



**H.B. 447**

127th General Assembly  
(As Introduced)

Rep. S. Williams

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**BILL SUMMARY**

- Requires a county that has not formulated a proposal for a community-based correctional facility (CBCF) or has not participated with adjoining counties to formulate a proposal for a district CBCF to formulate a proposal for a CBCF or, by agreement with adjoining counties, either to formulate a proposal for a district CBCF or to contract with adjoining counties for inclusion in an existing CBCF proposal.

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**CONTENT AND OPERATION**

**Required establishment of or participation in a community-based correctional facility**

The Revised Code authorizes any county that has a population of 200,000 or more to formulate a community-based correctional proposal that would provide a community-based correctional facility (CBCF) and program for the use of that county's court of common pleas. It also authorizes two or more adjoining counties that have an aggregate population of 200,000 or more to formulate a district community-based correctional proposal that would provide a district CBFC and program for the use of those counties' courts of common pleas (R.C. 2301.51, not in the bill). (See **COMMENT** for an overview of CBCFs.)

The bill requires that any county that has not formulated a proposal for a CBCF or has not participated with adjoining counties to formulate a proposal for a district CBCF pursuant to R.C. 2301.51 to 2301.58 do one of the following:

- (1) Formulate a proposal for a CBCF;
- (2) By agreement with adjoining counties, either formulate a proposal for a district CBCF or contract, with the approval of the Division of Parole and Community Services of the Department of Rehabilitation and Correction, with

those adjoining counties for inclusion in an existing CBCF proposal (R.C. 2301.511).

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## COMMENT

### Overview of community-based correctional facilities

#### Eligibility and origination

A county that has a population of at least 200,000 may have one or more CBCFs (R.C. 2301.51(A)(1)). Two or more adjoining counties that have an aggregate population of at least 200,000 may have one or more district CBCFs (R.C. 2301.51(A)(2)). As detailed below, a CBCF comes into existence through the following steps: (1) the establishment of a judicial advisory board, (2) the appointment by that board and by the applicable county commissioners of a facility governing board, (3) the formulation of a proposal by the governing board, and (4) the approval of the proposal by the Division of Parole and Community Services (hereafter referred to as the Division) of the Department of Rehabilitation and Correction (DRC). The proposal must provide for a CBCF and program for the use of the court of common pleas of the county or counties involved. With the approval of the Director of Rehabilitation and Correction, the county or counties may formulate proposals for more than one CBCF. In determining whether to grant approval to formulate more than one proposal, the Director must consider the rate at which the county or counties commit felony offenders to the state correctional system. (R.C. 2301.51, 2301.52, and 5120.10(D)(3).)

#### Proposals

A proposal for a CBCF and program must provide for or contain at least the following (R.C. 2301.52):

(1) 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 R.C. 2929.16 or 2929.17 or persons otherwise committed or admitted to the facility and program. The designated facility must be a secure facility that contains lockups and other measures sufficient to ensure the safety of the surrounding community. The facility must provide living space and accommodations for the persons sentenced or otherwise admitted with the consent of the facility governing board to the facility and program. The facility must be constructed or modified, and maintained and operated, so that it complies with rules adopted by the Division.

(2) The designation of a program that will be applied individually to each person sentenced or otherwise committed or admitted to the facility and program.

The program must include, but not be limited to, education, treatment, or work release.

(3) A provision that each person sentenced to the facility or otherwise admitted with the consent of the governing board will be provided an orientation period of at least 30 days, during which the person is not permitted to leave the facility and is evaluated in relation to his or her placement in rehabilitative programs.

(4) Provisions to make certain that the facility and program will be staffed to ensure security and the effective delivery of services.

(5) Provisions for the 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.

(6) 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.

### **Judicial advisory board**

The formulation of a CBC proposal begins with the creation of a judicial advisory board by judgment entry (presumably by any judge of the court of common pleas, although the statute does not specify). The board consists of at least 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 board but is not required to do so. The board may invite a non-general division judge of a court of common pleas from within the county or counties or a general division judge of a court of common pleas from outside the county or counties who regularly sends offenders to its facility to become a member of the board. A judge does not receive any additional compensation for service on a judicial advisory board, but may be reimbursed for reasonable and necessary expenses incurred as a result of service on the board. (R.C. 2301.51(A)(3)(a) and (b).)

The judicial advisory board meets 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 CBCF, and the general requirements of the CBCF. The board may meet as often as it considers necessary, may communicate directly with the Division, and may provide advice to the facility governing board specifically regarding the agreement entered into between the facility governing board and the Division pursuant to R.C. 5120.112 (applications for state financial assistance for

the renovation, maintenance, and operation of proposed and approved CBCFs and programs). (R.C. 2301.51(A)(3)(c).)

**Facility governing board**

Each CBCF has a facility governing board of at least six members, each of whom serves a three-year term. Not more than half the members of a district CBCF governing board may be from any one county. The judicial advisory board appoints two-thirds of the members of the governing board and the board or boards of county commissioners of the member counties appoint the rest. Of the initial governing board members, one-third are appointed for a one-year term, one-third for a two-year term, and the rest for a three-year term. Thereafter, all terms are for three years. Board members may be reappointed for additional terms. Vacancies are filled in the same manner as provided for original appointments. Board members do not receive compensation for their services but may be reimbursed for reasonable and necessary expenses incurred as a result of service on the board. Each member of a facility governing board must attend orientation training developed by the judicial advisory board, 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. (Members of a facility governing board, the director and employees of a CBCF, and the officers and board members of a private entity that manages a CBCF under a management contract are public officials or employees for purposes of the ethics law for public officials and the criminal law relating to public administration.) (R.C. 2301.51(A)(7), (E), and (F) and 2301.55(A)(2).)

