



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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(As Reported by H. Criminal Justice)

Reps. Hughes and Boggs, Arndt, Brenner, Brown, Carfagna, Celebrezze, Cera, Craig, Duffey, Gonzales, Kent, Lanese, Leland, Lepore-Hagan, Miller, Ramos, Schaffer, Sheehy, Sweeney

BILL SUMMARY

- Modifies the Felony Sentencing Law by:
 - Providing for indefinite prison terms for offenders sentenced to prison for a first or second degree felony or specified third degree felony committed on or after the bill's effective date, with presumptive release at the end of the minimum term imposed;
 - Specifying that the indefinite terms will consist of a minimum term selected by the sentencing judge from a range of terms authorized for the degree of offense and a maximum term set by statute based on the selected minimum;
 - Generally allowing the Department of Rehabilitation and Correction (DRC) to recommend that the sentencing court reduce an offender's minimum term for exceptional conduct or adjustment to incarceration and requiring the court to grant or deny the recommended reduction;
 - Allowing DRC to rebut the release presumption for an offender and keep the offender in prison up to the maximum term if it makes specified findings; and
 - Providing that offenders released from prison after service of an indefinite term will be subject to post-release control (PRC) to the same extent and under the same rules as offenders currently released after service of a definite term.

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

- Regarding global positioning system (GPS) monitoring used for offenders released from prison under such monitoring:
 - Requires that the monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones;
 - Requires DRC to establish system requirements for GPS monitoring of such offenders by DRC or third-party contract administrators;
 - Requires DRC to operate a statewide database for law enforcement use containing specified information about such offenders; and
 - Requires that third-party administrators for GPS monitoring under a new contract with DRC provide and use a law enforcement-accessible crime scene correlation program.
- Requires DRC to establish a reentry program for all offenders released from prison who it intends to have reside in, but who are not accepted by, a halfway house or similar facility.
- Requires the Adult Parole Authority to establish maximum work-load and case-load standards for its parole and field officers and have enough trained officers to comply with the standards.
- Clarifies that the law's PRC provisions do not apply with respect to a term of life imprisonment imposed by a court.
- Names the act's provisions described above the Reagan Tokes Act.
- Requires the State Criminal Sentencing Commission to appoint an Offender Supervision Study Committee to study and review all issues related to the supervision of offenders.

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CONTENT AND OPERATION

Overview

The bill modifies the Felony Sentencing Law by providing for indefinite prison terms for offenders who are sentenced to prison for a first or second degree felony, or



for a specified category of third degree felony, committed on or after its effective date. The presumptive release of each offender serving such a term is at the end of the offender's minimum term, and the bill provides for a possible reduction of the minimum term by the sentencing court upon recommendation by the Department of Rehabilitation and Correction (DRC) under specified circumstances and possible rebuttal by the Department of the release presumption and continued confinement of the offender up to the maximum term. An offender sentenced under the bill is not eligible for parole, but the existing mechanism for imposition and service of post-release control (PRC) for an offender released from prison after serving a definite prison term also will apply to an offender sentenced to an indefinite prison term under the bill. The existing Felony Sentencing Law is briefly described below in "**Background.**"

The bill also modifies the law regarding certain release terms and supervision of felony offenders released from prison by requiring DRC to establish a reentry program for such offenders who are not accepted for intended residence in a halfway house or similar facility. Additionally, the bill requires the Adult Parole Authority to adopt maximum work-load and case-load standards for parole and field officers and establish criteria for global positioning system (GPS) monitoring used for such offenders (including inclusionary and necessary exclusionary zones and a law enforcement-accessible crime scene correlation program). The bill also mandates a statewide database for law enforcement use containing specified information about such offenders.

The bill names its provisions the Reagan Tokes Act.

Felony Sentencing Law under the bill

Indefinite prison term for first, second, and certain third degree felonies

In general

The bill enacts an indefinite prison term sentencing mechanism that will be used for offenders convicted of a first or second degree felony, or a specified category of third degree felony, committed on or after its effective date who are sentenced to a prison term (the bill does not change existing provisions that govern a sentencing court's determination as to whether it will use its discretion to impose a prison term or whether it is required to impose a prison term). The bill's mechanism provides for an indefinite prison term, consisting of a minimum term selected by the sentencing judge from a range of authorized terms, and a maximum term set by statute and based on the minimum term imposed. The range of minimum terms authorized for the offenses is the same as the range of definite terms available for the offenses under existing law.¹

¹ R.C. 2929.14(A); conforming change in R.C. 2905.01(C).



For offenders convicted of any of those felonies committed prior to its effective date, the bill retains the existing definite prison term sentencing mechanism.² The indefinite prison term under the bill is determined as described below.

The bill specifies that, for purposes of its sentencing and corrections provisions, a prison term imposed on an offender pursuant to its indefinite prison term sentencing mechanism is named a "non-life felony indefinite prison term."³ This analysis uses "indefinite prison term under the bill" or "indefinite prison term imposed under the bill" to refer to such a prison term, uses "bill's indefinite prison term sentencing mechanism" to refer to the bill's mechanism for imposing such a term, and uses "qualifying first, second, or third degree felony" to refer to an offense that is to be sentenced under that mechanism.

Determination of minimum term

Under the bill, for an offender sentenced to prison for a first degree felony committed on or after its effective date, subject to the exception described in the third succeeding paragraph, the prison term is an indefinite term with a stated minimum term selected by the court of three, four, five, six, seven, eight, nine, ten, or eleven years and a maximum term determined as described below in "**Determination of maximum term.**"⁴

Under the bill, for an offender sentenced to prison for a second degree felony committed on or after its effective date, subject to the exception described in the second succeeding paragraph, the prison term is an indefinite term with a stated minimum term selected by the court of two, three, four, five, six, seven, or eight years and a maximum term determined as described below in "**Determination of maximum term.**"⁵

Under the bill, for an offender sentenced to prison for a specified category of third degree felony (see below), subject to the exception described in the next paragraph, the prison term is an indefinite term with a stated minimum selected by the court of 12, 18, 24, 30, 36, 42, 48, 54, or 60 months and a maximum term determined as described below in "**Determination of maximum term.**" The third degree felonies with respect to which this provision applies are third degree felony offenses of aggravated vehicular homicide, aggravated vehicular assault, sexual battery, unlawful sexual conduct with a minor, gross sexual imposition, or assisting suicide, or a third degree

² R.C. 2929.14(A)(1) to (3).

³ R.C. 2929.01(FFF), 2943.032(B), 2953.08(I), 2967.01(S), and 5120.66(E).

