Ohio Legislative Service Commission

Bill Analysis

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Sub. S.B. 22*

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(As Reported by S. Judiciary - Criminal Justice)

Sen. Seitz

BILL SUMMARY

- Increases from $500 to $1,000 the initial threshold amount that is used in determining increased penalties, generally from a misdemeanor to a felony, for theft-related offenses and for certain non-theft-related offenses, and increases by 50% the other threshold amounts that are used in determining the other increased penalties for those offenses.

- Regarding the offense of vandalism, increases from $500 to $1,000 the threshold amount of the value of property or amount of physical harm that is required to commit the offense by knowingly causing physical harm to property owned or possessed by another and used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation and the threshold amount of loss to the value of property necessary to constitute serious physical harm for any of the prohibitions under the offense that prohibit causing serious physical harm to specified property and increases by 50% the property value thresholds used in determining the penalty for the offense.

- In the definition of "corrupt activity" that applies to the offense of engaging in a pattern of corrupt activity, increases from $500 to $1,000 the property valuations that are used in determining whether certain criminal activity constitutes corrupt activity.

- Provides that, if the offense of "nonsupport of dependents" is based on an abandonment of or failure to support a child or a person to whom a court order requires support and is a felony, the sentencing court generally must first consider

* This analysis was prepared before the report of the Senate Judiciary - Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

placing the offender on one or more community control sanctions and provides that this preference does not apply: (1) if the court determines that the imposition of a prison term is consistent with the purposes and principles of sentencing, or (2) if the offender previously was convicted of or pleaded guilty to "nonsupport of dependents" that is a felony, the conviction or guilty plea occurred on or after this amendment's effective date, and the offender either was sentenced to a prison term for the violation or was sentenced to one or more community control sanctions and the offender failed to comply with the conditions of the sanctions.

- Modifies the offense of "escape" as follows: (1) enacts a new prohibition within the offense that parallels the current prohibition but applies only to a person under "supervised release detention" and only if the person's purposeful breaking, attempting to break, or failure to return is for a period in excess of nine consecutive months, (2) defines "supervised release detention" as detention that is supervision of a person by a Department of Rehabilitation and Correction (DRC) employee while the person is on any type of release from a state correctional institution, other than transitional control or Parole Board placement in a community-based correctional facility, (3) specifies that an existing consecutive sentence requirement does not apply to a conviction under the new prohibition, and (4) specifies that a person under supervised release detention who engages in conduct similar to that prohibited under the new prohibition, but for a period that does not exceed nine consecutive months is subject to administrative sanctions that may be imposed by the Adult Parole Authority (APA).

- Revises the mechanism pursuant to which a prisoner in a state correctional institution, other than one who is ineligible under the mechanism because of specified statutory exclusions, currently may earn one day of credit as a monthly deduction from the prisoner's prison term for productive participation in specified prison programs so that: (1) certain prisoners, unless ineligible for the mechanism under disqualifying provisions expanded by the bill, may earn five days of credit for completion of a specified program, (2) other prisoners, unless ineligible for the mechanism under disqualifying provisions expanded by the bill, who are imprisoned for any of a list of specified, serious offenses, may earn one day of credit for completion of a specified program, (3) the total number of days of earned credit a prisoner may earn under the mechanism cannot exceed 8% of the total number of days in the prisoner's stated prison term, (4) the types of programs that may be available for earning days of credit under the mechanism will be limited to education, vocational training, prison industry employment, and substance abuse treatment (sex offender treatment programs and other "constructive programs" developed by DRC are removed), (5) prisoners serving a sentence for a sexually oriented offense are not eligible for the mechanism, and (6) a few other procedures regarding the mechanism are modified.

- Requires that a prisoner who is placed on post-release control from the prisoner's stated prison term by reason of earning 60 or more days of credit for participation in certain programs be subject to active GPS supervision by the APA for the first 14 days after release from imprisonment.

- Authorizes the Director of DRC to petition the sentencing court for the judicial release of an inmate with a stated prison term of one year or more who has served at least 85% of the term, and under the provisions: (1) prohibits release pursuant to a DRC petition of an inmate serving a life term, a mandatory prison term imposed for conviction of a firearm specification, a specification charging discharge of a firearm at a peace officer or corrections officer, or a repeat violent offender specification, or a term for any of a list of specified felonies, (2) establishes procedures for filing, hearing, and determining DRC petitions, (3) requires that an inmate released pursuant to a DRC petition be placed under APA supervision and requires GPS monitoring in specified cases, to be paid for by the offender or, if the offender is indigent, from the Reparations Fund, (4) provides for notice of a hearing to a victim who requests notice, requires a court to consider a victim's statement in determining whether to grant release, and requires posting of petitions, notices of hearings, and determinations on the DRC Internet database, and (5) requires the Attorney General to include information on DRC petitions in the victim's bill of rights pamphlet.

- Requires the Chair of the Parole Board or the Chair's designee to review the cases of all parole-eligible inmates who are 65 or older and who have had a statutory first parole consideration hearing, requires the Chair to present to the Board the cases of the offenders described in the preceding clause, and authorizes the Board upon presentation of the case of an offender to choose to rehear the offender's case for possible release on parole.

- Removes judges from the membership of a corrections commission and instead has them form an advisory board, and makes other changes regarding the commission.

- Provides for the establishment and operation by counties or affiliated groups of counties of community alternative sentencing centers for confining misdemeanants who are sentenced directly to the centers by the court under a community residential sanction imposed under state law or a municipal ordinance not exceeding 30 days or under a term of confinement for an OVI offense imposed under state law or a municipal ordinance, which may include a mandatory jail term or mandatory term of local incarceration, not exceeding 30 days.

- Revises procedures for notification of victims when violent offenders escape from DRC by requiring DRC's Office of Victim Services to notify each victim of a felony offense of violence of their offender's escape and, if applicable, of such offender's

subsequent apprehension, allows the Office of Victim Services to request assistance from the prosecuting attorney of the county in which the offender was convicted in identifying and locating the victim of the offense, requires the prosecuting attorney to promptly provide such information, and removes the authority of the victim-related member of the Parole Board to approve the hiring of employees of the Office of Victim Services.

- Eliminates the distinction between the criminal penalties provided for drug offenses involving crack cocaine and those offenses involving powder cocaine, and provides a penalty for all such drug offenses involving any type of cocaine that generally has a severity that is between the two current penalties (penalties when lower amounts of cocaine are involved generally are closer to the current penalties when similar amounts of cocaine that is not crack cocaine are involved and penalties when higher amounts of cocaine are involved generally are closer to the current penalties when similar amounts of crack cocaine are involved), and also provides that, in specified circumstances regarding an offender who is guilty of "possession of cocaine," R.C. 2929.13(B) applies in determining whether to impose a prison term on the offender instead of a presumption for a prison term (R.C. 2929.13(B), in effect, imposes a presumption against a prison term).

- For the offenses of "trafficking in marihuana," "trafficking in hashish," "possession of marihuana," and "possession of hashish," creates a new category of the amount of the drug involved and provides for a potentially shorter mandatory prison term than under current law if the amount of the drug involved in the offense committed by an offender is within the new category.

- Provides that, in specified circumstances regarding an offender who is guilty of "trafficking in marihuana" or "trafficking in hashish," R.C. 2929.13(B) applies in determining whether to impose a prison term on the offender, instead of there being neither a presumption for nor a presumption against a prison term (R.C. 2929.13(B), in effect, imposes a presumption against a prison term).

- Revises the definition of "eligible offender" for purposes of the Judicial Release Law and the time periods within which an eligible offender may file a motion for judicial release so that: (1) "eligible offender" means a person who, on or after April 7, 2009, is serving a stated prison term that includes one or more nonmandatory prison terms that in the aggregate are ten years or less, and (2) a motion for judicial release may be made during the following time periods: (a) if the aggregate of nonmandatory prison terms is under two years, after the offender has served 30 days, (b) if the aggregate of nonmandatory prison terms is at least two but less than five years, after the offender has served 180 days, (c) if the aggregate of nonmandatory prison terms is five years, after the offender has served four years,

and (d) if the aggregate of nonmandatory prison terms is more than five but less than ten years, after the offender has served five years.

- Modifies the provisions governing intervention in lieu of conviction (ILC) as follows: (1) specifies that ILC is available to persons charged with specified theft or nonsupport offenses, (2) authorizes ILC for an offender whose mental illness or retardation contributed to the person's criminal behavior, (3) requires that a request for ILC include a statement as to whether the offender alleges that drug or alcohol use or mental illness or retardation contributed to the offense, (4) provides that the court may order that an offender alleging that drug or alcohol use contributed to the offense be assessed by a certified program or credentialed professional for ILC eligibility, (5) prohibits ILC for an offender who has previously been convicted of a felony offense of violence or previously has been convicted of a felony that is not an offense of violence unless the prosecuting attorney recommends that the offender be found eligible for participation in ILC (currently it is prohibited for offenders with any prior felony conviction), (6) eliminates restrictions on eligibility for ILC for an offender charged with a drug trafficking offense that is not a felony of the first, second, third, or fourth degree, (7) eliminates restrictions on eligibility for ILC for an offender charged with a drug possession offense that is a felony of the fourth degree, (8) provides that a criterion for eligibility for ILC for an offender who alleges that drug or alcohol use contributed to the offense is assessment by a certified program or properly credentialed professional and the assessment is filed with the court, (9) provides that a criterion for eligibility for ILC for an offender who alleges that mental illness or retardation contributed to the offense is assessment and a recommended intervention plan by a psychiatrist, psychologist, independent social worker, or professional clinical counselor, and (10) requires a court to find that the offender participated in treatment and recovery support services before dismissing the proceeding.

- Modifies the current provisions for medical release by the Governor of an inmate who is terminally ill, medically incapacitated, or in imminent danger of death to: (1) specify that the inmate cannot not be released until an appropriate placement in a certified skilled nursing facility located in Ohio has been secured for the inmate and the skilled nursing facility has secured a funding source for the placement, (2) specify criteria that a skilled nursing facility must satisfy to be used for this purpose, (3) specify that the Nursing Home Patients' Bill of Rights does not apply to an inmate receiving care in a skilled nursing home facility under the provisions, and (4) provide other requirements and procedures that apply regarding a skilled nursing facility used for this purpose.

- Expands the categories of released prisoners that DRC may require to reside in a halfway house or community residential center, revises the rules for determining

payment for beds and services at those facilities, specifies that those facilities may provide and be paid for electronic monitoring services for offenders under APA supervision, and extends provisions that apply to halfway houses and community residential centers to also apply to reentry centers.

- Regarding DRC's issuance of an inmate identification card upon the inmate's release that the inmate may present to the Registrar of Motor Vehicles or a deputy registrar, removes the authority of DRC's Director to adopt rules to implement those provisions, and provides that, when a person applies for a state identification card, an identification card issued by DRC upon an inmate's release is sufficient documentary evidence as required by the Registrar of Motor Vehicles of the applicant's age and identity upon verification of the applicant's Social Security number by the Registrar or a deputy registrar.

- Requires DRC, together with the Department of Alcohol and Drug Addiction Services, to develop an implementation plan related to any funding approved through the federal Second Chance Act related to community reentry of offenders.

- Changes the membership of the Ex-offender Reentry Coalition by reducing the number and functions of members from the Governor's office and adding the Director of Veterans Services.

- Specifies that: (1) generally, DRC must prepare a written reentry plan for each inmate committed to it to help guide the inmate's rehabilitation program during imprisonment, to assist in the inmate's reentry into the community, and to assess the inmate's needs upon release, (2) the reentry plan requirement does not apply to an inmate who has been sentenced to life imprisonment without parole or who has been sentenced to death or an inmate who is expected to be imprisoned for 30 days or less (but authorizes DRC to prepare a written reentry plan of the type described in the requirement if it determines the plan is needed), (3) DRC may collect, if available, social and other information to aid in the preparation of reentry plans, and (4) that if DRC does not prepare a written reentry plan as specified in clause (1) of this dot point, or makes a decision to not prepare a written reentry plan under the provision described in clause (2) of this dot point or to not collect information as described in clause (3) of this dot point, that fact does not give rise to a claim for damages against the state, DRC, DRC's Director, or any DRC employee.

- Except for the Chairperson, except for the member who has been a victim, is a member of a victim's family, or represents a victims' advocacy organization, and except as described in the next dot point, limits members of the Parole Board to two six-year terms.

- Provides the following special provisions regarding terms of members of the Parole Board on the bill's effective date: (1) a member on that date who has served less than six years will have the time so served applied toward a six-year term and at the end of that six-year term is eligible for reappointment to an additional six-year term, (2) a member on that date who has served at least six years but less than 12 years will have six of the years so served applied toward the first six-year term and the remaining time so served applied toward a second six-year term, is to serve the remainder of that second six-year term, and at the end of that second six-year term is not eligible for reappointment, and (3) a member on that date who has served 12 years or longer is to serve until a successor member is appointed or a period of six months after the bill's effective date has elapsed, whichever occurs first, and after the end of that service is eligible for reappointment to an additional six-year term.

- Authorizes, instead of requiring, DRC to discontinue subsidy payments to a political subdivision that is a recipient of a community-based corrections subsidy payment and that reduces, by the amount of the subsidy it receives or by a greater or lesser amount, the amount of local, nonfederal funds it expends for corrections or that uses the subsidy or any portion of a subsidy to make capital improvements.

- Modifies the number of Parole Board members required to conduct a full Board meeting from a "minimum of seven" Board members to a "majority" of Board members.

- Adds to the membership of a county local corrections planning board: (1) the executive director of the board of alcohol, drug addiction, and mental health services serving that county or the executive director's designee, or the executive directors of both the community mental health board and the alcohol and drug addiction services board serving that county or their designees, whichever is applicable, (2) the executive director of the county board of mental retardation and developmental disabilities of that county or the executive director's designee, (3) an administrator of a halfway house serving that county, if any, or the administrator's designee, (4) an administrator of a community-based correctional facility, if any, serving the court of common pleas of that county or the administrator's designee, and (5) an administrator of a community corrections act-funded program in that county, if any, or the administrator's designee.

