities, halfway houses, and medical, mental health, and substance abuse treatment providers. The department shall make the disclosure in a manner calculated to maintain the report's confidentiality. Any presentence investigation report or offender background investigation report that the department discloses to a community-based correctional facility, a halfway house, or a medical, mental health, or substance abuse treatment provider shall not include a victim impact section or information identifying a witness.

(B)(1) If a presentence investigation report is prepared pursuant to this section, section 2947.06 of the Revised Code, or Criminal Rule 32.2, the court, at a reasonable time before

imposing sentence, shall permit the defendant or the defendant's
counsel to read the report, except that the court shall not permit
the defendant or the defendant's counsel to read any of the
following:

(a) Any recommendation as to sentence;

(b) Any diagnostic opinions that, if disclosed, the court
believes might seriously disrupt a program of rehabilitation for
the defendant;

(c) Any sources of information obtained upon a promise of
confidentiality;

(d) Any other information that, if disclosed, the court
believes might result in physical harm or some other type of harm
to the defendant or to any other person.

(2) Prior to sentencing, the court shall permit the defendant
and the defendant's counsel to comment on the presentence
investigation report and, in its discretion, may permit the
defendant and the defendant's counsel to introduce testimony or
other information that relates to any alleged factual inaccuracy
contained in the report.

(3) If the court believes that any information in the
presentence investigation report should not be disclosed pursuant
to division (B)(1) of this section, the court, in lieu of making
the report or any part of the report available, shall state orally
or in writing a summary of the factual information contained in
the report that will be relied upon in determining the defendant's
sentence. The court shall permit the defendant and the defendant's
counsel to comment upon the oral or written summary of the report.

(4) Any material that is disclosed to the defendant or the
defendant's counsel pursuant to this section shall be disclosed to
the prosecutor who is handling the prosecution of the case against

the defendant. 1092

(5) If the comments of the defendant or the defendant's 1093
counsel, the testimony they introduce, or any of the other 1094
information they introduce alleges any factual inaccuracy in the 1095
presentence investigation report or the summary of the report, the 1096
court shall do either of the following with respect to each 1097
alleged factual inaccuracy: 1098

(a) Make a finding as to the allegation; 1099

(b) Make a determination that no finding is necessary with 1100
respect to the allegation, because the factual matter will not be 1101
taken into account in the sentencing of the defendant. 1102

(C) A court's decision as to the content of a summary under 1103
division (B)(3) of this section or as to the withholding of 1104
information under division (B)(1)(a), (b), (c), or (d) of this 1105
section shall be considered to be within the discretion of the 1106
court. No appeal can be taken from either of those decisions, and 1107
neither of those decisions shall be the basis for a reversal of 1108
the sentence imposed. 1109

(D)(1) The contents of a presentence investigation report 1110
prepared pursuant to this section, section 2947.06 of the Revised 1111
Code, or Criminal Rule 32.2 and the contents of any written or 1112
oral summary of a presentence investigation report or of a part of 1113
a presentence investigation report described in division (B)(3) of 1114
this section are confidential information and are not a public 1115
record. The court, an appellate court, authorized probation 1116
officers, investigators, and court personnel, the defendant, the 1117
defendant's counsel, the prosecutor who is handling the 1118
prosecution of the case against the defendant, and authorized 1119
personnel of an institution to which the defendant is committed 1120
may inspect, receive copies of, retain copies of, and use a 1121
presentence investigation report or a written or oral summary of a 1122

presentence investigation only for the purposes of or only as 1123
authorized by Criminal Rule 32.2 or this section, division (F)(1) 1124
of section 2953.08, section 2947.06, or another section of the 1125
Revised Code. 1126

(2) Immediately following the imposition of sentence upon the 1127
defendant, the defendant or the defendant's counsel and the 1128
prosecutor shall return to the court all copies of a presentence 1129
investigation report and of any written summary of a presentence 1130
investigation report or part of a presentence investigation report 1131
that the court made available to the defendant or the defendant's 1132
counsel and to the prosecutor pursuant to this section. The 1133
defendant or the defendant's counsel and the prosecutor shall not 1134
make any copies of the presentence investigation report or of any 1135
written summary of a presentence investigation report or part of a 1136
presentence investigation report that the court made available to 1137
them pursuant to this section. 1138

(3) Except when a presentence investigation report or a 1139
written or oral summary of a presentence investigation report is 1140
being used for the purposes of or as authorized by Criminal Rule 1141
32.2 or this section, division (F)(1) of section 2953.08, section 1142
2947.06, or another section of the Revised Code, the court or 1143
other authorized holder of the report or summary shall retain the 1144
report or summary under seal. 1145

(E) In inquiring into the information available regarding any 1146
prior adjudications of the defendant as a delinquent child and 1147
regarding the dispositions made relative to those adjudications, 1148
the officer making the report shall consider all information that 1149
is relevant, including, but not limited to, the materials 1150
described in division (B) of section 2151.14, division (C)(3) of 1151
section 2152.18, division (D)(3) of section 2152.19, and division 1152
(E) of section 2152.71 of the Revised Code. 1153

(F) As used in this section: 1154

(1) "Prosecutor" has the same meaning as in section 2935.01 1155
of the Revised Code. 1156

(2) "Community control sanction" has the same meaning as in 1157
section 2929.01 of the Revised Code. 1158

(3) "Public record" has the same meaning as in section 149.43 1159
of the Revised Code. 1160

Sec. 2967.14. (A) The adult parole authority may require a 1161
parolee or releasee to reside in a halfway house or other suitable 1162
community residential center that has been licensed by the 1163
division of parole and community services pursuant to division (C) 1164
of this section during a part or for the entire period of the 1165
parolee's conditional release or of the releasee's term of 1166
post-release control. The court of common pleas that placed an 1167
offender under a sanction consisting of a term in a halfway house 1168
or in an alternative residential sanction may require the offender 1169
to reside in a halfway house or other suitable community 1170
residential center that is designated by the court and that has 1171
been licensed by the division pursuant to division (C) of this 1172
section during a part or for the entire period of the offender's 1173
residential sanction. 1174

(B) The division of parole and community services may 1175
negotiate and enter into agreements with any public or private 1176
agency or a department or political subdivision of the state that 1177
operates a halfway house or community residential center that has 1178
been licensed by the division pursuant to division (C) of this 1179
section. An agreement under this division shall provide for 1180
~~housing, supervision, and other services that are required for~~ 1181
~~persons who have been assigned to a halfway house or community~~ 1182
~~residential center, including parolees, releasees, persons placed~~ 1183
~~under a residential sanction, persons under transitional control,~~ 1184
~~and other eligible offenders~~ the purchase of beds, shall set 1185

limits of supervision and levels of occupancy, and shall determine 1186
the scope of services for all eligible offenders, including those 1187
subject to a residential sanction, as defined in rules adopted by 1188
the director of rehabilitation and correction in accordance with 1189
Chapter 119. of the Revised Code. ~~An agreement under this division~~ 1190
~~shall provide for per diem payments to the agency, department, or~~ 1191
~~political subdivision on behalf of each parolee and releasee~~ 1192
~~assigned to and each person placed under a residential sanction in~~ 1193
~~a halfway house or community residential center that is operated~~ 1194
~~by the agency, department, or political subdivision and that has~~ 1195
~~been licensed by the division.~~ The per diem payments for beds and 1196
services shall be equal to the halfway house's or community 1197
residential center's average daily per capita costs with its 1198
facility at full occupancy. The per diem payments for beds and 1199
services shall not exceed the total operating costs of the halfway 1200
house or community residential center during the term of an 1201
agreement. The director of rehabilitation and correction shall 1202
adopt rules in accordance with Chapter 119. of the Revised Code 1203
for determining includable and excludable costs and income to be 1204
used in computing the agency's average daily per capita costs with 1205
its facility at full occupancy. 1206

