

**As Passed by the Senate**

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**2003-2004**

**Am. Sub. H. B. No. 375**

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C. Evans, Clancy, Strahorn, S. Smith, Widener, Key, Hartnett, Ujvagi, Fessler,  
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Wolpert, Woodard, Young  
Senators Schuring, Zurz, Austria, Spada, Carey**

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**A B I L L**

To amend sections 103.73, 103.74, 2930.16, 2967.03, 1  
2967.12, and 5149.101 and to enact sections 2  
103.75, 103.76, 103.77, 103.78, and 103.79 of the 3  
Revised Code to require the Parole Board, at the 4  
request of the victim of a specified offense or 5  
certain other persons, to hold a full board 6  
hearing, to permit the victim of such an offense, 7  
the victim's representative, and the victim's 8  
immediate family and the prisoner's counsel or 9  
another designated person to testify at that 10  
hearing, and to permit the Correctional 11  
Institution Inspection Committee to inspect 12  
Department of Youth Services facilities. 13

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

**Section 1.** That sections 103.73, 103.74, 2930.16, 2967.03, 14  
2967.12, and 5149.101 be amended and sections 103.75, 103.76, 15  
103.77, 103.78, and 103.79 of the Revised Code be enacted to read 16  
as follows: 17

**Sec. 103.73.** (A) The correctional institution inspection 18  
committee shall do all of the following: 19

(1) Subject to division (C) of this section, establish and 20  
maintain a continuing program of inspection of each state 21  
correctional institution used for the custody, control, training, 22  
and rehabilitation of persons convicted of crime and of each 23  
private correctional facility. Subject to division (C) of this 24  
section, the committee may inspect any local correctional 25  
institution used for the same purposes. Subject to division (C) of 26  
this section, the committee, and each member of the committee, for 27  
the purpose of making an inspection pursuant to this section, 28  
shall have access to any state or local correctional institution, 29  
to any private correctional facility, or to any part of the 30  
institution or facility and shall not be required to give advance 31  
notice of, or to make prior arrangements before conducting, an 32  
inspection. 33

(2) Evaluate and assist in the development of programs to 34  
improve the condition or operation of correctional institutions; 35

(3) Prepare a report for submission to the succeeding general 36  
assembly of the findings the committee makes in its inspections 37  
and of any programs that have been proposed or developed to 38  
improve the condition or operation of the correctional 39  
institutions in the state. The report shall contain a separate 40  
evaluation of the inmate grievance procedure at each state 41  
correctional institution. The committee shall submit the report to 42  
the succeeding general assembly within fifteen days after 43

commencement of that general assembly's first regular session. 44

(B) Subject to division (C) of this section, the committee 45  
shall make an inspection of each state correctional institution 46  
each biennium and of each private correctional facility each 47  
biennium. The inspection shall include attendance at one general 48  
meal period and one rehabilitative or educational program. 49

(C) An inspection of a state correctional institution, a 50  
private correctional facility, or a local correctional institution 51  
under division (A) or (B) of this section or under section 103.74 52  
of the Revised Code, or an inspection under section 103.76 of the 53  
Revised Code, is subject to and shall be conducted in accordance 54  
with all of the following: 55

(1) The inspection shall not be conducted unless the 56  
chairperson of the committee grants prior approval for the 57  
inspection. The grant of prior approval shall specify whether the 58  
inspection is to be conducted by a subcommittee appointed under 59  
section 103.74 of the Revised Code or is to be conducted other 60  
than by a subcommittee appointed under that section. 61

(2) The inspection shall not be conducted unless one of the 62  
following applies: 63

(a) If the inspection is to be conducted by a subcommittee 64  
appointed under section 103.74 of the Revised Code, at least two 65  
members appointed to the committee are present for the inspection; 66

(b) If division (C)(2)(a) of this section does not apply, at 67  
least one member appointed to the committee and at least one staff 68  
member of the committee are present for the inspection. 69