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CONTENT AND OPERATION

Penalties for theft-related and certain non-theft-related offenses

Existing law

Under existing law, the penalties for many theft-related offenses and for certain other non-theft-related offenses are increased as the value of the victim's loss, or the value of the property or loss that otherwise was the subject of the offense, increases. Generally, for the offenses, a default penalty (generally a misdemeanor) is provided and that penalty applies unless the value of the property or loss involved in the offense reaches or exceeds a specified threshold. If the specified threshold value is reached or exceeded, an increased penalty (generally a felony) is provided. Generally, for the offenses, the initial threshold amount that must be reached or exceeded for the penalty to be increased above the default penalty is $500. For some of the offenses, additional threshold amounts in excess of $500 are provided (e.g., for violations of R.C. 2913.02, in addition to the initial $500 threshold, there are additional threshold amounts of $5,000, $100,000, $500,000, and $1 million, etc.), and, if the value of the property or loss involved in the offense reaches or exceeds the higher threshold amount, the penalty is increased above the increased penalty that is provided when the value of the property or loss involved in the offense reaches or exceeds $500.

The offenses to which penalty provisions of the type described in the preceding paragraph apply are: operating as an agricultural commodities handler without a license when insolvent; proposing, planning, preparing, or operating a pyramid sales plan or program; certain violations of the state's securities law; solicitation fraud; arson, when committed in specified circumstances; vandalism, petty theft and theft; theft from an elderly person or disabled adult; unauthorized use of a vehicle when committed in specified circumstances; unauthorized use of property when committed in specified circumstances; unauthorized use of computer, cable, or telecommunications property when committed in specified circumstances; passing bad checks; misuse of credit cards

when committed in specified circumstances; forgery when committed in specified circumstances; criminal simulation; trademark counterfeiting when committed in specified circumstances; Medicaid fraud; Medicaid eligibility fraud; tampering with records when committed in specified circumstances; illegally transmitting multiple commercial electronic mail messages; securing writings by deception; defrauding creditors; illegal use of food stamps of WIC program benefits; insurance fraud; Workers' Compensation fraud; identity fraud; receiving stolen property; cheating; telecommunications harassment in specified circumstances; inducing panic when committed in specified circumstances; making false alarms when committed in specified circumstances; falsification in a theft offense; theft in office; and interference with or diminishing forfeitable property. (R.C. 926.99, 1333.99, 1707.99, 1716.99, 2909.03, 2909.05, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42, 2913.421, 2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2915.05, 2917.21, 2917.31, 2917.32, 2921.13, 2921.41, and 2981.07.)

Existing law also provides procedures for determining the value of property involved in the alleged offense when a person is charged with arson, vandalism, a theft offense, or solicitation fraud and the value is relevant in determining whether the $500 threshold regarding increased penalties for the offense has been reached or exceeded (R.C. 2909.11 and 2913.61).

Operation of the bill

For the offenses to which the penalty provisions of the type described above in "**Existing law**" apply, other than vandalism, the bill increases from $500 to $1,000 the initial threshold amount of the value of the property or loss involved in the offense that must be reached or exceeded for the penalty to be increased above the default penalty (R.C. 926.99, 1333.99, 1707.99, 1716.99, 2909.03, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42, 2913.421, 2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2915.05, 2917.21, 2917.31, 2917.32, 2921.13, 2921.41, and 2981.07; see "**Application of theft-related, certain non-theft-related, vandalism-related, and corrupt activity-related provisions in the bill**," below).

For the offenses to which the penalty provisions of the type described above in "**Existing law**" apply and for which threshold amounts of the value of the property or loss involved in the offense in excess of $500 are provided for use in determining the penalty for the offense, the bill also increases by 50% all of those threshold amounts in excess of $500 (e.g., for violations of R.C. 2913.02, the over-$500 thresholds amounts are increased from $5,000 to $7,500, from $100,000 to $150,000, from $500,000 to $750,000, and from $1,000,000 to $1,500,000, etc.) (R.C. 926.99, 1333.99, 1716.99, 2909.05, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.40, 2913.401, 2913.42,

2913.43, 2913.45, 2913.46, 2913.47, 2913.48, 2913.49, 2913.51, 2917.21, 2917.31, 2917.32, 2921.13, 2921.41, and 2981.07).

The bill also makes conforming changes in the existing procedures for determining the value of property involved in the alleged offense when a person is charged with arson, vandalism, a theft offense, or solicitation fraud and the value is relevant in determining whether the $500, changed to $1,000, threshold regarding increased penalties for the offense, or the other increased thresholds regarding increased penalties for the alleged offense have been reached or exceeded (R.C. 2909.11 and 2913.61).

Offense of vandalism

Existing law

Existing law prohibits a person from knowingly doing any of the following: (1) causing "serious physical harm" to an occupied structure or any of its contents, (2) causing physical harm to property owned or possessed by another, when either the property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation, and *the value of the property or the amount of physical harm involved is $500 or more*, or regardless of the value of the property or the amount of damage done, the property or its equivalent is necessary in order for its owner or possessor to engage in the owner's or possessor's profession, business, trade, or occupation, (3) causing "serious physical harm" to property owned, leased, or controlled by a governmental entity, or (4) without privilege to do so, causing "serious physical harm" to any tomb, monument, gravestone, or other similar structure used as a memorial for the dead; to any fence, railing, curb, or other property that is used to protect, enclose, or ornament any cemetery; or to a cemetery. For purposes of these prohibitions, "serious physical harm" means physical harm to property that results in *loss to the value of the property $500 or more*.

A violation of any of these prohibitions is the offense of vandalism. Vandalism generally is a felony of the fifth degree punishable by a fine of up to $2,500 in addition to the penalties otherwise specified for a felony of the fifth degree, but if the value of the property or the amount of physical harm involved is $5,000 but less than $100,000, it is a felony of the fourth degree, and if the value of the property or the amount of physical harm involved is $100,000, it is a felony of the third degree. (R.C. 2909.05.)

Existing law also provides procedures for determining the value of property involved in the alleged offense when a person is charged with a violation of any of the prohibitions and the value is relevant in determining whether the $500 threshold regarding certain elements of the offense has been proved (R.C. 2909.11).

Operation of the bill

The bill increases from $500 to $1,000 the threshold amount of the value of the property that is relevant in determining: (1) whether the offense of vandalism has been committed based upon knowingly causing physical harm to property owned or possessed by another when the property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation or (2) whether "serious physical harm" has been committed for purposes of any of the prohibitions under the offense of vandalism that require as an element of the prohibition the causing of serious physical harm to property. The bill also increases by 50% the property-value thresholds used in determining the penalty for the offense (e.g., from $5,000 to $7,5000 and from $100,000 to $150,000). (R.C. 2909.05.)

The bill also makes conforming changes in the existing procedures for determining the value of property involved in the alleged offense when a person is charged with a violation of any of the prohibitions and the value is relevant in determining whether the $500, changed to $750, threshold regarding certain elements of the offense has been proved or whether the thresholds used in determining the penalty for the offense have been reached or exceeded (R.C. 2909.11; see "**Application of theft-related, certain non-theft-related, vandalism-related, and corrupt activity-related provisions in the bill**," below).

Offense of engaging in a pattern of corrupt activity

Existing law

Existing law prohibits a person from doing any of the following: (1) if the person is employed by, or associated with, any enterprise, from conducting or participating in, directly or indirectly, the affairs of the enterprise through a "pattern of corrupt activity" (see below) or the collection of an unlawful debt, (2) through a pattern of corrupt activity or the collection of an unlawful debt, from acquiring or maintaining, directly or indirectly, any interest in, or control of, any enterprise or real property, or (3) if the person knowingly has received any proceeds derived, from directly or indirectly and through a pattern of corrupt activity or the collection of any unlawful debt, from using or investing, directly or indirectly, any part of those proceeds, or any proceeds derived from the use or investment of any of those proceeds, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise. A violation of any of the prohibitions is the offense of engaging in a pattern of corrupt activity. (R.C. 2923.32, not in the bill.)

As used in the provisions described in the preceding paragraph, "pattern of corrupt activity" means two or more incidents of "corrupt activity" (see below), whether or not there has been a prior conviction, that are related to the affairs of the same

enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event. At least one of the incidents forming the pattern must occur on or after January 1, 1986, and, unless any incident was an aggravated murder or murder, the last of the incidents forming the pattern must occur within six years after the commission of any prior incident forming the pattern, excluding any period of imprisonment served by any person engaging in the corrupt activity. As used in the definition of pattern of corrupt activity, "corrupt activity" means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in any of the following (R.C. 2923.31):

(1) Conduct defined as "racketeering activity" under the federal "Organized Crime Control Act of 1970";

(2) Conduct constituting any of the following:

(a) A violation of R.C. 1315.55, 1322.02, 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2905.01, 2905.02, 2905.11, 2905.22, 2907.321, 2907.322, 2907.323, 2909.02, 2909.03, 2909.22, 2909.23, 2909.24, 2909.26, 2909.27, 2909.28, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2913.05, 2913.06, 2921.02, 2921.03, 2921.04, 2921.11, 2921.12, 2921.32, 2921.41, 2921.42, 2921.43, 2923.12, 2923.17, 1315.53(F)(1)(a), (b), or (c), 1707.042(A)(1) or (2), 1707.44(B), (C)(4), (D), (E), or (F), 2923.20(A)(1) or (2), 4712.02(J)(1), 4719.02, 4719.05, 4719.06, 4719.07(C), (D), or (E), 4719.08, or 4719.09(A);

(b) A violation of R.C. 3769.11, 3769.15, 3769.16, or 3769.19 as it existed prior to July 1, 1996, a violation of R.C. 2915.02 that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of R.C. 3769.11, or a violation of R.C. 2915.05 that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would have been a violation of R.C. 3769.15, 3769.16, or 3769.19;

(c) A violation of R.C. 2907.21, 2907.22, 2907.31, 2913.02, 2913.11, 2913.21, 2913.31, 2913.32, 2913.34, 2913.42, 2913.47, 2913.51, 2915.03, 2925.03, 2925.04, 2925.05, or 2925.37, a violation of R.C. 2925.11 that is a felony of the first, second, third, or fourth degree and that occurs on or after July 1, 1996, a violation of R.C. 2915.02 that occurred prior to July 1, 1996, a violation of R.C. 2915.02 that occurs on or after July 1, 1996, and that, had it occurred prior to that date, would not have been a violation of R.C. 3769.11, a violation of R.C. 2915.06 as it existed prior to July 1, 1996, or a violation of R.C. 2915.05(B) as it exists on and after July 1, 1996, *when the proceeds of the violation, the payments made in the violation, the amount of a claim for payment or for any other benefit that is false or deceptive and that is involved in the violation, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation exceeds $500*, or any combination of violations described in this paragraph *when the total proceeds of the*

combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds $500;

(d) A violation of R.C. 5743.112 when the amount of unpaid tax exceeds $100;

(e) A violation or combination of violations of R.C. 2907.32 involving any material or performance containing a display of bestiality or of sexual conduct that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice *when the total proceeds of the violation or combination of violations, the payments made in the violation or combination of violations, or the value of the contraband or other property illegally possessed, sold, or purchased in the violation or combination of violations exceeds $500*;

(f) A combination of violations described in (2)(c), above, and violations of R.C. 2907.32 involving any material or performance containing a display of bestiality or of sexual conduct that is explicit and depicted with clearly visible penetration of the genitals or clearly visible penetration by the penis of any orifice *when the total proceeds of the combination of violations, payments made in the combination of violations, amount of the claims for payment or for other benefits that is false or deceptive and that is involved in the combination of violations, or value of the contraband or other property illegally possessed, sold, or purchased in the combination of violations exceeds $500*.

(3) Conduct constituting a violation of any law of any state other than Ohio that is substantially similar to the conduct described in (2)(a) to (f), above, provided the defendant was convicted of the conduct in a criminal proceeding in the other state;

(4) Animal or ecological terrorism;

(5) Conduct constituting any of the following: (a) "organized retail theft" (defined as the theft of retail property *with a retail value of $500 or more* from one or more retail establishments with the intent to sell, deliver, or transfer that property to a retail property fence), or (b) conduct that constitutes one or more violations of any law of any state other than Ohio, that is substantially similar to organized retail theft, and that if committed in Ohio would be "organized retail theft," if the defendant was convicted of or pleaded guilty to the conduct in a criminal proceeding in the other state.

Operation of the bill

In all places in the definition of "corrupt activity" or the definition of "organized retail theft" that are set forth above in "**Existing law**" in which there is a reference to a property valuation equaling or exceeding $500, the bill increases the amount of the

property valuation in the reference to $1,000. (R.C. 2923.31; see "**Application of theft-related, certain non-theft-related, vandalism-related, and corrupt activity-related provisions in the bill**," below.)

Application of theft-related, certain non-theft-related, vandalism-related, and corrupt activity-related provisions in the bill

The bill specifies that: (1) its amendments described above in "**Penalties for theft-related and certain non-theft-related offenses**," "**Offense of vandalism**," and "**Offense of engaging in a pattern of corrupt activity**" apply to a person who commits an offense specified or penalized under any of the Revised Code sections containing those amendments on or after the bill's effective date and to a person to whom R.C. 1.58(B), as described below, makes the amendments applicable, (2) the provisions of the Revised Code sections containing the amendments described in those parts of this analysis as they existed prior to the bill's effective date apply to a person upon whom a court imposed sentence prior to its effective date for an offense specified or penalized under those sections, and (3) that its amendments described in those parts of this analysis do not apply to a person upon whom a court imposed sentence prior to the bill's effective date for an offense specified or penalized under any of the sections containing those amendments (Section 5). R.C. 1.58(B), not in the bill, specifies that, if the penalty, forfeiture, or punishment for any offense is reduced by a reenactment or amendment to a statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute as amended.

Sentencing for nonsupport of dependents

Existing law

Existing law prohibits any person from abandoning, or failing to provide adequate support to, the person's child who is under 18 years of age or mentally or physically handicapped child who is under 21 years of age. It also prohibits any person from abandoning, or failing to provide support as established by a court order to, another person whom the person is legally obligated by court order or decree to support. A violation of either of the above prohibitions is "nonsupport of dependents" (see **COMMENT** 1) generally a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to nonsupport of dependents committed by a violation of either prohibition or if the offender has failed to provide support under either prohibition for a total accumulated period of 26 weeks out of 104 consecutive weeks, whether or not the 26 weeks were consecutive, then a violation of either prohibition is a felony of the fifth degree. If the offender previously has been convicted of or pleaded guilty to a felony offense of nonsupport of dependents, a violation of either prohibition is a felony of the fourth degree. (R.C. 2919.21.)

Operation of the bill

The bill provides that, if the violation of either of the prohibitions described above in "**Existing law**" is a felony, all of the following apply to the sentencing of the offender (R.C. 2919.21):

(1) Except as otherwise described in (2), below, the court in imposing sentence on the offender must first consider placing the offender on one or more community control sanctions under R.C. 2929.16, 2929.17, or 2929.18, with an emphasis under the sanctions on intervention for nonsupport, obtaining or maintaining employment, or another related condition.

