

AN ACT

To amend sections 2152.20, 2301.51, 2301.52, 2301.55, 2301.56, 2301.57, 2744.01, 2929.01, 2929.34, 2929.37, 2929.38, 4117.01, 5120.031, 5120.111, 5120.112, and 5149.34, to enact new section 2301.58 and section 2301.571, and to repeal sections 2301.53, 2301.54, and 2301.58 of the Revised Code to revise the law governing community-based correctional facilities and district community-based correctional facilities.

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

SECTION 1. That sections 2152.20, 2301.51, 2301.52, 2301.55, 2301.56, 2301.57, 2744.01, 2929.01, 2929.34, 2929.37, 2929.38, 4117.01, 5120.031, 5120.111, 5120.112, and 5149.34 be amended and new section 2301.58 and section 2301.571 of the Revised Code be enacted to read as follows:

Sec. 2152.20. (A) If a child is adjudicated a delinquent child or a juvenile traffic offender, the court may order any of the following dispositions, in addition to any other disposition authorized or required by this chapter:

(1) Impose a fine in accordance with the following schedule:

(a) For an act that would be a minor misdemeanor or an unclassified misdemeanor if committed by an adult, a fine not to exceed fifty dollars;

(b) For an act that would be a misdemeanor of the fourth degree if committed by an adult, a fine not to exceed one hundred dollars;

(c) For an act that would be a misdemeanor of the third degree if committed by an adult, a fine not to exceed one hundred fifty dollars;

(d) For an act that would be a misdemeanor of the second degree if committed by an adult, a fine not to exceed two hundred dollars;

(e) For an act that would be a misdemeanor of the first degree if committed by an adult, a fine not to exceed two hundred fifty dollars;

(f) For an act that would be a felony of the fifth degree or an unclassified felony if committed by an adult, a fine not to exceed three hundred dollars;

(g) For an act that would be a felony of the fourth degree if committed by an adult, a fine not to exceed four hundred dollars;

(h) For an act that would be a felony of the third degree if committed by an adult, a fine not to exceed seven hundred fifty dollars;

(i) For an act that would be a felony of the second degree if committed by an adult, a fine not to exceed one thousand dollars;

(j) For an act that would be a felony of the first degree if committed by an adult, a fine not to exceed one thousand five hundred dollars;

(k) For an act that would be aggravated murder or murder if committed by an adult, a fine not to exceed two thousand dollars.

(2) Require the child to pay costs;

(3) Unless the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or could be disposed of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the court has established a juvenile traffic violations bureau, require the child to make restitution to the victim of the child's delinquent act or juvenile traffic offense or, if the victim is deceased, to a survivor of the victim in an amount based upon the victim's economic loss caused by or related to the delinquent act or juvenile traffic offense. The court may not require a child to make restitution pursuant to this division if the child's delinquent act or juvenile traffic offense would be a minor misdemeanor if committed by an adult or could be disposed of by the juvenile traffic violations bureau serving the court under Traffic Rule 13.1 if the court has established a juvenile traffic violations bureau. If the court requires restitution under this division, the restitution shall be made directly to the victim in open court or to the probation department that serves the jurisdiction or the clerk of courts on behalf of the victim.

If the court requires restitution under this division, the restitution may be in the form of a cash reimbursement paid in a lump sum or in installments, the performance of repair work to restore any damaged property to its original condition, the performance of a reasonable amount of labor for the victim or survivor of the victim, the performance of community service work, any other form of restitution devised by the court, or any combination of the previously described forms of restitution.

If the court requires restitution under this division, the court may base the restitution order on an amount recommended by the victim or survivor of the victim, the delinquent child, the juvenile traffic offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and any other information, provided that the amount the court orders as restitution shall not exceed the amount of the

economic loss suffered by the victim as a direct and proximate result of the delinquent act or juvenile traffic offense. If the court decides to order restitution under this division and the amount of the restitution is disputed by the victim or survivor or by the delinquent child or juvenile traffic offender, the court shall hold a hearing on the restitution. If the court requires restitution under this division, the court shall determine, or order the determination of, the amount of restitution to be paid by the delinquent child or juvenile traffic offender. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by or on behalf of the victim against the delinquent child or juvenile traffic offender or the delinquent child's or juvenile traffic offender's parent, guardian, or other custodian.

If the court requires restitution under this division, the court may order that the delinquent child or juvenile traffic offender pay a surcharge, in an amount not exceeding five per cent of the amount of restitution otherwise ordered under this division, to the entity responsible for collecting and processing the restitution payments.

The victim or the survivor of the victim may request that the prosecuting authority file a motion, or the delinquent child or juvenile traffic offender may file a motion, for modification of the payment terms of any restitution ordered under this division. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(4) Require the child to reimburse any or all of the costs incurred for services or sanctions provided or imposed, including, but not limited to, the following:

(a) All or part of the costs of implementing any community control imposed as a disposition under section 2152.19 of the Revised Code, including a supervision fee;

(b) All or part of the costs of confinement in a residential facility described in section 2152.19 of the Revised Code or in a department of youth services institution, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment provided, and the costs of repairing property the delinquent child damaged while so confined. The amount of reimbursement ordered for a child under this division shall not exceed the total amount of reimbursement the child is able to pay as determined at a hearing and shall not exceed the actual cost of the confinement. The court may collect any reimbursement ordered under this division. If the court does not order reimbursement under this division, confinement costs may be assessed pursuant to a repayment policy adopted under section 2929.37 of the Revised Code and division (D) of section

307.93, division (A) of section 341.19, division (C) of section 341.23 or 753.16, division (C) of section 2301.56, or division (B) of section 341.14, 753.02, 753.04, ~~2301.56~~, or 2947.19 of the Revised Code.

(B)(1) If a child is adjudicated a delinquent child for violating section 2923.32 of the Revised Code, the court shall enter an order of criminal forfeiture against the child in accordance with divisions (B)(3), (4), (5), and (6) and (C) to (F) of section 2923.32 of the Revised Code.

(2) Sections 2925.41 to 2925.45 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act that, if committed by an adult, would be a felony drug abuse offense. Subject to division (B) of section 2925.42 and division (E) of section 2925.43 of the Revised Code, a delinquent child of that nature loses any right to the possession of, and forfeits to the state any right, title, and interest that the delinquent child may have in, property as defined in section 2925.41 of the Revised Code and further described in section 2925.42 or 2925.43 of the Revised Code.

(3) Sections 2923.44 to 2923.47 of the Revised Code apply to children who are adjudicated or could be adjudicated by a juvenile court to be delinquent children for an act in violation of section 2923.42 of the Revised Code. Subject to division (B) of section 2923.44 and division (E) of section 2923.45 of the Revised Code, a delinquent child of that nature loses any right to the possession of, and forfeits to the state any right, title, and interest that the delinquent child may have in, property as defined in section 2923.41 of the Revised Code and further described in section 2923.44 or 2923.45 of the Revised Code.

(C) The court may hold a hearing if necessary to determine whether a child is able to pay a sanction under this section.

(D) If a child who is adjudicated a delinquent child is indigent, the court shall consider imposing a term of community service under division (A) of section 2152.19 of the Revised Code in lieu of imposing a financial sanction under this section. If a child who is adjudicated a delinquent child is not indigent, the court may impose a term of community service under that division in lieu of, or in addition to, imposing a financial sanction under this section. The court may order community service for an act that if committed by an adult would be a minor misdemeanor.

If a child fails to pay a financial sanction imposed under this section, the court may impose a term of community service in lieu of the sanction.

(E) The clerk of the court, or another person authorized by law or by the court to collect a financial sanction imposed under this section, may do any of the following:

(1) Enter into contracts with one or more public agencies or private vendors for the collection of the amounts due under the financial sanction, which amounts may include interest from the date of imposition of the financial sanction;

(2) Permit payment of all, or any portion of, the financial sanction in installments, by credit or debit card, by another type of electronic transfer, or by any other reasonable method, within any period of time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed five years. The clerk may pay any fee associated with processing an electronic transfer out of public money and may charge the fee to the delinquent child.

(3) To defray administrative costs, charge a reasonable fee to a child who elects a payment plan rather than a lump sum payment of a financial sanction.

Sec. 2301.51. (A)(1) ~~The court of common pleas of any~~ Any county that has a population of two hundred thousand or more ~~may~~ is eligible to formulate a community-based correctional proposal pursuant to this section that, upon implementation, would provide a community-based correctional facility and program for the use of that county's court of common pleas in accordance with sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code. ~~Upon the approval of the director of rehabilitation and correction, the court of common pleas of any~~ Any county that has a population of two hundred thousand or more ~~may~~ is eligible to formulate more than one community-based correctional proposal pursuant to this section upon approval of the director of rehabilitation and correction. In determining whether to grant approval to ~~a court to~~ formulate more than one proposal, the director shall consider the rate at which the county ~~served by the court~~ commits felony offenders to the state correctional system. If a ~~court~~ county formulates more than one proposal, each proposal shall be for a separate community-based correctional facility and program.

~~For each community-based correctional proposal formulated under this division, the fact that the proposal has been formulated and the fact of any subsequent establishment of a community-based correctional facility and program pursuant to the proposal shall be entered upon the journal of the court. A county's community-based correctional facilities and programs shall be administered by a judicial corrections board. The presiding judge of the court or, if the presiding judge is not a judge of the general division of the court, the administrative judge of the general division shall designate the members of the board, who shall be judges of the court. The total number of members of the board shall not exceed eleven. The judge who is authorized~~

~~to designate the members of the board shall serve as chairperson of the board.~~

(2) ~~The courts of common pleas of two~~ Two or more adjoining or neighboring counties that have an aggregate population of two hundred thousand or more ~~may form a judicial corrections board and proceed to organize a district and~~ are eligible to formulate a district community-based correctional proposal pursuant to this section that, upon implementation, would provide a district community-based correctional facility and program for the use of ~~the member~~ those counties' courts of common pleas in accordance with sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code. ~~Upon the approval of the director of rehabilitation and correction, a judicial corrections board may~~ Two or more adjoining or neighboring counties that have an aggregate population of two hundred thousand or more are eligible to formulate more than one district community-based correctional proposal upon approval of the director of rehabilitation and correction. In determining whether to grant approval ~~to a judicial corrections board to formulate~~ for more than one proposal, the director shall consider the rate at which the counties ~~that formed the board~~ commit felony offenders to the state correctional system. ~~If a judicial corrections board formulates~~ two or more adjoining or neighboring counties formulate more than one proposal, each proposal shall be for a separate district community-based correctional facility and program. ~~The judicial corrections board shall consist of not more than eleven judges of the member courts of common pleas, and each member court shall be represented on the board by at least one judge. The presiding judge of the court of common pleas of the county with the greatest population or, if that presiding judge is not a judge of the general division of that court, the administrative judge of the general division of that court shall serve as chairperson of the board. The fact of the formation of a board and district, and, for each district community-based correctional proposal formulated under this division, the fact that the proposal has been formulated and the fact of any subsequent establishment of a district community-based correctional facility and program shall be entered upon the journal of each member court of common pleas.~~

(3)(a) The formulation of a proposal for a community-based correctional facility or a district community-based correctional facility shall begin by the establishment of a judicial advisory board by judgment entry. The judicial advisory board shall consist of not less than three judges. Each general division judge of the court of common pleas in the county or counties wishing to formulate a proposal or to continue operation of an existing facility is eligible to become a member of the judicial advisory board but is

not required to do so. In addition, a judicial advisory board may invite a non-general division judge of a court of common pleas from within the county or counties proposing the creation of a community-based correctional facility or district community-based correctional facility or a general division judge of a court of common pleas from outside the county or counties proposing the creation of a community-based correctional facility or district community-based correctional facility who regularly sends offenders to its facility to become a member of that judicial advisory board.

(b) A judge shall not receive any additional compensation for service on a judicial advisory board, but a judge may be reimbursed for reasonable and necessary expenses incurred as a result of service on the board. Service of a judge on a judicial advisory board pursuant to this section is a judicial function.

(c) There shall be a facility governing board for each community-based correctional facility and program or district community-based correctional facility and program, whose members shall be appointed in accordance with division (E) of this section.