⁴ R.C. 2929.14(A)(1)(a).

⁵ R.C. 2929.14(A)(2)(a).



felony offense of robbery or burglary if the offender previously has been convicted in two or more separate proceedings of two or more offenses of aggravated robbery, robbery, aggravated burglary, burglary, or trespass in a habitation when a person is present or likely to be present.⁶

Under the bill, for any first, second, or third degree felony that is subject to its indefinite prison term sentencing mechanism, if the section that criminalizes the conduct constituting the felony specifies a different minimum term or penalty for the offense, the specific language of that section controls in determining the minimum term or otherwise sentencing the offender but the minimum term or sentence imposed under that specific language is to be considered as if it had been imposed under the provision for the degree of felony described in one of the three preceding paragraphs.⁷

Determination of maximum term

For an offender sentenced to prison under the bill's indefinite prison term sentencing mechanism, the sentencing court must determine the maximum prison term under the rules described in this paragraph. If the offender is being sentenced for one felony and the felony is a qualifying first, second, or third degree felony, the maximum prison term is 150% of the minimum term imposed on the offender under the provisions described above in "**Determination of minimum term.**" If the offender is being sentenced for more than one felony, if one or more of the felonies is a qualifying first, second, or third degree felony, and if the court orders that some or all of the prison terms imposed are to be served consecutively, the court must add all of the minimum terms imposed on the offender under the provisions described above in "**Determination of minimum term,**" for a qualifying first, second, or third degree felony that are to be served consecutively and all of the definite terms of the felonies that are not qualifying first, second, or third degree felonies that are to be served consecutively, and the maximum term is 150% of the total of those terms so added by the court. If the offender is being sentenced for more than one felony, if one or more of the felonies is a qualifying first, second, or third degree felony, and if the court orders that all of the prison terms imposed are to run concurrently, the maximum term is 150% of the longest of the minimum terms imposed on the offender under the provisions described above in "**Determination of minimum term**" for a qualifying first, second, or third degree felony for which the sentence is being imposed. Any mandatory prison term, or portion of a mandatory prison term, imposed or to be imposed on the offender under any statute with respect to a conviction of a specification, and that is in addition to the sentence imposed for the underlying offense, is separate from the sentence being imposed for the

⁶ R.C. 2929.14(A)(3)(a)(i).

⁷ R.C. 2929.14(A)(1)(a), (2)(a), and (3)(a)(i).



qualifying first, second, or third degree felony and is not to be considered or included in determining a maximum prison term for the offender under the provisions described in this paragraph.⁸

The court imposing a prison term on an offender under the bill's indefinite prison term sentencing mechanism is required to sentence the offender, as part of the sentence, to the maximum prison term determined as described in the preceding paragraph. The court must impose this maximum term at sentencing as part of the sentence it imposes under R.C. 2929.14, and must state in the sentencing entry the minimum term it imposes under the provisions described above in "**Determination of minimum term**" and this maximum term.⁹

Service of, and release from, indefinite prison term imposed under the bill

In general

The bill specifies that if a court imposes a prison term on an offender under its indefinite prison term sentencing mechanism, the offender is to serve the prison term in accordance with its provisions regarding presumptive release and continued incarceration, as described below.¹⁰

Presumptive release date

When an offender is sentenced to an indefinite prison term under the bill, there is a presumption that the offender must be released from service of the sentence on the expiration of the "offender's minimum prison term" or on the "offender's earned early release date," whichever is earlier.¹¹ As used in this provision, "offender's minimum prison term" means the minimum term imposed on the offender under the bill's indefinite prison term sentencing mechanism, diminished as provided in R.C. 2967.191 (for days of confinement arising out of the offense of conviction) or 2967.193 (for earned credits) or in any other statute (other than the bill's provision described below regarding reduction of a minimum term for specified conduct resulting in an earned early release date) that provides for diminution or reduction of an offender's sentence. And as used in the provision, "offender's earned early release date" means the date determined under the bill's provision described below in "**Earned reduction of minimum prison term**" by the reduction, if any, of the offender's minimum prison term

⁸ R.C. 2929.144(A) and (B).

⁹ R.C. 2929.144(C).

¹⁰ R.C. 2929.144(D) and 2967.021.

¹¹ R.C. 2967.271(B).



for specified conduct and the crediting of that reduction toward satisfaction of the minimum term.¹²

The presumption described above is a rebuttable presumption that DRC may rebut as described below in "**Rebuttal of presumption of release.**" Unless DRC rebuts the presumption, the offender must be released from service of the sentence on the expiration of the offender's minimum prison term or on the offender's earned early release date, whichever is earlier.¹³

Earned reduction of minimum prison term

Recommendation submitted by DRC's Director to sentencing court. When an offender is sentenced to an indefinite prison term under the bill DRC's Director may notify the sentencing court in writing that the Director is recommending that the court grant the offender a reduction in the minimum term imposed under that indefinite sentence due to the offender's exceptional conduct while incarcerated or the offender's adjustment to incarceration, provided the offender is not ineligible for such a reduction as described below. If the Director wishes to recommend such a reduction for an offender, the Director must send the notice to the court not earlier than 90 days prior to the date in which the Director wishes to credit the reduction toward satisfaction of the offender's minimum prison term.

The Director must include with the notice sent to a court an institutional summary report that covers the offender's participation while confined in a prison in school, training, work, treatment, and other "rehabilitative programs and activities" and any disciplinary action taken against the offender while so confined, and any other documentation requested by the court, if available ("rehabilitative programs and activities" are education programs, vocational training, employment in prison industries, treatment for substance abuse, or other constructive programs developed by DRC with specific standards for performance by prisoners). The notice the Director sends to a court must: (1) identify the offender, (2) specify the length of the recommended reduction, which must be for 5% to 15% of the offender's minimum term determined under rules adopted by DRC, (3) specify the reason or reasons that qualify the offender for the recommended reduction, (4) inform the court that the court must either approve or disapprove of the recommended reduction, and that if it approves of the recommended reduction, it must grant the reduction, and (5) inform the court that it

¹² R.C. 2967.271(A)(1) and (2).