(2) The preference for placement on community control sanctions described in (1), above, does not apply to any offender to whom one or more of the following applies: (a) the court determines that the imposition of a prison term on the offender is consistent with the purposes and principles of sentencing set forth in R.C. 2929.11, (b) the offender previously was convicted of or pleaded guilty to felony nonsupport of dependents, the conviction or guilty plea occurred on or after the bill's effective date, and the offender was sentenced to a prison term for that violation, or (c) the offender previously was convicted of or pleaded guilty to felony nonsupport of dependents, the conviction or guilty plea occurred on or after the bill's effective date, the offender was sentenced to one or more community control sanctions of a type described in (1), above, for that violation, and the offender failed to comply with the conditions of any of those community control sanctions.

Offense of escape; persons under Department of Rehabilitation and Correction supervision and sanctions for violation

Definition of detention and offense of escape

Existing law

Existing law provides that a person is guilty of the crime of escape if the person, knowing the person is under "detention" (see below) or being reckless in that regard, purposely breaks or attempts to break the detention, or purposely fails to return to detention, either following temporary leave granted for a specific purpose or limited period, or at the time required when serving a sentence in intermittent confinement (R.C. 2921.34, not in the bill).

Currently, R.C. 2921.01 defines "detention" to mean, for purposes of R.C. 2921.01 to 2921.45, arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in Ohio or another state or under the laws of the

United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of R.C. 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as described in this paragraph, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; *supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a state correctional institution*; or confinement in any vehicle, airplane, or place while being returned from outside of this state into this state by a private person or entity pursuant to a contract entered into under R.C. 311.29(E) or R.C. 5149.03(B).

Operation of the bill

The bill specifies that the current prohibition comprising the offense of "escape," described above in "**Existing law**," does not apply to a person who is under "supervised release detention" (see below). It enacts a new prohibition within the offense that parallels the current prohibition, but that applies only to a person on supervised release detention. The new prohibition prohibits a person, knowing the person is under supervised release detention or being reckless in that regard, from purposely breaking or attempting to break the supervised release detention or purposely failing to return to the supervised release detention, either following temporary leave granted for a specific purpose or limited period, or at the time required when serving a sentence in intermittent confinement, if the purposeful breaking, attempting to break, or failure to return *is for a period in excess of nine consecutive months*. The penalties for the offense that apply to a violation of the current prohibition under existing law also apply to a person who violates the new prohibition.

The bill also specifies that, if a person, knowing the person is under supervised release detention or being reckless in that regard, purposely breaks or attempts to break the supervised release detention or purposely fails to return to the "supervised release detention" (see below), either following temporary leave granted for a specific purpose or limited period, or at the time required when serving a sentence in intermittent confinement, and if the purposeful breaking, attempting to break, or failure to return *is for a period that does not exceed nine consecutive months*, the person is subject to administrative sanctions that may be imposed by the Adult Parole Authority (APA) under R.C. 2967.15 (see **COMMENT** 2).

The bill defines "supervised release detention" for purposes of these provisions as detention that is supervision of a person by an employee of the Department of Rehabilitation and Correction (DRC) while the person is on any type of release from a

state correctional institution, other than transitional control under R.C. 2967.26 or placement in a community-based correctional facility by the Parole Board under R.C. 2967.28. (R.C. 2921.34.)

The bill specifies that an existing consecutive sentence requirement that currently applies regarding a person who is convicted of and sentenced for the offense of escape does not apply to a conviction under the new prohibition described in the third preceding paragraph (R.C. 2929.14(E)(2)).

Earned credits for program participation by prisoners in a Department of Rehabilitation and Correction Institution

Existing law

Under existing law, a person confined in a state correctional institution may earn one day of credit as a deduction from the person's stated prison term for each full month during which the person productively participates in an education program, vocational training, employment in prison industries, treatment for substance abuse, *treatment as a sex offender*, or any other constructive program developed by DRC with specific standards for performance by prisoners. However, a person who is serving a sentence of life imprisonment without parole under R.C. 2929.03 or 2929.06 (for aggravated murder) or a prison term or a term of life imprisonment without parole under R.C. 2971.03 (the Sexually Violent Predator Sentencing Law), and a person who is prohibited from earning the credits by R.C. 2929.13, 2929.14, or 2967.13 may not earn credit under this provision. At the end of each calendar month in which an eligible prisoner productively participates in a program or activity, DRC must deduct one day from the date on which the prisoner's stated prison term will expire. If a prisoner is released before the expiration of the prisoner's stated prison term by reason of credit earned for program participation, DRC must retain control of the prisoner by means of an appropriate post-release control sanction imposed by the Parole Board until the end of the stated prison term if the Parole Board imposes a post-release control sanction pursuant to R.C. 2967.28. If the Parole Board is not required to impose a post-release control sanction, it may elect not to impose one. (R.C. 2967.193.)

Operation of the bill

Under the bill, subject to the maximum total specified below, a person confined in a state correctional institution may earn one day *or five days* of credit, determined based on the category described below in which the person is included, as a deduction from the person's stated prison term for each completed month during which the person productively participates in an education program, vocational training, employment in prison industries, or treatment for substance abuse as developed by DRC with specific standards for performance by prisoners (sex offender treatment and

other constructive programs are removed from the list). However, the bill specifies that no person *who is serving a sentence for a sexually oriented offense*, as defined in the existing Sex Offender Registration and Notification Act (added by the bill; see **COMMENT** 3), as well as no person who is barred under existing law from earning credits, may be awarded any days of credit under this provision. The total number of days of earned credit that a person may earn under the provision cannot exceed 8% of the total number of days in the person's stated prison term.

The bill retains existing law that specifies that: (1) if the prisoner violates prison rules, DRC may deny the prisoner a credit that otherwise could have been awarded to the prisoner or may withdraw one or more credits previously earned by the prisoner, and (2) DRC must adopt rules that specify the programs or activities for which credit may be earned under the provision, the criteria for determining productive participation in the programs or activities and for awarding credit, and the criteria for denying or withdrawing previously earned credit as a result of a violation of prison rules. (R.C. 2967.193(A), (B), (C), and (E).)

Under the bill, the determination of whether a person confined in a state correctional institution may earn one day of credit or five days of credit under this provision for each completed month during which the person productively participates in a program specified under that division is to be made in accordance with the following (R.C. 2967.193(D)):

(1) The offender may earn one day of credit under the provision, except if the offender is barred from earning any days of credit as described above, if the most serious offense for which the offender is confined is any of the following that is a felony of the first or second degree: (a) a violation of R.C. 2903.11, 2903.15, 2905.01, 2907.21, 2907.24, 2907.25, 2909.02, 2909.09, 2909.10, 2909.101, 2909.26, 2909.27, 2909.29, 2911.01, 2911.02, 2911.11, 2911.12, 2919.13, 2919.151, 2919.22, 2921.34, 2923.01, 2923.131, 2923.162, 2923.32, 2925.24, or 2927.24, or (b) a conspiracy or attempt to commit, or complicity in committing, aggravated murder, murder, any other offense for which the maximum penalty is death or imprisonment for life, or any offense listed in clause (a) of this paragraph.

(2) The offender may earn five days of credit under the provision, except if the offender is barred from earning any days of credit as described above, if the most serious offense for which the offender is confined is a felony of the first or second degree and paragraph (1), above, does not apply to the offender, or if the most serious offense for which the offender is confined is a felony of the third, fourth, or fifth degree or an unclassified felony.

Active GPS monitoring of certain prisoners after release

Under existing law, before a prisoner is released from imprisonment in a state correctional institution, the Parole Board must in specified cases and may in other cases, impose upon the prisoner one or more post-release control sanctions to apply during the prisoner's period of post-release control (in certain cases, the sentencing court performs this duty). Whenever the Board or court imposes one or more post-release control sanctions upon a prisoner, the board or court, in addition to imposing the sanctions, also must include as a condition of the post-release control that the offender not leave the state without permission of the court or the offender's parole or probation officer and that the offender abide by the law. The board or court may impose any other conditions of release under a post-release control sanction that the board or court considers appropriate, and the conditions of release may include any community residential sanction, community nonresidential sanction, or financial sanction that the sentencing court was authorized to impose pursuant to the Felony Sentencing Law. Prior to the release of a prisoner for whom it will impose one or more post-release control sanctions, the Board or court must consider specified materials and recommendations. A post-release control sanction imposed under this provision takes effect upon the prisoner's release from imprisonment. (R.C. 2967.28.)

The bill specifies that, if a prisoner who is placed on post-release control under R.C. 2967.28 is released before the expiration of the prisoner's stated prison term by reason of credit earned under the provision described above in "**Earned credits for program participation by prisoners in a Department of Rehabilitation and Correction institution**" and if the prisoner earned 60 or more days of credit, the APA is required to supervise the offender with an active global positioning system device for the first 14 days after the offender's release from imprisonment. The bill specifies that this provision does not prohibit or limit the imposition of any post-release control sanction otherwise authorized by R.C. 2967.28. (R.C. 2967.28.)

New mechanism for release by sentencing court of DRC inmates who have served at least 85% of their prison terms

Submission by Director of petition for release; adoption of rules

The bill authorizes DRC's Director to petition the sentencing court for the release from prison of any offender confined in a state correctional institution under a stated prison term of one year or more who has served at least 85% of the offender's stated prison term and is eligible under the provisions described below in "**Offenders who are eligible**" for a release under the mechanism. If the Director wishes to submit a petition for release under the mechanism, the Director must submit the petition not earlier than 90 days prior to the date on which the offender has served 85% of the offender's stated prison term. The Director's submission of a petition for release under

the mechanism constitutes a recommendation by the Director that the court strongly consider release of the offender consistent with the purposes and principles of sentencing set forth in R.C. 2929.13.

The Director must include with any petition submitted to the sentencing court as described in the preceding paragraph: (1) an institutional summary report that covers the offender's participation while confined in a state correctional institution in school, training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the offender while so confined, and (2) a post-release control assessment and placement plan, when relevant, and any other documentation requested by the court, if available. When the Director submits a petition, DRC promptly must give notice of the petition to the prosecuting attorney of the county in which the offender was indicted and to any victim of the offender or victim's representative of any victim of the offender who is registered with DRC's Office of Victim's Services, and it also must post notice of the petition on the database it maintains under R.C. 5120.66 and include information on where a person may send comments regarding the petition.

The bill requires DRC to adopt under the Administrative Procedure Act any rules necessary to implement the mechanism. (R.C. 2967.19(A), (C), (D), and (L).)

Court action after the submission of a petition

Upon receipt of a petition for release of an offender submitted by DRC's Director under the provisions described above, the court may deny the petition without a hearing. The court cannot grant a petition for release of an offender without a hearing. If a court denies a petition for release of an offender without a hearing, it may later consider release of that offender on a subsequent petition. The court must enter its ruling within 30 days after the petition is filed.

If the court grants a hearing on a petition for release of an offender, it must notify the head of the state correctional institution in which the offender is confined of the hearing prior to the hearing. If the court makes a journal entry ordering the offender to be conveyed to the hearing, except as otherwise described in this paragraph, the head of the correctional institution is required to deliver the offender to the sheriff of the county in which the hearing is to be held, and the sheriff is required to convey the offender to and from the hearing. Upon the court's own motion or the motion of the offender or the prosecuting attorney of the county in which the offender was indicted, the court may permit the offender to appear at the hearing by video conferencing equipment if equipment of that nature is available and compatible.

Upon receipt of notice from a court of a hearing on the release of an offender as described in the preceding paragraph, the head of the state correctional institution in which the offender is confined immediately must notify the appropriate person at DRC

of the hearing, and DRC within 24 hours after receipt of the notice must post on the database it maintains pursuant to R.C. 5120.66 the offender's name and specified information regarding that offender and the petition. If the court grants a hearing on a petition for release of an offender under the mechanism, the court promptly must give notice of the hearing to the prosecuting attorney of the county in which the offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney must notify pursuant to a specified provision of the Crime Victims Rights Law any victim of the offender or the victim's representative of the hearing.

If the court grants a hearing on a petition for release of an offender under the mechanism, at the hearing, the court must afford the offender and the offender's attorney an opportunity to present written information and, if present, oral information relevant to the motion. The court must afford a similar opportunity to the prosecuting attorney, victim or victim's representative, and any other person the court determines is likely to present additional relevant information. If the court as described in the preceding paragraph permits the offender to appear at the hearing by video conferencing equipment, the offender's opportunity to present oral information is as a part of the video conferencing. The court must consider any statement of a victim made under specified provisions of the Crime Victims Rights Law, any victim impact statement, and any report, plan, and other documentation submitted by the Director with the petition. After ruling on the motion, the court must notify the victim in accordance with specified provisions of the Crime Victims Rights Law.

If the court grants a petition for release of an offender under the mechanism, it must order the offender's release under the supervision of the APA. The court cannot make a release under the mechanism effective prior to the date on which the offender has served at least 85% of the offender's stated prison term. If the sentence under which the offender is confined in a state correctional institution and from which the offender is being released was imposed for a felony of the first or second degree, the court must order that the offender be monitored by means of a global positioning device, with the cost of monitoring borne by the offender through the imposition of supervision fees under R.C. 5120.56. If the offender is indigent, the cost must be paid out of the Reparations Fund. The initial period of supervision by the APA and the monitoring of the offender by means of a global positioning device when ordered are required to conclude on the date of expiration of the stated prison term from which the offender was released. If the Parole Board imposed a period of post-release control on the offender under R.C. 2967.28, upon the conclusion of that initial period of supervision and that initial period of monitoring when ordered, the offender must be placed on post-release control in accordance with the post-release control sanctions the Board imposed on the offender.

If the court grants a petition for release of an offender under the mechanism, it must notify the appropriate person at DRC of the release, and DRC must post notice of the release on the Internet database it maintains pursuant to R.C. 5120.66. (R.C. 2967.19(E) to (H); R.C. 109.42, 2743.191, 2929.13, 2929.14(D), 2930.16, 2930.17, 2950.99, and 5120.66.)