The judicial advisory board shall meet at least once a year to provide advice to the facility governing board regarding the public safety needs of the community, admission criteria for any community-based correctional facility and program or district community-based correctional facility and program, and the general requirements of the community-based correctional facility and program or district community-based correctional facility and program. The judicial advisory board may meet as often as considered necessary by its members, may communicate directly with the division of parole and community services of the department of rehabilitation and correction, and may provide advice to the facility governing board specifically regarding the agreement entered into between the facility governing board and the division of parole and community services pursuant to section 5120.112 of the Revised Code.

(4) A facility governing board shall formulate the proposal for a community-based correctional facility and program or district community-based correctional facility and program and shall govern the facility.

(5) Chapter 2744. of the Revised Code applies to the county or counties served by a community-based correctional facility and program or district community-based correctional facility and program established and operated under sections 2301.51 to 2301.58 of the Revised Code, to the community-based correctional facility and program or district

community-based correctional facility and program so established and operated, and to the facility governing board of the community-based correctional facility and program or district community-based correctional facility and program so established and operated.

(6) The members of the judicial advisory board and of the facility governing board of a community-based correctional facility and program or district community-based correctional facility and program established and operated under sections 2301.51 to 2301.58 of the Revised Code shall be considered to be public officials or employees for purposes of Chapter 102. of the Revised Code and public officials or public servants for purposes of sections 2921.42 and 2921.43 of the Revised Code.

(7) Each member of a facility governing board of a community-based correctional facility and program or district community-based correctional facility and program established and operated under sections 2301.51 to 2301.58 of the Revised Code shall attend orientation training developed by the judicial advisory board of the community-based correctional facility and program or district community-based correctional facility and program, as well as annual ethics training developed by the judicial advisory board in consultation with the Ohio ethics commission or provided by the Ohio ethics commission.

(8) A community-based correctional facility and program or a district community-based correctional facility and program established by a judicial corrections board under a prior version of this section shall continue to exist under its existing contractual arrangements but, on and after the effective date of this amendment, shall be governed by a facility governing board and advised by a judicial advisory board created according to this section. Appointments to the facility governing board shall be made in accordance with the appointment procedure set forth in division (E) of this section. The judicial advisory board and the board or boards of county commissioners of the member counties shall make their respective appointments within thirty days after the effective date of this amendment.

(B)(1) Each proposal for the establishment of a community-based correctional facility and program or district community-based correctional facility and program that is formulated pursuant to division (A) of this section shall be submitted by the ~~judicial corrections~~ facility governing board to the division of parole and community services for its approval under section 5120.10 of the Revised Code.

(2) No person shall be sentenced to or placed in a community-based correctional facility and program or to a district community-based correctional facility and program by a court pursuant to section 2929.16 or

2929.17 of the Revised Code or by the parole board pursuant to section 2967.28 of the Revised Code, or otherwise committed or admitted to a facility and program of that type until after the proposal for the establishment of the facility and program has been approved by the division of parole and community services under section 5120.10 of the Revised Code. A person shall be sentenced to a facility and program of that type only pursuant to a sanction imposed by a court pursuant to section 2929.16 or 2929.17 of the Revised Code as the sentence or as any part of the sentence of the person or otherwise shall be committed or referred to a facility and program of that type only when authorized by law.

(C) Upon the approval by the division of parole and community services of a proposal for the establishment of a community-based correctional facility and program or district community-based correctional facility and program submitted to it under division (B) of this section, the ~~judicial corrections~~ facility governing board that submitted the proposal may establish and operate the facility and program addressed by the proposal in accordance with the approved proposal and division (B)(2) of this section. The ~~judicial corrections~~ facility governing board may submit a request for funding of some or all of its community-based correctional facilities and programs or district community-based correctional facilities and programs to the board of county commissioners of the county, if the ~~judicial corrections~~ facility governing board serves a community-based correctional facility and program, or to the boards of county commissioners of all of the member counties, if the ~~judicial corrections~~ facility governing board serves a district community-based correctional facility and program. The board or boards may appropriate, but are not required to appropriate, a sum of money for funding all aspects of each facility and program as outlined in sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code. The ~~judicial corrections~~ facility governing board has no recourse against a board or boards of county commissioners, ~~either under Chapter 2731. of the Revised Code, under its contempt power, or under any other authority,~~ if the board or boards of county commissioners do not appropriate money for funding any facility ~~or~~ and program or if they appropriate money for funding a facility and program in an amount less than the total amount of the submitted request for funding.

(D)(1) If a court of common pleas that is being served by ~~any~~ a community-based correctional facility and program established pursuant to division (C) of this section determines that it no longer wants to be served by the facility and program, the ~~court~~ facility governing board, upon the advice of the judicial advisory board, may dissolve the facility and program by ~~entering upon the journal of the court the fact of the determination to~~

~~dissolve the facility and program and by~~ notifying, in writing, the division of parole and community services of the determination to dissolve the facility and program. If the court is served by more than one community-based correctional facility and program, ~~it~~ the facility governing board, upon the advice of the judicial advisory board, may dissolve some or all of the facilities and programs and, if it does not dissolve all of the facilities and programs, ~~it~~ the facility governing board shall continue the operation of the remaining facilities and programs.

(2) If all of the courts of common pleas being served by any district community-based correctional facility and program established pursuant to division (C) of this section determine that they no longer want to be served by the facility and program, ~~the courts~~ the facility governing board, upon the advice of the judicial advisory board, may dissolve the facility and program by ~~entering upon the journal of each court the fact of the determination to dissolve the facility and program and by the judge who serves as chairperson of the judicial corrections board~~ notifying, in writing, the division of parole and community services of the determination to dissolve the facility and program. If the courts are served by more than one district community-based correctional facility and program, ~~they~~ the facility governing board, upon the advice of the judicial advisory board, may dissolve some or all of the facilities and programs, and, if ~~they do~~ it does not dissolve all of the facilities and programs, ~~they~~ it shall continue the operation of the remaining facilities and programs.

(3) If at least one, but not all, of the courts of common pleas being served by one or more district community-based correctional facilities and programs established pursuant to division (C) of this section determines that it no longer wants to be served by the facilities and programs, the court may terminate its involvement with each of the facilities and programs by entering upon the journal of the court the fact of the determination to terminate its involvement with the facilities and programs and by the court notifying, in writing, the division of parole and community services of the determination to terminate its involvement with the facilities and programs.

If at least one, but not all, of the courts of common pleas being served by one or more district community-based correctional facilities and programs terminates its involvement with each of the facilities and programs in accordance with this division, the other courts of common pleas being served by the facilities and programs may continue to be served by each of the facilities and programs ~~if the other counties are adjoining or neighboring counties and have an aggregate population of two hundred thousand or more.~~ A court may use a facility and program by remaining as a member

county of the district community-based correctional facility and program or by making a written service agreement with the facility governing board without remaining as a member county.

(E) A facility governing board of a community-based correctional facility and program shall consist of at least six members, each member serving a three-year term. A facility governing board of a district community-based correctional facility and program shall consist of at least six members, each member serving a three-year term, except that not more than one-half of the members shall be from any one county.

The judicial advisory board shall appoint two-thirds of the members, and the board or boards of county commissioners of the member counties shall appoint the remaining one-third, or portion thereof, of the members. Of the initial appointments, one-third of the members shall be appointed for a one-year term, one-third of the members shall be appointed for a two-year term, and the remaining one-third or portion thereof of the members shall be appointed for a three-year term. Thereafter, terms of persons appointed to the facility governing board shall be for a three-year term, with each term ending on the same day of the same month of the year as did the term it succeeds.

(F) Any member of a facility governing board may be reappointed to serve additional terms. Vacancies on the board shall be filled in the same manner as provided for original appointments. Any member of the board who is appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term. Members of the board shall not receive compensation for their services but may be reimbursed for reasonable and necessary expenses incurred as a result of service on the board.

(G) Nothing in this section, sections 2301.52 to ~~2301.56~~ 2301.58, or section 5120.10, 5120.111, or 5120.122 of the Revised Code modifies or affects or shall be interpreted as modifying or affecting sections 5149.30 to 5149.37 of the Revised Code.

Sec. 2301.52. Each proposal for a community-based correctional facility and program or a district community-based correctional facility and program shall provide for or contain at least the following:

(A) The designation of a physical facility that will be used for the confinement of persons sentenced to the facility and program by a court pursuant to section 2929.16 or 2929.17 of the Revised Code or persons otherwise committed or admitted pursuant to law to the facility and program. The ~~designate~~ designated facility shall satisfy all of the following:

(1) Be a secure facility that contains lockups and other measures sufficient to ensure the safety of the surrounding community;

(2) Provide living space and accommodations that are suitable and adequate for the housing ~~upon release, sentencing, or other commitment or admission of the following number of persons:~~

~~(a) For a facility that became operational prior to July 1, 1993, at least twenty, but not more than two hundred, persons;~~

~~(b) For a facility that becomes operational on or after July 1, 1993, at least fifty, but not more than two hundred, persons. sentenced, or otherwise admitted with the consent of the facility governing board, to the facility and program;~~

(3) Be constructed or modified, and maintained and operated, so that it complies with the rules adopted pursuant to Chapter 119. of the Revised Code by the division of parole and community services ~~in~~ of the department of rehabilitation and correction for community-based correctional facilities and programs and district community-based correctional facilities and programs.

(B) The designation of a ~~general treatment~~ program that will be applied individually to each person sentenced to the facility and program by a court pursuant to section 2929.16 or 2929.17 of the Revised Code or otherwise committed or admitted pursuant to law to the facility and program. The designated ~~general treatment~~ program ~~shall not be limited to, but at a minimum shall include, provisions to ensure that:~~

~~(1) Each but not be limited to, education, treatment, or work release.~~

~~(C) A provision that each person sentenced by a court, or otherwise committed or admitted with the consent of the facility governing board, to a facility ~~is~~ shall be provided an orientation period of at least thirty days, during which period the person is not permitted to leave the facility and is evaluated in relation to the person's placement in rehabilitative programs;~~

~~(2) Each person sentenced by a court or otherwise committed or admitted to a facility is placed in a release program whereby the person will be released temporarily for the purpose of employment in a manner consistent with the applicable work release program established under section 5147.28 of the Revised Code, for vocational training, or for other educational or rehabilitative programs;~~

~~(3) All suitable community resources that are available are utilized in the treatment of each person sentenced by a court or otherwise committed or admitted to the facility.~~

~~(C)(D) Provisions to ensure that the facility and program will be staffed and operated by persons who satisfy the minimum educational and~~

~~experience requirements that are prescribed by rule by the department of rehabilitation and correction to ensure security and the effective delivery of services;~~

~~(D) Provisions for an intake officer to screen each felony offender who is sentenced by the court or courts that the facility and program serve and to make recommendations to the sentencing court concerning the admission or referral of each felony offender to the facility and program within fourteen days after notification of sentencing;~~

~~(E) Written screening standards that are to be used by an intake officer in screening an offender under the provisions described in division (D) of this section and that at a minimum include provisions to ensure that the intake officer will not make a recommendation to a sentencing court in support of the sentencing of a person to the facility and program if the person is ineligible for placement in the facility and program under rules adopted by the facility's and program's judicial corrections board. Provisions for the facility governing board, upon the advice of the judicial advisory board, to set standards for the screening and admission of each felony offender who is referred by a court pursuant to section 2929.16 or 2929.17 of the Revised Code or by the parole board pursuant to section 2967.28 of the Revised Code;~~

~~(F) A statement that a good faith effort will be made to ensure that the persons who staff and operate the facility and program proportionately represent the racial, ethnic, and cultural diversity of the persons released, sentenced, or otherwise committed or admitted to the facility and program;~~

~~Sec. 2301.55. (A) If a judicial corrections board establishes one or more community-based correctional facilities and programs or district community-based correctional facilities and programs, all of the following apply, for each facility and program so established:~~

~~(1) The judicial corrections Upon the advice of the judicial advisory board, the facility governing board of a community-based correctional facility and program or district community-based correctional facility and program shall appoint a director who, or enter into a contract with a nonprofit or private entity that, shall control, manage, operate, and have general charge of the facility and program and shall have custody of its property, files, and records. When a facility governing board, upon the advice of the judicial advisory board, enters into a contract for the management, operation, and control of a facility and program, an agreement that includes, at a minimum, terms and conditions established by the department of rehabilitation and correction shall be in effect with the chosen contractor. When a facility governing board, upon the advice of the judicial~~

advisory board, appoints a director, the facility governing board shall appoint and fix or approve the compensation of the director of the facility and program and other professional, technical, and clerical employees who are necessary to properly maintain and operate the facility and program.