¹³ R.C. 2967.271(C).



must notify DRC of its decision as to approval or disapproval not later than 60 days after receipt of the Director's notice.¹⁴

DRC notice to prosecutor. When DRC's Director submits a notice to a sentencing court that the Director is recommending that the court grant a reduction in the minimum prison term imposed on an offender serving an indefinite prison term under the bill, DRC promptly must provide to the prosecuting attorney of the county in which the offender was indicted a copy of the written notice, a copy of the institutional summary report sent, any other information provided to the court, and any other documentation requested by the prosecuting attorney, if available.¹⁵

Initial determination by court regarding recommendation – denial or scheduling of hearing. Upon receipt of a notice submitted by DRC's Director regarding a recommended reduction of an offender's minimum prison term, the court either must deny the Director's recommendation without a hearing or must schedule a hearing to consider whether to grant the reduction in the minimum prison term recommended by the Director. In making a determination as to whether to deny the Director's recommendation without a hearing, the court must consider any report and other documentation the Director submitted. Within 30 days of receiving the notice the Director submitted, the court must inform DRC whether the court is denying the recommendation without a hearing or is scheduling a hearing to consider the recommendation.

If the court denies the Director's recommendation without a hearing, DRC may not credit the amount of the disapproved reduction toward satisfaction of the offender's minimum prison term.

If the court schedules a hearing, the court promptly must give notice of the date, time, and place of the hearing to the prosecuting attorney of the county in which the offender was indicted and to DRC. The notice must inform the prosecuting attorney that the prosecuting attorney may submit to the court, prior to the date of the hearing, written information relevant to the recommendation and may present at the hearing written information and oral information relevant to the recommendation. Upon receipt of the hearing notice from the court, the prosecuting attorney must notify the victim of the offender or the victim's representative of the recommendation by DRC's Director, the date, time, and place of the hearing, the fact that the victim may submit to the court,

¹⁴ R.C. 2967.272(A) and (B); also R.C. 2967.271(A).

¹⁵ R.C. 2967.272(C).



prior to the date of the hearing, written information relevant to the recommendation, and the address and procedure for submitting the information.¹⁶

Court hearing regarding Director's recommendation. If a court schedules a hearing to consider whether to grant the reduction in the minimum prison term recommended by the Director, the court must afford the prosecuting attorney an opportunity to present written information and oral information relevant to the Director's recommendation. In making its determination as to whether to grant or disapprove the reduction in the minimum prison term imposed on the specified offender that was recommended by the Director, the court must consider any report and other documentation the Director submitted, any information submitted by a victim, and any information submitted or presented by the prosecuting attorney.¹⁷

If the court schedules such a hearing and, after considering the specified reports, documentation, and information described above, disapproves the recommended reduction, the court must notify DRC of the disapproval not later than 60 days after receipt of the Director's notice. The court must specify in the notification the reason or reasons for which it disapproved the recommended reduction. The court may not reduce the offender's minimum prison term, and DRC may not credit the amount of the disapproved reduction toward satisfaction of the offender's minimum prison term.

If the court schedules such a hearing and, after considering the specified reports, documentation, and information described above, grants the recommended reduction of the offender's minimum prison term, the court must notify DRC of the grant of the reduction not later than 60 days after receipt of the Director's notice. The court must reduce the offender's minimum prison term in accordance with the Director's submitted recommendation and DRC must credit the amount of the reduction toward satisfaction of the offender's minimum prison term. The date determined by DRC's crediting of the reduction toward the satisfaction of the offender's minimum prison term under this provision is the offender's "earned early release date."

Upon deciding whether to disapprove or grant the recommended reduction of the offender's minimum prison term, the court must notify the prosecuting attorney of the decision and the prosecuting attorney must notify the victim or victim's representative of the court's decision.¹⁸

¹⁶ R.C. 2967.272(D).

¹⁷ R.C. 2967.272(E).

¹⁸ R.C. 2967.272(F) and (G).

DRC rules regarding earned reduction mechanism. Under the bill, DRC by rule must specify, for offenders serving an indefinite prison term under the bill:¹⁹ (1) the type of exceptional conduct while incarcerated and the type of adjustment to incarceration that will qualify such an offender for a reduction of the minimum prison term imposed on the offender under the term, and (2) the percent of reduction that it may recommend for, and that may be granted to, such an offender, based on the offense level of the offense for which the term was imposed, with DRC specifying the offense levels used for purposes of this provision and assigning a specific percentage reduction within the range of 5% to 15% for each such offense level.

Offenders not eligible for earned reduction. The earned reduction provisions described above do not apply with respect to an offender serving an indefinite prison term under the bill for a "sexually oriented offense" (as defined in the Sex Offender Registration and Notification Law²⁰), and no offender serving such an indefinite prison term for a sexually oriented offense is eligible to be recommended for or granted, or may be recommended for or granted, a reduction under that provision in the offender's minimum prison term imposed under that sentence.²¹

Rebuttal of presumption of release

When an offender is sentenced to an indefinite prison term under the bill, DRC may rebut the presumption of release described above only if it determines, upon a review of the offender for release, that one or more of four specified conditions apply (for purposes of these conditions, "security level" means the security level in which an offender is classified under the inmate classification level system of DRC that then is in effect). If DRC intends to rebut the presumption based on the second condition specified below, it may not do so without first conducting a hearing as described below in "**Hearing regarding continued threat to society.**" If DRC intends to rebut the presumption of release based on the first, third, or fourth condition specified below, it may do so without first conducting a hearing and may not conduct a hearing to consider rebutting the presumption on that basis; in making its decision as to whether to rebut the presumption, DRC must consider any written statement submitted by a victim of the offender.

The first condition that, if found, may rebut the presumption is that, regardless of the security level in which the offender is classified at the time the offender is reviewed by DRC for release, during the offender's incarceration, the offender committed

¹⁹ R.C. 2967.272(H).

²⁰ R.C. Chapter 2950., not in the bill.

²¹ R.C. 2967.272(I); also R.C. 2967.271(A).



institutional rule infractions that involved compromising a prison's security, compromising the safety of a prison's staff or inmates, or physical harm or the threat of physical harm to a prison's staff or inmates, or committed a violation of law that was not prosecuted, and the infractions or violations demonstrate that the offender has not been rehabilitated.

The second condition that, if found, may rebut the presumption is that the offender's behavior while incarcerated, including, but not limited to the infractions and violations specified regarding the first condition, demonstrate that the offender continues to pose a threat to society.

The third condition that, if found, may rebut the presumption is that, regardless of the security level in which the offender is classified at the time the offender is reviewed by DRC for release, at any time within the year preceding the time of the review, DRC had placed the offender in a housing status to which both of the following apply: (1) the housing status has limited privileges, restricts the offender's interaction with other prisoners, or has limited privileges and restricts the offender's interaction with other prisoners, and (2) DRC by rule has specified the housing status as one that overcomes the presumption. Regarding the criterion identified in clause (2), the bill requires DRC to specify by rule the housing statuses of offenders that overcome the presumption.