(3) Unless the chairperson of the committee determines that 70  
the inspection must be conducted outside of normal business hours 71  
for any reason, including emergency circumstances or a justifiable 72  
cause that perpetuates the mission of the committee, and the 73

chairperson specifies in the grant of prior approval for the 74  
inspection that the chairperson has so determined, the inspection 75  
shall be conducted only during normal business hours. If the 76  
chairperson determines that the inspection must be conducted 77  
outside of normal business hours and the chairperson specifies in 78  
the grant of prior approval for the inspection that the 79  
chairperson has so determined, the inspection may be conducted 80  
outside of normal business hours. 81

(4) If the inspection is to be conducted by a subcommittee 82  
appointed under section 103.74 of the Revised Code, no staff 83  
member of the committee may be present on the inspection unless 84  
the chairperson of the committee, in the grant of prior approval 85  
for the inspection, specifically authorizes staff members to be 86  
present on the inspection. If the inspection is to be conducted 87  
other than by a subcommittee appointed under that section, staff 88  
members may be present on the inspection regardless of whether the 89  
grant of prior approval contains a specific authorization for 90  
staff members to be present on the inspection. 91

(D) As used in this section: 92

(1) "Local public entity," "out-of-state prisoner," and 93  
"private contractor" have the same meanings as in section 9.07 of 94  
the Revised Code. 95

(2) "Private correctional facility" means a correctional 96  
facility in this state that houses out-of-state prisoners and that 97  
is operated by a private contractor under a contract with a local 98  
public entity pursuant to section 9.07 of the Revised Code. 99

**Sec. 103.74.** Subject to division (C) of section 103.73 of the 100  
Revised Code, the chairperson of the correctional institution 101  
inspection committee may appoint subcommittees, each to consist of 102  
at least two members, for the purpose of conducting inspections 103

pursuant to section 103.73 or 103.76 of the Revised Code. 104

The committee may employ a director and any other nonlegal 105  
staff, who shall be in the unclassified service of the state, that 106  
are necessary for the committee to carry out its duties and may 107  
contract for the services of whatever nonlegal technical advisors 108  
are necessary for the committee to carry out its duties. The 109  
attorney general shall act as legal counsel to the committee. 110

The chairperson and vice-chairperson of the legislative 111  
service commission shall fix the compensation of the director. The 112  
director, with the approval of the director of the legislative 113  
service commission, shall fix the compensation of other staff of 114  
the committee in accordance with a salary schedule established by 115  
the director of the legislative service commission. Contracts for 116  
the services of necessary technical advisors shall be approved by 117  
the director of the legislative service commission. 118

The general assembly shall biennially appropriate to the 119  
correctional institution inspection committee an amount sufficient 120  
to enable the committee to perform its duties. Salaries and 121  
expenses incurred by the committee shall be paid from that 122  
appropriation upon vouchers approved by the chairperson of the 123  
committee. 124

Sec. 103.75. As used in sections 103.76 to 103.79 of the 125  
Revised Code, "youth services facility" means a facility operated, 126  
or contracted for, by the department of youth services that is 127  
used for the care, protection, treatment, or secure confinement of 128  
any child committed to the department's custody. 129

Sec. 103.76. Subject to division (C) of section 103.73 of the 130  
Revised Code, the correctional institution inspection committee 131  
may make an inspection of any youth services facility at such 132  
times as it determines. 133

Sec. 103.77. Subject to division (C) of section 103.73 of the Revised Code, the correctional institution inspection committee, and each member of the committee, for the purpose of making inspections of youth services facilities shall have access to any youth services facility, or to any part of that facility and shall not be required to give advance notice of, or to make prior arrangements before conducting, an inspection.

Sec. 103.78. The correctional institution inspection committee may do the following:

(A) Subject to division (C) of section 103.73 of the Revised Code, establish and maintain a continuing program of inspection of youth services facilities;

(B) Evaluate and assist in the development of programs to improve the condition or operation of youth services facilities;

Sec. 103.79. If the correctional institution inspection committee conducts inspections of youth services facilities during a biennium, the committee shall prepare a report for submission to the succeeding general assembly of the findings the committee makes in its inspections and of any programs that have been proposed or developed to improve the condition or operation of youth services facilities. The committee shall submit the report to the succeeding general assembly within fifteen days after commencement of that general assembly's first regular session.