~~The director, under the supervision of the judicial corrections board and subject to the rules of the judicial corrections board that are prescribed under division (B) of this section, shall control, manage, operate, and have general charge of the facility and program, and shall have the custody of its property, files, and records.~~

(2) All of the following shall be considered to be public officials or employees for purposes of Chapter 102. of the Revised Code and public officials or public servants for purposes of Chapter 2921. of the Revised Code and to be within the authority of the Ohio ethics commission:

(a) The director and employees of a community-based correctional facility and program or district community-based correctional facility and program appointed by its facility governing board under division (A)(1) of this section;

(b) Any individual serving as director or in a substantially equivalent capacity to director pursuant to a contract between a nonprofit or private entity and a facility governing board entered into under division (A)(1) of this section, in connection with the performance of any duties of the director under the contract;

(c) Each trustee or member of the facility governing board;

(d) Each officer or board member of a nonprofit or private entity with which a facility governing board contracts under division (A)(1) of this section, in connection with the performance of any duties of the officer or board member under the contract, except that each officer or board member who serves solely as an officer or board member and who does not serve the facility and program as director or in a substantially equivalent capacity to director shall not be required to file a disclosure statement with the Ohio ethics commission under section 102.02 of the Revised Code.

(3) Nothing in Chapters 102. and 2921. of the Revised Code shall prohibit a board member of a nonprofit or private entity with which a facility governing board contracts under division (A)(1) of this section, who is not serving the facility and program as director or in a substantially equivalent capacity to director, from also being a shareholder, director, or employee of, or otherwise from having a financial interest in, a nonprofit or private entity that contracts under division (A)(1) of this section or from being a shareholder, director, officer, or employee of, or otherwise from having a financial interest in, a private entity that contracts to sell goods or

services to a nonprofit or private entity that contracts under division (A)(1) of this section.

(4) Nothing in Chapters 102. and 2921. of the Revised Code shall prohibit an officer of a nonprofit or private entity with which a facility governing board contracts under division (A)(1) of this section from:

(a) Having an interest in the profits or benefits of the contract awarded by a facility governing board under division (A)(1) of this section;

(b) Participating in negotiations for the renewal or extension of an existing contract awarded under division (A)(1) of this section; or

(c) Negotiating a new contract on behalf of that entity with a facility governing board under division (A)(1) of this section.

(5)(a) Nothing in this section shall be construed to mean that a nonprofit or private entity with which a facility governing board contracts under division (A)(1) of this section is a public agency as defined in division (C) of section 102.01 of the Revised Code, a public body as defined in division (B)(1) of section 121.22 of the Revised Code, a political subdivision, public employer, or public office, or otherwise a public entity.

(b) Nothing in division (A)(5)(a) of this section shall be construed to prohibit the auditor of state from conducting audits, as provided in division (D)(1) of section 2301.56 of the Revised Code, of a nonprofit or private entity performing the day-to-day operation of a community-based correctional facility and program or district community-based correctional facility and program pursuant to a contract under division (A)(1) of this section.

(B) The judicial corrections facility governing board may enter into contracts with the board of county commissioners of the county in which the facility and program is located or, in the case of a district facility and program, with the county commissioners of any county included in the district, whereby the county is to provide buildings, goods, and services to the facility and program.

~~(3)(C) The judicial corrections facility governing board, upon the advice of the judicial advisory board, shall adopt rules for the sentencing or other commitment or admission pursuant to law of persons to, and the operation of, the facility and program. The rules shall provide procedures that conform to sections 2301.51 to 2301.56 2301.58, 5120.10, 5120.111, and 5120.112 of the Revised Code. The rules adopted under this division shall be entered upon the journal of the court of each member court of a district.~~

(B)(D) A judicial corrections facility governing board that establishes one or more community-based correctional facilities and programs or district community-based correctional facilities and programs may accept

any gift, donation, devise, or bequest of real or personal property made to it by any person, or any grant or appropriation made to it by any federal, state, or local governmental unit or agency, and use the gift, donation, devise, bequest, grant, or appropriation in any manner that is consistent with any conditions of the gift, donation, devise, bequest, grant, or appropriation and that it considers to be in the interests of the facility and program. The ~~judicial corrections~~ facility governing board may sell, lease, convey, or otherwise transfer any real or personal property that it accepts pursuant to this division following the procedures specified in sections 307.09, 307.10, and 307.12 of the Revised Code.

~~(C) A judicial corrections board that establishes one or more community-based correctional facilities and programs or district community-based correctional facilities and programs shall provide the citizens advisory board of the facilities and programs with the staff assistance that the citizens advisory board requires to perform the duties imposed by section 2301.54 of the Revised Code.~~

(E) A facility governing board of a community-based correctional facility and program or district community-based correctional facility and program may purchase liability insurance to cover members of the facility governing board, the judicial advisory board, and the community-based correctional facility employees or district community-based correctional facility employees when engaged in the performance of their duties.

(F)(1) A facility governing board of a community-based correctional facility and program or district community-based correctional facility and program may contract for legal services for the facility governing board, the judicial advisory board, and the community-based correctional facility employees or district community-based correctional facility employees when engaged in the performance of their duties. Except as otherwise provided in division (F)(2) of this section, in the absence of a contract for legal services, the prosecuting attorney of the county in which a community-based correctional facility and program is located or the prosecuting attorney of any county in which a district community-based correctional facility and program is located shall provide legal services to the facility governing board, the judicial advisory board, and the community-based correctional facility employees or district community-based correctional facility employees when engaged in the performance of their duties. The prosecuting attorney shall be reasonably reimbursed for these legal services.

(2) Nothing in division (F)(1) of this section obligates a prosecuting attorney to provide legal services to a nonprofit or private entity that has

entered into a contract with a facility governing board to manage, operate, and control a community-based correctional facility and program or a district community-based correctional facility and program, or to provide legal services to the employees of any such entity.

(G)(1) A facility governing board of a community-based correctional facility and program or a district community-based correctional facility and program may contract with a fiscal agent that shall be responsible for the deposit of funds and compliance with division (D)(1) of section 2301.56 of the Revised Code. Except as otherwise provided in division (G)(2) of this section, in the absence of a contract for a fiscal agent, the county auditor of the county in which a community-based correctional facility and program is located or the county auditor of any county in which a district community-based correctional facility and program is located shall provide fiscal services to the facility governing board. The county auditor shall be reasonably reimbursed for these fiscal services.

(2) Nothing in division (G)(1) of this section obligates a county auditor to provide fiscal services to a nonprofit or private entity that has entered into a contract with a facility governing board to manage, operate, and control a community-based correctional facility and program or a district community-based correctional facility and program.

Sec. 2301.56. (A) A ~~judicial-corrections~~ facility governing board that proposes or establishes one or more community-based correctional facilities and programs or district community-based correctional facilities and programs may apply to the division of parole and community services of the department of rehabilitation and correction for state financial assistance for the cost of renovation, maintenance, and operation of any of the facilities and programs. If the ~~judicial-corrections~~ facility governing board has proposed or established more than one facility and program and if it desires state financial assistance for more than one of the facilities and programs, the board shall submit a separate application for each facility and program for which it desires the financial assistance.

An application for state financial assistance under this section may be made when the ~~judicial-corrections~~ facility governing board submits for ~~the~~ approval of the ~~section~~ division of parole and community services its proposal for the establishment of the facility and program in question ~~to the division of parole and community services~~ under division (B) of section 2301.51 of the Revised Code, or at any time after the ~~section~~ division has approved the proposal. All applications for state financial assistance for proposed or approved facilities and programs shall be made on forms that are prescribed and furnished by the department of rehabilitation and

correction, and in accordance with section 5120.112 of the Revised Code.

~~(B)~~ The ~~judicial corrections facility governing~~ board may submit a request for funding of some or all of its community-based correctional facilities and programs or district community-based correctional facilities and programs to the board of county commissioners of the county, if the ~~judicial corrections facility governing~~ board serves a community-based correctional facility and program, or to the boards of county commissioners of all of the member counties, if the ~~judicial corrections facility governing~~ board serves a district community-based correctional facility and program. The board or boards may appropriate, but are not required to appropriate, a sum of money for funding all aspects of each facility and program as outlined in sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code. The ~~judicial corrections facility governing~~ board has no recourse against a board or boards of county commissioners, ~~either under Chapter 2731. of the Revised Code, under its contempt power, or under any other authority,~~ if the board or boards of county commissioners do not appropriate money for funding any facility ~~or~~ and program or if they appropriate money for funding a facility and program in an amount less than the total amount of the submitted request for funding.

~~(B)~~(C) Pursuant to section 2929.37 of the Revised Code, a board of county commissioners may require a person who was convicted of an offense and who is confined in a community-based correctional facility or district community-based correctional facility as provided in sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code; to reimburse the county for its expenses incurred by reason of the person's confinement.

~~(C)~~ Notwithstanding any contrary provision in this section or section ~~2929.18, 2929.28, or 2929.37~~ of the Revised Code, the ~~judicial corrections board may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the community based correctional facility or district community based correctional facility to pay a reception fee or a fee for any medical treatment or service requested by and provided to that person.~~

~~(D)~~ If a person who has been convicted of or pleaded guilty to an offense is confined in a community-based correctional facility or district community based correctional facility, at the time of reception and at other times the person in charge of the operation of the facility determines to be appropriate, the person in charge of the operation of the facility may cause the convicted offender to be examined and tested for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, and other contagious diseases. The person in charge of the operation of the

~~facility may cause a convicted offender in the facility who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including but not limited to hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.~~

~~(E)~~(1) Community-based correctional facilities and programs and district community-based correctional facilities and programs are public offices under section 117.01 of the Revised Code and are subject to audit under section 117.10 of the Revised Code. The audits of the facilities and programs shall include financial audits and, in addition, in the circumstances specified in this division, performance audits by the auditor of state. If a private or nonprofit entity performs the day-to-day operation of any community-based correctional facility and program or district community-based correctional facility and program, the private or nonprofit entity also is subject to financial audits under section 117.10 of the Revised Code, and, in addition, in the circumstances specified in this division, to performance audits by the auditor of state. The auditor of state shall conduct the performance audits of a facility and program and of an entity required under section 117.10 of the Revised Code and this division and, notwithstanding the time period for audits specified in section 117.11 of the Revised Code, shall conduct the financial audits of a facility and program and of an entity required under section 117.10 of the Revised Code and this division, in accordance with the following criteria:

(a) For each facility and program and each entity, the auditor of state shall conduct the initial financial audit within two years after ~~the effective date of this amendment~~ March 31, 2003, or, if the facility and program in question is established on or after ~~the effective date of this amendment~~ March 31, 2003, within two years after the date on which it is established.

(b) After the initial financial audit described in division ~~(E)~~(D)(1)(a) of this section, for each facility and program and each entity, the auditor of state shall conduct the financial audits of the facility and program or the entity at least once every two fiscal years.

(c) At any time after ~~the effective date of this amendment~~ March 31, 2003, regarding a facility and program or regarding an entity that performs the day-to-day operation of a facility and program, the department of rehabilitation and correction or the ~~judicial corrections~~ facility governing board that established the facility and program may request, or the auditor of state on its own initiative may undertake, a performance audit of the facility and program or the entity. Upon the receipt of the request, or upon the auditor of state's own initiative as described in this division, the auditor of state shall conduct a performance audit of the facility and program or the

entity.

(2) The department of rehabilitation and correction shall prepare and provide to the auditor of state quarterly financial reports for each community-based correctional facility and program, for each district community-based correctional facility and program, and, to the extent that information is available, for each private or nonprofit entity that performs the day-to-day operation of any community-based correctional facility and program or district community-based correctional facility and program. Each report shall cover a three-month period and shall be provided to the auditor of state not later than fifteen days after the end of the period covered by the report.

Sec. 2301.57. (A) For each person who is confined in a community-based correctional facility or district community-based correctional facility as provided in sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code, the ~~county~~ facility may make a determination as to whether the person is covered under a health insurance or health care policy, contract, or plan and, if the person has such coverage, what terms and conditions are imposed by it for the filing and payment of claims.

