



H.B. 15

126th General Assembly

(As Introduced)

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BILL SUMMARY

- Requires the Department of Rehabilitation and Correction ("DRC") to establish and operate on the internet a database that contains (1) specified information for each inmate in the custody of DRC under a sentence imposed for a conviction or guilty plea to any "designated violence-related or sex-related offense," and (2) information as to where any person can send written statements regarding the judicial release, pardon, commutation, parole, or transfer to transitional control of an offender serving a sentence of imprisonment or a prison term for a designated violence-related or sex-related offense.
- Specifies that no information included on the database may identify or enable the identification of any victim of any offense committed by an inmate.
- Provides that the database is a public record, and DRC is responsible for making the database searchable by inmate name, county, zip code, and the school district in which was committed any offense resulting in an inmate who is listed in the database being in the custody of DRC.
- Permits any person to submit a written statement for consideration before a person who has been convicted of or pleaded guilty to a designated violence-related or sex-related offense is granted a judicial release, pardon, commutation, parole, or a transfer to transitional control.

- Specifies that all of the provisions of the bill are to be collectively known as "Laura's Law."

CONTENT AND OPERATION

Database of offenders convicted of designated violence-related or sex-related offenses

Definition of a "designated violence-related or sex-related offense"

The bill defines a "designated violence-related or sex-related offense" as meaning any of the following (R.C. 5120.66(A)):

(1) A violation of R.C. 2903.01 (aggravated murder), 2903.02 (murder), 2903.03 (voluntary manslaughter), 2903.04 (involuntary manslaughter), 2903.041 (reckless homicide), 2903.08 (aggravated vehicular assault and vehicular assault), 2903.11 (felonious assault), 2903.12 (aggravated assault), 2903.15 (permitting child abuse), 2905.01 (kidnapping), 2905.02 (abduction), 2907.02 (rape), 2907.03 (sexual battery), 2907.05 (gross sexual imposition), 2907.07 (importuning), 2907.21 (compelling prostitution), 2907.22 (promoting prostitution), 2909.22 (soliciting or providing support for an act of terrorism), 2909.23 (making terroristic threats), 2909.24 (terrorism), 2911.01 (aggravated robbery), 2911.02 (robbery), 2911.11 (aggravated burglary), 2911.12 (burglary), or 2921.38 (harassment by an inmate);

(2) A felony violation of R.C. 2903.06 (aggravated vehicular homicide and vehicular homicide), 2903.13 (assault), 2903.21 (aggravated menacing), 2903.211 (menacing by stalking), 2905.05 (criminal child enticement), 2907.04 (unlawful sexual conduct with a minor), 2907.08 (voyeurism), 2907.31 (disseminating matter harmful to minors), 2917.21 (telecommunications harassment), 2919.22 (endangering children), 2919.23 (interference with custody), 2919.25 (domestic violence), 2919.27 (violating a protection order), or 2921.34 (escape);

(3) An attempt to commit or complicity in committing a violation listed in (1) or (2), above, if the attempt or complicity is a felony.

This definition applies to all of the provisions of the bill (R.C. 2929.20(A)(2) and 2967.01(S)).

Database of offenders

The bill requires the Department of Rehabilitation and Correction ("DRC"), within 90 days of the bill's effective date, to establish and operate on the internet a database that contains all of the following information for each inmate in the

custody of DRC under a sentence imposed for a conviction of or a guilty plea to any designated violence-related or sex-related offense (R.C. 5120.66(B)):

- (1) The inmate's name;
- (2) For each designated violence-related or sex-related offense for which the inmate was sentenced to a prison term or term of imprisonment and is in DRC's custody and for each other offense for which the inmate was sentenced and is in DRC's custody all of the following:
 - (a) The name of the offense;
 - (b) The Revised Code section of which the offense is a violation;
 - (c) The age and gender of each victim of the offense if those facts are known;
 - (d) The range of the possible prison terms or term of imprisonment that could have been imposed for the offense;
 - (e) The actual prison term or term of imprisonment imposed for the offense;
 - (f) The county in which the offense was committed;
 - (g) The date on which the inmate began serving the prison term or term of imprisonment imposed for the offense;
 - (h) Either the date on which the inmate will be eligible for parole relative to the offense if the term is an indefinite term or life term or the date on which the term ends if the prison term is for a definite term.
- (3) If applicable, notice of the fact that the inmate will be having a hearing regarding a possible grant of judicial release, the date of the hearing, and the right of any person, described below in "**Motion for judicial release**," to submit to the court a written statement regarding the possible judicial release.
- (4) If the offender is serving a prison term as a sexually violent predator who committed a sexually violent offense, notice of the fact that the offender will be having a hearing regarding the determination of whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term, and the date of the hearing.