The department of rehabilitation and correction may use a 1207
portion no more than ten per cent of the amount appropriated to 1208
the department each fiscal year for the halfway house and 1209
community residential center program to pay for contracts for 1210
nonresidential services for offenders under the supervision of the 1211
adult parole authority. The nonresidential services may include, 1212
but are not limited to, ~~treatment for~~ program administration, 1213
substance abuse services, mental health ~~counseling~~ services, and 1214
~~counseling~~ services for sex offenders, medication, offender 1215
transportation, electronic monitoring, and community justice 1216
initiatives. 1217

(C) The division of parole and community services may license 1218
a halfway house or community residential center as a suitable 1219
facility for the care and treatment of adult offenders only if the 1220
halfway house or community residential center complies with the 1221
standards that the division adopts in accordance with Chapter 119. 1222
of the Revised Code for the licensure of halfway houses and 1223
community residential centers. The division shall annually inspect 1224
each licensed halfway house and licensed community residential 1225
center to determine if it is in compliance with the licensure 1226
standards. 1227

Sec. 2967.26. (A)(1) The department of rehabilitation and 1228
correction, by rule, may establish a transitional control program 1229
for the purpose of closely monitoring a prisoner's adjustment to 1230
community supervision during the final one hundred eighty days of 1231
the prisoner's confinement. If the department establishes a 1232
transitional control program under this division, the adult parole 1233
authority may transfer eligible prisoners to transitional control 1234
status under the program during the final one hundred eighty days 1235
of their confinement and under the terms and conditions 1236
established by the department, shall provide for the confinement 1237
as provided in this division of each eligible prisoner so 1238
transferred, and shall supervise each eligible prisoner so 1239
transferred in one or more community control sanctions. Each 1240
eligible prisoner who is transferred to transitional control 1241
status under the program shall be confined in a suitable facility 1242
that is licensed pursuant to division (C) of section 2967.14 of 1243
the Revised Code, or shall be confined in a residence the 1244
department has approved for this purpose and be monitored pursuant 1245
to an electronic monitoring device, as defined in section 2929.23 1246
of the Revised Code. If the department establishes a transitional 1247
control program under this division, the rules establishing the 1248
program shall include criteria that define which prisoners are 1249

eligible for the program, criteria that must be satisfied to be 1250
approved as a residence that may be used for confinement under the 1251
program of a prisoner that is transferred to it and procedures for 1252
the department to approve residences that satisfy those criteria, 1253
and provisions of the type described in division (C) of this 1254
section. At a minimum, the criteria that define which prisoners 1255
are eligible for the program shall provide all of the following: 1256

(a) That a prisoner is eligible for the program if the 1257
prisoner is serving a prison term or term of imprisonment for an 1258
offense committed prior to ~~the effective date of this amendment~~ 1259
March 17, 1998, and if, at the time at which eligibility is being 1260
determined, the prisoner would have been eligible for a furlough 1261
under this section as it existed immediately prior to ~~the~~ 1262
~~effective date of this amendment~~ March 17, 1998, or would have 1263
been eligible for conditional release under former section 2967.23 1264
of the Revised Code as that section existed immediately prior to 1265
~~the effective date of this amendment~~ March 17, 1998; 1266

(b) That no prisoner who is serving a mandatory prison term 1267
is eligible for the program until after expiration of the 1268
mandatory term; 1269

(c) That no prisoner who is serving a prison term or term of 1270
life imprisonment without parole imposed pursuant to section 1271
2971.03 of the Revised Code is eligible for the program. 1272

(2) At least three weeks prior to transferring to 1273
transitional control under this section a prisoner who is serving 1274
a term of imprisonment or prison term for an offense committed on 1275
or after July 1, 1996, the adult parole authority shall give 1276
notice of the pendency of the transfer to transitional control to 1277
the court of common pleas of the county in which the indictment 1278
against the prisoner was found and of the fact that the court may 1279
disapprove the transfer of the prisoner to transitional control 1280
and shall include a report prepared by the head of the state 1281

correctional institution in which the prisoner is confined. The 1282
head of the state correctional institution in which the prisoner 1283
is confined, upon the request of the adult parole authority, shall 1284
provide to the authority for inclusion in the notice sent to the 1285
court under this division a report on the prisoner's conduct in 1286
the institution and in any institution from which the prisoner may 1287
have been transferred. The report shall cover the prisoner's 1288
participation in school, vocational training, work, treatment, and 1289
other rehabilitative activities and any disciplinary action taken 1290
against the prisoner. If the court disapproves of the transfer of 1291
the prisoner to transitional control, the court shall notify the 1292
authority of the disapproval within thirty days after receipt of 1293
the notice. If the court timely disapproves the transfer of the 1294
prisoner to transitional control, the authority shall not proceed 1295
with the transfer. If the court does not timely disapprove the 1296
transfer of the prisoner to transitional control, the authority 1297
may transfer the prisoner to transitional control. 1298

(3) If the victim of an offense for which a prisoner was 1299
sentenced to a prison term or term of imprisonment has requested 1300
notification under section 2930.16 of the Revised Code and has 1301
provided the department of rehabilitation and correction with the 1302
victim's name and address, the adult parole authority, at least 1303
three weeks prior to transferring the prisoner to transitional 1304
control pursuant to this section, shall notify the victim of the 1305
pendency of the transfer and of the victim's right to submit a 1306
statement to the authority regarding the impact of the transfer of 1307
the prisoner to transitional control. If the victim subsequently 1308
submits a statement of that nature to the authority, the authority 1309
shall consider the statement in deciding whether to transfer the 1310
prisoner to transitional control. 1311

(B) Each prisoner transferred to transitional control under 1312
this section shall be confined in the manner described in division 1313

(A) of this section during any period of time that the prisoner is 1314
not actually working at the prisoner's approved employment, 1315
engaged in a vocational training or another educational program, 1316
engaged in another program designated by the director, or engaged 1317
in other activities approved by the department. 1318

(C) The department of rehabilitation and correction shall 1319
adopt rules for transferring eligible prisoners to transitional 1320
control, supervising and confining prisoners so transferred, 1321
administering the transitional control program in accordance with 1322
this section, and using the moneys deposited into the transitional 1323
control fund established under division (E) of this section. 1324

(D) The department of rehabilitation and correction may adopt 1325
rules for the issuance of passes for the limited purposes 1326
described in this division to prisoners who are transferred to 1327
transitional control under this section. If the department adopts 1328
rules of that nature, the rules shall govern the granting of the 1329
passes and shall provide for the supervision of prisoners who are 1330
temporarily released pursuant to one of those passes. Upon the 1331
adoption of rules under this division, the department may issue 1332
passes to prisoners who are transferred to transitional control 1333
status under this section in accordance with the rules and the 1334
provisions of this division. All passes issued under this division 1335
shall be for a maximum of forty-eight hours and may be issued only 1336
for the following purposes: 1337

(1) To visit a ~~dying~~ relative in imminent danger of death; 1338

(2) To ~~attend the funeral of a~~ have a private viewing of the 1339
body of a deceased relative; 1340

(3) To visit with family; 1341

(4) To otherwise aid in the rehabilitation of the prisoner. 1342

(E) The adult parole authority may require a prisoner who is 1343
transferred to transitional control to pay to the division of 1344

parole and community services the reasonable expenses incurred by 1345
the division in supervising or confining the prisoner while under 1346
transitional control. Inability to pay those reasonable expenses 1347
shall not be grounds for refusing to transfer an otherwise 1348
eligible prisoner to transitional control. Amounts received by the 1349
division of parole and community services under this division 1350
shall be deposited into the transitional control fund, which is 1351
hereby created in the state treasury and which hereby replaces and 1352
succeeds the furlough services fund that formerly existed in the 1353
state treasury. All moneys that remain in the furlough services 1354
fund on ~~the effective date of this amendment~~ March 17, 1998, shall 1355
be transferred on that date to the transitional control fund. The 1356
transitional control fund shall be used solely to pay costs 1357
related to the operation of the transitional control program 1358
established under this section. The director of rehabilitation and 1359
correction shall adopt rules in accordance with section 111.15 of 1360
the Revised Code for the use of the fund. 1361

(F) A prisoner who violates any rule established by the 1362
department of rehabilitation and correction under division (A), 1363
(C), or (D) of this section may be transferred to a state 1364
correctional institution pursuant to rules adopted under division 1365
(A), (C), or (D) of this section, but the prisoner shall receive 1366
credit towards completing the prisoner's sentence for the time 1367
spent under transitional control. 1368