Sec. 2930.16. (A) If a defendant is incarcerated, a victim in a case who has requested to receive notice under this section shall be given notice of the incarceration of the defendant. If an alleged juvenile offender is committed to the temporary custody of a school, camp, institution, or other facility operated for the care of delinquent children or to the legal custody of the

department of youth services, a victim in a case who has requested 163  
to receive notice under this section shall be given notice of the 164  
commitment. Promptly after sentence is imposed upon the defendant 165  
or the commitment of the alleged juvenile offender is ordered, the 166  
prosecutor in the case shall notify the victim of the date on 167  
which the defendant will be released from confinement or the 168  
prosecutor's reasonable estimate of that date or the date on which 169  
the alleged juvenile offender will have served the minimum period 170  
of commitment or the prosecutor's reasonable estimate of that 171  
date. The prosecutor also shall notify the victim of the name of 172  
the custodial agency of the defendant or alleged juvenile offender 173  
and tell the victim how to contact that custodial agency. If the 174  
custodial agency is the department of rehabilitation and 175  
correction, the prosecutor shall notify the victim of the services 176  
offered by the office of victims' services pursuant to section 177  
5120.60 of the Revised Code. If the custodial agency is the 178  
department of youth services, the prosecutor shall notify the 179  
victim of the services provided by the office of victims' services 180  
within the release authority of the department pursuant to section 181  
5139.55 of the Revised Code and the victim's right pursuant to 182  
section 5139.56 of the Revised Code to submit a written request to 183  
the release authority to be notified of actions the release 184  
authority takes with respect to the alleged juvenile offender. The 185  
victim shall keep the custodial agency informed of the victim's 186  
current address and telephone number. 187

(B)(1) Upon the victim's request, the prosecutor promptly 188  
shall notify the victim of any hearing for judicial release of the 189  
defendant pursuant to section 2929.20 of the Revised Code or of 190  
any hearing for judicial release or early release of the alleged 191  
juvenile offender pursuant to section 2151.38 of the Revised Code 192  
and of the victim's right to make a statement under those 193  
sections. The court shall notify the victim of its ruling in each 194  
of those hearings and on each of those applications. 195

(2) Upon the request of a victim of a crime that is a sexually violent offense and that is committed by a sexually violent predator who is sentenced to a prison term pursuant to division (A)(3) of section 2971.03 of the Revised Code, the prosecutor promptly shall notify the victim of any hearing to be conducted pursuant to section 2971.05 of the Revised Code to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility in accordance with division (C) of that section, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with division (D) of that section. The court shall notify the victim of any order issued at the conclusion of the hearing. As used in this division, "sexually violent offense" and "sexually violent predator" have the same meanings as in section 2971.01 of the Revised Code.

(C) Upon the victim's request made at any time before the particular notice would be due, the custodial agency of a defendant or alleged juvenile offender shall give the victim any of the following notices that is applicable:

(1) At least three weeks before the adult parole authority recommends a pardon or commutation of sentence for the defendant or at least three weeks prior to a hearing before the adult parole authority regarding a grant of parole to the defendant, notice of the victim's right to submit a statement regarding the impact of the defendant's release in accordance with section 2967.12 of the Revised Code and, if applicable, of the victim's right to appear at a full board hearing of the parole board to give testimony as authorized by section 5149.101 of the Revised Code;

(2) At least three weeks before the defendant is transferred to transitional control under section 2967.26 of the Revised Code, notice of the pendency of the transfer and of the victim's right



under that section to submit a statement regarding the impact of 228  
the transfer; 229