(B) If, pursuant to division (A) of this section, it is determined that the person is covered under a policy, contract, or plan and, while that coverage is in force, the correctional facility renders or arranges for the rendering of health care services to the person in accordance with the terms and conditions of the policy, contract, or plan, ~~then~~ the person, ~~county~~ facility, or provider of the health care services, as appropriate under the terms and conditions of the policy, contract, or plan, shall promptly submit a claim for payment for the health care services to the appropriate third-party payer and shall designate, or make any other arrangement necessary to ensure, that payment of any amount due on the claim be made to the ~~county~~ facility or provider, as the case may be.

~~(C) Any payment made to the county pursuant to division (B) of this section shall be paid into the treasury of the county that incurred the expenses.~~

~~(D)~~ This section also applies to any person who is under the custody of a law enforcement officer, as defined in section 2901.01 of the Revised Code, prior to the person's confinement in the correctional facility.

(D) Notwithstanding any contrary provision in this section or section 2929.18, 2929.21, 2929.26, or 2929.37 of the Revised Code, the facility governing board may establish a policy that complies with section 2929.38 of the Revised Code and that requires any person who is not indigent and who is confined in the community-based correctional facility or district

community-based correctional facility to pay a reception fee.

(E) If a person who has been convicted of or pleaded guilty to an offense is confined in a community-based correctional facility or district community-based correctional facility, the person in charge of the facility's operation may cause the offender, at the time of reception and at other times the person in charge of the operation of the facility determines to be appropriate, to be examined and tested for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, and other contagious diseases. The person in charge of the facility's operation may cause an offender in the facility who refuses to be tested or treated for tuberculosis, HIV infection, hepatitis, including, but not limited to, hepatitis A, B, and C, or another contagious disease to be tested and treated involuntarily.

Sec. 2301.571. (A) A person who has been convicted of or pleaded guilty to an offense and who is confined in a community-based correctional facility or district community-based correctional facility, unless indigent, is financially responsible for the payment of any medical expense or service requested by and provided to that person.

(B) Notwithstanding any contrary provision of section 2929.38 of the Revised Code, the facility governing board of a community-based correctional facility or district community-based correctional facility shall establish a policy that requires any person who is not indigent and who is confined in the correctional facility to pay for any medical treatment or service requested by and provided to that person. The fee for the medical treatment or service shall not exceed the actual cost of the treatment or service provided. No person confined in a community-based correctional facility or district community-based correctional facility shall be denied any necessary medical care because of inability to pay for medical treatment or service.

(C) Any fee paid by a person under this section shall be deducted from any medical or dental costs that the person is ordered to reimburse under a financial sanction imposed pursuant to section 2929.28 of the Revised Code or to repay under a policy adopted under section 2929.37 of the Revised Code.

Sec. 2301.58. (A) Upon approval of the facility governing board, the director of the community-based correctional facility or district community-based correctional facility may establish a resident program fund. The director shall deposit in the fund all revenues received by the facility from commissions on telephone systems, commissary operations, reimbursable costs such as per diem and medical services, and similar

services. The money in the fund shall only be used to pay for the costs of the following expenses:

(1) The purchase of materials, supplies, and equipment used in any library program, educational program, vocational program, rehabilitative program, religious program, medical services program, or recreational program operated by the facility for the benefit of the residents;

(2) The construction, alteration, repair, or reconstruction of a facility under the control of the facility governing board for use in any library program, educational program, vocational program, rehabilitative program, religious program, medical services program, or recreational program operated by the facility for the benefit of the residents;

(3) The payment of salaries, wages, and other compensation to employees of the facility who are employed in any library program, educational program, vocational program, rehabilitative program, religious program, medical services program, or recreational program operated by the facility for the benefit of the residents;

(4) The compensation of vendors that contract with the facility for the provision of services for any library program, educational program, vocational program, rehabilitative program, religious program, medical services program, or recreational program for the benefit of the residents;

(5) The purchase of other goods and the payment of other services that are determined, at the discretion of the director, to be goods and services that may provide additional benefit to the residents;

(6) The costs for the auditing of the resident program fund.

(B) If a commissary is established by the community-based correctional facility or the district community-based correctional facility, all persons confined in the facility shall receive commissary privileges, and the commissary shall provide for the distribution of necessary hygiene articles and writing materials to indigent residents.

(C) The director shall establish rules, to be approved by the facility governing board, for the operation of the resident program fund that follow guidelines established by the auditor of state.

Sec. 2744.01. As used in this chapter:

(A) "Emergency call" means a call to duty, including, but not limited to, communications from citizens, police dispatches, and personal observations by peace officers of inherently dangerous situations that demand an immediate response on the part of a peace officer.

(B) "Employee" means an officer, agent, employee, or servant, whether or not compensated or full-time or part-time, who is authorized to act and is acting within the scope of the officer's, agent's, employee's, or servant's

employment for a political subdivision. "Employee" does not include an independent contractor and does not include any individual engaged by a school district pursuant to section 3319.301 of the Revised Code. "Employee" includes any elected or appointed official of a political subdivision. "Employee" also includes a person who has been convicted of or pleaded guilty to a criminal offense and who has been sentenced to perform community service work in a political subdivision whether pursuant to section 2951.02 of the Revised Code or otherwise, and a child who is found to be a delinquent child and who is ordered by a juvenile court pursuant to section 2152.19 or 2152.20 of the Revised Code to perform community service or community work in a political subdivision.

(C)(1) "Governmental function" means a function of a political subdivision that is specified in division (C)(2) of this section or that satisfies any of the following:

(a) A function that is imposed upon the state as an obligation of sovereignty and that is performed by a political subdivision voluntarily or pursuant to legislative requirement;

(b) A function that is for the common good of all citizens of the state;

(c) A function that promotes or preserves the public peace, health, safety, or welfare; that involves activities that are not engaged in or not customarily engaged in by nongovernmental persons; and that is not specified in division (G)(2) of this section as a proprietary function.

(2) A "governmental function" includes, but is not limited to, the following:

(a) The provision or nonprovision of police, fire, emergency medical, ambulance, and rescue services or protection;

(b) The power to preserve the peace; to prevent and suppress riots, disturbances, and disorderly assemblages; to prevent, mitigate, and clean up releases of oil and hazardous and extremely hazardous substances as defined in section 3750.01 of the Revised Code; and to protect persons and property;

(c) The provision of a system of public education;

(d) The provision of a free public library system;

(e) The regulation of the use of, and the maintenance and repair of, roads, highways, streets, avenues, alleys, sidewalks, bridges, aqueducts, viaducts, and public grounds;

(f) Judicial, quasi-judicial, prosecutorial, legislative, and quasi-legislative functions;

(g) The construction, reconstruction, repair, renovation, maintenance, and operation of buildings that are used in connection with the performance of a governmental function, including, but not limited to, office buildings

and courthouses;

(h) The design, construction, reconstruction, renovation, repair, maintenance, and operation of jails, places of juvenile detention, workhouses, or any other detention facility, as defined in section 2921.01 of the Revised Code;

(i) The enforcement or nonperformance of any law;

(j) The regulation of traffic, and the erection or nonerection of traffic signs, signals, or control devices;

(k) The collection and disposal of solid wastes, as defined in section 3734.01 of the Revised Code, including, but not limited to, the operation of solid waste disposal facilities, as "facilities" is defined in that section, and the collection and management of hazardous waste generated by households. As used in division (C)(2)(k) of this section, "hazardous waste generated by households" means solid waste originally generated by individual households that is listed specifically as hazardous waste in or exhibits one or more characteristics of hazardous waste as defined by rules adopted under section 3734.12 of the Revised Code, but that is excluded from regulation as a hazardous waste by those rules.

(l) The provision or nonprovision, planning or design, construction, or reconstruction of a public improvement, including, but not limited to, a sewer system;

(m) The operation of a job and family services department or agency, including, but not limited to, the provision of assistance to aged and infirm persons and to persons who are indigent;

(n) The operation of a health board, department, or agency, including, but not limited to, any statutorily required or permissive program for the provision of immunizations or other inoculations to all or some members of the public, provided that a "governmental function" does not include the supply, manufacture, distribution, or development of any drug or vaccine employed in any such immunization or inoculation program by any supplier, manufacturer, distributor, or developer of the drug or vaccine;

(o) The operation of mental health facilities, mental retardation or developmental disabilities facilities, alcohol treatment and control centers, and children's homes or agencies;

(p) The provision or nonprovision of inspection services of all types, including, but not limited to, inspections in connection with building, zoning, sanitation, fire, plumbing, and electrical codes, and the taking of actions in connection with those types of codes, including, but not limited to, the approval of plans for the construction of buildings or structures and the issuance or revocation of building permits or stop work orders in

connection with buildings or structures;

(q) Urban renewal projects and the elimination of slum conditions;

(r) Flood control measures;

(s) The design, construction, reconstruction, renovation, operation, care, repair, and maintenance of a township cemetery;

(t) The issuance of revenue obligations under section 140.06 of the Revised Code;

(u) The design, construction, reconstruction, renovation, repair, maintenance, and operation of any school athletic facility, school auditorium, or gymnasium or any recreational area or facility, including, but not limited to, any of the following:

(i) A park, playground, or playfield;

(ii) An indoor recreational facility;

(iii) A zoo or zoological park;

(iv) A bath, swimming pool, pond, water park, wading pool, wave pool, water slide, or other type of aquatic facility;

(v) A golf course;

(vi) A bicycle motocross facility or other type of recreational area or facility in which bicycling, skating, skate boarding, or scooter riding is engaged;

(vii) A rope course or climbing walls;

(viii) An all-purpose vehicle facility in which all-purpose vehicles, as defined in section 4519.01 of the Revised Code, are contained, maintained, or operated for recreational activities.

(v) The provision of public defender services by a county or joint county public defender's office pursuant to Chapter 120. of the Revised Code;

(w)(i) At any time before regulations prescribed pursuant to 49 U.S.C.A. 20153 become effective, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in a zone within a municipal corporation in which, by ordinance, the legislative authority of the municipal corporation regulates the sounding of locomotive horns, whistles, or bells;

(ii) On and after the effective date of regulations prescribed pursuant to 49 U.S.C.A. 20153, the designation, establishment, design, construction, implementation, operation, repair, or maintenance of a public road rail crossing in such a zone or of a supplementary safety measure, as defined in 49 U.S.C.A. 20153, at or for a public road rail crossing, if and to the extent that the public road rail crossing is excepted, pursuant to subsection (c) of that section, from the requirement of the regulations prescribed under

subsection (b) of that section.

(x) A function that the general assembly mandates a political subdivision to perform.

(D) "Law" means any provision of the constitution, statutes, or rules of the United States or of this state; provisions of charters, ordinances, resolutions, and rules of political subdivisions; and written policies adopted by boards of education. When used in connection with the "common law," this definition does not apply.

(E) "Motor vehicle" has the same meaning as in section 4511.01 of the Revised Code.

(F) "Political subdivision" or "subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities in a geographic area smaller than that of the state. "Political subdivision" includes, but is not limited to, a county hospital commission appointed under section 339.14 of the Revised Code, board of hospital commissioners appointed for a municipal hospital under section 749.04 of the Revised Code, board of hospital trustees appointed for a municipal hospital under section 749.22 of the Revised Code, regional planning commission created pursuant to section 713.21 of the Revised Code, county planning commission created pursuant to section 713.22 of the Revised Code, joint planning council created pursuant to section 713.231 of the Revised Code, interstate regional planning commission created pursuant to section 713.30 of the Revised Code, port authority created pursuant to section 4582.02 or 4582.26 of the Revised Code or in existence on December 16, 1964, regional council established by political subdivisions pursuant to Chapter 167. of the Revised Code, emergency planning district and joint emergency planning district designated under section 3750.03 of the Revised Code, joint emergency medical services district created pursuant to section 307.052 of the Revised Code, fire and ambulance district created pursuant to section 505.375 of the Revised Code, joint interstate emergency planning district established by an agreement entered into under that section, county solid waste management district and joint solid waste management district established under section 343.01 or 343.012 of the Revised Code, ~~and~~ community school established under Chapter 3314. of the Revised Code, the county or counties served by a community-based correctional facility and program or district community-based correctional facility and program established and operated under sections 2301.51 to 2301.58 of the Revised Code, a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated, and the facility

governing board of a community-based correctional facility and program or district community-based correctional facility and program that is so established and operated.