If a prisoner is transferred to transitional control under 1369
this section, upon successful completion of the period of 1370
transitional control, the prisoner may be released on parole or 1371
under post-release control pursuant to section 2967.13 or 2967.28 1372
of the Revised Code and rules adopted by the department of 1373
rehabilitation and correction. If the prisoner is released under 1374
post-release control, the duration of the post-release control, 1375
the type of post-release control sanctions that may be imposed, 1376

the enforcement of the sanctions, and the treatment of prisoners 1377
who violate any sanction applicable to the prisoner are governed 1378
by section 2967.28 of the Revised Code. 1379

Sec. 2967.27. (A)(1) The department of rehabilitation and 1380
correction may grant escorted visits to prisoners confined in any 1381
state correctional facility for the limited purpose of visiting a 1382
~~dying~~ relative in imminent danger of death or ~~attending the~~ 1383
~~funeral of a~~ having a private viewing of the body of a deceased 1384
relative. 1385

(2) Prior to granting any prisoner an escorted visit for the 1386
limited purpose of visiting a ~~dying~~ relative in imminent danger of 1387
death or ~~attending the funeral of a~~ having a private viewing of 1388
the body of a deceased relative under this section, the department 1389
shall notify its office of victims' services so that the office 1390
may provide assistance to any victim or victims of the offense 1391
committed by the prisoner and to members of the family of the 1392
victim. 1393

(B) The department of rehabilitation and correction shall 1394
adopt rules for the granting of escorted visits under this section 1395
and for supervising prisoners on an escorted visit. 1396

(C) No prisoner shall be granted an escorted visit under this 1397
section if the prisoner is likely to pose a threat to the public 1398
safety or has a record of more than two felony commitments 1399
(including the present charge), not more than one of which may be 1400
for a crime of an assaultive nature. 1401

(D) The procedure for granting an escorted visit under this 1402
section is separate from, and independent of, the transitional 1403
control program described in section 2967.26 of the Revised Code. 1404

Sec. 2967.28. (A) As used in this section: 1405

(1) "Monitored time" means the monitored time sanction 1406
specified in section 2929.17 of the Revised Code. 1407

(2) "Deadly weapon" and "dangerous ordnance" have the same 1408
meanings as in section 2923.11 of the Revised Code. 1409

(3) "Felony sex offense" means a violation of a section 1410
contained in Chapter 2907. of the Revised Code that is a felony. 1411

(B) Each sentence to a prison term for a felony of the first 1412
degree, for a felony of the second degree, for a felony sex 1413
offense, or for a felony of the third degree that is not a felony 1414
sex offense and in the commission of which the offender caused or 1415
threatened to cause physical harm to a person shall include a 1416
requirement that the offender be subject to a period of 1417
post-release control imposed by the parole board after the 1418
offender's release from imprisonment. Unless reduced by the parole 1419
board pursuant to division (D) of this section when authorized 1420
under that division, a period of post-release control required by 1421
this division for an offender shall be of one of the following 1422
periods: 1423

(1) For a felony of the first degree or for a felony sex 1424
offense, five years; 1425

(2) For a felony of the second degree that is not a felony 1426
sex offense, three years; 1427

(3) For a felony of the third degree that is not a felony sex 1428
offense and in the commission of which the offender caused or 1429
threatened physical harm to a person, three years. 1430

(C) Any sentence to a prison term for a felony of the third, 1431
fourth, or fifth degree that is not subject to division (B)(1) or 1432
(3) of this section shall include a requirement that the offender 1433
be subject to a period of post-release control of up to three 1434
years after the offender's release from imprisonment, if the 1435
parole board, in accordance with division (D) of this section, 1436

determines that a period of post-release control is necessary for 1437
that offender. 1438

(D)(1) Before the prisoner is released from imprisonment, the 1439
parole board shall impose upon a prisoner described in division 1440
(B) of this section, may impose upon a prisoner described in 1441
division (C) of this section, and shall impose upon a prisoner 1442
described in division (B)(2)(b) of section 5120.031 or in division 1443
(B)(1) of section 5120.032 of the Revised Code, one or more 1444
post-release control sanctions to apply during the prisoner's 1445
period of post-release control. Whenever the board imposes one or 1446
more post-release control sanctions upon a prisoner, the board, in 1447
addition to imposing the sanctions, also shall include as a 1448
condition of the post-release control that the individual or felon 1449
not leave the state without permission of the court or the 1450
individual's or felon's parole or probation officer and that the 1451
individual or felon abide by the law. The board may impose any 1452
other conditions of release under a post-release control sanction 1453
that the board considers appropriate, and the conditions of 1454
release may include any community residential sanction, community 1455
nonresidential sanction, or financial sanction that the sentencing 1456
court was authorized to impose pursuant to sections 2929.16, 1457
2929.17, and 2929.18 of the Revised Code. Prior to the release of 1458
a prisoner for whom it will impose one or more post-release 1459
control sanctions under this division, the parole board shall 1460
review the prisoner's criminal history, all juvenile court 1461
adjudications finding the prisoner, while a juvenile, to be a 1462
delinquent child, and the record of the prisoner's conduct while 1463
imprisoned. The parole board shall consider any recommendation 1464
regarding post-release control sanctions for the prisoner made by 1465
the office of victims' services. After considering those 1466
materials, the board shall determine, for a prisoner described in 1467
division (B) of this section, division (B)(2)(b) of section 1468

5120.031, or division (B)(1) of section 5120.032 of the Revised Code, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances or, for a prisoner described in division (C) of this section, whether a post-release control sanction is necessary and, if so, which post-release control sanction or combination of post-release control sanctions is reasonable under the circumstances. In the case of a prisoner convicted of a felony of the fourth or fifth degree other than a felony sex offense, the board shall presume that monitored time is the appropriate post-release control sanction unless the board determines that a more restrictive sanction is warranted. A post-release control sanction imposed under this division takes effect upon the prisoner's release from imprisonment.

(2) At any time after a prisoner is released from imprisonment and during the period of post-release control applicable to the releasee, the adult parole authority may review the releasee's behavior under the post-release control sanctions imposed upon the releasee under this section. The authority may determine, based upon the review and in accordance with the standards established under division (E) of this section, that a more restrictive or a less restrictive sanction is appropriate and may impose a different sanction. Unless the period of post-release control was imposed for an offense described in division (B)(1) of this section, the authority also may recommend that the parole board reduce the duration of the period of post-release control imposed by the court. If the authority recommends that the board reduce the duration of control for an offense described in division (B)(2), (B)(3), or (C) of this section, the board shall review the releasee's behavior and may reduce the duration of the period of control imposed by the court. In no case shall the board reduce the duration of the period of control imposed by the court

for an offense described in division (B)(1) of this section, and
in no case shall the board permit the releasee to leave the state
without permission of the court or the releasee's parole or
probation officer.