The fourth condition that, if found, may rebut the presumption is that, at the time the offender is reviewed by DRC for release, the offender is classified by DRC as a security level three, four, or five, or at a higher security level.²²

Continued incarceration after rebuttal of presumption of release; new presumptive release date, rebuttal of that presumption, and continued confinement after rebuttal

When an offender is sentenced to an indefinite prison term under the bill, if DRC rebuts the presumption of release as described above, it may maintain the offender's incarceration in a state prison under the sentence after the expiration of the offender's minimum prison term or, for offenders who have an earned early release date, after the offender's earned early release date. DRC may maintain the offender's incarceration under this provision for an additional period of incarceration that must be a reasonable period determined and specified by DRC and that may not exceed the offender's maximum prison term.

If DRC rebuts the presumption of release as described above, it may maintain the offender's incarceration in a prison under the sentence after the expiration of the

²² R.C. 2967.271(A)(4), (C), (E), and (F).

offender's minimum prison term or, for offenders who have an earned early release date, after the offender's earned early release date. DRC may maintain the offender's incarceration under this authorization for an additional period of incarceration determined by DRC. The additional period must be a reasonable period determined by DRC, must be specified by DRC, and must not exceed the offender's maximum prison term.

If DRC rebuts the presumption of release and maintains an offender's incarceration as described in the two preceding paragraphs for an additional period that expires before the completion of the offender's maximum prison term, there is a presumption under the bill that the offender must be released on the expiration of the offender's minimum prison term plus the additional period of incarceration specified by DRC or, for offenders who have an earned early release date, on the expiration of the additional period of incarceration to be served after the offender's earned early release date that is specified by DRC. The presumption is a rebuttable presumption that DRC may rebut, but only if it makes the determinations specified above in "**Rebuttal of presumption of release.**" If DRC rebuts the presumption, it may maintain the offender's incarceration in a state prison for an additional period determined as specified in the two preceding paragraphs. Unless DRC rebuts the presumption, the offender must be released from service of the sentence on the expiration of the offender's minimum prison term plus the additional period of incarceration specified by DRC or, for offenders who have an earned early release date, on the expiration of the additional period of incarceration to be served after the offender's earned early release date as specified by DRC.

The provisions of the preceding paragraph regarding the establishment of a rebuttable presumption, DRC's rebuttal of the presumption, and DRC's maintenance of an offender's incarceration for an additional period of incarceration apply, and may be utilized more than one time, during the remainder of the offender's incarceration. If the offender has not been released under either release provision described above prior to the expiration of the offender's maximum prison term imposed as part of the offender's indefinite prison term under the bill, the offender must be released upon the expiration of that maximum term.

If, in relation to any offender sentenced to an indefinite prison term under the bill, DRC considers whether to rebut the presumption of release established for the offender under any of the provisions described above, prior to making its determination on the matter, DRC must consider any written statement submitted by a victim of the offender.²³

²³ R.C. 2967.271(D).



When an offender is sentenced to an indefinite prison term under the bill, any reference in a statute to a "definite prison term" must be construed as referring to the offender's minimum term under that sentence plus any additional period of time of incarceration specified by DRC under the provisions described in any of the five preceding paragraphs or minus any deduction to that term granted as described above in "**Earned reduction of minimum prison term**," except to the extent otherwise specified in the section or to the extent that that construction clearly would be inappropriate.²⁴

Hearing regarding continued threat to society

If, in relation to any offender sentenced to an indefinite prison term under the bill, DRC intends to rebut the presumption of release established for the offender (either the initial presumption of release or the presumption of release established after the offender is kept by DRC for an additional period of incarceration) on the basis of a potential threat to society, DRC may not rebut the presumption without first conducting a hearing. If DRC conducts such a hearing in relation to an offender, the offender must be required to attend the hearing and must be permitted to participate in the hearing if the offender so chooses. If the hearing is held in a location other than the prison in which the offender is confined at the time of the hearing, DRC may permit the offender to appear at the hearing by video conferencing equipment if such equipment is available and compatible.²⁵

Notice of hearings regarding rebuttal of presumptions of release and of date of presumptive release

Under the Crime Victims' Rights Law as applied to an indefinite prison term imposed under the bill, upon the victim's request made at any time before the notice would be due, the prosecutor must notify the victim promptly after the offender's sentencing of the date on which the offender initially will be eligible for release from the confinement (or the prosecutor's reasonable estimate of that date), and DRC must give the victim at least 60 days' notice prior to a determination by DRC as to whether the inmate serving the term will be released under a presumptive release, of the fact that DRC will be making a determination regarding a possible grant of release and, if DRC will be conducting a hearing before making the determination, of the date of the hearing and the right of the victim to submit a written statement regarding the pending action.²⁶ A statement of the right of the victim or victim's representative to receive notice

²⁴ R.C. 2967.271(G).

²⁵ R.C. 2967.271(E).

²⁶ R.C. 2930.16(A) and (C)(1).

of any pending petition for reduction of a presumptive release date for the person who committed the offense against the victim or of any consideration by DRC as to whether to rebut a presumption of release and continue incarceration of that person, and to send a written statement relative to that victimization and the pending action to the court or DRC, also must be included in the Crime Victims' Rights Pamphlet that the Attorney General is required to prepare and distribute to specified law enforcement officials, to be given to victims.²⁷

And DRC also must post, on the Internet database it currently is required to maintain to provide information to the general public, certain information regarding an offender serving an indefinite prison term imposed under the bill. In addition to the information DRC currently must post on that database regarding offenders serving a definite prison term, it must post on the database: (1) the date on which an offender serving an indefinite prison term under the bill will be eligible for presumptive release, and (2) at least 60 days prior to a determination by DRC as to whether the inmate serving the prison term will be released under a presumptive release, notice of the fact that DRC will be making a determination regarding a possible grant of release and, if DRC will be conducting a hearing before making the determination, of the date of the hearing and the right of the victim to submit a written statement regarding the pending action.²⁸

Exemption from Open Meetings Law and Public Records Law of hearings regarding rebuttal of presumptions of release and of date of presumptive release, and of records related to such hearings

DRC hearings to be conducted at a prison under the bill for the sole purpose of the making of determinations regarding the release or maintained incarceration of an offender sentenced to an indefinite prison term under the bill are exempt from the state's Open Meetings Law, to the same extent as APA hearings conducted at a prison for the sole purpose of determining parole or pardon currently are exempt from that Law.²⁹

Records pertaining to proceedings to be conducted under the bill related to DRC's determinations regarding the release or maintained incarceration of an offender sentenced to an indefinite prison term under the bill are exempt from the state's Public Records Law to the same extent as records pertaining to probation and parole

²⁷ R.C. 109.42(A)(9).