(G)(1) "Proprietary function" means a function of a political subdivision that is specified in division (G)(2) of this section or that satisfies both of the following:

(a) The function is not one described in division (C)(1)(a) or (b) of this section and is not one specified in division (C)(2) of this section;

(b) The function is one that promotes or preserves the public peace, health, safety, or welfare and that involves activities that are customarily engaged in by nongovernmental persons.

(2) A "proprietary function" includes, but is not limited to, the following:

(a) The operation of a hospital by one or more political subdivisions;

(b) The design, construction, reconstruction, renovation, repair, maintenance, and operation of a public cemetery other than a township cemetery;

(c) The establishment, maintenance, and operation of a utility, including, but not limited to, a light, gas, power, or heat plant, a railroad, a busline or other transit company, an airport, and a municipal corporation water supply system;

(d) The maintenance, destruction, operation, and upkeep of a sewer system;

(e) The operation and control of a public stadium, auditorium, civic or social center, exhibition hall, arts and crafts center, band or orchestra, or off-street parking facility.

(H) "Public roads" means public roads, highways, streets, avenues, alleys, and bridges within a political subdivision. "Public roads" does not include berms, shoulders, rights-of-way, or traffic control devices unless the traffic control devices are mandated by the Ohio manual of uniform traffic control devices.

(I) "State" means the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, colleges and universities, institutions, and other instrumentalities of the state of Ohio. "State" does not include political subdivisions.

Sec. 2929.01. As used in this chapter:

(A)(1) "Alternative residential facility" means, subject to division (A)(2) of this section, any facility other than an offender's home or residence in which an offender is assigned to live and that satisfies all of the following

criteria:

(a) It provides programs through which the offender may seek or maintain employment or may receive education, training, treatment, or habilitation.

(b) It has received the appropriate license or certificate for any specialized education, training, treatment, habilitation, or other service that it provides from the government agency that is responsible for licensing or certifying that type of education, training, treatment, habilitation, or service.

(2) "Alternative residential facility" does not include a community-based correctional facility, jail, halfway house, or prison.

(B) "Bad time" means the time by which the parole board administratively extends an offender's stated prison term or terms pursuant to section 2967.11 of the Revised Code because the parole board finds by clear and convincing evidence that the offender, while serving the prison term or terms, committed an act that is a criminal offense under the law of this state or the United States, whether or not the offender is prosecuted for the commission of that act.

(C) "Basic probation supervision" means a requirement that the offender maintain contact with a person appointed to supervise the offender in accordance with sanctions imposed by the court or imposed by the parole board pursuant to section 2967.28 of the Revised Code. "Basic probation supervision" includes basic parole supervision and basic post-release control supervision.

(D) "Cocaine," "crack cocaine," "hashish," "L.S.D.," and "unit dose" have the same meanings as in section 2925.01 of the Revised Code.

(E) "Community-based correctional facility" means a community-based correctional facility and program or district community-based correctional facility and program developed pursuant to sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code.

(F) "Community control sanction" means a sanction that is not a prison term and that is described in section 2929.15, 2929.16, 2929.17, or 2929.18 of the Revised Code or a sanction that is not a jail term and that is described in section 2929.26, 2929.27, or 2929.28 of the Revised Code. "Community control sanction" includes probation if the sentence involved was imposed for a felony that was committed prior to July 1, 1996, or if the sentence involved was imposed for a misdemeanor that was committed prior to January 1, 2004.

(G) "Controlled substance," "marihuana," "schedule I," and "schedule II" have the same meanings as in section 3719.01 of the Revised Code.

(H) "Curfew" means a requirement that an offender during a specified

period of time be at a designated place.

(I) "Day reporting" means a sanction pursuant to which an offender is required each day to report to and leave a center or other approved reporting location at specified times in order to participate in work, education or training, treatment, and other approved programs at the center or outside the center.

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

(K) "Drug and alcohol use monitoring" means a program under which an offender agrees to submit to random chemical analysis of the offender's blood, breath, or urine to determine whether the offender has ingested any alcohol or other drugs.

(L) "Drug treatment program" means any program under which a person undergoes assessment and treatment designed to reduce or completely eliminate the person's physical or emotional reliance upon alcohol, another drug, or alcohol and another drug and under which the person may be required to receive assessment and treatment on an outpatient basis or may be required to reside at a facility other than the person's home or residence while undergoing assessment and treatment.

(M) "Economic loss" means any economic detriment suffered by a victim as a direct and proximate result of the commission of an offense and includes any loss of income due to lost time at work because of any injury caused to the victim, and any property loss, medical cost, or funeral expense incurred as a result of the commission of the offense. "Economic loss" does not include non-economic loss or any punitive or exemplary damages.

(N) "Education or training" includes study at, or in conjunction with a program offered by, a university, college, or technical college or vocational study and also includes the completion of primary school, secondary school, and literacy curricula or their equivalent.

(O) "Firearm" has the same meaning as in section 2923.11 of the Revised Code.

(P) "Halfway house" means a facility licensed by the division of parole and community services of the department of rehabilitation and correction pursuant to section 2967.14 of the Revised Code as a suitable facility for the care and treatment of adult offenders.

(Q) "House arrest" means a period of confinement of an offender that is in the offender's home or in other premises specified by the sentencing court or by the parole board pursuant to section 2967.28 of the Revised Code and during which all of the following apply:

(1) The offender is required to remain in the offender's home or other

specified premises for the specified period of confinement, except for periods of time during which the offender is at the offender's place of employment or at other premises as authorized by the sentencing court or by the parole board.

(2) The offender is required to report periodically to a person designated by the court or parole board.

(3) The offender is subject to any other restrictions and requirements that may be imposed by the sentencing court or by the parole board.

(R) "Intensive probation supervision" means a requirement that an offender maintain frequent contact with a person appointed by the court, or by the parole board pursuant to section 2967.28 of the Revised Code, to supervise the offender while the offender is seeking or maintaining necessary employment and participating in training, education, and treatment programs as required in the court's or parole board's order. "Intensive probation supervision" includes intensive parole supervision and intensive post-release control supervision.

(S) "Jail" means a jail, workhouse, minimum security jail, or other residential facility used for the confinement of alleged or convicted offenders that is operated by a political subdivision or a combination of political subdivisions of this state.

(T) "Jail term" means the term in a jail that a sentencing court imposes or is authorized to impose pursuant to section 2929.24 or 2929.25 of the Revised Code or pursuant to any other provision of the Revised Code that authorizes a term in a jail for a misdemeanor conviction.

(U) "Mandatory jail term" means the term in a jail that a sentencing court is required to impose pursuant to division (G) of section 1547.99 of the Revised Code, division (E) of section 2903.06 or division (D) of section 2903.08 of the Revised Code, division (E) of section 2929.24 of the Revised Code, division (B) of section 4510.14 of the Revised Code, or division (G) of section 4511.19 of the Revised Code or pursuant to any other provision of the Revised Code that requires a term in a jail for a misdemeanor conviction.

(V) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(W) "License violation report" means a report that is made by a sentencing court, or by the parole board pursuant to section 2967.28 of the Revised Code, to the regulatory or licensing board or agency that issued an offender a professional license or a license or permit to do business in this state and that specifies that the offender has been convicted of or pleaded guilty to an offense that may violate the conditions under which the

offender's professional license or license or permit to do business in this state was granted or an offense for which the offender's professional license or license or permit to do business in this state may be revoked or suspended.

(X) "Major drug offender" means an offender who is convicted of or pleads guilty to the possession of, sale of, or offer to sell any drug, compound, mixture, preparation, or substance that consists of or contains at least one thousand grams of hashish; at least one hundred grams of crack cocaine; at least one thousand grams of cocaine that is not crack cocaine; at least two thousand five hundred unit doses or two hundred fifty grams of heroin; at least five thousand unit doses of L.S.D. or five hundred grams of L.S.D. in a liquid concentrate, liquid extract, or liquid distillate form; or at least one hundred times the amount of any other schedule I or II controlled substance other than marihuana that is necessary to commit a felony of the third degree pursuant to section 2925.03, 2925.04, 2925.05, or 2925.11 of the Revised Code that is based on the possession of, sale of, or offer to sell the controlled substance.

(Y) "Mandatory prison term" means any of the following:

(1) Subject to division (Y)(2) of this section, the term in prison that must be imposed for the offenses or circumstances set forth in divisions (F)(1) to (8) or (F)(12) to (14) of section 2929.13 and division (D) of section 2929.14 of the Revised Code. Except as provided in sections 2925.02, 2925.03, 2925.04, 2925.05, and 2925.11 of the Revised Code, unless the maximum or another specific term is required under section 2929.14 of the Revised Code, a mandatory prison term described in this division may be any prison term authorized for the level of offense.

(2) The term of sixty or one hundred twenty days in prison that a sentencing court is required to impose for a third or fourth degree felony OVI offense pursuant to division (G)(2) of section 2929.13 and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code or the term of one, two, three, four, or five years in prison that a sentencing court is required to impose pursuant to division (G)(2) of section 2929.13 of the Revised Code.

(3) The term in prison imposed pursuant to section 2971.03 of the Revised Code for the offenses and in the circumstances described in division (F)(11) of section 2929.13 of the Revised Code and that term as modified or terminated pursuant to section 2971.05 of the Revised Code.

(Z) "Monitored time" means a period of time during which an offender continues to be under the control of the sentencing court or parole board, subject to no conditions other than leading a law-abiding life.

(AA) "Offender" means a person who, in this state, is convicted of or

pleads guilty to a felony or a misdemeanor.

(BB) "Prison" means a residential facility used for the confinement of convicted felony offenders that is under the control of the department of rehabilitation and correction but does not include a violation sanction center operated under authority of section 2967.141 of the Revised Code.

(CC) "Prison term" includes any of the following sanctions for an offender:

(1) A stated prison term;

(2) A term in a prison shortened by, or with the approval of, the sentencing court pursuant to section 2929.20, 2967.26, 5120.031, 5120.032, or 5120.073 of the Revised Code;

(3) A term in prison extended by bad time imposed pursuant to section 2967.11 of the Revised Code or imposed for a violation of post-release control pursuant to section 2967.28 of the Revised Code.

(DD) "Repeat violent offender" means a person about whom both of the following apply:

(1) The person has been convicted of or has pleaded guilty to, and is being sentenced for committing, for complicity in committing, or for an attempt to commit, aggravated murder, murder, involuntary manslaughter, a felony of the first degree other than one set forth in Chapter 2925. of the Revised Code, a felony of the first degree set forth in Chapter 2925. of the Revised Code that involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person, or a felony of the second degree that involved an attempt to cause serious physical harm to a person or that resulted in serious physical harm to a person.

(2) Either of the following applies:

(a) The person previously was convicted of or pleaded guilty to, and previously served or, at the time of the offense was serving, a prison term for, any of the following:

(i) Aggravated murder, murder, involuntary manslaughter, rape, felonious sexual penetration as it existed under section 2907.12 of the Revised Code prior to September 3, 1996, a felony of the first or second degree that resulted in the death of a person or in physical harm to a person, or complicity in or an attempt to commit any of those offenses;

(ii) An offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to an offense listed under division (DD)(2)(a)(i) of this section and that resulted in the death of a person or in physical harm to a person.

(b) The person previously was adjudicated a delinquent child for committing an act that if committed by an adult would have been an offense

listed in division (DD)(2)(a)(i) or (ii) of this section, the person was committed to the department of youth services for that delinquent act.

(EE) "Sanction" means any penalty imposed upon an offender who is convicted of or pleads guilty to an offense, as punishment for the offense. "Sanction" includes any sanction imposed pursuant to any provision of sections 2929.14 to 2929.18 or 2929.24 to 2929.28 of the Revised Code.

(FF) "Sentence" means the sanction or combination of sanctions imposed by the sentencing court on an offender who is convicted of or pleads guilty to an offense.

(GG) "Stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court pursuant to section 2929.14 or 2971.03 of the Revised Code. "Stated prison term" includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense and any time spent under house arrest or house arrest with electronic monitoring imposed after earning credits pursuant to section 2967.193 of the Revised Code.

(HH) "Victim-offender mediation" means a reconciliation or mediation program that involves an offender and the victim of the offense committed by the offender and that includes a meeting in which the offender and the victim may discuss the offense, discuss restitution, and consider other sanctions for the offense.

(II) "Fourth degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the fourth degree.