1501
1502
1503
1504

(E) The department of rehabilitation and correction, in
accordance with Chapter 119. of the Revised Code, shall adopt
rules that do all of the following:

1505
1506
1507

(1) Establish standards for the imposition by the parole
board of post-release control sanctions under this section that
are consistent with the overriding purposes and sentencing
principles set forth in section 2929.11 of the Revised Code and
that are appropriate to the needs of releasees;

1508
1509
1510
1511
1512

(2) Establish standards by which the parole board can
determine which prisoners described in division (C) of this
section should be placed under a period of post-release control;

1513
1514
1515

(3) Establish standards to be used by the parole board in
reducing the duration of the period of post-release control
imposed by the court when authorized under division (D) of this
section, in imposing a more restrictive post-release control
sanction than monitored time upon a prisoner convicted of a felony
of the fourth or fifth degree other than a felony sex offense, or
in imposing a less restrictive control sanction upon a releasee
based on the releasee's activities including, but not limited to,
remaining free from criminal activity and from the abuse of
alcohol or other drugs, successfully participating in approved
rehabilitation programs, maintaining employment, and paying
restitution to the victim or meeting the terms of other financial
sanctions;

1516
1517
1518
1519
1520
1521
1522
1523
1524
1525
1526
1527
1528

(4) Establish standards to be used by the adult parole
authority in modifying a releasee's post-release control sanctions
pursuant to division (D)(2) of this section;

1529
1530
1531

(5) Establish standards to be used by the adult parole authority or parole board in imposing further sanctions under division (F) of this section on releasees who violate post-release control sanctions, including standards that do the following:	1532 1533 1534 1535
(a) Classify violations according to the degree of seriousness;	1536 1537
(b) Define the circumstances under which formal action by the parole board is warranted;	1538 1539
(c) Govern the use of evidence at violation hearings;	1540
(d) Ensure procedural due process to an alleged violator;	1541
(e) Prescribe nonresidential community control sanctions for most misdemeanor and technical violations;	1542 1543
(f) Provide procedures for the return of a releasee to imprisonment for violations of post-release control.	1544 1545
(F)(1) If a post-release control sanction is imposed upon an offender under this section, the offender upon release from imprisonment shall be under the general jurisdiction of the adult parole authority and generally shall be supervised by the parole supervision <u>field services</u> section through its staff of parole and field officers as described in section 5149.04 of the Revised Code, as if the offender had been placed on parole. If the offender upon release from imprisonment violates the post-release control sanction or any conditions described in division (A) of section 2967.131 of the Revised Code that are imposed on the offender, the public or private person or entity that operates or administers the sanction or the program or activity that comprises the sanction shall report the violation directly to the adult parole authority or to the officer of the authority who supervises the offender. The authority's officers may treat the offender as if the offender were on parole and in violation of the parole, and otherwise shall comply with this section.	1546 1547 1548 1549 1550 1551 1552 1553 1554 1555 1556 1557 1558 1559 1560 1561 1562

(2) If the adult parole authority determines that a releasee 1563
has violated a post-release control sanction or any conditions 1564
described in division (A) of section 2967.131 of the Revised Code 1565
imposed upon the releasee and that a more restrictive sanction is 1566
appropriate, the authority may impose a more restrictive sanction 1567
upon the releasee, in accordance with the standards established 1568
under division (E) of this section, or may report the violation to 1569
the parole board for a hearing pursuant to division (F)(3) of this 1570
section. The authority may not, pursuant to this division, 1571
increase the duration of the releasee's post-release control or 1572
impose as a post-release control sanction a residential sanction 1573
that includes a prison term, but the authority may impose on the 1574
releasee any other residential sanction, nonresidential sanction, 1575
or financial sanction that the sentencing court was authorized to 1576
impose pursuant to sections 2929.16, 2929.17, and 2929.18 of the 1577
Revised Code. 1578

(3) The parole board may hold a hearing on any alleged 1579
violation by a releasee of a post-release control sanction or any 1580
conditions described in division (A) of section 2967.131 of the 1581
Revised Code that are imposed upon the releasee. If after the 1582
hearing the board finds that the releasee violated the sanction or 1583
condition, the board may increase the duration of the releasee's 1584
post-release control up to the maximum duration authorized by 1585
division (B) or (C) of this section or impose a more restrictive 1586
post-release control sanction. When appropriate, the board may 1587
impose as a post-release control sanction a residential sanction 1588
that includes a prison term. The board shall consider a prison 1589
term as a post-release control sanction imposed for a violation of 1590
post-release control when the violation involves a deadly weapon 1591
or dangerous ordnance, physical harm or attempted serious physical 1592
harm to a person, or sexual misconduct, or when the releasee 1593
committed repeated violations of post-release control sanctions. 1594

The period of a prison term that is imposed as a post-release control sanction under this division shall not exceed nine months, and the maximum cumulative prison term for all violations under this division shall not exceed one-half of the stated prison term originally imposed upon the offender as part of this sentence. The period of a prison term that is imposed as a post-release control sanction under this division shall not count as, or be credited toward, the remaining period of post-release control.

1595
1596
1597
1598
1599
1600
1601
1602

If an offender is imprisoned for a felony committed while under post-release control supervision and is again released on post-release control for a period of time determined by division (F)(4)(d) of this section, the maximum cumulative prison term for all violations under this division shall not exceed one-half of the total stated prison terms of the earlier felony, reduced by any prison term administratively imposed by the parole board, plus one-half of the total stated prison term of the new felony.

1603
1604
1605
1606
1607
1608
1609
1610

(4) Any period of post-release control shall commence upon an offender's actual release from prison. If an offender is serving an indefinite prison term or a life sentence in addition to a stated prison term, the offender shall serve the period of post-release control in the following manner:

1611
1612
1613
1614
1615

(a) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole under a life sentence or an indefinite sentence, and if the period of post-release control ends prior to the period of parole, the offender shall be supervised on parole. The offender shall receive credit for post-release control supervision during the period of parole. The offender is not eligible for final release under section 2967.16 of the Revised Code until the post-release control period otherwise would have ended.

1616
1617
1618
1619
1620
1621
1622
1623
1624

(b) If a period of post-release control is imposed upon the offender and if the offender also is subject to a period of parole

1625
1626

under an indefinite sentence, and if the period of parole ends
prior to the period of post-release control, the offender shall be
supervised on post-release control. The requirements of parole
supervision shall be satisfied during the post-release control
period.

(c) If an offender is subject to more than one period of
post-release control, the period of post-release control for all
of the sentences shall be the period of post-release control that
expires last, as determined by the parole board. Periods of
post-release control shall be served concurrently and shall not be
imposed consecutively to each other.

(d) The period of post-release control for a releasee who
commits a felony while under post-release control for an earlier
felony shall be the longer of the period of post-release control
specified for the new felony under division (B) or (C) of this
section or the time remaining under the period of post-release
control imposed for the earlier felony as determined by the parole
board.

Sec. 5120.01. The director of rehabilitation and correction
is the executive head of the department of rehabilitation and
correction. All duties conferred on the various divisions and
institutions of the department by law or by order of the director
shall be performed under ~~such the~~ rules and regulations ~~as he that~~
the director prescribes, and shall be under ~~his~~ the director's
control. The Inmates committed to the department of rehabilitation
and correction shall be under the legal custody of the director or
the director's designee, and the director or the director's
designee shall have power to control transfers of inmates between
the several state institutions included under section 5120.05 of
the Revised Code.

Sec. 5120.21. (A) The department of rehabilitation and 1657
correction shall keep in its office, accessible only to its 1658
employees, except by the consent of the department or the order of 1659
the judge of a court of record, and except as provided in division 1660
(C) of this section, a record showing the name, residence, sex, 1661
age, nativity, occupation, condition, and date of entrance or 1662
commitment of every inmate in the several institutions governed by 1663
it. The record also shall include the date, cause, and terms of 1664
discharge and the condition of such person at the time of leaving, 1665
a record of all transfers from one institution to another, and, if 1666
such inmate is dead, the date and cause of death. These and other 1667
facts that the department requires shall be furnished by the 1668
managing officer of each institution within ten days after the 1669
commitment, entrance, death, or discharge of an inmate. 1670

(B) In case of an accident or injury or peculiar death of an 1671
inmate, the managing officer shall make a special report to the 1672
department within twenty-four hours thereafter, giving the 1673
circumstances as fully as possible. 1674

(C)(1) As used in this division, "medical record" means any 1675
document or combination of documents that pertains to the medical 1676
history, diagnosis, prognosis, or medical condition of a patient 1677
and that is generated and maintained in the process of medical 1678
treatment. 1679

(2) A separate medical record of every inmate in an 1680
institution governed by the department shall be compiled, 1681
maintained, and kept apart from and independently of any other 1682
record pertaining to the inmate. Upon the signed written request 1683
of the inmate to whom the record pertains together with the 1684
written request of either a licensed attorney at law or a licensed 1685
physician designated by the inmate, the department shall make the 1686
inmate's medical record available to the designated attorney or 1687
physician. The record may be inspected or copied by the inmate's 1688

designated attorney or physician. The department may establish a
reasonable fee for the copying of any medical record. If a
physician concludes that presentation of all or any part of the
medical record directly to the inmate will result in serious
medical harm to the inmate, the physician shall so indicate on the
medical record. An inmate's medical record shall be made available
to a physician or to an attorney designated in writing by the
inmate not more than once every twelve months.