²⁸ R.C. 5120.66(A)(1)(b) and (c).

²⁹ R.C. 121.22(D).



proceedings or to proceedings related to the imposition of community control sanctions and PRC currently are exempt from that Law.³⁰

Notice to offender at sentencing hearing regarding indefinite prison term imposed under the bill

Currently, if a court sentencing a felony offender determines that a prison term is necessary or required, the court must comply with a list of specified requirements. The bill expands the requirements to also require the court, if the prison term imposed is an indefinite prison term under the bill, to notify the offender of the following:³¹

(1) The rebuttable presumption of release on the expiration of the offender's minimum prison term or on the offender's earned early release date, whichever is earlier;

(2) The authority for DRC to rebut the presumption and maintain the offender's incarceration in certain circumstances;

(3) The procedures and criteria for DRC to rebut the presumption and maintain the offender's incarceration, the fact that DRC generally will determine the duration of the continued incarceration, and the fact that it may do so more than one time; and

(4) The required release of the offender on the expiration of the maximum term if the offender has not been released prior to the expiration of that term.

The court also must notify the offender of the PRC provisions that will, or might, apply to the offender, including the provisions regarding imposition of a new prison term for a violation of PRC, and the provisions regarding reduction of the minimum term for related days of confinement, as described below.³²

Mandatory prison term under an indefinite prison term imposed under the bill

The bill modifies the definition of "mandatory prison term" that applies to the Criminal Sentencing Law, and the provisions regarding determination and imposition of mandatory prison terms, to reflect and include within their scope the bill's indefinite prison term sentencing mechanism. Under the bill, the definition is modified to specify that, with respect to a first, second, or third degree felony to which the bill's indefinite prison term sentencing mechanism applies, a mandatory prison term may be one of the

³⁰ R.C. 149.43(A)(1)(b).

³¹ R.C. 2929.19(B)(2)(c).

³² R.C. 2929.19(B)(2)(d), (f), and (h).

terms prescribed in the range of terms that is authorized as the minimum term for the offense.³³

For first, second, or third degree felonies to which the bill's indefinite prison term sentencing mechanism applies and for which existing law requires the imposition of a mandatory prison term, the bill specifies that the mandatory term is to be selected and imposed from the range of terms authorized as the minimum term for the offense. This change applies with respect to the offenses of aggravated vehicular homicide, aggravated vehicular assault, vehicular assault, felonious assault, trafficking in persons, rape, sexual battery, gross sexual imposition, importuning, endangering children, and unlawful use of a weapon by a violent career criminal.³⁴ A similar change applies with respect to a mandatory prison term required in specified circumstances for a major drug offender, person convicted of engaging in corrupt activity, or person convicted of attempted rape, or required for conviction of a repeat violent offender, human trafficking, or pregnant victim specification³⁵ (but no provision of that nature applies regarding a mandatory term required for conviction of any other specification, when the term is not for the offense underlying the specification). For aggravated vehicular homicide when any of a list of specified aggravating circumstances is proved, the mandatory term required for the offense is to be imposed as the minimum term under the indefinite prison term for the offense under the bill.³⁶ For third degree felony offenses that are not subject to the bill's indefinite prison term sentencing mechanism and that require a mandatory prison term, the bill clarifies that the mandatory prison term still is to be selected and imposed from the current range of definite prison terms for a third degree felony.³⁷

For felony drug abuse offenses to which the bill's indefinite prison term sentencing mechanism applies and for which existing law requires the imposition of a mandatory prison term, the bill specifies that the mandatory term is to be selected and imposed from the range of terms that is authorized as the minimum term for the offense and, if existing law requires that the mandatory prison term must be the longest prison term prescribed from the range of terms available for the offense, the bill specifies that the mandatory term is to be the longest minimum term prescribed from the range for

³³ R.C. 2929.01(X)(1).

³⁴ R.C. 2903.06(E)(1) and (2), 2903.08(D)(1), (2), and (4), 2903.11(D)(1)(b), 2905.32(E), 2907.02(B), 2907.03(B), 2907.05(C)(2) and (3), 2907.07(F)(2), 2919.22(E)(3)(b), and 2923.132(C).

³⁵ R.C. 2929.14(B)(2), (3), (7), and (8).

³⁶ R.C. 2903.06(E)(1) and 2929.142.

³⁷ R.C. 2903.12(B), 2919.25(D)(6)(d) and (e), 2921.321(B)(1)(a), and 2921.36(G)(1) and (2).

the offense.³⁸ This change applies with respect to the offenses of corrupting another with drugs, aggravated trafficking in drugs, trafficking in drugs, trafficking in marihuana, trafficking in cocaine, trafficking in LSD, trafficking in heroin, trafficking in hashish, trafficking in a controlled substance analog, illegal manufacture of drugs, illegal cultivation of marihuana, illegal assembly or possession of chemicals for the manufacture of drugs, aggravated funding of drug trafficking, funding of drug trafficking, aggravated possession of drugs, possession of drugs, possession of marihuana, possession of cocaine, possession of LSD, possession of heroin, possession of hashish, and possession of a controlled substance analog.³⁹

When a court sentences an offender to an indefinite prison term under the bill, any definite prison term or mandatory definite prison term previously or subsequently imposed on the offender in addition to that indefinite sentence and that is required to be served consecutively to that indefinite sentence must be served prior to the indefinite sentence.⁴⁰

Sentencing law applicable to offense committed before bill's effective date

The bill specifies that persons charged with a first or second degree felony that was committed prior to its effective date, or with a third degree felony committed prior to its effective date that would be subject to its indefinite prison term sentencing mechanism if committed on or after that date, are to be prosecuted for that offense and, if convicted, are to be sentenced under the law as it existed at the time the offense was committed (as described in "**Background**," below).⁴¹

Post-release control as applied to indefinite prison term imposed under the bill

Under the bill, the existing provisions governing determination and service of PRC for an offender released from prison after serving a definite prison term also will apply to an offender released after serving an indefinite prison term imposed under the bill.⁴² As a result, indefinite prison terms imposed under the bill for a first or second degree felony or for a third degree felony offense of violence (this category of third degree felony includes only sexual battery, gross sexual imposition, or assisting suicide, or a third degree felony offense of robbery or burglary in the specified multiple prior conviction circumstances) must include a requirement that the offender be subject to a

³⁸ R.C. 2925.01(LL) to (OO).