(3) At least thirty days before the release authority of the 230  
department of youth services holds a release review, release 231  
hearing, or discharge review for the alleged juvenile offender, 232  
notice of the pendency of the review or hearing, of the victim's 233  
right to make an oral or written statement regarding the impact of 234  
the crime upon the victim or regarding the possible release or 235  
discharge, and, if the notice pertains to a hearing, of the 236  
victim's right to attend and make statements or comments at the 237  
hearing as authorized by section 5139.56 of the Revised Code; 238

(4) Prompt notice of the defendant's or alleged juvenile 239  
offender's escape from a facility of the custodial agency in which 240  
the defendant was incarcerated or in which the alleged juvenile 241  
offender was placed after commitment, of the defendant's or 242  
alleged juvenile offender's absence without leave from a mental 243  
health or mental retardation and developmental disabilities 244  
facility or from other custody, and of the capture of the 245  
defendant or alleged juvenile offender after an escape or absence; 246

(5) Notice of the defendant's or alleged juvenile offender's 247  
death while in confinement or custody; 248

(6) Notice of the defendant's or alleged juvenile offender's 249  
release from confinement or custody and the terms and conditions 250  
of the release. 251

**Sec. 2967.03.** The adult parole authority may exercise its 252  
functions and duties in relation to the pardon, commutation of 253  
sentence, or reprieve of a convict upon direction of the governor 254  
or upon its own initiative. It may exercise its functions and 255  
duties in relation to the parole of a prisoner who is eligible for 256  
parole upon the initiative of the head of the institution in which 257

the prisoner is confined or upon its own initiative. When a 258  
prisoner becomes eligible for parole, the head of the institution 259  
in which the prisoner is confined shall notify the authority in 260  
the manner prescribed by the authority. The authority may 261  
investigate and examine, or cause the investigation and 262  
examination of, prisoners confined in state correctional 263  
institutions concerning their conduct in the institutions, their 264  
mental and moral qualities and characteristics, their knowledge of 265  
a trade or profession, their former means of livelihood, their 266  
family relationships, and any other matters affecting their 267  
fitness to be at liberty without being a threat to society. 268

The authority may recommend to the governor the pardon, 269  
commutation of sentence, or reprieve of any convict or prisoner or 270  
grant a parole to any prisoner for whom parole is authorized, if 271  
in its judgment there is reasonable ground to believe that 272  
granting a pardon, commutation, or reprieve to the convict or 273  
paroling the prisoner would further the interests of justice and 274  
be consistent with the welfare and security of society. However, 275  
the authority shall not recommend a pardon or commutation of 276  
sentence of, or grant a parole to, any convict or prisoner until 277  
the authority has complied with the applicable notice requirements 278  
of sections 2930.16 and 2967.12 of the Revised Code and until it 279  
has considered any statement made by a victim or a victim's 280  
representative that is relevant to the convict's or prisoner's 281  
case and that was sent to the authority pursuant to section 282  
2930.17 of the Revised Code and any other statement made by a 283  
victim or a victim's representative that is relevant to the 284  
convict's or prisoner's case and that was received by the 285  
authority after it provided notice of the pendency of the action 286  
under sections 2930.16 and 2967.12 of the Revised Code. If a 287  
victim ~~or~~, victim's representative, or the victim's spouse, 288  
parent, sibling, or child appears at a full board hearing of the 289  
parole board and gives testimony as authorized by section 5149.101 290

of the Revised Code, the authority shall consider the testimony in 291  
determining whether to grant a parole. The trial judge and 292  
prosecuting attorney of the trial court in which a person was 293  
convicted shall furnish to the authority, at the request of the 294  
authority, a summarized statement of the facts proved at the trial 295  
and of all other facts having reference to the propriety of 296  
recommending a pardon or commutation, or granting a parole, 297  
together with a recommendation for or against a pardon, 298  
commutation, or parole, and the reasons for the recommendation. 299  
The trial judge ~~of the court, and the prosecuting attorney in the~~ 300  
~~trial, in which a prisoner was convicted, specified law~~ 301  
enforcement agency members, and a representative of the prisoner 302  
may appear at a full board hearing of the parole board and give 303  
testimony in regard to the grant of a parole to the prisoner as 304  
authorized by section 5149.101 of the Revised Code. All state and 305  
local officials shall furnish information to the authority, when 306  
so requested by it in the performance of its duties. 307