Offenders who are eligible

Except as otherwise described in the next sentence, an offender serving a stated prison term of one year or more is eligible for release from prison under the bill's 85% mechanism described above. An offender is not eligible for release from prison under the mechanism if the offender is serving a term of life imprisonment, including any term of life imprisonment that has parole eligibility, if the offender is serving a mandatory prison term imposed under division (D)(1)(a), (D)(1)(c), (D)(1)(f), (D)(1)(g), or (D)(2) of R.C. 2929.14 (those divisions provide for a mandatory prison term for a felon convicted of a specification that the felon: possessed an automatic or silenced or muffled firearm while committing the felony; displayed, brandished, indicated possession of, or used a firearm while committing the felony; possessed a firearm while committing the felony; discharged a firearm from a motor vehicle while committing the felony; committed the felony by discharging a firearm at a peace officer or corrections officer; or is a repeat violent offender) or if the offender is serving a prison term for any of the following: (1) aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, kidnapping, rape, aggravated arson, or aggravated robbery, (2) complicity in, an attempt to commit, or conspiracy to commit any offense listed in clause (1) of this paragraph, (3) any offense that is a felony of the first or second degree, that is not described in clause (1) or (2) of this paragraph, and for which the offender is not serving a term of life imprisonment if the offender previously has been convicted of or pleaded guilty to aggravated murder, murder, any felony of the first or second degree, or any offense under an existing or former law of Ohio, another state, or the United States that is or was substantially equivalent to aggravated murder, murder, or a felony of the first or second degree, (4) any felony, other than carrying a concealed weapon, that was committed while the offender had a firearm on or about the offender's person or under the offender's control, (5) any drug trafficking offense under R.C. 2925.03 that is a felony of the first or second degree, or (6) engaging in a pattern of corrupt activity in violation of R.C. 2923.32. (R.C. 2967.19(B).)

An offender who is serving a mandatory prison term imposed under a provision other than R.C. 2929.14(D)(1)(a), (D)(1)(c), (D)(1)(f), (D)(1)(g), or (D)(2) is not automatically ineligible as a result of the offender's service of that term for release from prison under the bill's 85% release mechanism. An offender who is serving a mandatory prison term imposed under R.C. 2929.14(D)(1)(a), (D)(1)(c), (D)(1)(f), (D)(1)(g), or (D)(2) and one or more other prison terms or mandatory prison terms may

be eligible for release from prison under the 85% release mechanism after the offender has served all mandatory prison terms imposed under R.C. 2929.14(D)(1)(a), (D)(1)(c), (D)(1)(f), (D)(1)(g), or (D)(2), if the offender otherwise is eligible for the release under the provisions described in the preceding paragraph and the preceding sentence. (R.C. 2967.19(K).)

Parole Board review of cases of certain parole-eligible inmates of age 65 or older

The bill specifies that, within 90 days after its effective date, the Chair of the Parole Board or the Chair's designee must review the cases of all parole-eligible inmates who are age 65 or older and who have had a statutory first parole consideration hearing. Upon completion of the review, the Chair must present to the Board the cases of the offenders whose cases are required to be reviewed. Upon presentation of the case of an offender, the Board, by majority vote, may choose to rehear the offender's case for possible release on parole. The bill requires DRC to adopt under the Administrative Procedure Act any rules necessary to implement these provisions. (R.C. 2967.19(I) to (K).)

Corrections commission--removal of judges from membership, designation of fiscal agent, and other changes

Existing law

Currently, the boards of county commissioners of two or more adjacent counties may contract for the joint establishment of a multicounty correctional center, and the board of county commissioners of a county or the boards of two or more counties may contract with any municipal corporation or municipal corporations located in that county or those counties for the joint establishment of a municipal-county or multicounty-municipal correctional center. The center is to augment county and, where applicable, municipal jail programs and facilities by providing custody and rehabilitative programs for those persons under the charge of the sheriff of any of the contracting counties or of the officer or officers of the contracting municipal corporation or municipal corporations having charge of persons incarcerated in the municipal jail, workhouse, or other correctional facility who, in the opinion of the sentencing court, need programs of custody and rehabilitation not available at the county or municipal jail and by providing custody and rehabilitative programs. Generally, the contracting counties and municipal corporations are required to form a corrections commission to oversee the administration of the center. Members of the commission must consist of the sheriff of each participating county, the president of the board of county commissioners of each participating county, the presiding judge of the court of common pleas of each participating county, or if the court of common pleas of a participating county has only one judge, then that judge, the chief of police of each participating

municipal corporation, the mayor or city manager of each participating municipal corporation, and the presiding judge or the sole judge of the municipal court of each participating municipal corporation. Any of the foregoing officers may appoint a designee to serve in the officer's place on the corrections commission. The standards and procedures must be formulated and agreed to by the commission and may be amended at any time during the life of the contract by agreement of the parties to the contract upon the advice of the commission. (R.C. 307.93.)

Operation of the bill

The bill changes the existing provisions described above in the following ways (R.C. 307.93):

(1) It changes the requirement regarding county commission membership on the corrections commission so that the member from a board of county commissioners does not have to be the president of the board, but, rather, may be any member of the board.

(2) It removes all judges as members of the commission and instead, specifies that, upon the establishment of a corrections commission, the judges specified in this paragraph must form a judicial advisory board for the purpose of making recommendations to the corrections commission on issues of bed allocation, expansion of the center that the corrections commission oversees, and other issues concerning the administration of sentences or any other matter determined to be appropriate by the corrections commission. The judges who are required to form the judicial advisory board for a corrections commission are the administrative judge of the general division of the court of common pleas of each county participating in the corrections center, the presiding judge of the municipal court of each municipal corporation participating in the corrections center, and the presiding judge of each county court of each county participating in the corrections center. Any of the foregoing judges may appoint a designee to serve in the judge's place on the judicial advisory board, provided that the designee must be a judge of the same court as the judge who makes the appointment. The judicial advisory board for a corrections commission must meet with the corrections commission at least once each year.

(3) It provides that the standards and procedures formulated by the commission, in addition to the currently mandated content of the standards and procedures, must include the designation of a fiscal agent.

Establishment of community alternative sentencing centers

Formulation and submission of proposal for a center

The bill authorizes the board of county commissioners of any county, in consultation with the sheriff of the county, to formulate a proposal for a community

alternative sentencing center that, upon implementation by the county or being subcontracted to or operated by a nonprofit organization, would be used for the confinement of "eligible offenders" sentenced directly to the center by a court located in the county pursuant to a community residential sanction of not more than 30 days or pursuant to an "OVI term of confinement" of not more than 30 days (see "**Community alternative sentencing center definitions**," below for definitions of the terms in quotation marks), and for the purpose of closely monitoring those eligible offenders' adjustment to community supervision. A board that formulates any such proposal must do so by resolution. The bill also authorizes the boards of county commissioners of two or more adjoining or neighboring counties, in consultation with the sheriffs of each of those counties, to affiliate and formulate by resolution adopted by each of them a proposal for a district community alternative sentencing center that, upon implementation by the counties or being subcontracted to or operated by a nonprofit organization, would be used for the confinement of eligible offenders sentenced directly to the center by a court located in any of those counties pursuant to a community residential sanction of not more than 30 days or pursuant to an OVI term of confinement of not more than 30 days, and for the purpose of closely monitoring those eligible offenders' adjustment to community supervision. Each board that affiliates with one or more other boards to formulate any such proposal must formulate the proposal by resolution.

Each proposal for a community alternative sentencing center or a district community alternative sentencing center formulated as described above must include proposals for operation of the center and for criteria to define which offenders are eligible to be sentenced directly to and admitted to the center. At a minimum, the proposed criteria that define which offenders are eligible to be sentenced directly to the center and admitted to the center must provide all of the following: (1) that an offender is eligible to be sentenced directly to and admitted to the center if the offender has been convicted of or pleaded guilty to a "qualifying misdemeanor offense" (see "**Community alternative sentencing center definitions**," below) and is sentenced directly to the center for that offense pursuant to a community residential sanction of not more than 30 days or pursuant to an OVI term of confinement of not more than 30 days by a court that is located in the county or one of the counties served by the board of county commissioners or by any of the affiliated group of boards of county commissioners that submits the proposal, and (2) that no offender is eligible to be sentenced directly to or admitted to the center if, in addition to the community residential sanction or OVI term of confinement described in clause (1), the offender is serving or has been sentenced to serve any other jail term, prison term, or community residential sanction.

If a board of county commissioners formulates a proposal for a community alternative sentencing center or an affiliated group of boards of county commissioners formulates a proposal for a district community alternative sentencing center as

described above, prior to establishing or operating the center, the board or the affiliated group of boards must submit the proposal for certification to the "Division of Parole and Community Services" (see "**Community alternative sentencing center definitions**," below) for approval and certification pursuant to R.C. 5120.10(F). The Division may approve and certify a center as a suitable facility for the care and treatment of adult offenders only if the center complies with the standards for the certification of the centers that the Division adopts by rule. The Division must inspect each center to which a proposal submitted under this provision applies and annually must inspect each center established or operated under an approved and certified proposal to determine if the proposed or certified center is in compliance with the certification standards. A board or affiliated group of boards cannot establish or operate a center without the Division's approval and certification. The approval and certification of a center by the Division is not a requirement for, and is not an affirmation that the Division or DRC must or will provide, funding for the operation of the center.

If a proposal for a community alternative sentencing center or a district community alternative sentencing center that is formulated as described above contemplates the use of an existing facility, or a part of an existing facility, as the center, nothing in the bill's provisions regarding such centers section limits, restricts, or precludes the use of the facility, the part of the facility, or any other part of the facility for any purpose other than as a community alternative sentencing center or district community alternative sentencing center. (R.C. 307.932(B) to (D), 5120.10, and 5120.111.)

Dissolution of, or withdrawal from, a center

If the board of county commissioners of a county that is being served by a community alternative sentencing center established upon approval and certification of a proposal by the Division of Parole and Community Services determines that it no longer wants to be served by the center, the board may dissolve the center by adopting a resolution evidencing the determination to dissolve the center and notifying, in writing, the Division of the determination. If the boards of county commissioners of all of the counties served by a district community alternative sentencing center established upon approval and certification of a proposal by the Division determine that they no longer want to be served by the center, the boards may dissolve the center by adopting in each county a resolution evidencing the determination to dissolve the center and notifying, in writing, the Division of the determination. If at least one, but not all, of the boards of county commissioners of the counties being served by a district community alternative sentencing center established upon approval and certification of a proposal by the Division determines that it no longer wants to be served by the center, the board may terminate its involvement with the center by adopting a resolution evidencing the

determination to terminate its involvement with the center and notifying, in writing, the Division of the determination to terminate its involvement with the center. If at least one, but not all, of the boards of county commissioners of the counties being served by a community alternative sentencing center terminates its involvement with the center as described in this paragraph, the other boards of county commissioners of the counties being served by the center may continue to be served by the center. (R.C. 307.932(F).)

Establishment and operation of a center

Upon approval and certification by the Division of Parole and Community Services of a proposal for a community alternative sentencing center or for a district community alternative sentencing center submitted to the Division as described above, the board of county commissioners or the affiliated group of boards of county commissioners that submitted the proposal may establish and operate the center in accordance with the approved and certified proposal, the provisions described in the next paragraph, and rules adopted under those provisions. The establishment and operation of the center may be done by subcontracting with a nonprofit organization for the operation of the center. If a board of county commissioners or an affiliated group of boards of county commissioners establishes and operates a center under this provision, except as otherwise described in this paragraph, the center is not a minimum security jail under R.C. 341.14, 753.21, or any other section, is not a jail or alternative residential facility as defined in R.C. 2929.01, is not required to satisfy or comply with minimum standards for minimum security jails or other jails that are promulgated under R.C. 5120.10(A), is not a local detention facility as defined in R.C. 2929.36, and is not a residential unit as defined in R.C. 2950.01. The center is a detention facility as defined in R.C. 2921.01 and 2923.124, and an eligible offender confined in the center is under detention as defined in R.C. 2921.01. Regarding persons sentenced directly to the center under an OVI term of confinement, the center is to be considered a "jail" or "local correctional facility" for purposes of any provision in R.C. 4511.19 or in a municipal ordinance that requires a mandatory jail term or mandatory term of local incarceration for the violation of R.C. 4511.19 or the municipal OVI offense, and a direct sentence of a person to the center under an OVI term of confinement is to be considered to be a sentence to a "jail" or a "local correctional facility" for purposes of any such provision in R.C. 4511.19 or in a municipal ordinance. (R.C. 307.932(E).)

Upon approval and certification by the Division of Parole and Community Services of a proposal for a community alternative sentencing center or for a district community alternative sentencing center submitted to the Division as described above, prior to establishing or operating the center, the board of county commissioners or the affiliated group of boards of county commissioners that submitted the proposal must adopt rules for the operation of the center. The rules must include criteria that define which offenders are eligible to be sentenced directly to the center and admitted to it and

the criteria so included must be consistent with the proposed criteria included in the proposal approved and certified by the Division. (R.C. 307.932(G).)

If a board of county commissioners establishes and operates a community alternative sentencing center, or an affiliated group of boards of county commissioners establishes and operates a district community alternative sentencing center, all of the following apply (R.C. 307.932(H) and (I), 2929.26, and 2929.34):

(1) Any court located within the county served by the board that establishes and operates a community correctional center may directly sentence eligible offenders to the center pursuant to a community residential sanction of not more than 30 days or pursuant to an OVI term of confinement of not more than 30 days. Any court located within a county served by any of the boards that establishes and operates a district community correctional center may directly sentence eligible offenders to the center pursuant to a community residential sanction of not more than 30 days or pursuant to an OVI term of confinement of not more than 30 days.

(2) Each eligible offender who is sentenced to the center as described in the preceding paragraph and admitted to it must be offered during the eligible offender's confinement at the center educational and vocational services and reentry planning and may be offered any other treatment and rehabilitative services that are available and that the court that sentenced the offender to the center and the administrator of the center determine are appropriate based upon the offense for which the offender was sentenced to the community residential sanction and the length of the sanction.

(3) Before accepting an eligible offender sentenced to the center by a court, the board or the affiliated group of boards must enter into an agreement with a political subdivision that operates that court that addresses the cost and payment of medical treatment or services received by eligible offenders sentenced by that court while they are confined in the center. The agreement may provide for the payment of the costs by the eligible offender who receives the treatment or services, as described in this paragraph. The board of county commissioners that establishes and operates a community alternative sentencing center, or the affiliated group of boards of county commissioners that establishes and operates a district community alternative sentencing center, may require an eligible offender who is sentenced directly to the center and admitted to it to pay to the county served by the board or the counties served by the affiliated group of boards or the entity operating the center the reasonable expenses incurred by the county or counties, whichever is applicable, in supervising or confining the offender after being sentenced to the center and admitted. Inability to pay those reasonable expenses cannot be grounds for refusing to admit an otherwise eligible offender to the center.

(4) The administrator of the center, or the administrator's designee, must post a sign as described in R.C. 2923.1212(A)(4) in a conspicuous location at the center.