³⁹ R.C. 2925.02(C), 2925.03(C), 2925.04(C), 2925.041(C), 2925.05(C), and 2925.11(C).

⁴⁰ R.C. 2929.14(C)(8).

⁴¹ R.C. 2929.61(E).

⁴² R.C. 2967.021 and 2967.28.



period of PRC after the offender's release from imprisonment. The duration of the period of PRC is the same as is the duration under existing law for a person sentenced to a definite prison term – that is, five years for a first degree felony or a felony sex offense, three years for a second degree felony that is not a felony sex offense, and three years for a third degree felony that is an offense of violence and is not a felony sex offense. Also as a result, indefinite prison terms imposed under the bill for a third degree felony that is not an offense of violence (this category of third degree felonies includes only aggravated vehicular homicide, aggravated vehicular assault, or unlawful sexual conduct with a minor) must include a requirement that the offender be subject to a period of PRC of up to three years if the Parole Board determines that PRC is necessary for that offender.⁴³ The existing provisions governing determination of sanctions and conditions to be imposed under PRC, notice to victims regarding an offender's PRC, supervision of an offender under PRC, review and modification of an offender's PRC, and procedures regarding violations of PRC sanctions apply regarding an offender sentenced to an indefinite prison term under the bill who is placed under PRC,⁴⁴ with the following modifications that relate only to offenders sentenced to an indefinite prison term under the bill:

(1) If the offender is released from prison before the expiration of the minimum term that is part of the offender's indefinite prison term by reason of earned credits and if the offender earned more than 60 days of credit, the APA must supervise the offender with an active GPS device for the first 14 days after the offender's release. Currently, this provision applies with respect to an offender whose definite prison term is reduced by reason of earned credits of 60 days or more.⁴⁵

(2) If the APA, after reviewing the offender's behavior, recommends to the Parole Board or the involved court that it reduce the duration of the offender's PRC, the Board or court may reduce the duration of or terminate the PRC imposed by the court, subject to three exceptions. First, it may not reduce the duration of mandatory PRC to a period less than the length of the minimum prison term imposed as part of the offender's indefinite prison term. Second, it may not consider any reduction or termination of the duration of the PRC prior to the expiration of one year after the commencement of the PRC if the offender's minimum prison term or earned early release date under that term was extended for any length of time by DRC under the provisions described above that allow DRC to rebut a presumption of release and continue an offender's incarceration. Third, it may not permit the releasee to leave the state without permission of the court

⁴³ R.C. 2967.28(B) and (C).

⁴⁴ R.C. 2967.28(D)(1), (F)(1), and (F)(2).

⁴⁵ R.C. 2967.28(D)(2).

or the releasee's parole or probation officer. DRC must develop factors that the Parole Board or involved court must consider in determining whether to terminate the PRC of an offender who served an indefinite prison term under the bill. The general reduction provision and the first and third exceptions described in this paragraph currently apply with respect to offenders under PRC after service of a definite prison term.⁴⁶

(3) If the offender violates the PRC and the Parole Board or involved court decides to impose a prison term as a sanction for the violation, the prison term cannot exceed nine months and the maximum cumulative prison term for all violations cannot exceed one-half of the minimum term imposed as part of the indefinite prison term originally imposed under the bill on the offender. Currently, this nine-month limitation applies with respect to an offender released from a definite prison term on PRC, and this cumulative limitation applies with respect to such an offender but it refers to one-half of the offender's definite prison term.⁴⁷

Sentencing-related and corrections-related provisions amended to reflect the bill's mechanism for imposition of indefinite prison terms

The bill adds language to several existing sentencing-related and corrections-related provisions to reflect the bill's indefinite prison term sentencing mechanism.

Warning before acceptance of plea of guilty or no contest

Currently, before accepting a plea of guilty or no contest from a person charged with a felony, a court must warn the person that if the person is sentenced to prison and violates the PRC conditions or sanctions imposed upon completion of the term, the Parole Board may impose a residential sanction that includes a new prison term of up to nine months. The bill adds language clarifying that the new prison term is subject to a maximum cumulative prison term for all violations that does not exceed one-half of the definite term that is the stated prison term originally imposed upon the offender (as under existing law) or, with respect to an indefinite prison term imposed under the bill, one-half of the minimum term included as part of the indefinite prison term originally imposed under the bill on the offender.⁴⁸

Judicial release

Under existing law, unchanged by the bill, the eligibility of a felony offender sentenced to prison to apply for judicial release is linked to the length of time the

⁴⁶ R.C. 2967.28(D)(3) and (4).

⁴⁷ R.C. 2967.28(F)(3).

⁴⁸ R.C. 2943.032.

offender has served in prison under the offender's "aggregated nonmandatory prison term or terms." The bill specifies that, with respect to an indefinite prison term imposed under the bill, "aggregated nonmandatory prison term or terms" means all nonmandatory minimum prison terms imposed as part of the indefinite prison term or terms. With respect to other prison terms, the term means, as under existing law, all nonmandatory definite prison terms.⁴⁹

Prison term imposed for violation of community control sanction

Currently, if a felony offender is sentenced to a community control sanction and violates the sanction, and if the sentencing court decides to impose a prison term on the offender as a sanction for the violation, the term must be within the range of prison terms available for the offense for which the sanction that was violated was imposed (the base offense) and may not exceed the prison term specified in the notice provided to the offender at the sentencing hearing (see below). The bill modifies this provision to specify that if the base offense is a felony that is subject to the bill's indefinite prison term sentencing mechanism, the prison term so imposed must be within the range of prison terms available as a minimum term for the offense under the indefinite sentence and, in all other cases, it must be within the range of prison terms available as a definite term for the base offense.⁵⁰

Appeal of sentence

Currently, an offender sentenced for a felony may appeal as a matter of right the sentence imposed on any of several specified grounds, and may seek leave to appeal the sentence imposed on any of several other specified grounds. Some of the grounds relate to an allegation that the sentence consists of, or exceeds, the maximum prison term authorized for the offense. The bill adds language to the maximum sentence-related grounds to specify that the maximum sentence referred to is the longest term available for the offender from the range of definite terms listed for the degree of the offense under the Felony Sentencing Law or, with respect to an indefinite prison term under the bill, the longest minimum prison term allowed for the degree of the offense under that Law.⁵¹

80% release mechanism

Existing law includes a mechanism pursuant to which a court that sentences a felony offender to prison for a "stated prison term of one year or more" may release the

⁴⁹ R.C. 2929.20.