(D) Except as otherwise provided by a law of this state or
the United States, the department and the officers of its
institutions shall keep confidential and accessible only to its
employees, except by the consent of the department or the order of
a judge of a court of record, all of the following:

(1) Architectural, engineering, or construction diagrams,
drawings, or plans of a correctional institution;

(2) Plans for hostage negotiation, for disturbance control,
for the control and location of keys, and for dealing with
escapes;

(3) Statements made by inmate informants;

(4) Records that are maintained by the department of youth
services, that pertain to children in its custody, and that are
released to the department of rehabilitation and correction by the
department of youth services pursuant to section 5139.05 of the
Revised Code;

(5) Victim impact statements and information provided by
victims of crimes that the department considers when determining
the security level assignment, program participation, and release
eligibility of inmates;

(6) Information and data of any kind or medium pertaining to
groups that pose a security threat;

(7) Conversations recorded from the monitored inmate 1719
telephones that involve nonprivileged communications. 1720

(E) Except as otherwise provided by a law of this state or 1721
the United States, the department of rehabilitation and correction 1722
may release inmate records to the department of youth services or 1723
a court of record, and the department of youth services or the 1724
court of record may use those records for the limited purpose of 1725
carrying out the duties of the department of youth services or the 1726
court of record. Inmate records released by the department of 1727
rehabilitation and correction to the department of youth services 1728
or a court of record shall remain confidential and shall not be 1729
considered public records as defined in section 149.43 of the 1730
Revised Code. 1731

(F) Except as otherwise provided in division (C) of this 1732
section, records of inmates committed to the department of 1733
rehabilitation and correction as well as records of persons under 1734
the supervision of the adult parole authority shall not be 1735
considered public records as defined in section 149.43 of the 1736
Revised Code. 1737

Sec. 5120.30. The department of rehabilitation and correction 1738
may make ~~such~~ any investigations ~~as~~ that are necessary in the 1739
performance of its duties, and to that end the director of 1740
rehabilitation and correction shall have the same power as a judge 1741
of a county court to administer oaths and to enforce the 1742
attendance and testimony of witnesses and the production of books 1743
or papers. 1744

~~The department shall keep a record of such investigations~~ 1745
~~stating the time, place, charges or subject, witnesses summoned~~ 1746
~~and examined, and its conclusions.~~ 1747

~~In matters involving the conduct of an officer, a~~ 1748
~~stenographic report of the evidence shall be taken and a copy of~~ 1749

~~such report, with all documents introduced, kept on file at the
office of the department.~~ 1750
1751

The fees of witnesses for attendance and travel shall be the 1752
same as in the court of common pleas, but no officer or employee 1753
of the institution under investigation is entitled to such fees. 1754

Any judge of the probate court or of the court of common 1755
pleas, upon application of the department, may compel the 1756
attendance of witnesses, the production of books or papers, and 1757
the giving of testimony before the department, by a judgment for 1758
contempt or otherwise, in the same manner as in cases before ~~said~~ 1759
courts of common pleas. 1760

Sec. 5120.38. Subject to the rules of the department of 1761
rehabilitation and correction, each institution under the 1762
department's jurisdiction other than an institution operated 1763
pursuant to a contract entered into under section 9.06 of the 1764
Revised Code shall be under the control of a managing officer 1765
known as a warden or other appropriate title. The managing officer 1766
shall be appointed by the director of the department of 1767
rehabilitation and correction and shall be in the unclassified 1768
service and serve at the pleasure of the director. Appointment to 1769
the position of managing officer shall be made from persons who 1770
have criminal justice experience. 1771

A person who is appointed to the position of managing officer 1772
from a position in the classified service shall retain the right 1773
to resume the status that the person held in the classified 1774
service immediately prior to the appointment. Upon being relieved 1775
of the person's duties as managing officer, the person shall be 1776
reinstated to the position in the classified service that the 1777
person held immediately prior to the appointment to the position 1778
of managing officer or to another position that the director, with 1779
approval of the state department of administrative services, 1780

certifies as being substantially equal to that prior position. 1781
Service as a managing officer shall be counted as service in the 1782
position in the classified service held by the person immediately 1783
preceding the person's appointment as managing officer. A person 1784
who is reinstated to a position in the classified service, as 1785
provided in this section, shall be entitled to all rights and 1786
emoluments accruing to the position during the time of the 1787
person's service as managing officer. 1788

The managing officer, under the director, shall have entire 1789
executive charge of the institution for which the managing officer 1790
is appointed. Subject to civil service rules and regulations, the 1791
managing officer shall appoint the necessary employees and the 1792
managing officer or the director may remove such employees for 1793
cause. A report of all appointments, resignations, and discharges 1794
shall be filed with the director at the close of each month. 1795

~~After conference with the managing officer of each 1796
institution, the director shall determine the number of employees 1797
to be appointed to the various institutions. 1798~~

Sec. 5120.421. (A) As used in this section: 1799

(1) "Body cavity search" means an inspection of the anal or 1800
vaginal cavity of a person that is conducted visually, manually, 1801
by means of any instrument, apparatus, or object, or in any other 1802
manner. 1803

(2) "Deadly weapon" and "dangerous ordnance" have the same 1804
meanings as in section 2923.11 of the Revised Code. 1805

(3) "Drug of abuse" has the same meaning as in section 1806
3719.011 of the Revised Code. 1807

(4) "Intoxicating liquor" has the same meaning as in section 1808
4301.01 of the Revised Code. 1809

(5) "Strip search" means an inspection of the genitalia, 1810

buttocks, breasts, or undergarments of a person that is preceded 1811
by the removal or rearrangement of some or all of the person's 1812
clothing that directly covers the person's genitalia, buttocks, 1813
breasts, or undergarments and that is conducted visually, 1814
manually, by means of any instrument, apparatus, or object, or in 1815
any other manner. 1816

(B) For purposes of determining whether visitors to an 1817
institution under the control of the department of rehabilitation 1818
and correction are knowingly conveying, or attempting to convey, 1819
onto the grounds of the institution any deadly weapon, dangerous 1820
ordnance, drug of abuse, ~~or~~ intoxicating liquor, or electronic 1821
communications device in violation of section 2921.36 of the 1822
Revised Code, the department may adopt rules, pursuant to Chapter 1823
119. of the Revised Code, that are consistent with this section. 1824

(C) For the purposes described in division (B) of this 1825
section, visitors who are entering or have entered an institution 1826
under the control of the department of rehabilitation and 1827
correction may be searched by the use of a magnetometer or similar 1828
device, by a pat-down of the visitor's person that is conducted by 1829
a person of the same sex as that of the visitor, and by an 1830
examination of the contents of pockets, bags, purses, packages, 1831
and other containers proposed to be conveyed or already conveyed 1832
onto the grounds of the institution. Searches of visitors 1833
authorized by this division may be conducted without cause, but 1834
shall be conducted uniformly or by automatic random selection. 1835
Discriminatory or arbitrary selection searches of visitors are 1836
prohibited under this division. 1837

(D) For the purposes described in division (B) of this 1838
section, visitors who are entering or have entered an institution 1839
under the control of the department of rehabilitation and 1840
correction may be searched by a strip or body cavity search, but 1841
only under the circumstances described in this division. In order 1842

for a strip or body cavity search to be conducted of a visitor, 1843
the highest officer present in the institution shall expressly 1844
authorize the search on the basis of a reasonable suspicion, based 1845
on specific objective facts and reasonable inferences drawn from 1846
those facts in the light of experience, that a visitor proposed to 1847
be so searched possesses, and intends to convey or already has 1848
conveyed, a deadly weapon, dangerous ordnance, drug of abuse, ~~or~~ 1849
intoxicating liquor, or electronic communications device onto the 1850
grounds of the institution in violation of section 2921.36 of the 1851
Revised Code. 1852

Except as otherwise provided in this division, prior to the 1853
conduct of the strip or body cavity search, the highest officer 1854
present in the institution shall cause the visitor to be provided 1855
with a written statement that sets forth the specific objective 1856
facts upon which the proposed search is based. In the case of an 1857
emergency under which time constraints make it impossible to 1858
prepare the written statement before the conduct of the proposed 1859
search, the highest officer in the institution instead shall cause 1860
the visitor to be orally informed of the specific objective facts 1861
upon which the proposed search is based prior to its conduct, and 1862
shall cause the preparation of the written statement and its 1863
provision to the visitor within twenty-four hours after the 1864
conduct of the search. Both the highest officer present in the 1865
institution and the visitor shall retain a copy of a written 1866
statement provided in accordance with this division. 1867

Any strip or body cavity search conducted pursuant to this 1868
division shall be conducted in a private setting by a person of 1869
the same sex as that of the visitor. Any body cavity search 1870
conducted under this division additionally shall be conducted by 1871
medical personnel. 1872

This division does not preclude, and shall not be construed 1873
as precluding, a less intrusive search as authorized by division 1874

(C) of this section when reasonable suspicion as described in this
division exists for a strip or body cavity search.