(5) If applicable, notice that an inmate might be under consideration for a pardon or commutation of a sentence or will be having a hearing regarding a possible grant of parole and notice of the right of any person to submit a written statement regarding the pending action, as described below in "**Recommendations for pardon, commutation, or parole**," at least three weeks before such a recommendation.

(6) If applicable, notice of a pending transfer to transitional control, the date of the possible transfer, and the right of any person to submit a statement regarding the possible transfer, as described below in "**Transitional control**," at least three weeks before transfer.

(7) If applicable, prompt notice of an inmate's escape from any facility in which the inmate was incarcerated and of the capture of the inmate after escape.

(8) If applicable, notice of the inmate's death while in confinement.

(9) Prior to the release of the inmate from confinement, notice of the fact that the inmate will be released, the date of release, and, if applicable, the terms and conditions of the release.

The database must also contain information as to where a person can send written statements as described below in "**Motion for judicial release**," "**Recommendations for pardon, commutation, or parole**," and "**Transitional control**." Additionally, the database may contain information regarding inmates who are listed in the database in addition to the required information (R.C. 5120.66(B)(2) and (C)(3)).

In maintaining the database, the bill requires DRC to update the database as often as is necessary to ensure that the information it contains is accurate and current. Also, no information included on the database may identify or enable the identification of any victim of any offense committed by an inmate. The bill further provides that the database is a public record open for inspection under R.C. 149.43, and DRC is responsible for making the database searchable by inmate name, county, zip code, and school district in which was committed any offense resulting in an inmate who is listed in the database being in the custody of DRC. Finally, the bill specifies that the failure of DRC to comply with the database requirements does not give any rights or any grounds for appeal or post-conviction relief to any inmate. (R.C. 5120.66(C)(1), (2), (3), and (4) and (D).)

Motion for judicial release

Current law

Under current law, upon the filing of a motion by an eligible offender¹ or upon its own motion, a sentencing court may reduce the offender's stated prison term through a judicial release. The motion must be filed within a specified time frame depending on the offender's offense and sentence. The court may schedule a hearing on the motion. A motion may be denied without a hearing, but a motion cannot be granted without a hearing. A court can hold only one hearing for any eligible offender.

If a court schedules a hearing for a motion for judicial release, the court must notify the eligible offender and the prosecuting attorney of the county in which the eligible offender was indicted. The eligible offender must, then, promptly give a copy of the notice of the hearing to the head of the state correctional institution in which the offender is confined. The prosecuting attorney is responsible for notifying the victim of the offense, or the victim's representative. At the hearing, the eligible offender, the offender's attorney, the prosecuting attorney, the victim or the victim's representative, and any other person with relevant information have the opportunity to present information to the court. After the hearing, the court has ten days to rule on the motion. If the court grants a motion for judicial release, the court must order the release of the offender, place the offender under an appropriate community control sanction, under appropriate community control conditions, and under the supervision of the probation department serving the court. The court must also reserve the right to reimpose the sentence that it reduced if the offender violates the sanction. (R.C. 2929.20.)

Operation of the bill

The bill makes three changes with respect to the judicial release of an eligible offender who is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense. First, the bill requires that when an eligible offender serving a prison term or term of imprisonment for any designated violence-related or sex-related offense provides notice of a judicial release hearing to the head of the state correctional institution, the head of the institution must immediately notify the appropriate person at DRC of the hearing.

¹ An "eligible offender" means any person serving a stated prison term of ten years or less when either the stated prison term does not include a mandatory prison term or the stated prison term includes a mandatory prison term and the person has served the mandatory prison term (R.C. 2920.20(A)(1), unchanged by the bill).

DRC must then immediately post on the database the offender's name and notice of the right of any person to submit a written statement regarding the pending action, as described in the following paragraph. (R.C. 2929.20(D).)

Second, if the eligible offender is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense, the bill permits any person to submit to the court, at any time prior to the hearing on the offender's motion for judicial release, a written statement concerning the effects of the offender's crime or crimes, the circumstances surrounding the crime or crimes, the manner in which the crime or crimes were perpetrated, and the person's opinion as to whether the offender should be released. This right to make a statement is in addition to and independent of the right of a victim to make a statement pursuant to R.C. 2930.14, 2930.17, or 2946.051 and any right of a person to present written information at a motion for judicial release, as described above. (R.C. 2929.20(J).)

Third, the bill requires the court that is considering a motion for judicial release from an eligible offender who is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense to consider any written statement of any person submitted to the court, as described in the preceding paragraph (R.C. 2929.20(G)).