⁵⁰ R.C. 2929.15(B)(3); also R.C. 2929.19(B)(4).

⁵¹ R.C. 2953.08.

offender from prison, upon request of DRC's Director, after the offender has served 80% of the term. Certain offenders are never eligible for release under the mechanism and certain offenders have restricted eligibility for release under it. The bill specifies that, for purposes of the mechanism, "stated prison term of one year or more" means a definite prison term of one year or more imposed as a stated prison term, or a minimum prison term of one year or more imposed as part of a stated prison term that is an indefinite prison term under the bill.⁵²

Reduction of prison term for related days of confinement

In the existing provision that requires DRC to reduce the prison term of a prisoner by the total number of days that the prisoner was confined for any reason arising out of the offense for which the prisoner was convicted and sentenced, the bill clarifies the manner in which DRC is to make the reduction. Under the bill, the reductions are to be made to the following prison terms, as applicable: (1) the definite term of a prisoner serving a definite prison term, (2) the minimum term of a prisoner serving an indefinite prison term, or (3) the minimum and maximum term or the parole eligibility date of a prisoner serving a term for which there is parole eligibility.⁵³

Reduction of prison term for earned credits

In the existing provision that authorizes DRC to award earned credits to a prisoner in specified circumstances, which then are applied toward satisfaction of the prisoner's prison term, the bill clarifies the manner in which the credits are to be applied. Under the bill, the days of credit are to be applied either toward the definite term of a prisoner serving a definite prison term as a stated prison term or toward the minimum term of a prisoner serving an indefinite prison term under the bill.⁵⁴

Notice of transfer to transitional control

Existing law includes a mechanism pursuant to which DRC, in specified circumstances, may transfer a prisoner serving a prison term of two years or less to transitional control toward the end of the prisoner's sentence. In the existing provision that requires DRC to provide to the sentencing court at least 60 days prior notice of the pendency of the transfer (and of the right to disapprove the transfer), the bill adds language specifying that, to be within the scope of the mechanism, the term being

⁵² R.C. 2967.19; also R.C. 2967.021.

⁵³ R.C. 2967.191; also R.C. 2967.021.

⁵⁴ R.C. 2967.193.

served by a prisoner must be a definite prison term of two years or less or a minimum term of two years or less under an indefinite prison term imposed under the bill.⁵⁵

Minimum term under Sexually Violent Predator Sentencing Law

Currently, for certain felony offenders who are required to be sentenced under the existing Sexually Violent Predator Sentencing Law, the sentencing court must impose an indefinite prison term consisting of a minimum term set by the court from the range of prison terms available for the offense, but not less than two years, and a maximum term of life imprisonment. The bill adds language specifying that the minimum term is to be fixed by the court as follows: (1) except as provided in clause (2), from among the range of terms available as a definite term for the offense, or (2) if the offense is a felony that is subject to the bill's indefinite prison term sentencing mechanism, from among the range of terms available as a minimum term for the offense under that mechanism.⁵⁶

Adult Parole Authority duties and release of prisoners

The bill modifies provisions that currently pertain to the APA's exercise of its functions and duties regarding the release of prisoners serving a prison term and to the actual release of such prisoners, to specify that: (1) the APA must exercise those functions and duties regarding prisoners serving a definite prison term in accordance with the statute governing PRC and that the APA and DRC must exercise their functions and duties regarding prisoners serving an indefinite prison term under the bill in accordance with the statute governing PRC and the bill's provisions governing presumptive release and DRC's incarceration of an offender for an additional period of incarceration,⁵⁷ and (2) a prisoner serving an indefinite prison term under the bill must be released in accordance with the two statutes described in clause (1) and a prisoner serving a prison term of any other nature must be released in accordance with the statute governing PRC.⁵⁸

Transfer of offenders to another country pursuant to treaty

In an existing provision that bars the transfer to another country, pursuant to a treaty, of offenders convicted of felony drug trafficking or drug possession offenses for whom the sentencing court was required to impose as a mandatory prison term the maximum term authorized for the degree of offense committed, the bill clarifies the

⁵⁵ R.C. 2967.26.

⁵⁶ R.C. 2971.03.

⁵⁷ R.C. 2967.03; also R.C. 2967.021.

⁵⁸ R.C. 2967.13; also R.C. 2967.021.

offenses to which the bar applies. Under the bill, the bar applies with respect to offenders convicted of felony drug trafficking or drug possession offenses for whom the sentencing court was required to impose as a mandatory prison term the maximum definite term or longest minimum term authorized for the degree of the offense.⁵⁹

Definitions of "stated prison term" and "prison term"

The bill modifies the definitions of "stated prison term" and "prison term" that apply to the Criminal Sentencing Law to include within their scope, and reflect, the bill's indefinite prison term sentencing mechanism.

Stated prison term

Currently, "stated prison term" means the prison term, mandatory prison term, or combination of all prison terms and mandatory prison terms imposed by the sentencing court under the Revised Code for a felony. The term includes any credit received by the offender for time spent in jail awaiting trial, sentencing, or transfer to prison for the offense and any time spent under house arrest imposed after earning credits under the statute governing earned credits. If an offender is serving a prison term as a risk reduction sentence, the term includes any period of time by which the prison term imposed on the offender is shortened by the offender's successful completion of all assessment and treatment or programming pursuant to those sections.⁶⁰ The term is used throughout the Revised Code, in many different contexts, in provisions that relate to a sentence imposed for a felony conviction or service of such a sentence.

The bill adds language that specifies that, as used in the definition of "stated prison term," a prison term is a definite prison term imposed under the Revised Code, is the minimum and maximum terms under an indefinite prison term imposed under the bill, or is a term of life imprisonment except to the extent that the use of that definition in a Revised Code section clearly is not intended to include a term of life imprisonment. With respect to an offender sentenced to an indefinite prison term under the bill:⁶¹

(1) References in the statute regarding reduction of a prison term for related days of confinement or the statute governing earned credits or any other provision of law to a reduction of, or deduction from, the offender's stated prison term or to release of the offender before the expiration of the offender's stated prison term mean a reduction in,

⁵⁹ R.C. 5120.53.

⁶⁰ R.C. 2929.01(FF).