The adult parole authority shall exercise its functions and 308  
duties in relation to the release of prisoners who are serving a 309  
stated prison term in accordance with section 2967.28 of the 310  
Revised Code. 311

**Sec. 2967.12.** (A) Except as provided in division (G) of this 312  
section, at least three weeks before the adult parole authority 313  
recommends any pardon or commutation of sentence, or grants any 314  
parole, the authority shall send a notice of the pendency of the 315  
pardon, commutation, or parole, setting forth the name of the 316  
person on whose behalf it is made, the offense of which the person 317  
was convicted, the time of conviction, and the term of the 318  
person's sentence, to the prosecuting attorney and the judge of 319  
the court of common pleas of the county in which the indictment 320  
against the person was found. If there is more than one judge of 321  
that court of common pleas, the authority shall send the notice to 322

the presiding judge. 323

(B) If a request for notification has been made pursuant to 324  
section 2930.16 of the Revised Code, the adult parole authority 325  
also shall give notice to the victim or the victim's 326  
representative prior to recommending any pardon or commutation of 327  
sentence for, or granting any parole to, the person. The authority 328  
shall provide the notice at the same time as the notice required 329  
by division (A) of this section and shall include in the notice 330  
the information required to be set forth in that notice. The 331  
notice also shall inform the victim or the victim's representative 332  
that the victim or representative may send a written statement 333  
relative to the victimization and the pending action to the adult 334  
parole authority and that, if the authority receives any written 335  
statement prior to recommending a pardon or commutation or 336  
granting a parole for a person, the authority will consider the 337  
statement before it recommends a pardon or commutation or grants a 338  
parole. If the person is being considered for parole, the notice 339  
shall inform the victim or the victim's representative that a full 340  
board hearing of the parole board may be held and that the victim 341  
or victim's representative may contact the office of victims' 342  
services for further information. If the person being considered 343  
for parole was convicted of or pleaded guilty to violating section 344  
2903.01 or 2903.02 of the Revised Code, the notice shall inform 345  
the victim of that offense, the victim's representative, or a 346  
member of the victim's immediate family that the victim, the 347  
victim's representative, and the victim's immediate family have 348  
the right to give testimony at a full board hearing of the parole 349  
board and that the victim or victim's representative may contact 350  
the office of victims' services for further information. As used 351  
in this division, "the victim's immediate family" means the 352  
mother, father, spouse, sibling, or child of the victim. 353

(C) When notice of the pendency of any pardon, commutation of 354

sentence, or parole has been given as provided in division (A) of 355  
this section and a hearing on the pardon, commutation, or parole 356  
is continued to a date certain, the authority shall give notice by 357  
mail of the further consideration of the pardon, commutation, or 358  
parole to the proper judge and prosecuting attorney at least ten 359  
days before the further consideration. When notice of the pendency 360  
of any pardon, commutation, or parole has been given as provided 361  
in division (B) of this section and the hearing on it is continued 362  
to a date certain, the authority shall give notice of the further 363  
consideration to the victim or the victim's representative in 364  
accordance with section 2930.03 of the Revised Code. 365

(D) In case of an application for the pardon or commutation 366  
of sentence of a person sentenced to capital punishment, the 367  
governor may modify the requirements of notification and 368  
publication if there is not sufficient time for compliance with 369  
the requirements before the date fixed for the execution of 370  
sentence. 371

(E) If an offender is serving a prison term imposed under 372  
division (A)(3) of section 2971.03 of the Revised Code and if the 373  
parole board terminates its control over the offender's service of 374  
that term pursuant to section 2971.04 of the Revised Code, the 375  
parole board immediately shall provide written notice of its 376  
termination of control or the transfer of control to the entities 377  
and persons specified in section 2971.04 of the Revised Code. 378

(F) The failure of the adult parole authority to comply with 379  
the notice provisions of division (A), (B), or (C) of this section 380  
or the failure of the parole board to comply with the notice 381  
provisions of division (E) of this section do not give any rights 382  
or any grounds for appeal or post-conviction relief to the person 383  
serving the sentence. 384

(G) Divisions (A), (B), and (C) of this section do not apply 385

to any release of a person that is of the type described in  
division (B)(2)(b) of section 5120.031 of the Revised Code.