Recommendations for pardon, commutation, or parole

Current law

Under current law, the Adult Parole Authority ("APA") may recommend to the Governor the pardon, commutation of sentence, or reprieve of any convict or prisoner or grant a parole to any prisoner for whom parole is authorized if in its judgment there is reasonable ground to believe that granting a pardon, commutation, or reprieve to the prisoner or paroling the prisoner would further the interests of justice and be consistent with the welfare and security of society. Before recommending a pardon, commutation, or reprieve or before granting a parole, the APA must provide notice as described in the next paragraph and must consider statements from the victim or the victim's representative.

Generally, the APA must provide the prosecuting attorney and the judge of the court of common pleas of the county in which the indictment against the person was found notice of the pendency of a pardon, commutation, or parole at least three weeks before recommending a pardon or commutation or before granting parole. This notice must include the name of the offender, the offense of which the person was convicted, the time of conviction, and the term of the offender's sentence. If requested, the APA must also provide this type of notice to the victim or the victim's representative. If the consideration of the pardon,

commutation, or parole is continued, the APA must provide notice, by mail, of this continuation at least ten days prior to the further consideration. (R.C. 2967.03 and 2967.12.)

Operation of the bill

The bill makes three changes with respect to a recommendation for pardon, commutation, or parole of an offender who is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense. First, for an offender who is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense, the bill permits any person to send to the APA at any time prior to the APA's recommendation of a pardon or commutation or the granting of a parole for an offender serving a prison term or term of imprisonment for any designated violence-related or sex-related offense a written statement relative to the offense and the pending action. This right to make a statement is in addition to and independent of the right of a victim to make a statement as otherwise permitted in a pardon, commutation, or parole consideration, pursuant to R.C. 2930.17, or as otherwise permitted, and this right is in addition to and independent of the authority for a judge or prosecuting attorney to furnish statements and information, make recommendations, and give testimony in a pardon, commutation, or parole consideration, the right of a prosecuting attorney, judge, or victim to give testimony or submit a statement at a full parole board hearing, and any other right or duty of a person to present information or make a statement. (R.C. 2967.12(H).)

Second, the bill requires the APA to consider any written statement of any person, submitted as described in the preceding paragraph, before recommending pardon or commutation of a sentence or before granting a parole to an offender serving a prison term or term of imprisonment for any designated violence-related or sex-related offense (R.C. 2967.03).

Third, the bill specifies that if an offender is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense, DRC must post on the database the offender's name and notice of the right of any person to submit a written statement regarding the pending action. This database entry must be made at the same time the prosecuting attorney and the judge are notified of the pendency of a pardon, commutation, or parole. DRC must also provide any notice of further consideration of pardon, commutation, or parole on the database at least ten days before the further consideration if the initial notice was posted on the database as required. Failure to comply with this posting requirement does not give any rights or grounds for appeal or post-conviction relief to the person serving the sentence. (R.C. 2967.12(A), (C), and (F).)

Transitional control

Current law

Current law permits DRC to transfer eligible prisoners² to transitional control statute during the final 180 days of their confinement, under terms established by DRC. DRC is required to give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found. The court has the authority to disapprove the transfer. DRC must also provide notice to the victim if the victim has requested notification. The victim has the right to submit a statement regarding the impact of the transfer of the prisoner to transitional control. (R.C. 2967.26.)

Operation of the bill

The bill makes three changes with respect to the transfer of an eligible offender to transitional control if the offender is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense. First, the bill requires that if a prisoner is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense, the APA, at least three weeks prior to transferring the prisoner to transitional control, must post notice of the transfer and the offender's name on the database.³

Second, the bill specifies that any person may send the APA at any time prior to a transfer of a prisoner who is serving a prison term or term of imprisonment for any designated violence-related or sex-related offense to transitional control a written statement regarding the transfer. This right is in addition to and independent of the right of a victim to submit a statement and in addition to and independent of any other right or duty of a person to present information or make a statement. The APA is required to consider this statement,

² *Under current law an offender is eligible for transitional control if the person is serving a prison term or term of imprisonment for an offense committed prior to March 17, 1998, and if, at the time that eligibility is being determined, the prisoner would have been eligible for furlough or conditional release under prior law. No prisoner who is serving a prison term or term of life imprisonment without parole under the Sexually Violent Predator Law, and no prisoner who is serving a mandatory term is eligible for the program until after the expiration of the term. (R.C. 2967.26(A)(1).)*

³ *This reference to the Adult Parole Authority should probably be changed to the Department of Rehabilitation and Correction for consistency with the other provisions of the bill.*

in addition to all information, reports, and statements it considers, in deciding whether to transfer the prisoner to transitional control. (R.C. 2967.26(A)(4).)

The bill's provisions to be known as "Laura's Law"

The bill states that all of the provisions of the bill are to be collectively known as "Laura's Law" (R.C. 5120.66(E)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 82

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