1875
1876

Sec. 5120.48. (A) If a prisoner escapes from a state
correctional institution, the managing officer of the institution,
after consultation with and upon the advice of appropriate law
enforcement officials, shall assign and deploy into the community
appropriate staff persons necessary to apprehend the prisoner.
Correctional officers and officials may carry firearms when
required in the discharge of their duties in apprehending, taking
into custody, or transporting to a place of confinement a prisoner
who has escaped from a state correctional institution.

1877
1878
1879
1880
1881
1882
1883
1884
1885

(B) If a prisoner is released from a state correctional
institution prior to the lawful end of the person's prison term or
term of imprisonment, whether by error, inadvertence, fraud, or
any other cause except a lawful parole, the managing officer of
the institution, after consulting with the bureau of sentence
computation, shall notify the chief of the adult parole authority,
the office of victim services of the division of parole and
community services, and the sentencing court of the mistaken
release. Upon the direction of the chief, or the chief's designee,
field officers of the authority may arrest the prisoner without a
warrant and return the prisoner to the state correctional
institution to complete the balance of the prisoner's sentence.
The chief of the adult parole authority, or the chief's designee,
may require the assistance of any peace officer or law enforcement
officer in the apprehension of a prisoner of that nature.

1886
1887
1888
1889
1890
1891
1892
1893
1894
1895
1896
1897
1898
1899
1900
1901

Sec. 5120.60. (A) There is hereby created in the division of
parole and community services the office of victims' services.

1902
1903

(B) The office shall provide assistance to victims of crime,

1904

victims' representatives designated under section 2930.02 of the Revised Code, and members of the victim's family. The assistance shall include, but not be limited to, providing information about the policies and procedures of the department of rehabilitation and correction and the status of offenders under the department's jurisdiction.

(C) The office shall also make available publications that will assist victims in contacting staff of the department about problems with offenders under the supervision of the adult parole authority or confined in state correctional institutions under the department's jurisdiction.

(D) The office shall employ a victims coordinator who shall administer the office's functions. The victims coordinator shall be in the unclassified civil service and report directly to the chief of the division.

(E) The office shall also employ at least three persons in the unclassified civil service whose primary duties shall be to help parole board hearing officers identify victims' issues and to make recommendations to the parole board in accordance with rules adopted by the department. The member of the parole board appointed pursuant to division (B) of section 5149.10 of the Revised Code shall approve the hiring of the employees of the office.

(F) The office shall coordinate its activities with the member of the parole board appointed pursuant to division (B) of section 5149.10 of the Revised Code. The victims coordinator and other employees of the office shall have full access to records of prisoners under the department's jurisdiction.

(G) Information provided to the office of victim services by victims of crime or a victim representative designated under section 2930.02 of the Revised Code for the purpose of program

participation, of receiving services, or to communicate acts of an 1936
inmate or person under the supervision of the adult parole 1937
authority that threaten the safety and security of the victim 1938
shall be confidential and is not a public record under section 1939
149.43 of the Revised Code. 1940

(H) As used in this section, "crime," "member of the victim's 1941
family," and "victim" have the meanings given in section 2930.01 1942
of the Revised Code. 1943

Sec. 5139.251. (A) As used in this section: 1944

(1) "Body cavity search" and "strip search" have the same 1945
meanings as in section 5120.421 of the Revised Code. 1946

(2) "Deadly weapon" and "dangerous ordnance" have the same 1947
meanings as in section 2923.11 of the Revised Code. 1948

(3) "Drug of abuse" has the same meaning as in section 1949
3719.011 of the Revised Code. 1950

(4) "Intoxicating liquor" has the same meaning as in section 1951
4301.01 of the Revised Code. 1952

(B) For purposes of determining whether visitors to an 1953
institution under the control of the department of youth services 1954
are knowingly conveying, or attempting to convey, onto the grounds 1955
of the institution any deadly weapon, dangerous ordnance, drug of 1956
abuse, ~~or~~ intoxicating liquor, or electronic communications device 1957
in violation of section 2921.36 of the Revised Code, the 1958
department may adopt rules, pursuant to Chapter 119. of the 1959
Revised Code, that are consistent with this section. 1960

(C) For the purposes described in division (B) of this 1961
section, visitors who are entering or have entered an institution 1962
under the control of the department of youth services may be 1963
searched by the use of a magnetometer or similar device, by a 1964
pat-down of the visitor's person that is conducted by a person of 1965

the same sex as that of the visitor, and by an examination of the
contents of pockets, bags, purses, packages, and other containers
proposed to be conveyed or already conveyed onto the grounds of
the institution. Searches of visitors authorized by this division
may be conducted without cause, but shall be conducted uniformly
or by automatic random selection. Discriminatory or arbitrary
selection searches of visitors are prohibited under this division.

(D) For the purposes described in division (B) of this
section, visitors who are entering or have entered an institution
under the control of the department of youth services may be
searched by a strip or body cavity search, but only under the
circumstances described in this division. In order for a strip or
body cavity search to be conducted of a visitor, the highest
officer present in the institution shall expressly authorize the
search on the basis of a reasonable suspicion, based on specific
objective facts and reasonable inferences drawn from those facts
in the light of experience, that a visitor proposed to be so
searched possesses, and intends to convey or already has conveyed,
a deadly weapon, dangerous ordnance, drug of abuse, ~~or~~
intoxicating liquor, or electronic communication device onto the
grounds of the institution in violation of section 2921.36 of the
Revised Code.

Except as otherwise provided in this division, prior to the
conduct of the strip or body cavity search, the highest officer
present in the institution shall cause the visitor to be provided
with a written statement that sets forth the specific objective
facts upon which the proposed search is based. In the case of an
emergency under which time constraints make it impossible to
prepare the written statement before the conduct of the proposed
search, the highest officer in the institution instead shall cause
the visitor to be orally informed of the specific objective facts
upon which the proposed search is based prior to its conduct, and

shall cause the preparation of the written statement and its
provision to the visitor within twenty-four hours after the
conduct of the search. Both the highest officer present in the
institution and the visitor shall retain a copy of a written
statement provided in accordance with this division.

Any strip or body cavity search conducted pursuant to this
division shall be conducted in a private setting by a person of
the same sex as that of the visitor. Any body cavity search
conducted under this division additionally shall be conducted by
medical personnel.

This division does not preclude, and shall not be construed
as precluding, a less ~~intrusive~~ intrusive search as authorized by
division (C) of this section when reasonable suspicion as
described in this division exists for a strip or body cavity
search.

Sec. 5145.06. (A) The department of rehabilitation and
correction shall establish and operate a school system that is
approved and chartered by the department of education and
designated as the Ohio central school system to serve all of the
correctional institutions under its control. The Ohio central
school system shall provide educational programs for prisoners to
allow them to complete adult basic education courses, earn Ohio
certificates of high school equivalence, or pursue vocational
training. To that end, the department may employ appropriately
certified teachers, administrators, and support staff. The
department shall provide classrooms, shops, and other appropriate
facilities and necessary furniture, books, stationery, supplies,
and equipment.