(JJ) "Mandatory term of local incarceration" means the term of sixty or one hundred twenty days in a jail, a community-based correctional facility, a halfway house, or an alternative residential facility that a sentencing court may impose upon a person who is convicted of or pleads guilty to a fourth degree felony OVI offense pursuant to division (G)(1) of section 2929.13 of the Revised Code and division (G)(1)(d) or (e) of section 4511.19 of the Revised Code.

(KK) "Designated homicide, assault, or kidnapping offense," "violent sex offense," "sexual motivation specification," "sexually violent offense," "sexually violent predator," and "sexually violent predator specification" have the same meanings as in section 2971.01 of the Revised Code.

(LL) "Habitual sex offender," "sexually oriented offense," "sexual predator," "registration-exempt sexually oriented offense," "child-victim oriented offense," "habitual child-victim offender," and "child-victim predator" have the same meanings as in section 2950.01 of the Revised

Code.

(MM) An offense is "committed in the vicinity of a child" if the offender commits the offense within thirty feet of or within the same residential unit as a child who is under eighteen years of age, regardless of whether the offender knows the age of the child or whether the offender knows the offense is being committed within thirty feet of or within the same residential unit as the child and regardless of whether the child actually views the commission of the offense.

(NN) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code.

(OO) "Motor vehicle" and "manufactured home" have the same meanings as in section 4501.01 of the Revised Code.

(PP) "Detention" and "detention facility" have the same meanings as in section 2921.01 of the Revised Code.

(QQ) "Third degree felony OVI offense" means a violation of division (A) of section 4511.19 of the Revised Code that, under division (G) of that section, is a felony of the third degree.

(RR) "Random drug testing" has the same meaning as in section 5120.63 of the Revised Code.

(SS) "Felony sex offense" has the same meaning as in section 2967.28 of the Revised Code.

(TT) "Body armor" has the same meaning as in section 2941.1411 of the Revised Code.

(UU) "Electronic monitoring" means monitoring through the use of an electronic monitoring device.

(VV) "Electronic monitoring device" means any of the following:

(1) Any device that can be operated by electrical or battery power and that conforms with all of the following:

(a) The device has a transmitter that can be attached to a person, that will transmit a specified signal to a receiver of the type described in division (VV)(1)(b) of this section if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval in relation to electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with, that can transmit continuously and periodically a signal to that receiver when the person is within a specified distance from the receiver, and that can transmit an appropriate signal to that receiver if the person to whom it is attached travels a specified distance from that receiver.

(b) The device has a receiver that can receive continuously the signals

transmitted by a transmitter of the type described in division (VV)(1)(a) of this section, can transmit continuously those signals by telephone to a central monitoring computer of the type described in division (VV)(1)(c) of this section, and can transmit continuously an appropriate signal to that central monitoring computer if the receiver is turned off or altered without prior court approval or otherwise tampered with.

(c) The device has a central monitoring computer that can receive continuously the signals transmitted by telephone by a receiver of the type described in division (VV)(1)(b) of this section and can monitor continuously the person to whom an electronic monitoring device of the type described in division (VV)(1)(a) of this section is attached.

(2) Any device that is not a device of the type described in division (VV)(1) of this section and that conforms with all of the following:

(a) The device includes a transmitter and receiver that can monitor and determine the location of a subject person at any time, or at a designated point in time, through the use of a central monitoring computer or through other electronic means.

(b) The device includes a transmitter and receiver that can determine at any time, or at a designated point in time, through the use of a central monitoring computer or other electronic means the fact that the transmitter is turned off or altered in any manner without prior approval of the court in relation to the electronic monitoring or without prior approval of the department of rehabilitation and correction in relation to the use of an electronic monitoring device for an inmate on transitional control or otherwise is tampered with.

(3) Any type of technology that can adequately track or determine the location of a subject person at any time and that is approved by the director of rehabilitation and correction, including, but not limited to, any satellite technology, voice tracking system, or retinal scanning system that is so approved.

(WW) "Non-economic loss" means nonpecuniary harm suffered by a victim of an offense as a result of or related to the commission of the offense, including, but not limited to, pain and suffering; loss of society, consortium, companionship, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, or education; mental anguish; and any other intangible loss.

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

(YY) "Continuous alcohol monitoring" means the ability to automatically test and periodically transmit alcohol consumption levels and

tamper attempts at least every hour, regardless of the location of the person who is being monitored.

(ZZ) A person is "adjudicated a sexually violent predator" if the person is convicted of or pleads guilty to a violent sex offense and also is convicted of or pleads guilty to a sexually violent predator specification that was included in the indictment, count in the indictment, or information charging that violent sex offense or if the person is convicted of or pleads guilty to a designated homicide, assault, or kidnapping offense and also is convicted of or pleads guilty to both a sexual motivation specification and a sexually violent predator specification that were included in the indictment, count in the indictment, or information charging that designated homicide, assault, or kidnapping offense.

Sec. 2929.34. (A) A person who is convicted of or pleads guilty to aggravated murder, murder, or an offense punishable by life imprisonment and who is sentenced to a term of life imprisonment or a prison term pursuant to that conviction shall serve that term in an institution under the control of the department of rehabilitation and correction.

(B)(1) A person who is convicted of or pleads guilty to a felony other than aggravated murder, murder, or an offense punishable by life imprisonment and who is sentenced to a term of imprisonment or a prison term pursuant to that conviction shall serve that term as follows:

(a) Subject to divisions (B)(1)(b) and (B)(2) of this section, in an institution under the control of the department of rehabilitation and correction if the term is a prison term or as otherwise determined by the sentencing court pursuant to section 2929.16 of the Revised Code if the term is not a prison term;

(b) In a facility of a type described in division (G)(1) of section 2929.13 of the Revised Code, if the offender is sentenced pursuant to that division.

(2) If the term is a prison term, the person may be imprisoned in a jail that is not a minimum security jail pursuant to agreement under section 5120.161 of the Revised Code between the department of rehabilitation and correction and the local authority that operates the jail.

(C) A person who is convicted of or pleads guilty to one or more misdemeanors and who is sentenced to a jail term or term of imprisonment pursuant to the conviction or convictions shall serve that term in a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse or, if the misdemeanor or misdemeanors are not offenses of violence, in a minimum security jail.

(D) Nothing in this section prohibits the commitment, referral, or sentencing of a person who is convicted of or pleads guilty to a felony to a

~~community-based correctional facility and program or district community-based correctional facility and program in accordance with sections 2301.51 to 2301.56 of the Revised Code.~~

Sec. 2929.37. (A) A board of county commissioners, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a ~~judicial corrections~~ facility governing board, or any other public or private entity that operates a local detention facility at which a prisoner who is convicted of an offense and who is confined in the facility under a sanction or term of imprisonment imposed under section 2929.16, sections 2929.21 to 2929.28, or any other provision of the Revised Code may adopt, pursuant to section 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 of the Revised Code, a policy that requires the prisoner to pay all or part of the costs of confinement in that facility. If a board of county commissioners, legislative authority, corrections commission, ~~judicial corrections~~ facility governing board, or other entity adopts a policy for a facility pursuant to one of those sections, the person in charge of that facility shall appoint a reimbursement coordinator to administer the facility's policy.

The costs of confinement may include, but are not limited to, the costs of repairing property damaged by the prisoner while confined, a per diem fee for room and board, medical and dental treatment costs, the fee for a random drug test assessed under division (E) of section 341.26 and division (E) of section 753.33 of the Revised Code, and a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, minus any fees deducted under section 2929.38 of the Revised Code. Any policy adopted under this section shall be used when a court does not order reimbursement of confinement costs under section 2929.18 or 2929.28 of the Revised Code. The amount assessed under this section shall not exceed the total amount that the prisoner is able to pay.

(B)(1) Each prisoner covered by a repayment policy adopted as described in division (A) of this section shall receive at the end of the prisoner's confinement an itemized bill of the expenses to be reimbursed. The policy shall allow periodic payments on a schedule to be implemented upon a prisoner's release. The bill also shall state that payment shall be made to the person identified in the bill as the reimbursement coordinator and include a notice that specifies that the prisoner has thirty days in which to dispute the bill by filing a written objection with the reimbursement coordinator and that if the prisoner does not dispute the bill in that manner within that period, the prisoner is required to pay the bill and a certificate of

judgment may be obtained against the prisoner for the amount of the unpaid expenses. The prisoner shall sign a copy of the bill, and the reimbursement coordinator shall retain that copy. If the prisoner disputes an item on the bill within thirty days after receiving the bill, the reimbursement coordinator may either concede the disputed item or proceed to a hearing under division (B)(2) of this section.

(2) If the prisoner disputes an item on an itemized bill presented to the prisoner under division (B)(1) of this section and the reimbursement coordinator does not concede the item, the reimbursement coordinator shall submit the bill to the court, and the court shall hold a hearing on the disputed items in the bill. At the end of the hearing, the court shall determine how much of the disputed expenses the prisoner shall reimburse the legislative authority or managing authority and shall issue a judgment in favor of the legislative authority or managing authority for any undisputed expenses and the amount of the disputed expenses for which the prisoner must reimburse the legislative authority or managing authority. The reimbursement coordinator shall not seek to enforce the judgment until at least ninety days after the court issues the judgment.

(C) If a prisoner does not dispute the itemized bill presented to the prisoner under division (B) of this section and does not pay the bill within ninety days, the reimbursement coordinator shall send by mail a notice to the prisoner requesting payment of the expenses as stated in the bill. If the prisoner does not respond to the notice by paying the expenses in full within thirty days of the date the notice was mailed, the reimbursement coordinator shall send by mail a second notice to the prisoner requesting payment of the expenses. If one hundred eighty days elapse from the date that the reimbursement coordinator provides the bill and if the prisoner has not paid the full amount of the expenses pursuant to the bill and the notices, the reimbursement coordinator may notify the clerk of the appropriate court of those facts, and the clerk may issue a certificate of judgment against the prisoner for the balance of the expenses remaining unpaid.

(D) The reimbursement coordinator may collect any amounts remaining unpaid on an itemized bill and any costs associated with the enforcement of the judgment and may enter into a contract with one or more public agencies or private vendors to collect any amounts remaining unpaid. For enforcing a judgment issued under this section, the reimbursement coordinator may assess an additional poundage fee of two per cent of the amount remaining unpaid and may collect costs associated with the enforcement of the judgment.

(E) Neither the reimbursement coordinator nor the legislative authority

or the managing authority shall enforce any judgment obtained under this section by means of execution against the prisoner's homestead. Any reimbursement received under this section shall be credited to the general fund of the treasury of the political subdivision that incurred the expense, to be used for general fund purposes.

Sec. 2929.38. (A) A board of commissioners of a county, in an agreement with the sheriff, a legislative authority of a municipal corporation, a corrections commission, a ~~judicial-corrections~~ facility governing board, or any other public or private entity that operates a local detention facility described in division (A) of section 2929.37 of the Revised Code, may establish a policy that requires any prisoner who is confined in the facility as a result of pleading guilty to or having been convicted of an offense to pay a one-time reception fee for the costs of processing the prisoner into the facility at the time of the prisoner's initial entry into the facility under the confinement in question, to pay a reasonable fee for any medical or dental treatment or service requested by and provided to that prisoner, and to pay the fee for a random drug test assessed under division (E) of section 341.26; and division (E) of section 753.33 of the Revised Code. The fee for the medical treatment or service shall not exceed the actual cost of the treatment or service provided. No prisoner confined in the local detention facility shall be denied any necessary medical care because of inability to pay the fees.

(B) Upon assessment of a one-time reception fee as described in division (A) of this section, the provision of the requested medical treatment or service, or the assessment of a fee for a random drug test, payment of the required fee may be automatically deducted from the prisoner's inmate account in the business office of the local detention facility in which the prisoner is confined. If there is no money in the account, a deduction may be made at a later date during the prisoner's confinement if the money becomes available in the account. If, after release, the prisoner has an unpaid balance of those fees, the sheriff, legislative authority of the municipal corporation, corrections commission, ~~judicial-corrections~~ facility governing board, or other entity that operates the local detention facility described in division (A) of section 2929.37 of the Revised Code may bill the prisoner for the payment of the unpaid fees. Fees received for medical or dental treatment or services shall be paid to the commissary fund or resident program fund of a community-based correctional facility, if one exists for the facility, or if no commissary fund or resident program fund exists, to the general fund of the treasury of the political subdivision that incurred the expenses, in the same proportion as those expenses were borne by the political subdivision. Fees

received for medical treatment or services that are placed in the commissary fund or resident program fund under this division shall be used for the same purposes as profits from the commissary fund or resident program fund, except that they shall not be used to pay any salary or benefits of any person who works in or is employed for the sole purpose of providing service to the commissary.