(5) If a court sentences an eligible offender to a center under authority of the provision described in paragraph (1), above, immediately after the sentence is imposed, the offender must be taken to the probation department that serves the court. The department must handle any preliminary matters regarding the admission of the eligible offender to the center, including a determination as to whether the offender may be admitted to the center under the criteria included in the rules adopted by the establishing board or boards relative to the center that define which offenders are eligible to be sentenced and admitted to the center. If the eligible offender is accepted for admission to the center, the department must schedule the offender for the admission and must provide for the transportation of the offender to the center. If an eligible offender who is sentenced to the center under a community residential sanction is not accepted for admission to the center for any reason, the nonacceptance is to be considered a violation of a condition of the community residential sanction, the offender must be taken before the court that imposed the sentence, and the court may proceed as specified in R.C. 2929.25(C)(2) based on the violation or as provided by ordinance of the municipal corporation based on the violation, whichever is applicable. If an eligible offender who is sentenced to the center under an OVI term of confinement is not accepted for admission to the center for any reason, the offender must be taken before the court that imposed the sentence, and the court must determine the place at which the offender is to serve the term of confinement. If the eligible offender is admitted to the center, all of the following apply:

(a) The admission must be under the terms and conditions established by the court and the administrator of the center, and the court and the administrator must provide for the confinement of, and supervise, the eligible offender as described in the next five paragraphs.

(b) The eligible offender must be confined in the center during any period of time that the offender is not actually working at his or her approved work release described in the next paragraph, engaged in community service activities described in the second succeeding paragraph, engaged in authorized vocational training or another authorized educational program, engaged in another program designated by the administrator of the center, or engaged in other activities approved by the court and the administrator.

(c) If the court and the administrator of the center determine that work release is appropriate based upon the offense for which the eligible offender was sentenced to the community residential sanction or OVI term of confinement and the length of the

sanction or term, the eligible offender may be offered work release from confinement at the center and be released from confinement while engaged in the work release.

(d) If the administrator of the center determines that community service is appropriate and if the eligible offender will be confined for more than ten days at the center, the offender may be required to participate in community service activities approved by the political subdivision served by the court. Community service activities that may be required may take place in facilities of the political subdivision that operates the court, in the community, or in both such locales. The eligible offender must be released from confinement while engaged in the community service activities. Community service activities required under this provision must be supervised by the court or an official designated by the board of county commissioners or affiliated group of boards of county commissioners that established and is operating the center, and they cannot exceed in duration the period for which the eligible offender will be confined at the center under the community residential sanction or the OVI term of confinement.

(e) The confinement of the eligible offender in the center is to be considered for purposes of this paragraph and the next paragraph as including any period of time described above when the offender may be outside of the center and must continue until the expiration of the community residential sanction or OVI term of confinement that the eligible offender is serving upon admission to the center.

(f) After the admission and until the expiration of the community residential sanction or OVI term of confinement that the eligible offender is serving upon admission to the center, the offender is to be considered for purposes of any provision in R.C. Title XXIX to be serving the community residential sanction or OVI term of confinement.

Completion of sanction in the center; failure to complete sanction in the center

If an eligible offender who is directly sentenced to a community alternative sentencing center or district community alternative sentencing center and admitted to the center successfully completes the service of the community residential sanction in the center, the administrator of the center is required to notify the court that imposed the sentence, and the court is required to enter into the journal that the eligible offender successfully completed the service of the sanction.

If an eligible offender who is directly sentenced to a community alternative sentencing center or district community alternative sentencing center and admitted to the center violates any rule regarding the center established by the board of county commissioners or the affiliated group of boards of county commissioners that establishes and operates the center, violates any condition of the community residential

sanction or OVI term of confinement imposed by the sentencing court, or otherwise does not successfully complete the service of the community residential sanction or OVI term of confinement in the center, the administrator of the center must report the violation or failure to successfully complete the sanction or term directly to the court or to the probation department or probation officer with general control and supervision over the eligible offender. A failure to successfully complete the service of the community residential sanction or OVI term of confinement in the center must be considered a violation of a condition of the community residential sanction or the OVI term of confinement. If the administrator reports the violation to the probation department or probation officer, the department or officer must report the violation to the court. Upon its receipt of a report of a violation or failure to complete the sanction by a person sentenced under a community residential sanction, the court may proceed as specified in R.C. 2929.25(C)(2) based on the violation or as provided by ordinance of the municipal corporation, whichever is applicable. Upon its receipt of a report of a violation or failure to complete the term by a person sentenced under an OVI term of confinement, the court must determine the place at which the offender is to serve the remainder of the term of confinement. The eligible offender must receive credit towards completing the eligible offender's sentence for the time spent in the center after admission to it. (R.C. 307.932(J).)

Community alternative sentencing center definitions

The bill defines the following terms for purposes of the community alternative sentencing center provisions described above (R.C. 307.932(A)):

"**Division of parole and community services**" means DRC's Division of Parole and Community Services.

"**Eligible offender**" means, in relation to a particular community alternative sentencing center or district community alternative sentencing center established and operated under the bill, an offender who has been convicted of or pleaded guilty to a qualifying misdemeanor offense, for whom no provision of the Revised Code or ordinance of a municipal corporation other than R.C. 4511.19 or a municipal ordinance that provide the penalties for a municipal OVI offense of the municipal corporation requires the imposition of a mandatory jail term for that qualifying misdemeanor offense, and who is eligible to be sentenced directly to that center and admitted to it under rules adopted under the bill by the board of county commissioners or affiliated group of boards of county commissioners that established and operates that center.

"**Municipal OVI offense**" means any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled

substance in the whole blood, blood serum or plasma, breath, or urine (by reference to existing R.C. 4511.181, which is not in the bill).

"**OVI term of confinement**" means a term of confinement imposed for a violation of R.C. 4511.19 or for a municipal OVI offense, including any mandatory jail term or mandatory term of local incarceration imposed for that violation or offense.

"**Community residential sanction**" means a community residential sanction imposed under R.C. 2929.26 for a misdemeanor violation of a section of the Revised Code or a term of confinement imposed for a misdemeanor violation of a municipal ordinance that is not a jail term.

"**Qualifying misdemeanor offense**" means a violation of any section of the Revised Code that is a misdemeanor or a violation of any ordinance of a municipal corporation located in the county that is a misdemeanor.

Victim notification when offender escapes; employees of Office of Victim Services

Notice of offender's escape

Existing law

Existing law provides that, if a person who was convicted of or pleaded guilty to an offense escapes from a correctional institution under DRC's control or otherwise escapes from DRC's custody, DRC immediately after the escape must report the escape, by telephone and in writing, to all local law enforcement agencies with jurisdiction in the county in which the institution from which the escape was made or to which the person was sentenced is located, to all local law enforcement agencies with jurisdiction in the county in which the person was convicted or pleaded guilty to the offense for which the escaped person was sentenced, to the State Highway Patrol, to the prosecuting attorney of the county in which the institution from which the escape was made or to which the person was sentenced is located, to the prosecuting attorney of the county in which the person was convicted or pleaded guilty to the offense for which the escaped person was sentenced, to a newspaper of general circulation in the county in which the institution from which the escape was made or to which the person was sentenced is located, and to a newspaper of general circulation in each county in which the escaped person was indicted for an offense for which, at the time of the escape, the escaped person had been sentenced to that institution. The written notice may be by either facsimile transmission or mail. Upon the apprehension of the escaped person, DRC must give notice of the apprehension by telephone and in writing to the persons who were given notice of the escape as described above. (R.C. 5120.14.)

Currently, if a prosecuting attorney receives notice from DRC as described in the preceding paragraph that a person indicted in the county for an offense of violence that is a felony has escaped from a correctional institution under DRC's control or otherwise has escaped from DRC's custody, the prosecuting attorney is required to notify each victim of an offense of violence that is a felony committed by that person of the person's escape and, if applicable, of the person's subsequent apprehension. The notice of escape must be given as soon as possible after receipt of the notice from DRC and must be given by telephone or in person, except that, if a prosecuting attorney tries and fails to give the notice of escape by telephone at the victim's last known telephone number or tries and fails to give the notice of escape in person at the victim's last known address, the notice of escape must be given to the victim at the victim's last known address by certified mail, return receipt requested. The notice of apprehension must be given as soon as possible after the person is apprehended and must be given in the same manner as is the notice of escape. (R.C. 309.18.)

Operation of the bill

The bill retains the existing provision requiring DRC to notify a prosecuting attorney of an escape, but changes the duties of both regarding the notification of the victim as follows:

(1) It repeals the provision that currently requires a prosecuting attorney, upon receipt of notice from DRC that a person indicted in the county for an offense of violence that is a felony has escaped from a correctional institution under DRC's control or otherwise has escaped from DRC's custody, to notify each victim of an offense of violence that is a felony committed by that person of the person's escape and, if applicable, of the person's subsequent apprehension (R.C. 309.18(A)).

(2) It enacts provisions that specify that, if a person who was convicted of or pleaded guilty to an offense of violence that is a felony escapes from a correctional institution under DRC's control or otherwise escapes from DRC's custody, DRC's Office of Victim Services must notify each victim of the offense or offenses committed by that person of that person's escape and, if applicable, of that person's subsequent apprehension. The Office must give this notice as soon as practicable after the escape and the office identifies and locates the victim. The Office must give this notice to each victim of the escaped person, regardless of whether the victim is registered for notification with the Office, unless the victim has specifically notified the Office that the victim does not wish to be notified regarding the person. The Office may give this notice by telephone, in person, or by e-mail or other electronic means. If the Office cannot locate a victim to whom notice is to be provided, the Office must send the notice in writing to the last known address of that victim. If a person escapes as described in this paragraph, the Office of Victim Services may request assistance from the

prosecuting attorney of the county in which the person was convicted of or pleaded guilty to the offense in identifying and locating the victim of the offense. (R.C. 5120.60(H).)

(3) It clarifies that the name "Office" as in "Office of Victim Services" is the proper name of the Office and specifies that any reference in any Revised Code section other than R.C. 5120.60 to the "Office of Victims' Services" is to be construed as being a reference to, and meaning, the Office of Victim Services (R.C. 5120.60(I)).

(4) It specifies that, if a prosecuting attorney of a county receives notice from DRC pursuant to R.C. 5120.14 or otherwise receives notice from DRC that a person who was convicted of or pleaded guilty in the county to an offense of violence that is a felony has escaped from a correctional institution under DRC's control or otherwise has escaped from DRC's custody, and if the Office of Victim Services requests assistance from the prosecuting attorney in identifying and locating the victim of the offense, the prosecuting attorney promptly must provide the information requested, if available, to the Office (R.C. 309.18(B)).

Employees of Office of Victim Services

Currently, the Office of Victim Services is required to employ a victim coordinator who administers the Office's functions. The coordinator is in the unclassified civil service. The Office also must employ at least three persons in the unclassified civil service whose primary duties are to help Parole Board hearing officers identify victims' issues and to make recommendations to the Board in accordance with rules adopted by DRC. The member of the Parole Board appointed pursuant to R.C. 5149.10(B) as the victim-related member of the Board is required to approve the hiring of the employees of the Office. The bill removes the authority of the victim-related member of the Board to approve the hiring of the employees of the Office. (R.C. 5120.60(E).)

Elimination of penalty distinction between cocaine and crack cocaine

The bill eliminates the distinction between "crack cocaine" and "cocaine that is not crack cocaine" that existing law makes in certain provisions.

Penalties for trafficking in cocaine and possession of cocaine

Currently, the penalties for the state's drug trafficking offenses and drug possession offenses vary, depending upon the type and amount of the drug involved, and the circumstances of the offense. If the drug involved is cocaine, the offenses are "trafficking in cocaine" and "possession of cocaine," and two distinct sets of penalties are provided--one set applies to cocaine that is crack cocaine, and the other applies to cocaine that is not crack cocaine. The penalties for either offense when it is a particular

amount of crack cocaine are much more stringent than the penalties provided for the offense when it involves the same amount of cocaine that is not crack cocaine. The bill eliminates the penalty distinctions provided in the offenses involving the two forms of cocaine, and provides a penalty for the offenses involving any type of cocaine that generally has a severity that is between the two current penalties. The penalties when lower amounts of cocaine are involved generally are closer to the current penalties when similar amounts of cocaine that is not crack cocaine are involved and the penalties when higher amounts of cocaine are involved generally are closer to the current penalties when similar amounts of crack cocaine are involved. (R.C. 2925.03(C)(4) and 2925.11(C)(4).)

Trafficking in cocaine

Under the bill, the classification and penalty for trafficking in cocaine, regardless of the nature of the cocaine as crack cocaine or cocaine that is not crack cocaine, are as set forth in the following chart (R.C. 2925.03(C)(4); in the chart, the references to "school or juvenile" mean that the offense was committed in the vicinity of a school or a juvenile, as defined in R.C. 2925.01, the references to "Option 2" mean the sentencing procedure under R.C. 2929.13(C), which reflects no presumption for a prison term or against a prison term, the references to "Presumption for a prison term" mean the sentencing procedure under R.C. 2929.13(D), which reflects a presumption for a prison term, and the references to "Mandatory prison term" mean that a prison term is required, generally selected from the range of prison terms authorized for a felony of the specified level):

Amount of cocaine involved and location of offense	Degree of offense	Option 2, presumption for prison term, or mandatory prison term
(1) Less than 5 grams-- School or juvenile--	F5 F4	Option 2 Option 2
(2) Equals or exceeds 5 grams and is less than 10 grams-- School or juvenile--	F4 F3	Presumption for prison term Presumption for prison term
(3) Equals or exceeds 10 grams and is less than 20 grams-- School or juvenile--	F3 F2	Mandatory prison term Mandatory prison term
(4) Equals or exceeds 20 grams and is less than 27 grams-- School or juvenile--	F2 F1	Mandatory prison term Mandatory prison term
(5) Equals or exceeds 27 grams and is less than 100 grams--	F1	Mandatory prison term

Amount of cocaine involved and location of offense	Degree of offense	Option 2, presumption for prison term, or mandatory prison term
(6) Equals or exceeds 100 grams--	F1	Mandatory 10-year prison term and permissive additional prison term of 1 to 10 years

Possession of cocaine

Under the bill, the classification and penalty for possession of cocaine, regardless of the nature of the cocaine as crack cocaine or cocaine that is not crack cocaine, are as set forth in the following chart (R.C. 2925.11(C)(4); in the chart, the references to "Presumption for a prison term," and "Mandatory prison term" have the same meanings as described above in relation to the chart for the offense of trafficking in cocaine, and the references to "Option 1" mean the sentencing procedure under R.C. 2929.13(B), which generally reflects a presumption against a prison term):

Amount of cocaine involved and location of offense	Degree of offense	Option 1 or 2, presumption for prison term, or mandatory prison term
(1) Less than 5 grams--	F5	Option 1
(2) Equals or exceeds 5 grams and is less than 10 grams--	F4	Option 1 (currently, the penalty when a comparable amount of cocaine is involved provides a presumption for a prison term)
(3) Equals or exceeds 10 grams and is less than 20 grams--	F3	Mandatory prison term
(4) Equals or exceeds 20 grams and is less than 27 grams--	F2	Mandatory prison term
(5) Equals or exceeds 27 grams and is less than 100 grams--	F1	Mandatory prison term
(6) Equals or exceeds 100 grams--	F1	Mandatory 10-year prison term and permissive additional prison term of 1 to 10 years

Aggravated funding of drug trafficking

Currently, one of the elements of the offense of "aggravated funding of drug trafficking" specifies a threshold amount of the Schedule I or II drug that must be involved in the funding conduct in order for the offense to have occurred. If the drug involved is cocaine, the element specifies two distinct amounts that must be involved--

one amount applies to cocaine that is crack cocaine (one gram), and the other applies to cocaine that is not crack cocaine (five grams). The bill eliminates the distinction between the two forms of cocaine that currently is made in the element and uses the drug quantity threshold currently specified for cocaine that is not crack cocaine (five grams) as the basis for determining whether the offense has occurred, regardless of the form of the cocaine involved in the conduct. (R.C. 2925.05(A)(3).)