A facility governing board formulates the proposal for a CBCF and program and governs the facility. The board must submit the proposal to the Division for approval. Until the proposal is approved, no court may sentence a person to or place a person in a CBCF. Once a proposal is approved, the facility governing board may establish and operate the facility and program. (R.C. 2301.51(A)(4), (B), and (C).)

The governing board, upon the advice of the judicial advisory board, appoints a director or contracts with a nonprofit or private entity to manage and have general charge of the facility and program and have custody of its property, files, and records. A management agreement must include at least any terms and conditions established by the DRC. When a governing board appoints a director, the board must fix or approve the compensation of the director and other professional, technical, and clerical employees who are necessary to properly maintain and operate the CBCF and program. (R.C. 2301.55(A)(1).)

The facility governing board may do all of the following (R.C. 2301.55(B) through (G)):

(1) Enter into contracts with the board of county commissioners of the county or counties in which the CBCF and program is located or that are part of the district for the provision by the county of buildings, goods, and services.

(2) Upon the advice of the judicial advisory board, adopt rules for the commitment or admission pursuant to law of persons to, and the operation of, the facility and program. The rules must provide procedures that conform to statutes prescribing minimum standards for jails and halfway houses and that authorize applications for state financial assistance.

(3) 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.

(4) Sell, lease, convey, or otherwise transfer any real or personal property that it accepts following the procedures specified for joint emergency medical districts.

(5) Purchase liability insurance to cover members of the facility governing board, the judicial advisory board, and the CBCF employees when engaged in the performance of their duties.

(6) Contract for legal services for the facility governing board, the judicial advisory board, and the CBCF employees when engaged in the performance of their duties. In the absence of a contract for legal services, the prosecuting attorney of the county in which a CBCF is located provides legal services to the facility governing board, the judicial advisory board, and the CBCF employees when engaged in the performance of their duties. The prosecuting attorney must be reasonably reimbursed for these legal services. However, a prosecuting attorney is not obligated to provide legal services to a nonprofit or private entity that has entered into a management contract with a facility governing board or to the contractor's employees.

(7) Contract with a fiscal agent that will be responsible for the deposit of funds and compliance with statutory audit requirements. In the absence of a contract for a fiscal agent, the county auditor of the county in which a CBCF is located or of any county in which a district CBCF is located must provide fiscal services to the facility governing board. The county auditor must be reasonably reimbursed for these fiscal services. However, a county auditor is not obligated to provide fiscal services to a nonprofit or private entity that has entered into a management contract with a facility governing board.

### **Funding and audits**

A facility governing board may apply to the Division for state financial assistance for the cost of renovation, maintenance, and operation of any of the facilities and programs. An application may be made when the board submits its proposal for approval or at any time after the Division has approved the proposal. The board may submit a request for funding of some or all of its facilities and programs to the board or boards of county commissioners. The commissioners may but are not required to appropriate money for funding all aspects of each facility and program. The facility governing board has no recourse against a board of county commissioners for not appropriating any or all of the requested amount. (R.C. 2301.56(A) and (B).)

A board of county commissioners may require a person who was convicted of an offense and who is confined in a CBCF to reimburse the county for its expenses incurred by reason of the person's confinement (R.C. 2301.56(C)).

CBCFs are public offices subject to audit under R.C. 117.10 and private entities that contract to manage them are also subject to audit under R.C. 117.10. The audits must include financial audits and, in addition, in specified circumstances, performance audits by the Auditor of State. The Auditor must conduct financial and performance audits within two years after a CBCF is established and a financial audit at least once every two fiscal years thereafter. At any time, the DRC or the facility governing board may request, or the Auditor of State on its own initiative may undertake, a performance audit. (R.C. 2301.56(D).)

DRC must prepare and provide to the Auditor quarterly financial reports for each CBCF and, to the extent that information is available, for each private or nonprofit entity that performs the day-to-day operation of any CBCF. Each report must cover a three-month period and be provided to the Auditor of State not later than 15 days after the end of the period covered by the report. (R.C. 2301.56(E).)

### **Dissolution or termination of participation**

If a court of common pleas that is being served by a CBCF determines that it no longer wants to be served by the CBCF, the facility governing board, upon the advice of the judicial advisory board, may dissolve the facility by notifying, in writing, the Division of Parole and Community Services of the determination to dissolve the facility. If the court is served by more than one CBCF, the governing board, upon the advice of the judicial advisory board, may dissolve some or all of the facilities and programs. (R.C. 2301.51(D)(1).)

If all of the courts of common pleas being served by one or more district CBCFs determine that they no longer want to be served by the CBCF, the facilities and programs may be dissolved in the same manner. If at least one, but not all, of the courts being served by one or more district CBCFs determines that it no longer wants to be served, the court may terminate its involvement with each of the facilities and programs by making a journal entry to that effect notifying the Division of Parole and Community Services. A court may use a facility and program by remaining as a member county of the district CBCF or by making a written service agreement with the facility governing board without remaining as a member county. (R.C. 2301.51(D)(2) and (3).)

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	01-24-08

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