(B)(1) The department of rehabilitation and correction shall
require each prisoner who has not obtained a high school diploma
to take courses leading toward an Ohio certificate of high school

equivalence, an Ohio high school diploma pursuant to section 2029
3313.61 of the Revised Code, or courses that provide vocational 2030
training. If a prisoner has obtained a high school diploma, the 2031
department shall encourage the prisoner to participate in a 2032
program of advanced studies or training for a skilled trade. 2033

(2) The department of rehabilitation and correction shall 2034
adopt rules that prescribe disciplinary actions that the 2035
department may take if a prisoner refuses to participate in an 2036
educational program required under division (B)(1) of this 2037
section. 2038

(3) The failure of the department of rehabilitation and 2039
correction to provide, pursuant to division (B)(1) of this 2040
section, an opportunity for any prisoner to participate in courses 2041
that lead toward an Ohio certificate of high school equivalence or 2042
an Ohio high school diploma, or that provide vocational training, 2043
does not give rise to a claim for damages against the department. 2044

(C) The department of rehabilitation and correction may 2045
exclude certain prisoners from the requirement to take courses 2046
pursuant to division (B)(1) of this section for a clearly 2047
established medical, mental health, or security reason. Any 2048
exclusion under this division shall be only for a clearly 2049
established medical, mental health, or security reason. Within six 2050
months after the effective date of this amendment, the department 2051
shall adopt rules pursuant to Chapter 119. of the Revised Code to 2052
establish the criteria and procedures for an exclusion under this 2053
division. 2054

Sec. 5145.163. (A) As used in this section: 2055

(1) "Inmate" includes any person who is committed to a 2056
detention facility, who is in the custody of the department of 2057
rehabilitation and correction, and who is participating in an 2058
approved assignment under the federal prison industries 2059

enhancement certification program. "Inmate" does not include a
prisoner confined within a detention facility operated by or for a
political subdivision.

2060
2061
2062

(2) "Federal prison industries enhancement certification
program" means the program authorized pursuant to 18 U.S.C. 1761.

2063
2064

(B) Private employers who purchase goods made by inmates or
utilize inmate labor in the production of goods under the federal
prison industries enhancement certification program shall purchase
and be solely responsible to provide a policy of insurance for
inmates participating in the program.

2065
2066
2067
2068
2069

(C) The policy of insurance required by this section shall
provide benefit payments for any inmate who sustains a compensable
injury while participating in the program. The benefit payments
shall compensate the inmate for any temporary or permanent loss of
earning capacity that results from a compensable injury and is
present at the time of the inmate's release. The benefits shall be
awarded upon the inmate's release from prison by parole or final
discharge. The policy of insurance shall provide coverage for
injuries occurring during activities that are an integral part of
the inmate's participation in the program production. The policy
of insurance shall not pay benefits for injuries occurring as the
result of a fight, assault, horseplay, or other activity that is
prohibited by the department's or institution's inmate conduct
rules.

2070
2071
2072
2073
2074
2075
2076
2077
2078
2079
2080
2081
2082
2083

(D) Private employers shall submit to the prison labor
advisory board as a requirement for participation in the federal
prison industries enhancement certification program proof of
liability coverage that meets or exceeds the requirements set
forth in 18 U.S.C. 1761(c)(3).

2084
2085
2086
2087
2088

(E) Inmates covered under this section are not employees of
the department of rehabilitation and correction or the private

2089
2090

employer. Nothing in this section shall be construed as creating a 2091
contract for hire between the inmate and any other entity. 2092

(F) Any inmate participating in the federal prison industries 2093
enhancement certification program is ineligible to receive 2094
compensation or benefits under Chapter 4121., 4123., 4127., or 2095
4131. of the Revised Code for any injury, death, or occupational 2096
disease received in the course of, and arising out of, 2097
participation in that program. Any claim for an injury arising 2098
from an inmate's participation in the program is specifically 2099
excluded from the jurisdiction of the Ohio bureau of workers' 2100
compensation and the industrial commission of Ohio. 2101

(G) Any liability benefit awarded for any injury under this 2102
provision shall be the exclusive remedy against the private 2103
employer and the state. 2104

(H) If any inmate awarded liability benefits under this 2105
provision is recommitted to the custody of the department of 2106
rehabilitation and correction, the benefits shall immediately 2107
cease but shall resume upon the inmate's subsequent parole or 2108
discharge from incarceration. 2109

Sec. 5149.02. There is hereby created in the division of 2110
parole and community services of the department of rehabilitation 2111
and correction at bureau level an adult parole authority. The 2112
adult parole authority consists of its chief, a ~~parole supervision~~ 2113
~~field services~~ section, a ~~probation development and supervision~~ 2114
~~section~~, and a parole board. The director of rehabilitation and 2115
correction shall appoint the chief of the adult parole authority, 2116
the ~~superintendent of the parole supervision section, the~~ 2117
~~superintendent~~ one or more superintendents of the ~~probation~~ 2118
~~development and supervision field services~~ section, and the 2119
~~chairman~~ chairperson of the parole board, all of whom shall serve 2120
at the pleasure of the director and shall be in the unclassified 2121

civil service. 2122

The authority is a regular administrative unit of the 2123
department of rehabilitation and correction and shall operate 2124
under rules adopted by the director. The chief of the division of 2125
parole and community services may adopt supplemental rules 2126
governing operation of the authority, assigning specific powers 2127
and duties to the chief of the authority, and assigning specific 2128
functions to sections within the authority. 2129

No person shall be appointed as chief of the adult parole 2130
authority who is not qualified by education or experience in 2131
correctional work, including law enforcement, probation, or 2132
parole, in law, in social work, or in a combination of the three 2133
categories. 2134

Sec. 5149.04. (A) Persons paroled ~~or~~, conditionally pardoned, 2135
or released to community supervision shall be under jurisdiction 2136
of the adult parole authority and shall be supervised by the 2137
~~parole supervision~~ field services section through its staff of 2138
parole and field officers in such manner as to insure as nearly as 2139
possible the ~~parolee's~~ offender's rehabilitation while at the same 2140
time providing maximum protection to the general public. All state 2141
and local officials shall furnish such information to officers of 2142
the ~~parole supervision~~ section as ~~is requested by the~~ 2143
~~superintendent of the section~~ they may request in the performance 2144
of ~~his~~ their duties. 2145

(B) The superintendent, or superintendents, of the ~~parole~~ 2146
~~supervision~~ field services section shall be a person, or persons, 2147
especially qualified by training and experience in the field of 2148
~~correction~~ corrections. ~~He~~ The superintendent, or superintendents, 2149
shall supervise the work of the section and shall formulate and 2150
execute an effective program of ~~parole~~ offender supervision. ~~He~~ 2151
The superintendent, or superintendents, shall collect and preserve 2152

any records and statistics with respect to ~~parolees~~ offenders that 2153
are required by the chief of the authority. The section also shall 2154
include other personnel who are necessary for the performance of 2155
the section's duties. 2156

No person shall be appointed as a superintendent who is not 2157
qualified by education or experience in correctional work 2158
(including law enforcement, probation, or parole) work, in law, in 2159
social work, or in a combination of the three categories. 2160

(C) The superintendent, or superintendents, of the ~~parole~~ 2161
~~supervision~~ field services section, with the approval of the chief 2162
of the authority, may establish district offices for the section 2163
and may assign necessary parole and field officers and clerical 2164
staff to the district offices. 2165

(D) The ~~parole supervision~~ field services section in the 2166
exercise of its supervision over ~~parolees~~ offenders and persons 2167
conditionally pardoned shall carry out all lawful orders, terms, 2168
and conditions prescribed by the authority, the chief of the 2169
division of parole and community services, or the governor. 2170

Sec. 5149.05. The chief of the adult parole authority may 2171
grant an employee permission to carry a firearm in the discharge 2172
of the employee's official duties, ~~provided that~~ if the employee 2173
has successfully completed a basic firearm training program that 2174
is approved by the executive director of the Ohio peace officer 2175
training commission ~~and that is administered by the department of~~ 2176
~~rehabilitation and correction.~~ In order to continue to carry a 2177
firearm in the discharge of the employee's official duties, the 2178
employee annually shall successfully complete a firearms 2179
requalification program in accordance with section 109.801 of the 2180
Revised Code. 2181