Major drug offender definition

Currently, under the special sentencing mechanism that applies when a person who is being sentenced for a felony is a major drug offender, the definition of "major drug offender" specifies a threshold amount for each drug that must be involved in the offender's conduct in order for the offender to be within the definition. If the drug involved is cocaine, the definition specifies two distinct amounts--one amount applies to cocaine that is crack cocaine (at least 100 grams), and the other applies to cocaine that is not crack cocaine (at least 1,000 grams). The bill eliminates the distinction between the two forms of cocaine that currently is made in the definition and uses the drug quantity threshold currently specified for crack cocaine (100 grams) as the basis for determining whether the offender is a major drug offender, regardless of the form of the cocaine involved. (R.C. 2929.01(W).)

Other related changes

The bill repeals the existing definition of crack cocaine that applies to the Drug Offense Law (repeal of R.C. 2925.01(GG)), because the term "crack cocaine" no longer will be used in R.C. Chapter 2925. or 2929. It also repeals a cross-reference to the definition that is contained in R.C. 2929.01(C).

Application of the changes

The bill specifies that the amendments described above regarding cocaine apply to a person who commits an offense involving cocaine on or after the bill's effective date and to a person to whom R.C. 1.58(B) makes the amendments applicable. The provisions of R.C. 2925.01, 2925.03, 2925.05, 2925.11, and 2929.01 in existence prior to the bill's effective date apply to a person upon whom a court imposed sentence prior to the bill's effective date for an offense involving cocaine. The amendments to those provisions that are made in the bill do not apply to a person upon whom a court imposed sentence prior to the bill's effective date for an offense involving cocaine. (Section 4.)

Penalties for trafficking in marihuana or hashish, and for possession of marihuana or hashish

The bill revises the penalties for "trafficking in marihuana," "trafficking in hashish," "possession of marihuana," and "possession of hashish." As used in the following discussions, the references to an offense being "committed in the vicinity of a school or juvenile" have the meaning ascribed in R.C. 2925.01, the references to "R.C. 2929.13(B)" mean the sentencing procedure under that division, which generally reflects a presumption against a prison term, the references to "R.C. 2929.13(C)" mean the sentencing procedure under that division, which reflects no presumption for a prison term or against a prison term, the references to a "presumption for a prison term" mean the sentencing procedure under R.C. 2929.13(D), which reflects a presumption for a prison term, and the references to a "mandatory prison term" mean that a prison term is required, generally selected from the range of prison terms authorized for a felony of the specified level.

Trafficking in marihuana or hashish

Existing law

Currently, the penalties for trafficking in marihuana and trafficking in hashish are as follows (R.C. 2925.03(C)(3) and 2925.03(C)(7)): (1) except as otherwise provided in clause (2), (3), (4), (5), (6), or (7) of this paragraph, the offense is a felony of the fifth degree and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, (2) except as otherwise provided in clause (3), (4), (5), (6), or (7) of this paragraph, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the fourth degree, and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, (3) if the amount of the drug involved equals or exceeds 200 grams but is less than 1,000 grams of marihuana, equals or exceeds 10 grams but is less than 50 grams of hashish in a solid form, or equals or exceeds two grams but is less than 10 grams of hashish in a liquid form, the offense is a felony of the fourth degree, and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the third degree, and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, (4) if the amount of the drug involved equals or exceeds 1,000 grams but is less than 5,000 grams of marihuana, equals or exceeds 50 grams but is less than 250 grams of hashish in a solid form, or equals or exceeds 10 grams but is less than 50 grams of hashish in a liquid form, the offense is a felony of the third degree, and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the second degree, and there is a presumption that a prison term must be imposed for the offense, (5) if the amount of the drug involved equals or

exceeds 5,000 grams but is less than 20,000 grams of marihuana, equals or exceeds 250 grams but is less than 1,000 grams of hashish in a solid form, or equals or exceeds 50 grams but is less than 200 grams of hashish in a liquid form, the offense is a felony of the third degree, and there is a presumption that a prison term must be imposed for the offense, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the second degree, and there is a presumption that a prison term must be imposed for the offense, (6) if the amount of the drug involved equals or exceeds 20,000 grams of marihuana, equals or exceeds 1,000 grams of hashish in a solid form, or equals or exceeds 200 grams of hashish in a liquid form, the offense is a felony of the second degree, and the court must impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the first degree, and the court must impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree, and (7) if the offense involves a gift of 20 grams or less of marihuana, it is a minor misdemeanor upon a first offense and a misdemeanor of the third degree upon a subsequent offense, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a misdemeanor of the third degree.

Operation of the bill

Under the bill, the penalties for trafficking in marihuana and trafficking in hashish are as follows (R.C. 2925.03(C)(3) and (C)(7)): (1) except as otherwise provided in clause (2), (3), (4), (5), (6), (7), or (8) of this paragraph, the offense is a felony of the fifth degree, *R.C. 2929.13(B) applies* in determining whether to impose a prison term on the offender, (2) except as otherwise provided in clause (3), (4), (5), (6), (7), or (8) of this paragraph, if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the fourth degree, and *R.C. 2929.13(B) applies* in determining whether to impose a prison term on the offender, (3) if the amount of the drug involved equals or exceeds 200 grams but is less than 1,000 grams of marihuana, equals or exceeds 10 grams but is less than 50 grams of hashish in a solid form, or equals or exceeds two grams but is less than 10 grams of hashish in a liquid form, the offense is a felony of the fourth degree, and *R.C. 2929.13(B) applies* in determining whether to impose a prison term on the offender, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the third degree, and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, (4) if the amount of the drug involved equals or exceeds 1,000 grams but is less than 5,000 grams of marihuana, equals or exceeds 50 grams but is less than 250 grams of hashish in a solid form, or equals or exceeds 10 grams but is less than 50 grams of hashish in a liquid form, the existing penalties are retained, (5) if the amount of the drug involved equals or exceeds 5,000 grams but is less than 20,000 grams of marihuana, equals or exceeds 250 grams but is less than 1,000 grams of hashish in a

solid form, or equals or exceeds 50 grams but is less than 200 grams of hashish in a liquid form, the existing penalties are retained, (6) *if the amount of the drug involved equals or exceeds 20,000 grams but is less than 40,000 grams of marihuana, equals or exceeds 1,000 grams but is less than 2,000 grams of hashish in a solid form, or equals or exceeds 200 grams but is less than 400 grams of hashish in a liquid form, the offense is a felony of the second degree, and the court must impose a mandatory prison term of five, six, seven, or eight years, except that if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, it is a felony of the first degree, and the court must impose as a mandatory prison term the maximum prison term prescribed for a felony of the first degree, (7) if the amount of the drug involved equals or exceeds 40,000 grams of marihuana, equals or exceeds 2,000 grams of hashish in a solid form, or equals or exceeds 400 grams of hashish in a liquid form*, the existing penalties that apply when the amount of the drug involved equals or exceeds 20,000 grams of marihuana, equals or exceeds 1,000 grams of hashish in a solid form, or equals or exceeds 200 grams of hashish in a liquid form apply, and (8) if the offense involves a gift of 20 grams or less of marihuana, the existing penalties are retained.

Possession of marihuana or hashish

Existing law

Currently, the penalties for possession of marihuana and possession of hashish are as follows (R.C. 2925.11(C)(3) and 2925.11(C)(7)): (1) except as otherwise provided in clause (2), (3), (4), (5), or (6) of this paragraph, the offense is a minor misdemeanor, (2) if the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams of marihuana, equals or exceeds five grams but is less than 10 grams of hashish in a solid form, or equals or exceeds one gram but is less than two grams of hashish in a liquid form, the offense is a misdemeanor of the fourth degree, (3) if the amount of the drug involved equals or exceeds 200 grams but is less than 1,000 grams of marihuana, equals or exceeds 10 grams but is less than 50 grams of hashish in a solid form, or equals or exceeds two grams but is less than ten grams of hashish in a liquid form, the offense is a felony of the fifth degree, and R.C. 2929.13(B) applies in determining whether to impose a prison term on the offender, (4) if the amount of the drug involved equals or exceeds 1,000 grams but is less than 5,000 grams of marihuana, equals or exceeds 50 grams but is less than 250 grams of hashish in a solid form, or equals or exceeds 10 grams but is less than 50 grams of hashish in a liquid form, the offense is a felony of the third degree, and R.C. 2929.13(C) applies in determining whether to impose a prison term on the offender, (5) if the amount of the drug involved equals or exceeds 5,000 grams but is less than 20,000 grams of marihuana, equals or exceeds 250 grams but is less than 1,000 grams of hashish in a solid form, or equals or exceeds 50 grams but is less than 200 grams of hashish in a liquid form, the offense is a felony of the third degree, and there is a presumption that a prison term must be imposed for the offense, and (6) if the amount of the drug involved equals or exceeds 20,000 grams of

marihuana, equals or exceeds 1,000 grams of hashish in a solid form, or equals or exceeds 200 grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, the offense is a felony of the second degree, and the court must impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree.

Operation of the bill

Under the bill, the penalties for possession of marihuana and possession of hashish are as follows (R.C. 2925.11(C)(3) and 2925.11(C)(7)): (1) except as otherwise provided in clause (2), (3), (4), (5), (6), or (7) of this paragraph, as under existing law, the offense is a minor misdemeanor, (2) if the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams of marihuana, equals or exceeds five grams but is less than 10 grams of hashish in a solid form, or equals or exceeds one gram but is less than two grams of hashish in a liquid form, the existing penalties are retained, (3) if the amount of the drug involved equals or exceeds 200 grams but is less than 1,000 grams of marihuana, equals or exceeds 10 grams but is less than 50 grams of hashish in a solid form, or equals or exceeds two grams but is less than ten grams of hashish in a liquid form, the existing penalties are retained, (4) if the amount of the drug involved equals or exceeds 1,000 grams but is less than 5,000 grams of marihuana, equals or exceeds 50 grams but is less than 250 grams of hashish in a solid form, or equals or exceeds 10 grams but is less than 50 grams of hashish in a liquid form, the existing penalties are retained, (5) if the amount of the drug involved equals or exceeds 5,000 grams but is less than 20,000 grams of marihuana, equals or exceeds 250 grams but is less than 1,000 grams of hashish in a solid form, or equals or exceeds 50 grams but is less than 200 grams of hashish in a liquid form, the existing penalties are retained, (6) if the amount of the drug involved equals or exceeds 20,000 grams *but is less than 40,000 grams of marihuana*, equals or exceeds 1,000 grams *but is less than 2,000 grams of* hashish in a solid form, or equals or exceeds 200 grams *but is less than 400 grams of hashish* in a liquid concentrate, liquid extract, or liquid distillate form, *the offense is a felony of the second degree, and the court must impose a mandatory prison term of five, six, seven, or eight years,* and (7) *if the amount of the drug involved equals or exceeds 40,000 grams of marihuana, equals or exceeds 2,000 grams of hashish in a solid form, or equals or exceeds 400 grams of hashish in a liquid form,* the offense is a felony of the second degree, and the court must impose as a mandatory prison term the maximum prison term prescribed for a felony of the second degree.

Application of the changes

The bill specifies that the amendments described above regarding marihuana and hashish apply to a person who commits an offense involving marihuana or hashish on or after the bill's effective date and to a person to whom R.C. 1.58(B) makes the

amendments applicable. The provisions of R.C. 2925.03 and 2925.11 in existence prior to the bill's effective date apply to a person upon whom a court imposed sentence prior to the bill's effective date for an offense involving marihuana or hashish. The amendments to those provisions that are made in the bill do not apply to a person upon whom a court imposed sentence prior to the bill's effective date for an offense involving marihuana or hashish. (Section 4.)

Eligibility for judicial release

Existing law

Currently, a prisoner serving a prison term may apply for a judicial release, if the prisoner is an "eligible offender," as that term is defined in the Judicial Release Law. Under existing law, except as described in the next sentence, "eligible offender" means any person serving a stated prison term of ten years or less when either of the following applies: (1) the stated prison term does not include a mandatory prison term, or (2) the stated prison term includes a mandatory prison term, and the person has served the mandatory prison term. "Eligible offender" does not include any person who is serving a stated prison term for any of the following criminal offenses that was a felony and was committed while the person held a public office in Ohio: (1) a violation of R.C. 2921.02, 2921.03, 2921.05, 2921.31, 2921.32, 2921.41, 2921.42, or 2923.32, (2) a violation of R.C. 2913.42, 2921.04, 2921.11, or 2921.12, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office, (3) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially equivalent to any violation listed in clause (1) of this sentence, (4) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States that is substantially equivalent to any violation listed in clause (2) of this sentence, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office, (5) a conspiracy to commit, attempt to commit, or complicity in committing any offense listed in clause (1) or described in clause (3) of this sentence, or (6) a conspiracy to commit, attempt to commit, or complicity in committing any offense listed in clause (2) or described in clause (4) of this sentence, if the conduct constituting the offense that was the subject of the conspiracy, that would have constituted the offense attempted, or constituting the offense in which the offender was complicit was or would have been related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.