(C) Any fee paid by a person under this section shall be deducted from any medical or dental costs that the person is ordered to reimburse under a financial sanction imposed pursuant to section 2929.28 of the Revised Code or to repay under a policy adopted under section 2929.37 of the Revised Code.

(D) As used in this section, "inmate account" has the same meaning as in section 2969.21 of the Revised Code.

Sec. 4117.01. As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

- (1) Persons holding elective office;
- (2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;
- (3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief

executive;

(4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;

(5) Employees of the state employment relations board;

(6) Confidential employees;

(7) Management level employees;

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) Employees of the state personnel board of review;

(16) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(17) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

(18) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05

of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an

agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of

the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

Sec. 5120.031. (A) As used in this section:

(1) "Certificate of high school equivalence" means a statement that is issued by the state board of education or an equivalent agency of another state and that indicates that its holder has achieved the equivalent of a high school education as measured by scores obtained on the tests of general educational development published by the American council on education.

(2) "Certificate of adult basic education" means a statement that is issued by the department of rehabilitation and correction through the Ohio central school system approved by the state board of education and that

indicates that its holder has achieved a 6.0 grade level, or higher, as measured by scores of nationally standardized or recognized tests.

(3) "Deadly weapon" and "firearm" have the same meanings as in section 2923.11 of the Revised Code.

(4) "Eligible offender" means a person, other than one who is ineligible to participate in an intensive program prison under the criteria specified in section 5120.032 of the Revised Code, who has been convicted of or pleaded guilty to, and has been sentenced for, a felony.

(5) "Shock incarceration" means the program of incarceration that is established pursuant to the rules of the department of rehabilitation and correction adopted under this section.

(B)(1) The director of rehabilitation and correction, by rules adopted under Chapter 119. of the Revised Code, shall establish a pilot program of shock incarceration that may be used for offenders who are sentenced to serve a term of imprisonment under the custody of the department of rehabilitation and correction, whom the department determines to be eligible offenders, and whom the department, subject to the approval of the sentencing judge, may permit to serve their sentence as a sentence of shock incarceration in accordance with this section.

(2) The rules for the pilot program shall require that the program be established at an appropriate state correctional institution designated by the director and that the program consist of both of the following for each eligible offender whom the department, with the approval of the sentencing judge, permits to serve the eligible offender's sentence as a sentence of shock incarceration:

(a) A period of imprisonment at that institution of ninety days that shall consist of a military style combination of discipline, physical training, and hard labor and substance abuse education, employment skills training, social skills training, and psychological treatment. During the ninety-day period, the department may permit an eligible offender to participate in a self-help program. Additionally, during the ninety-day period, an eligible offender who holds a high school diploma or a certificate of high school equivalence may be permitted to tutor other eligible offenders in the shock incarceration program. If an eligible offender does not hold a high school diploma or certificate of high school equivalence, the eligible offender may elect to participate in an education program that is designed to award a certificate of adult basic education or an education program that is designed to award a certificate of high school equivalence to those eligible offenders who successfully complete the education program, whether the completion occurs during or subsequent to the ninety-day period. To the extent possible,

the department shall use as teachers in the education program persons who have been issued a license pursuant to sections 3319.22 to 3319.31 of the Revised Code, who have volunteered their services to the education program, and who satisfy any other criteria specified in the rules for the pilot project.

(b) Immediately following the ninety-day period of imprisonment, and notwithstanding any other provision governing the early release of a prisoner from imprisonment or the transfer of a prisoner to transitional control, one of the following, as determined by the director:

(i) An intermediate, transitional type of detention for the period of time determined by the director and, immediately following the intermediate, transitional type of detention, a release under a post-release control sanction imposed in accordance with section 2967.28 of the Revised Code. The period of intermediate, transitional type of detention imposed by the director under this division may be in a halfway house, in a community-based correctional facility and program or district community-based correctional facility and program established under sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code, or in any other facility approved by the director that provides for detention to serve as a transition between imprisonment in a state correctional institution and release from imprisonment.

(ii) A release under a post-release control sanction imposed in accordance with section 2967.28 of the Revised Code.

(3) The rules for the pilot program also shall include, but are not limited to, all of the following:

(a) Rules identifying the locations within the state correctional institution designated by the director that will be used for eligible offenders serving a sentence of shock incarceration;

(b) Rules establishing specific schedules of discipline, physical training, and hard labor for eligible offenders serving a sentence of shock incarceration, based upon the offender's physical condition and needs;

(c) Rules establishing standards and criteria for the department to use in determining which eligible offenders the department will permit to serve their sentence of imprisonment as a sentence of shock incarceration;

(d) Rules establishing guidelines for the selection of post-release control sanctions for eligible offenders;

(e) Rules establishing procedures for notifying sentencing courts of the performance of eligible offenders serving their sentences of imprisonment as a sentence of shock incarceration;

(f) Any other rules that are necessary for the proper conduct of the pilot program.

(C)(1) If an offender is sentenced to a term of imprisonment under the custody of the department, if the sentencing court either recommends the offender for placement in a program of shock incarceration under this section or makes no recommendation on placement of the offender, and if the department determines that the offender is an eligible offender for placement in a program of shock incarceration under this section, the department may permit the eligible offender to serve the sentence in a program of shock incarceration, in accordance with division (K) of section 2929.14 of the Revised Code, with this section, and with the rules adopted under this section. If the sentencing court disapproves placement of the offender in a program of shock incarceration, the department shall not place the offender in any program of shock incarceration.

If the sentencing court recommends the offender for placement in a program of shock incarceration and if the department subsequently places the offender in the recommended program, the department shall notify the court of the offender's placement in the recommended program and shall include with the notice a brief description of the placement.

If the sentencing court recommends placement of the offender in a program of shock incarceration and the department for any reason does not subsequently place the offender in the recommended program, the department shall send a notice to the court indicating why the offender was not placed in the recommended program.

If the sentencing court does not make a recommendation on the placement of an offender in a program of shock incarceration and if the department determines that the offender is an eligible offender for placement in a program of that nature, the department shall screen the offender and determine if the offender is suited for the program of shock incarceration. If the offender is suited for the program of shock incarceration, at least three weeks prior to permitting an eligible offender to serve the sentence in a program of shock incarceration, the department shall notify the sentencing court of the proposed placement of the offender in the program and shall include with the notice a brief description of the placement. The court shall have ten days from receipt of the notice to disapprove the placement. If the sentencing court disapproves of the placement, the department shall not permit the eligible offender to serve the sentence in a program of shock incarceration. If the judge does not timely disapprove of placement of the offender in the program of shock incarceration, the department may proceed with plans for placement of the offender.

If the department determines that the offender is not eligible for

placement in a program of shock incarceration, the department shall not place the offender in any program of shock incarceration.

(2) If the department permits an eligible offender to serve the eligible offender's sentence of imprisonment as a sentence of shock incarceration and the eligible offender does not satisfactorily complete the entire period of imprisonment described in division (B)(2)(a) of this section, the offender shall be removed from the pilot program for shock incarceration and shall be required to serve the remainder of the offender's sentence of imprisonment imposed by the sentencing court as a regular term of imprisonment. If the eligible offender commences a period of post-release control described in division (B)(2)(b) of this section and violates the conditions of that post-release control, the eligible offender shall be subject to the provisions of sections 2929.141, 2967.15, and 2967.28 of the Revised Code regarding violation of post-release control sanctions.

(3) If an eligible offender's stated prison term expires at any time during the eligible offender's participation in the shock incarceration program, the adult parole authority shall terminate the eligible offender's participation in the program and shall issue to the eligible offender a certificate of expiration of the stated prison term.

(D) The director shall keep sentencing courts informed of the performance of eligible offenders serving their sentences of imprisonment as a sentence of shock incarceration, including, but not limited to, notice of eligible offenders who fail to satisfactorily complete their entire sentence of shock incarceration or who satisfactorily complete their entire sentence of shock incarceration.

(E) Within a reasonable period of time after November 20, 1990, the director shall appoint a committee to search for one or more suitable sites at which one or more programs of shock incarceration, in addition to the pilot program required by division (B)(1) of this section, may be established. The search committee shall consist of the director or the director's designee, as chairperson; employees of the department of rehabilitation and correction appointed by the director; and any other persons that the director, in the director's discretion, appoints. In searching for such sites, the search committee shall give preference to any site owned by the state or any other governmental entity and to any existing structure that reasonably could be renovated, enlarged, converted, or remodeled for purposes of establishing such a program. The search committee shall prepare a report concerning its activities and, on the earlier of the day that is twelve months after the first day on which an eligible offender began serving a sentence of shock incarceration under the pilot program or January 1, 1992, shall file the report

with the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the members of the senate who were members of the senate judiciary committee in the 118th general assembly or their successors, and the members of the house of representatives who were members of the select committee to hear drug legislation that was established in the 118th general assembly or their successors. Upon the filing of the report, the search committee shall terminate. The report required by this division shall contain all of the following:

(1) A summary of the process used by the search committee in performing its duties under this division;

(2) A summary of all of the sites reviewed by the search committee in performing its duties under this division, and the benefits and disadvantages it found relative to the establishment of a program of shock incarceration at each such site;

(3) The findings and recommendations of the search committee as to the suitable site or sites, if any, at which a program of shock incarceration, in addition to the pilot program required by division (B)(1) of this section, may be established.

(F) The director periodically shall review the pilot program for shock incarceration required to be established by division (B)(1) of this section. The director shall prepare a report relative to the pilot program and, on the earlier of the day that is twelve months after the first day on which an eligible offender began serving a sentence of shock incarceration under the pilot program or January 1, 1992, shall file the report with the president and the minority leader of the senate, the speaker and the minority leader of the house of representatives, the members of the senate who were members of the senate judiciary committee in the 118th general assembly or their successors, and the members of the house of representatives who were members of the select committee to hear drug legislation that was established in the 118th general assembly or their successors. The pilot program shall not terminate at the time of the filing of the report, but shall continue in operation in accordance with this section. The report required by this division shall include all of the following:

(1) A summary of the pilot program as initially established, a summary of all changes in the pilot program made during the period covered by the report and the reasons for the changes, and a summary of the pilot program as it exists on the date of preparation of the report;

(2) A summary of the effectiveness of the pilot program, in the opinion of the director and employees of the department involved in its operation;

(3) An analysis of the total cost of the pilot program, of its cost per inmate who was permitted to serve a sentence of shock incarceration and who served the entire sentence of shock incarceration, and of its cost per inmate who was permitted to serve a sentence of shock incarceration;

(4) A summary of the standards and criteria used by the department in determining which eligible offenders were permitted to serve their sentence of imprisonment as a sentence of shock incarceration;

(5) A summary of the characteristics of the eligible offenders who were permitted to serve their sentence of imprisonment as a sentence of shock incarceration, which summary shall include, but not be limited to, a listing of every offense of which any such eligible offender was convicted or to which any such eligible offender pleaded guilty and in relation to which the eligible offender served a sentence of shock incarceration, and the total number of such eligible offenders who were convicted of or pleaded guilty to each such offense;

(6) A listing of the number of eligible offenders who were permitted to serve a sentence of shock incarceration and who did not serve the entire sentence of shock incarceration, and, to the extent possible, a summary of the length of the terms of imprisonment served by such eligible offenders after they were removed from the pilot program;

(7) A summary of the effect of the pilot program on overcrowding at state correctional institutions;

(8) To the extent possible, an analysis of the rate of recidivism of eligible offenders who were permitted to serve a sentence of shock incarceration and who served the entire sentence of shock incarceration;

(9) Recommendations as to legislative changes to the pilot program that would assist in its operation or that could further alleviate overcrowding at state correctional institutions, and recommendations as to whether the pilot program should be expanded.