Sec. 5149.06. (A) The One of the primary duty duties of the 2182

~~field services~~ section on ~~probation development and supervision~~ is 2183
to assist the counties in developing their own probation services 2184
on either a single-county or multiple-county basis. The section, 2185
within limits of available personnel and funds, may supervise 2186
selected probationers from local courts. 2187

~~The section consists of a superintendent of probation and 2188
other personnel who are necessary for performance of the section's 2189
duties. No person shall be appointed superintendent who is not 2190
qualified by education or experience in correctional work, 2191
including law enforcement, probation, or parole work, in law, in 2192
social work, or in a combination of the three categories. 2193~~

(B) The adult parole authority probation services fund shall 2194
be created in the state treasury. The fund shall consist of all 2195
moneys that are paid to the treasurer of any county under section 2196
2951.021 of the Revised Code for deposit into the county's 2197
probation services fund established under division (A)(1) of 2198
section 321.44 of the Revised Code and that subsequently are 2199
appropriated and transferred to the adult parole authority 2200
probation services fund under division (A)(2) of that section. The 2201
chief of the adult parole authority, with the approval of the 2202
director of the department of rehabilitation and correction, shall 2203
use the money contained in the adult parole authority probation 2204
services fund for probation-related expenses in the counties for 2205
which the authority provides probation services. Probation-related 2206
expenses may include specialized staff, purchase of equipment, 2207
purchase of services, reconciliation programs for victims and 2208
offenders, other treatment programs, including alcohol and drug 2209
addiction programs certified under section 3793.06 of the Revised 2210
Code, determined to be appropriate by the chief of the authority, 2211
and other similar probation-related expenses. 2212

Sec. 5149.10. (A) The parole board shall consist of up to 2213
twelve members, one of whom shall be designated as chairperson by 2214

the director of the department of rehabilitation and correction 2215
and who shall continue as chairperson until a successor is 2216
designated, and any other personnel that are necessary for the 2217
orderly performance of the duties of the board. In addition to the 2218
rules authorized by section 5149.02 of the Revised Code, the chief 2219
of the adult parole authority, subject to the approval of the 2220
chief of the division of parole and community services and subject 2221
to this section, shall adopt rules governing the proceedings of 2222
the parole board. The rules shall provide for the convening of 2223
full board hearings, the procedures to be followed in full board 2224
hearings, and general procedures to be followed in other hearings 2225
of the board and by the board's hearing officers. The rules also 2226
shall require agreement by a majority of all the board members to 2227
any recommendation of clemency transmitted to the governor. 2228

2229
When the board members sit as a full board, the chairperson 2230
shall preside. The chairperson shall also allocate the work of the 2231
parole board among the board members. The full board shall meet at 2232
least once each month. In the case of a tie vote on the full 2233
board, the chief of the adult parole authority shall cast the 2234
deciding vote. The chairperson may designate a person to serve in 2235
the chairperson's place. 2236

Except as otherwise provided in division (B) of this section, 2237
no person shall be appointed a member of the board who is not 2238
qualified by education or experience in correctional work, 2239
including law enforcement, prosecution of offenses, advocating for 2240
the rights of victims of crime, probation, or parole, in law, in 2241
social work, or in a combination of the three categories. 2242

(B) The director of rehabilitation and correction, in 2243
consultation with the governor, shall appoint one member of the 2244
board, who shall be a person who has been a victim of crime or who 2245
is a member of a victim's family or who represents an organization 2246

that advocates for the rights of victims of crime. After 2247
appointment, this member shall be an unclassified employee of the 2248
department of rehabilitation and correction. 2249

The initial appointment shall be for a term ending four years 2250
after the effective date of this amendment. Thereafter, the term 2251
of office of the member appointed under this division shall be for 2252
four years, with each term ending on the same day of the same 2253
month as did the term that it succeeds. The member shall hold 2254
office from the date of appointment until the end of the term for 2255
which the member was appointed and may be reappointed. Vacancies 2256
shall be filled in the manner provided for original appointments. 2257
Any member appointed under this division to fill a vacancy 2258
occurring prior to the expiration date of the term for which the 2259
member's predecessor was appointed shall hold office as a member 2260
for the remainder of that term. The member appointed under this 2261
division shall continue in office subsequent to the expiration 2262
date of the member's term until the member's successor takes 2263
office or until a period of sixty days has elapsed, whichever 2264
occurs first. 2265

The member appointed under this division shall be compensated 2266
in the same manner as other board members and shall be reimbursed 2267
for actual and necessary expenses incurred in the performance of 2268
the members' duties. The member may vote on all cases heard by the 2269
full board under section 5149.101 of the Revised Code, has such 2270
duties as are assigned by the chairperson of the board, and shall 2271
coordinate the member's activities with the office of victims' 2272
services created under section 5120.60 of the Revised Code. 2273

As used in this division, "crime," "member of the victim's 2275
family," and "victim" have the meanings given in section 2930.01 2276
of the Revised Code. 2277

(C) The chairperson shall submit all recommendations for or 2278

against clemency directly to the governor. 2279

(D) The chairperson shall transmit to the chief of the adult 2280
parole authority all determinations for or against parole made by 2281
the board. Parole determinations are final and are not subject to 2282
review or change by the chief. 2283

(E) In addition to its duties pertaining to parole and 2284
clemency, if an offender is sentenced to a prison term pursuant to 2285
division (A)(3) of section 2971.03 of the Revised Code, the parole 2286
board shall have control over the ~~offenders~~ offender's service of 2287
the prison term during the entire term unless the board terminates 2288
its control in accordance with section 2971.04 of the Revised 2289
Code. The parole board may terminate its control over the 2290
offender's service of the prison term only in accordance with 2291
section 2971.04 of the Revised Code. 2292

Sec. 5149.12. The adult parole authority shall exercise 2293
general supervision over the work of all probation and parole 2294
officers throughout the state, ~~including~~ excluding those appointed 2295
in county probation departments and those appointed by municipal 2296
judges. 2297

~~The authority shall collect and publish statistical and other 2298
information and make recommendations as to the operation of the 2299
probation and parole system. It shall keep itself informed as to 2300
the work of probation and parole officers, and shall inquire into 2301
their conduct and efficiency. It may require reports from 2302
probation officers on blanks which it furnishes. It shall each 2303
year inform the courts and probation and parole officers of any 2304
legislation directly affecting probation or parole, and shall each 2305
year publish a list of all probation and parole officers. It shall 2306
endeavor, by such means as seem most suitable, to secure the 2307
effective application of the probation and parole system and 2308
enforcement of the probation and parole law in all parts of the 2309~~

state.	2310
The authority shall make an annual report which shows the	2311
results of the state parole system and the probation system as	2312
administered in the various counties.	2313
The authority, in discharge of its duties, shall have access	2314
to all offices and records of probation departments and officers	2315
within the state.	2316
Section 2. That existing sections 1901.33, 2151.421, 2301.27,	2317
2301.54, 2907.03, 2921.36, 2933.41, 2951.03, 2967.14, 2967.26,	2318
2967.27, 2967.28, 5120.01, 5120.21, 5120.30, 5120.38, 5120.421,	2319
5120.48, 5120.60, 5139.251, 5145.06, 5149.02, 5149.04, 5149.05,	2320
5149.06, 5149.10, and 5149.12 and section 5120.43 of the Revised	2321
Code are hereby repealed.	2322
Section 3. Section 5149.06 of the Revised Code is presented	2323
in this act as a composite of the section as amended by both Am.	2324
Sub. H.B. 406 and Am. Sub. H.B. 571 of the 120th General Assembly.	2325
The General Assembly, applying the principle stated in division	2326
(B) of section 1.52 of the Revised Code that amendments are to be	2327
harmonized if reasonably capable of simultaneous operation, finds	2328
that the composite is the resulting version of the section in	2329
effect prior to the effective date of the section as presented in	2330
this act.	2331