Currently, on the motion of an eligible offender or upon its own motion, the sentencing court may reduce the eligible offender's stated prison term through a judicial release. An eligible offender may file a motion for judicial release with the sentencing

court within the following applicable periods: (1) if the stated prison term is less than two years, the eligible offender may file the motion not earlier than 30 days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than 30 days after the expiration of all mandatory prison terms, (2) if the stated prison term is at least two years but less than five years, the eligible offender may file the motion not earlier than 180 days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than 180 days after the expiration of all mandatory prison terms, or (3) if the stated prison term is five years or more but not more than ten years, the eligible offender may file the motion not earlier than five years after the eligible offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than five years after the expiration of all mandatory prison terms. (R.C. 2929.20.)

Operation of the bill

The bill revises the definition of "eligible offender" for purposes of the Judicial Release Law and the time periods within which an eligible offender may file a motion for judicial release. Under the bill (R.C. 2929.20):

(1) Except as described in the next sentence, "eligible offender" means any person who, on or after April 7, 2009, is serving a stated prison term that includes one or more "nonmandatory prison terms" that in the aggregate are ten years or less ("nonmandatory prison term" means a prison term that is not a mandatory prison term). "Eligible offender" does not include any person who, on or after April 7, 2009, is serving a stated prison term for any of the offenses specified under existing law in the exclusion from the current definition of "eligible offender" that was a felony and was committed while the person held a public office in Ohio.

(2) On the motion of an eligible offender or upon its own motion, the sentencing court may reduce the eligible offender's aggregated nonmandatory prison term or terms of ten years or less through a judicial release;

(3) An eligible offender may file a motion for judicial release with the sentencing court within the following applicable periods: (a) if the aggregated nonmandatory prison term or terms is less than two years, the eligible offender may file the motion after the offender has served 30 days of the aggregated nonmandatory prison term or terms, (b) if the aggregated nonmandatory prison term or terms is at least two years but less than five years, the eligible offender may file the motion after the offender has served 180 days of the aggregated nonmandatory prison term or terms, (c) if the aggregated nonmandatory prison term or terms is five years, the eligible offender may file the motion after the eligible offender has served four years of the aggregated nonmandatory prison term or terms, or (d) if the aggregated nonmandatory prison term

or terms is more than five years but not more than ten years, the eligible offender may file the motion after the eligible offender has served five years of the aggregated nonmandatory prison term or terms.

(4) The bill's changes described in paragraphs (1) to (3), above, apply to any judicial release decision made on or after the bill's effective date for any eligible offender.

Intervention in lieu of conviction eligibility and procedures

The bill modifies the provisions that govern the use of "intervention in lieu of conviction" (ILC) for certain offenders charged with a criminal offense, if the court has reason to believe that drug or alcohol usage by the offender was a factor leading to the criminal behavior. Under the bill, if an offender is charged with a criminal offense, including but not limited to a violation of R.C. section 2913.02, 2913.03, 2913.11, 2913.21, 2913.31, or 2919.21, and the court has reason to believe that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged or that, at the time of committing that offense, the offender had a mental illness or was a mentally retarded person and that the mental illness or status as a mentally retarded person was a factor leading to the offender's criminal behavior, the court may accept, prior to the entry of a guilty plea, the offender's request for intervention in lieu of conviction. The request must include a statement from the offender as to whether the offender is alleging that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged or is alleging that, at the time of committing that offense, the offender had a mental illness or was a mentally retarded person and that the mental illness or status as a mentally retarded person was a factor leading to the criminal offense with which the offender is charged. As under existing law: (1) the request also must include a waiver of the defendant's right to a speedy trial, the preliminary hearing, the time period within which the grand jury may consider an indictment against the offender, and arraignment, unless the hearing, indictment, or arraignment has already occurred, (2) the court may reject an offender's request without a hearing, (3) if the court elects to consider an offender's request, the court must conduct a hearing to determine whether the offender is eligible under this section for ILC and must stay all criminal proceedings pending the outcome of the hearing, and (4) if the court schedules a hearing, the court must order an assessment of the offender for the purpose of determining the offender's eligibility for ILC and recommending an appropriate intervention plan.

If the offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court may order that the offender be assessed by a program certified pursuant to R.C. 3793.06 or a properly credentialed professional for the purpose of determining the offender's

eligibility for ILC and recommending an appropriate intervention plan. The program or the properly credentialed professional must provide a written assessment of the offender to the court.

Under the bill, an offender is eligible for ILC if the court finds all of the following: (1) the offender previously has not been convicted of or pleaded guilty to a felony offense of violence or previously has been convicted of or pleaded guilty to a felony that is not an offense of violence and the prosecuting attorney recommends that the offender be found eligible for participation in ILC under the provisions discussed above, previously has not been through ILC or any similar regimen, and is charged with a felony for which the court, upon conviction, would impose sentence under R.C. 2929.13(B)(2)(b) or with a misdemeanor, (2) the offense is not a felony of the first, second, or third degree, is not an offense of violence, is not a violation of R.C. 2903.06(A)(1) or (2) or R.C. 2903.08(A)(1), is not a violation of R.C. 4511.19(A) or a substantially similar municipal ordinance, and is not an offense for which a sentencing court is required to impose a mandatory prison term, a mandatory term of local incarceration, or a mandatory jail term, (3) the offender is not charged with a violation of R.C. 2925.02, 2925.04, or 2925.06, is not charged with a violation of R.C. 2925.03 that is a felony of the first, second, third, or fourth degree, and is not charged with a violation of R.C. 2925.11 that is a felony of the first, second, or third degree, (4) if an offender alleges that drug or alcohol usage by the offender was a factor leading to the criminal offense with which the offender is charged, the court has ordered that the offender be assessed by a program certified pursuant to R.C. 3793.06 or a properly credentialed professional for the purpose of determining the offender's eligibility for ILC and recommending an appropriate intervention plan, the offender has been assessed by a program of that nature or a properly credentialed professional in accordance with the court's order, and the program or properly credentialed professional has filed the written assessment of the offender with the court, (5) if an offender alleges that, at the time of committing the criminal offense with which the offender is charged, the offender had a mental illness or was a mentally retarded person and that the mental illness or status as a mentally retarded person was a factor leading to that offense, the offender has been assessed by a psychiatrist, psychologist, independent social worker, or professional clinical counselor for the purpose of determining the offender's eligibility for ILC and recommending an appropriate intervention plan, (6) the offender's drug usage, alcohol usage, mental illness, or mental retardation, whichever is applicable, was a factor leading to the criminal offense with which the offender is charged, ILC would not demean the seriousness of the offense, and ILC would substantially reduce the likelihood of any future criminal activity, (7) the alleged victim of the offense was not 65 years of age or older, permanently and totally disabled, under 13 years of age, or a peace officer engaged in the officer's official duties at the time of the alleged offense, (8) if the offender is charged with a violation of R.C. 2925.24, the alleged

violation did not result in physical harm to any person, and the offender previously has not been treated for drug abuse, and (9) the offender is willing to comply with all terms and conditions imposed by the court.

With one exception, the existing hearing procedures, provisions regarding the court's findings and determinations, provisions regarding the effect of a grant of ILC, and provisions regarding failure to comply with the terms of granted ILC are retained without change. Under the bill, the provision that is changed specifies that, if the court grants an offender's request for ILC and the court finds that the offender has successfully completed the intervention plan, including the requirement that the offender abstain from using *illegal* drugs and alcohol for a period of at least one year from the date on which the court granted the ILC order, *the requirement that the offender participate in treatment and recovery support services,* and all other terms and conditions ordered by the court, the court must dismiss the proceedings against the offender. (R.C. 2951.041.)

Medical release of an inmate; placement in a skilled nursing home

The bill modifies the provisions for medical release of an inmate and provides for the placement of an inmate so released in a skilled nursing home. Under the bill (language added by the bill is in italics), upon the recommendation of DRC's Director, accompanied by a certificate of the attending physician that an inmate is terminally ill, medically incapacitated, or in imminent danger of death, the Governor may order the inmate's release on *indefinite* parole *on or after a specified date*, reserving the right to return the inmate to the institution under the provisions. *The inmate cannot be released until an appropriate placement in a skilled nursing facility has been secured for the inmate and the skilled nursing facility has secured a funding source for the placement. The Department of Job and Family Services (ODJFS) is required to give priority to the processing and determination of an inmate's eligibility for initial or continued Medicaid funding under the provisions. ODJFS's processing and determination of the inmate's eligibility may be based solely on identifying information provided by DRC. In addition to the reimbursement otherwise provided to a skilled nursing facility under R.C. Chapter 5111., ODJFS, through the Medicaid program, must reimburse a skilled nursing facility that provides care to inmates under the provisions for reasonable additional costs incurred by the facility in providing the security required under the provisions (see below) and will take all necessary steps to implement the payment of these additional costs. An inmate cannot not be released to a skilled nursing facility until the inmate has undergone preadmission screening and resident review and the level of care review and determination process established under the Administrative Code and has been determined to meet the criteria for skilled nursing care. A skilled nursing facility must meet the requirements specified below.*

As under existing law: (1) if, subsequent to the inmate's release, the inmate's health improves so that the inmate is no longer terminally ill, medically incapacitated, or in imminent danger of death, the inmate must be returned, by order of the Governor, to the institution from which the inmate was released, (2) if the inmate violates any applicable rules or conditions, he or she may be returned to an institution under DRC's control, (3) the Governor may direct the APA to investigate or cause to be investigated the inmate and make a recommendation, (4) an inmate released under the provisions is subject to APA supervision, and (5) the APA must adopt rules to establish the procedure for medical release of an inmate when an inmate is terminally ill, medically incapacitated, or in imminent danger of death.

Under the bill, no inmate is eligible for release under the provisions if the inmate is serving a death sentence, a sentence of life without parole, or a sentence under the Sexually Violent Predator Sentencing Law for a felony of the first or second degree (the bill removes the language that currently specifies that an inmate is ineligible for release under the provisions if the inmate is serving a sentence for aggravated murder or murder, or a mandatory prison term for an offense of violence or any specification described in R.C. Chapter 2941.).

Under the bill, an inmate cannot be released to a skilled nursing facility under the provisions unless the skilled nursing facility meets all of the following requirements: (1) the facility is certified as a skilled nursing facility under Title XVIII or XIX of the federal Social Security Act, and has obtained any approval or authorization needed for its operation as described in the next paragraph, (2) the facility is under contract with DRC solely for the care of inmates released under the provisions and is certified by DRC, (3) the facility is located in Ohio, and its location presents a minimal risk to public safety, (4) the facility is operated by a licensed nursing home administrator who has a minimum of six years of active licensure, a Master's degree in healthcare administration, and experience in the administration of an assisted living program, a home care program, a skilled nursing facility, a hospice care program, and a long term acute care hospital, and (5) employees of the facility or a contractor provide security to the facility. The security staff under clause (5) must be directed by a person with at least 30 years of experience as a law enforcement officer with a law enforcement agency employing a minimum of 500 law enforcement officers, whose experience includes a minimum of five years of supervisory experience. The Department of Health is required to issue a certificate of need to the operator of a skilled nursing facility that accepts inmates under the provisions.

The bill requires ODJFS to apply to the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services for any approval or other authorization needed for the operation of the skilled nursing facility to be used to provide care to inmates under the provisions, and for a statement of the applicable parameters for operation of the facility. ODJFS must notify the facility and DRC of the grant by the Centers of any such approval or authorization needed for the facility and of the applicable parameters for its operation.

The bill specifies that R.C. 3721.10 to 3721.18, the Nursing Home Patients' Bill of Rights, does not apply to an inmate receiving care in a skilled nursing facility under the provisions described above. (R.C. 2967.05.)

The following definitions apply to the medical release provisions described above (R.C. 2967.05(A)):

(1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur "within a short period of time" (defined as meaning, generally, within six months).

(2) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions, that is likely to continue throughout the entire period of parole, and that is unlikely to improve noticeably. "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect.

(3) "Terminal illness" means a condition that satisfies all of the following criteria: (a) it is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover, (b) in accordance with reasonable medical standards and a reasonable degree of medical certainty, it is likely to cause death to the inmate within 12 months, and (c) institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend. DRC is required to adopt rules to implement this definition of "terminal illness."

Halfway houses, community residential centers, and reentry centers

Current law

Under existing law, the APA may require a parolee or releasee to reside in a halfway house or other suitable community residential center that has been licensed by DRC's Division of Parole and Community Services during a part or for the entire period of the parolee's conditional release or of the releasee's term of post-release control. The court of common pleas that placed an offender under a sanction consisting of a term in a halfway house or in an alternative residential sanction may require the offender to reside in a halfway house or other suitable community residential center designated by the court and licensed by the Division during a part or for the entire period of the offender's residential sanction.

The Division may negotiate and enter into agreements with any public or private agency or a department or political subdivision of the state that operates a halfway house or community residential center that has been licensed by the Division. An agreement under this provision must provide for the purchase of beds, must set limits of supervision and levels of occupancy, and must determine the scope of services for all eligible offenders, including those subject to a residential sanction, as defined in rules adopted by DRC's Director. The payments for beds and services must be equal to the halfway house's or community residential center's average daily *per capita* costs with its facility at full occupancy. The payments for beds and services cannot exceed the total operating costs of the halfway house or community residential center during the term of an agreement.

DRC may use no more than 10% of the amount appropriated to DRC each fiscal year for the halfway house and community residential center program to pay for contracts for nonresidential services for offenders under the supervision of the adult parole authority. The nonresidential services may include, but are not limited to, treatment for substance abuse, mental health counseling, and counseling for sex offenders.

The Division may license a halfway house or community residential center as a suitable facility for the care and treatment of adult offenders, including offenders sentenced under R.C. 2929.16 or 2929.26, only if the halfway house or community residential center complies with the standards that the Division adopts for the licensure of halfway houses and community residential centers. The Division annually must inspect each licensed halfway house and licensed community residential center to determine if it is in compliance with the licensure standards. (R.C. 2967.14.)

Operation of the bill

The bill expands the categories of released prisoners that the APA may require (or allow) to reside in a halfway house or community residential center to also include prisoners otherwise released from a state correctional institution, also permits DRC to require or allow parolees, releasees, or prisoners otherwise released from a state correctional institution to reside in such a house or center, revises the rules for determining payment for beds and services at those facilities, specifies that those facilities may provide and be paid for electronic monitoring services for offenders under APA supervision, and applies all of the provisions that apply to halfway houses and community residential centers to reentry centers (R.C. 2967.14).