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**Sec. 5149.101.** (A)(1) A board hearing officer, a board  
member, or the office of victims' services may petition the board  
for a full board hearing that relates to the proposed parole or  
re-parole of a prisoner. At a meeting of the board at which ~~at~~  
~~least seven~~ a majority of board members are present, ~~a~~ the  
majority of those present shall determine whether a full board  
hearing shall be held.

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(2) A victim of a violation of section 2903.01 or 2903.02 of  
the Revised Code, the victim's representative, or any person  
described in division (B)(5) of this section may request the board  
hold a full board hearing that relates to the proposed parole or  
re-parole of the person that committed the violation. If a victim,  
victim's representative, or other person requests a full board  
hearing pursuant to this division, the board shall hold a full  
board hearing.

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(B) At a full board hearing that relates to the proposed  
parole or re-parole of a prisoner and that has been petitioned for  
or requested in accordance with division (A) of this section, the  
parole board shall permit the following persons to appear and to  
give testimony or to submit written statements:

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(1) The prosecuting attorney of the county in which the  
original indictment against the prisoner was found and members of  
any law enforcement agency that assisted in the prosecution of the  
original offense;

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(2) The judge of the court of common pleas who imposed the  
original sentence of incarceration upon the prisoner, or the  
judge's successor;

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(3) The victim of the original offense for which the prisoner

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is serving the sentence or the victim's representative designated 416  
pursuant to section 2930.02 of the Revised Code: 417

(4) The victim of any behavior that resulted in parole being 418  
revoked; 419

(5) With respect to a full board hearing held pursuant to 420  
division (A)(2) of this section, all of the following: 421

(a) The spouse of the victim of the original offense; 422

(b) The parent or parents of the victim of the original 423  
offense; 424

(c) The sibling of the victim of the original offense; 425

(d) The child or children of the victim of the original 426  
offense. 427

(6) Counsel or some other person designated by the prisoner 428  
as a representative, as described in division (C) of this section. 429

(C) Except as otherwise provided in this division, a full 430  
board hearing of the parole board is not subject to section 121.22 431  
of the Revised Code. The persons who may attend a full board 432  
hearing are the persons described in divisions (B)(1) to ~~(3)~~(6) of 433  
this section, and representatives of the press, radio and 434  
television stations, and broadcasting networks who are members of 435  
a generally recognized professional media organization. 436

At the request of a person described in division (B)(3) of 437  
this section, representatives of the news media described in this 438  
division shall be excluded from the hearing while that person is 439  
giving testimony at the hearing. The prisoner being considered for 440  
parole has no right to be present at the hearing, but may be 441  
represented by counsel or some other person designated by the 442  
prisoner. 443

If there is an objection at a full board hearing to a 444  
recommendation for the parole of a prisoner, the board may approve 445

or disapprove the recommendation or defer its decision until a 446  
subsequent full board hearing. The board may permit interested 447  
persons other than those listed in this division and division (B) 448  
of this section to attend full board hearings pursuant to rules 449  
adopted by the adult parole authority. 450

(D) The adult parole authority shall adopt rules for the 451  
implementation of this section. The rules shall specify reasonable 452  
restrictions on the number of media representatives that may 453  
attend a hearing, based on considerations of space, and other 454  
procedures designed to accomplish an effective, orderly process 455  
for full board hearings. 456

**Section 2.** That existing sections 103.73, 103.74, 2930.16, 457  
2967.03, 2967.12, and 5149.101 of the Revised Code are hereby 458  
repealed. 459