Sec. 5120.111. With respect to community-based correctional facilities and programs and district community-based correctional facilities and programs authorized under section 2301.51 of the Revised Code, the department of rehabilitation and correction shall do all of the following:

(A) Adopt rules, under Chapter 119. of the Revised Code, that serve as criteria for the operation of community-based correctional facilities and programs and district community-based correctional facilities and programs approved in accordance with sections 2301.51 and 5120.10 of the Revised Code;

~~(B) Adopt rules, under Chapter 119. of the Revised Code, prescribing the minimum educational and experience requirements that must be satisfied~~

~~by persons who staff and operate the facilities and programs;~~

~~(C)~~ Adopt rules, under Chapter 119. of the Revised Code, governing the procedures for the submission of proposals for the establishment of community-based correctional facilities and programs and district community-based correctional facilities and programs to the division of parole and community services under division (B) of section 2301.51 of the Revised Code;

~~(D)~~(C) Prescribe forms that are to be used by judicial corrections facility governing boards of community-based correctional facilities and programs and district community-based correctional facilities and programs in making application for state financial assistance under section 2301.56 of the Revised Code ~~and that include a requirement that the applicant estimate the number of offenders that will be committed or referred to a facility and program and that the facility and program will serve in the year of application;~~

~~(E)~~(D) Adopt rules, under Chapter 119. of the Revised Code, that prescribe the standards of operation ~~and the training and qualifications of persons who staff and operate~~ for the facilities and programs ~~and that must be satisfied for the facilities and programs to be eligible for state financial assistance. The standards prescribed shall include, but shall not be limited to, the minimum requirements that each proposal submitted for approval to the division of parole and community services, as contained in section 2301.52 of the Revised Code, must satisfy for approval.;~~

~~(F)~~(E) Through the division of parole and community services, accept and review proposals for the establishment of the facilities and programs and approve those proposals that satisfy the minimum requirements contained in section 2301.52 of the Revised Code; and administer the program for state financial assistance to the facilities and programs in accordance with section 5120.112 of the Revised Code.

Sec. 5120.112. (A) The division of parole and community services shall accept applications for state financial assistance for the renovation, maintenance, and operation of proposed and approved community-based correctional facilities and programs and district community-based correctional facilities and programs that are filed in accordance with section 2301.56 of the Revised Code. The division, upon receipt of an application for a particular facility and program, shall determine whether the application is in proper form, whether the applicant satisfies the standards of operation ~~and training and qualifications of personnel~~ that are prescribed by the department of rehabilitation and correction under section 5120.111 of the Revised Code, whether the applicant has established the facility and

program, and, if the applicant has not at that time established the facility and program, whether the proposal of the applicant sufficiently indicates that the standards will be satisfied upon the establishment of the facility and program. If the division determines that the application is in proper form and that the applicant has satisfied or will satisfy the standards of the department, the division shall notify the applicant that it is qualified to receive state financial assistance for the facility and program under this section from moneys made available to the division for purposes of providing assistance to community-based correctional facilities and programs and district community-based correctional facilities and programs.

(B) The amount of state financial assistance that is ~~granted~~ awarded to a qualified applicant under this section shall be determined by the division of parole and community services in accordance with this division. ~~The division shall adopt a formula to determine the allocation of state financial assistance to qualified applicants. The formula shall provide for funding that is based upon a set fee to be paid to an applicant per person committed or referred in the year of application. In no case shall the set fee~~ In determining the amount of state financial assistance to be awarded to a qualified applicant under this section, the division shall not calculate the cost of an offender incarcerated in a community-based correctional facility and program or district community-based correctional facility program to be greater than the average yearly cost of incarceration per inmate in all state correctional institutions, as defined in section 2967.01 of the Revised Code, as determined by the department of rehabilitation and correction.

The times and manner of distribution of state financial assistance to be ~~granted~~ awarded to a qualified applicant under this section shall be determined by the division of parole and community services.

(C) Upon approval of a proposal for a community-based correctional facility and program or a district community-based correctional facility and program by the division of parole and community services, the facility governing board, upon the advice of the judicial advisory board, shall enter into an award agreement with the department of rehabilitation and correction that outlines terms and conditions of the agreement on an annual basis. In the award agreement, the facility governing board shall identify a fiscal agent responsible for the deposit of funds and compliance with sections 2301.55 and 2301.56 of the Revised Code.

(D) No state financial assistance shall be distributed to a qualified applicant until an agreement concerning the assistance has been entered into by the director of rehabilitation and correction and the deputy director of the division of parole and community services on the part of the state, and by

the ~~chairman~~ chairperson of the ~~judicial-corrections~~ facility governing board of the community-based correctional facility and program or district community-based correctional facility and program to receive the financial assistance, whichever is applicable. The agreement shall be effective for a period of one year from the date of the agreement and shall specify all terms and conditions that are applicable to the ~~granting~~ awarding of the assistance, including, but not limited to:

(1) The total amount of assistance to be ~~granted~~ awarded for each community-based correctional facility and program or district community-based correctional facility and program, and the times and manner of the payment of the assistance;

(2) How persons who will staff and operate the facility and program are to be utilized during the period for which the assistance is to be granted, including descriptions of their positions and duties, and their salaries and fringe benefits, ~~and their job qualifications and classifications~~;

(3) A statement that none of the persons who will staff and operate the facility and program, including those who are receiving some or all of their salaries out of funds received by the facility and program as state financial assistance, are employees or are to be considered as being employees of the department of rehabilitation and correction, and a statement that the employees who will staff and operate that facility and program are employees of the facility and program;

(4) A list of the type of expenses, other than salaries of persons who will staff and operate the facility and program, for which the state financial assistance can be used, and a requirement that purchases made with funds received as state financial assistance ~~be made through the use of competitive bidding~~ follow established fiscal guidelines as determined by the division of parole and community services and any applicable sections of the Revised Code, including, but not limited to, sections 125.01 to 125.11 and Chapter 153. of the Revised Code;

(5) The accounting procedures that are to be used by the facility and program in relation to the state financial assistance;

(6) A requirement that the facility and program file ~~quarterly~~ reports, during the period that it receives state financial assistance, with the division of parole and community services, which reports shall be statistical in nature and shall contain that information required under a research design agreed upon by all parties to the agreement, for purposes of evaluating the facility and program;

(7) A requirement that the facility and program comply with ~~all of the~~ standards of operation ~~and training and qualifications of personnel~~ as

prescribed by the department under section 5120.111 of the Revised Code, and with all information submitted on its application;

~~(8) A statement that the facility and program will attempt to accept and treat at least fifteen per cent of the eligible adult felony offenders sentenced in the county or counties it serves during the period that it receives state financial assistance;~~

~~(9)~~ A statement that the facility and program will make a reasonable effort to augment the funding received from the state.

~~(D)~~(E)(1) No state financial assistance shall be distributed to a qualified applicant until its proposal for a community-based correctional facility and program or district community-based correctional facility and program has been approved by the division of parole and community services.

(2) State financial assistance may be denied to any applicant if it fails to comply with the terms of any agreement entered into pursuant to division ~~(C)~~(D) of this section.

Sec. 5149.34. (A)(1) If a county desires to receive a subsidy from a subsidy program established under division (A) of section 5149.31 of the Revised Code for community corrections programs as described in division (B) of that section, the board of county commissioners of the county shall establish, by a resolution as described in this division, and maintain a local corrections planning board that, except as provided in division (A)(2) of this section, shall include an administrator of a county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse located in the county, a county commissioner of that county, a judge of the court of common pleas of that county, a judge of a municipal court or county court of that county, an attorney whose practice of law primarily involves the representation of criminal defendants, the chief law enforcement officer of the largest municipal corporation located in the county, the county sheriff, one or more prosecutors, as defined in section 2935.01 of the Revised Code, one or more representatives of the public, one of whom shall be a victim of crime, one or more additional representatives of the law enforcement community, one or more additional representatives of the judiciary, one or more additional representatives of the field of corrections, and officials from the largest municipal corporation located in the county. A majority of the members of the board shall be employed in the adult criminal justice field. At least two members of the board shall be members of the largest racial minority population, if any, in the county, and at least two other members of the board shall be women. The resolution shall state the number and nature of the members, the duration of their terms, the manner of filling vacancies on the board, and the compensation, if any, that members are to receive. The

board of county commissioners also may specify, as part of the resolution, any other duties the local corrections planning board is to assume.

(2) If, for good cause shown, including, but not limited to, the refusal of a specified individual to serve on a local corrections planning board, a particular county is not able to satisfy the requirements specified in division (A)(1) of this section for the composition of such a board, the director of rehabilitation and correction may waive the requirements to the extent necessary and approve a composition for the board that otherwise is consistent with the requirements.

(B) Each local corrections planning board established pursuant to division (A) of this section shall adopt within eighteen months after its establishment, and from time to time shall revise, a comprehensive plan for the development, implementation, and operation of corrections services in the county. The plan shall be adopted and revised after consideration has been given to the impact that it will have or has had on the populations of state correctional institutions and county, multicounty, municipal, municipal-county, or multicounty-municipal jails or workhouses in the county, and shall be designed to unify or coordinate corrections services in the county and to reduce the number of persons committed, consistent with the standards adopted under division (B) of section 5149.31 of the Revised Code, from that county to state correctional institutions and to county, multicounty, municipal, municipal-county, or multicounty-municipal jails or workhouses. The plan and any revisions to the plan shall be submitted to the board of county commissioners of the county in which the local corrections planning board is located for approval.

If a county has a community-based correctional facility and program established in accordance with sections 2301.51 to ~~2301.56~~ 2301.58 of the Revised Code, the budgets of the facility and program shall not be subject to approval by the local corrections planning board, but instead shall continue to be determined in accordance with those sections. However, the local corrections planning board shall include the facility and program as part of the comprehensive plan adopted and revised pursuant to this division.

SECTION 2. That existing sections 2152.20, 2301.51, 2301.52, 2301.55, 2301.56, 2301.57, 2744.01, 2929.01, 2929.34, 2929.37, 2929.38, 4117.01, 5120.031, 5120.111, 5120.112, and 5149.34 and sections 2301.53, 2301.54, and 2301.58 of the Revised Code are hereby repealed.

SECTION 3. The amendment of sections 2301.51, 2301.52, 2301.55,

2301.56, and 2301.57, the repeal of sections 2301.53, 2301.54, and 2301.58, and the enactment of new section 2301.58 and section 2301.571 of the Revised Code by this act do not change the status of any officer or employee of a community-based correctional facility and program or district community-based correctional facility and program in the public employees retirement system. It is the intent of the General Assembly in amending sections 2301.51, 2301.52, 2301.55, 2301.56, and 2301.57, repealing sections 2301.53, 2301.54, and 2301.58, and enacting new section 2301.58 and section 2301.571 of the Revised Code to ensure membership in the public employees retirement system for officers and employees of publicly operated community-based correctional facilities and programs and district community-based correctional facilities and programs and not to add to the category of employees eligible for membership in the public employees retirement system.

SECTION 4. The amendment of section 4117.01 of the Revised Code by this act preserves the nonexempt collective bargaining status of employees of community-based correctional facilities and programs and district community-based correctional facilities and programs who are covered by a collective bargaining agreement existing on June 1, 2005. These employees shall maintain their non-exempt status beyond the termination date of the existing collective bargaining agreement. All employees of community-based correctional facilities and programs and district community-based correctional facilities and programs who are not covered by a collective bargaining agreement on June 1, 2005, shall be exempt from collective bargaining rights under Chapter 4117. of the Revised Code.

SECTION 5. This act does not affect, and shall not be construed as affecting, the authority, responsibility, or powers of the Ohio Ethics Commission under Chapters 102. and 2921. of the Revised Code, as those chapters existed immediately prior to the effective date of this act, with respect to the following:

(A) Any trustee or member of the governing board and any officer of an entity that was or is under contract to control, manage, operate, and have general charge of a community-based correctional facility and program or district community-based correctional facility and program established under former sections 2301.51 to 2301.58 of the Revised Code;

(B) Any individual who, pursuant to a contract with an entity to control, manage, operate, and have general charge of a community-based correctional facility and program or district community-based correctional facility and program established under former sections 2301.51 to 2301.58 of the Revised Code, was or is serving as director or in a substantially similar capacity to director of the facility and program.

SECTION 6. Section 2301.56 of the Revised Code is presented in this act as a composite of the section as amended by both Am. Sub. H.B. 490 and Sub. H.B. 510 of the 124th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

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

Director, Legislative Service Commission.

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

Secretary of State.

File No. _____ Effective Date _____