Department of Rehabilitation and Correction identification card upon inmate's release, and use to obtain a state identification card

Regarding DRC's issuance of an inmate identification card upon the inmate's release that the inmate may present to the Registrar of Motor Vehicles or a deputy registrar, the bill removes the authority of DRC's Director to adopt rules to implement those provisions, and provides that, when a person applies for a state identification card, an identification card issued by DRC upon an inmate's release is sufficient documentary evidence as required by the Registrar of Motor Vehicles of the applicant's age and identity upon verification of the applicant's Social Security number by the Registrar or a deputy registrar (R.C. 4507.51 and 5120.59).

Implementation plan--federal Second Chance Act funds

The bill requires DRC, together with the Department of Alcohol and Drug Addiction Services as the single state authority for alcohol and drug addiction services, to develop an implementation plan related to any funding approved by the Bureau of Justice Assistance of the U.S. Department of Justice through the "Second Chance Act" (see below) related to reentry of offenders into the community. DRC, together with the Department of Alcohol and Drug Addiction Services, must develop the plan not later than 90 days after either of the departments is notified by the U.S. Department of Justice that Ohio will receive funding through the Second Chance Act. The implementation plan must include, but is not limited to, all of the following: (1) a process and funding system for the reentry of offenders seeking "alcohol and drug addiction services" (see below), and (2) the planning, development, implementation, outcomes, monitoring, regulation, and evaluation of a statewide system for clinically appropriate alcohol and drug addiction services.

As used in the provisions described in the preceding paragraph: (1) "alcohol and drug addiction services" has the same meaning as in existing R.C. 3793.01, and (2) "Second Chance Act" means the "Second Chance Act of 2007: Community Safety Through Recidivism Prevention," 122 Stat. 657, 42 U.S.C. 17501, *et seq.*, as now or hereafter amended. (R.C. 5120.035.)

Membership of Ex-offender Reentry Coalition

Existing law creates the Ex-offender Reentry Coalition consisting of the following 17 members or their designees: (1) DRC's Director, (2) the Director of Aging, (3) the Director of Alcohol and Drug Addiction Services, (4) the Director of Development, (5) the Superintendent of Public Instruction, (6) the Director of Health, (7) the Director of Job and Family Services, (8) the Director of Mental Health, (9) the Director of Mental Retardation and Developmental Disabilities, (10) the Director of Public Safety, (11) the Director of Youth Services, (12) the Chancellor of the Ohio Board of Regents, (13) the

Director of the Governor's Office of External Affairs and Economic Opportunity, (14) the Director of the Governor's Office of Faith-based and Community Initiatives, (15) the Director of the Rehabilitation Services Commission, (16) the Director of the Department of Commerce, and (17) the executive director of a health care licensing board, as appointed by the Chairperson of the Coalition. The members of the Coalition serve without compensation. DRC's Director or the Director's designee is be the chairperson of the Coalition. Existing law specifies the duties of the Coalition.

The bill changes the membership of the Coalition as follows: (1) it replaces the member who is the Director of the Governor's Office of External Affairs and Economic Opportunity with a member who is a representative or member of the Governor's staff, (2) it removes as a member the Director of the Governor's Office of Faith-based and Community Initiatives, and (3) it adds as a member the Director of Veterans Services. (R.C. 5120.07.)

The bill specifies that the amendments described in the preceding paragraph are not intended to supersede the earlier repeal of R.C. 5120.07, with the delayed effective date of December 31, 2011 (Section 3).

DRC inmate reentry plan

The bill specifies that, for each inmate committed to DRC, except as otherwise described in the next paragraph, DRC must prepare a written reentry plan for the inmate to help guide the inmate's rehabilitation program during imprisonment, to assist in the inmate's reentry into the community, and to assess the inmate's needs upon release.

The reentry plan requirement does not apply to an inmate who has been sentenced to life imprisonment without parole or who has been sentenced to death. It also does not apply to an inmate who is expected to be imprisoned for 30 days or less, but DRC may prepare a written reentry plan of the type described in the requirement for such an inmate if DRC determines that the plan is needed.

The bill authorizes DRC to collect, if available, any social and other information that will aid in the preparation of reentry plans under the provisions described in the two preceding paragraphs.

In the event DRC does not prepare a written reentry plan as specified in the third preceding paragraph or makes a decision to not prepare a written reentry plan under the provision described in the second preceding paragraph or to not collect information as described in the immediately preceding paragraph, that fact does not give rise to a claim for damages against the state, DRC, DRC's Director, or any DRC employee. (R.C. 5120.113.)

Limitation of terms of most Parole Board members

Existing law

The Parole Board consists of up to 12 members, one of whom is designated as Chairperson by DRC's Director and who continues as Chairperson until a successor is designated, and any other personnel necessary for the orderly performance of the Board's duties. When the Board members sit as a full Board, the Chairperson is required to preside. Except as otherwise described in the next paragraph, no person may be appointed a member of the Parole Board who is not qualified by education or experience in correctional work, including law enforcement, prosecution of offenses, advocating for the rights of victims of crime, probation, or parole, in law, in social work, or in a combination of the three categories. (R.C. 5149.10(A).)

Under existing law, DRC's Director, in consultation with the Governor, is required to appoint one member of the Parole Board, who must be a person who has been a victim of crime, is a member of a crime victim's family, or represents an organization that advocates for the rights of victims of crime. After appointment, this member is an unclassified employee of DRC. The term of office of the member appointed under this provision is four years. The member holds office from the date of appointment until the end of the term for which he or she was appointed and may be reappointed. The member may vote on all cases heard by the full Board under the provisions governing full Board hearings, has such duties as are assigned by the Board's Chairperson, and must coordinate the member's activities with the Office of Victims' Services created under R.C. 5120.60. (R.C. 5149.10(B).)

Operation of the bill

The bill enacts a term of office for most members of the Parole Board and generally limits them to two terms. It specifies that, except for the Chairperson, except for the member who has been a victim, is a member of a victim's family, or represents a victims' advocacy organization, and except as described in the next paragraph, a member appointed to the Parole Board will be appointed to a six-year term. A member will hold office from the date of appointment until the end of the term for which he or she was appointed. A member is eligible for reappointment for another six-year term that may or may not be consecutive to the first six-year term. A member is not eligible for reappointment after serving two six-year terms whether or not served consecutively. Vacancies will be filled in the same manner provided for original appointments, and any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed will begin that member's first six-year term upon appointment, regardless of the time remaining in the term of the member's predecessor. A member appointed under this provision will continue in

office subsequent to the expiration date of his or her term until his or her successor takes office or until 60 days has elapsed, whichever occurs first.

The bill provides special provisions that apply to persons who are members of the Parole Board on the bill's effective date. A member of the Board on that date who has served on the Board less than six years will have the time so served applied toward a six-year term and at the end of that six-year term is eligible for reappointment to an additional six-year term. A member of the Board on that date who has served on the Board at least six years but less than 12 years will have six of the years so served applied toward the first six-year term and the remaining time so served applied toward a second six-year term, is to serve the remainder of that second six-year term, and at the end of that second six-year term is not eligible for reappointment. A member of the Board on that date who has served on the Board 12 years or longer is to serve until a successor member is appointed or a period of six months after the bill's effective date has elapsed, whichever occurs first, and after the end of that service is eligible for reappointment to an additional six-year term. (R.C. 5149.10.)

DRC discontinuation of subsidy payments under community-based corrections subsidy

Existing law prohibits any municipal corporation, county, or group of counties receiving a community-based corrections subsidy under R.C. 5149.31(A) from reducing, by the amount of the subsidy it receives or by a greater or lesser amount, the amount of local, nonfederal funds it expends for corrections, including, but not limited to, the amount of local, nonfederal funds it expends for the operation of the county, multicounty, municipal, municipal-county, or multicounty-municipal jail or workhouse, for any county or municipal probation department, or for any community corrections program. Each subsidy must be used to make corrections expenditures in excess of those being made from local, nonfederal funds. Existing law also prohibits the use of any subsidy or portion of a subsidy to make capital improvements.

The bill authorizes, instead of requiring as under existing law, DRC to discontinue subsidy payments to a political subdivision that is a recipient of a community-based corrections subsidy payment and that reduces, by the amount of the subsidy it receives or by a greater or lesser amount, the amount of local, nonfederal funds it expends for corrections or that uses the subsidy or any portion of a subsidy to make capital improvements. (R.C. 5149.33.)

Conduct of full board meeting of Parole Board

Currently, when the Parole Board conducts its proceedings, it does not always conduct full Board hearings, but it is required to conduct them in certain circumstances. Currently, "full board hearing" means a Parole Board hearing conducted by a minimum

of seven Parole Board members as described in R.C. 5149.01 (under R.C. 5149.10, the Board consists of "up to 12 members").

The bill changes the definition of "full board hearing" so that it means a Board hearing conducted by a "majority" of Board members. (R.C. 5149.01.)

Membership of local corrections planning board

Under existing law, if a county desires to receive a subsidy from a subsidy program established under R.C. 5149.31(A) for community corrections programs, the board of county commissioners of the county must establish, by a resolution as described in this paragraph, and maintain a local corrections planning board that, except as described below, must 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; one or more representatives of the public, one of whom must 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 must be employed in the adult criminal justice field. At least two members must be members of the largest racial minority population, if any, in the county, and at least two other members must be women. The resolution must 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. 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 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.

The bill expands the membership of a local corrections board so that, in addition to the members currently required for the board, it also must include: (1) the executive director of the board of alcohol, drug addiction, and mental health services serving that county or the executive director's designee, or the executive directors of both the community mental health board and the alcohol and drug addiction services board serving that county or their designees, whichever is applicable, (2) the executive

director of the county board of mental retardation and developmental disabilities of that county or the executive director's designee, (3) an administrator of a halfway house serving that county, if any, or the administrator's designee, (4) an administrator of a community-based correctional facility, if any, serving the court of common pleas of that county or the administrator's designee, and (5) an administrator of a community corrections act-funded program in that county, if any, or the administrator's designee. (R.C. 5149.34.)

COMMENT

1. The offense of nonsupport of dependents also is committed whenever a person: (a) abandons, or fails to provide adequate support to, the person's spouse as required by law, or the person's aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for the parent's own support, or (b) aid, abets, induces, causes, encourages, or contributes to a child or a ward of the juvenile court becoming a dependent child or a neglected child (R.C. 2919.21(A)(1) and (3) and (C); the bill does not affect these provisions).

2. R.C. 2967.15, not in the bill, provides that, if an APA field officer has reasonable cause to believe that a person who is a parolee or releasee, who is under transitional control, or who is under another form of authorized release and who is under the supervision of the APA has violated or is violating the conditions of a conditional pardon, parole, other form of authorized release, transitional control, or post-release control specified in R.C. 2967.131(A) or any other term or condition of the person's conditional pardon, parole, other form of authorized release, transitional control, or post-release control, the field officer may arrest the person without a warrant or order a peace officer to arrest the person without a warrant. A person so arrested must be confined in the jail of the county in which the person is arrested or in another facility designated by the chief of the APA until a determination is made regarding the person's release status. Upon making an arrest under this provision, the arresting or supervising APA field officer promptly must notify the Superintendent of Parole Supervision or the Superintendent's designee, in writing, that the person has been arrested and is in custody and submit an appropriate report of the reason for the arrest.

Except as otherwise provided in this paragraph, prior to the revocation by the APA of a person's pardon, parole, transitional control, or other release and prior to the imposition by the Parole Board or APA of a new prison term as a post-release control sanction for a person, the APA must grant the person a hearing in accordance with rules adopted by DRC. The APA is not required to grant the person a hearing if the person is convicted of or pleads guilty to an offense that the person committed while released on a pardon, on parole, transitional control, or another form of release, or on post-release control and upon which the revocation of the person's pardon, parole, transitional

control, other release, or post-release control is based. If a person who has been pardoned is found to be a violator of the conditions of the parolee's conditional pardon or commutation of sentence, the APA forthwith must transmit to the Governor its recommendation concerning that violation, and the violator must be retained in custody until the Governor issues an order concerning that violation. If the APA fails to make a determination of the case of a parolee or releasee alleged to be a violator of the terms and conditions of the parolee's or releasee's conditional pardon, parole, other release, or post-release control sanctions within a reasonable time, the parolee or releasee must be released from custody under the same terms and conditions of the parolee's or releasee's original conditional pardon, parole, other release, or post-release control sanctions.

If a person who is a parolee or releasee, who is under transitional control, or who is under another form of authorized release under the supervision of the APA absconds from supervision, the supervising APA field officer must report that fact to the Superintendent of Parole Supervision, in writing, and the APA must declare that person to be a violator at large. Upon being advised of the apprehension and availability for return of a violator at large, the Superintendent must determine whether the violator at large should be restored to parole, transitional control, another form of authorized release, or post-release control. The time between the date on which a person who is a parolee or other releasee is declared to be a violator or violator at large and the date on which that person is returned to custody in Ohio under the immediate control of the APA cannot be counted as time served under the sentence imposed on that person or as a part of the term of post-release control.

A person who is under transitional control or who is under any form of authorized release under the supervision of the APA is considered to be in custody while under the transitional control or on release, and, if the person absconds from supervision, the person may be prosecuted for the offense of escape.

A person who is a parolee or releasee, who is under transitional control, or who is under another form of authorized release under the supervision of the APA and who has violated a term or condition of the person's conditional pardon, parole, transitional control, other form of authorized release, or post-release control must be declared to be a violator if the person is committed to a correctional institution outside Ohio to serve a sentence imposed upon the person by a federal court or a court of another state or if the person otherwise leaves Ohio.

3. As used in the Sex Offender Registration and Notification Law, the term "sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of the person's age (R.C. 2950.01, not in the bill):

(a) Rape, sexual battery, gross sexual imposition, sexual imposition, importuning, voyeurism, compelling prostitution, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in nudity-oriented material or performance;

(b) Unlawful sexual conduct with a minor when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(c) Unlawful sexual conduct with a minor when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(d) Aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation;

(e) Involuntary manslaughter, when the base offense is a felony and when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(f) Menacing by stalking committed with a sexual motivation;

(g) Kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the offense is committed with a sexual motivation;

(h) Kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will;

(i) Kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense;

(j) Abduction, unlawful restraint, and criminal child enticement committed with a sexual motivation, or endangering children committed by enticing, permitting, using,

or allowing, etc., a child to participate in or be photographed for material or performance that is obscene, is sexually oriented matter, or is nudity-oriented matter;

(k) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) under this definition;

(l) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), or (k) under this definition.

HISTORY

ACTION	DATE
Introduced	02-10-09
Reported, S. Judiciary - Criminal Justice	---

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