⁶¹ R.C. 2929.01(FF)(2).

or deduction from, the minimum term imposed as part of the indefinite term or a release of the offender before the expiration of that minimum term;

(2) References in statutes regarding PRC to a stated prison term with respect to a prison term imposed for a violation of a PRC sanction mean the minimum term so imposed; and

(3) References in any provision of law to an offender's service of the offender's stated prison term or the expiration of the offender's stated prison term mean service or expiration of the minimum term so imposed plus any additional period of incarceration under the sentence that is required by DRC under the provision regarding rebuttal of presumptive release and continuation of incarceration.

Prison term

Currently, "prison term" includes for an offender either a stated prison term, or a term in a prison shortened by, or with the approval of, the sentencing court pursuant to judicial release, the state's 80% release mechanism, or any of several other provisions regarding a potential early release from prison. The bill adds language that specifies that, with respect to an indefinite prison term under the bill, references in any provision of law to a reduction of, or deduction from, the prison term mean a reduction in, or deduction from, the minimum term imposed as part of the indefinite term.⁶²

Changes in cross-references

The bill amends several existing provisions to change cross-references in those provisions to other Revised Code provisions that are relocated by the bill, without making substantive changes to those provisions.⁶³

Global positioning system monitoring changes

In general

The bill enacts provisions that address the use of GPS monitoring for GPS-monitored offenders. As used in the provisions, "GPS-monitored offender" means an offender who, on or after the bill's effective date, is released from confinement in a state prison under a conditional pardon, parole, other form of authorized release, or transitional control that includes GPS monitoring as a condition of the person's release,

⁶² R.C. 2929.01(BB).

⁶³ R.C. 2967.19(B)(2) and 2967.191.

or who, on or after that date, is placed under PRC that includes GPS monitoring as a condition under the PRC.⁶⁴

Restrictions imposed on a GPS-monitored offender

On and after the bill's effective date, each GPS monitor that is used to monitor a GPS-monitored offender must specify and monitor restrictions for the offender, which must include for the offender inclusionary zones and, to the extent necessary, exclusionary zones, and may include for the offender a curfew specifying times of required presence in the inclusionary zone and any other reasonable restrictions.⁶⁵

Specifications for contract with GPS third-party contract administrator

Each contract that DRC enters into on or after the bill's effective date with a third-party contract administrator for GPS monitoring of GPS-monitored offenders must require several specifications. First, the GPS system used by the administrator must include a "crime scene correlation program" that can interface by link with the database established under the bill (see below) and to which access can be obtained by a link included in that database. Second, the crime scene correlation program included in the administrator's system must allow local law enforcement representatives to obtain, without need for a subpoena or warrant, real-time access or active GPS access to information contained in the program about a GPS-monitored offender's location at that time and, to the extent available, at other previous points in time identified by the representative or designee, about the location of recent criminal activity in or near the offender's inclusionary or exclusionary zones, and about any possible connection between the offender's location and that recent criminal activity. Third, the administrator must allow access to the crime scene correlation program included in the administrator's system to law enforcement representatives as described below.⁶⁶

Compliance with and DRC enactment of GPS system requirements

On and after the bill's effective date, any third-party contract administrator used for GPS monitoring of a GPS-monitored offender must comply in the monitoring of the offender with DRC's system requirements that exist on that date for GPS monitoring of such offenders. If, on the bill's effective date, DRC has not established any such system requirements, within a reasonable period of time after that effective date, DRC must establish system requirements for GPS monitoring of GPS-monitored offenders. After establishment of the requirements, DRC, and any third-party contract administrator

⁶⁴ R.C. 5120.038(A); also R.C. 5120.021.

⁶⁵ R.C. 5120.038(B)(1).

⁶⁶ R.C. 5120.038(B)(2).

used for GPS monitoring, must comply with the established system requirements in the monitoring of a GPS-monitored offender.⁶⁷

Statewide database regarding GPS-monitored offenders

Not later than 12 months after the bill's effective date, DRC must establish and operate on the Internet a statewide database that contains specified information (see below) for GPS-monitored offenders. At any point in time, the database must contain the specified information for each GPS-monitored offender who then is subject to GPS monitoring. The database must enable local law enforcement representatives to remotely search by electronic means the content of the database, and must contain a link to the crime scene correlation program described above for third-party contract administrators required to include such a program in their systems. The database is not a public record subject to inspection or copying under the state's Public Records Law and will be available only to local law enforcement representatives as described in this paragraph. Information obtained by local law enforcement representatives through use of the database is not open to inspection or copying under the state's Public Records Law. If the database includes a link to a crime scene correlation program as described above in "**Specifications for contract with GPS third-party contract administrator**" that is included in the GPS used by a third-party contract administrator, a local law enforcement representative may use that link to obtain information contained in the program about a GPS-monitored offender and recent criminal activity.

Separate from the authority described in the preceding paragraph, if a local law enforcement representative, through use of the database described in that paragraph or in any other manner learns the identity of, and contact information for, a DRC employee who is monitoring a GPS-monitored offender or the identity of, and contact information for, a third-party contract administrator that is being used for GPS of a GPS-monitored offender, the representative or another law enforcement officer designated by the representative may contact the employee or the administrator and, without need for a subpoena or warrant, request real-time access or active GPS access to information about the offender's location at that time and at other previous points in time identified by the representative or designee. Upon receipt of such a request, the DRC employee or third-party contract administrator, without need for a subpoena or warrant, must provide the representative or designee with the requested information regarding the offender's location at that time and, to the extent available, at the other identified previous points in time. A request under this provision also may request information that the employee or administrator has obtained about the location of recent criminal activity in or near the GPS-monitored offender's inclusionary or

⁶⁷ R.C. 5120.038(C).



exclusionary zones, and about any possible connection between the offender's location and that recent criminal activity, and, upon receipt of such a request, the employee or administrator, without need for a subpoena or warrant, must provide the representative or designee with that information to the extent that it is available.

The information contained in the database described above must include, for each GPS-monitored offender to be included within the database, all of the following: (1) the offender's name, (2) the offense or offenses for which the offender is subject to GPS monitoring and the offender's other criminal history, (3) the offender's residence address, (4) the monitoring parameters and restrictions for the offender, including all inclusionary zones, exclusionary zones, and inclusionary zone curfews for the offender and all other restrictions placed on the offender, (5) if a DRC employee is monitoring the offender, the identity of, and contact information for, the employee, and if a third-party contract administrator is being used for GPS monitoring of the offender, the identity of, and contact information for, the third-party contract administrator, and (6) all previous violations of the monitoring parameters and restrictions applicable to the offender under the GPS monitoring that then is in effect for the offender.⁶⁸

Reentry programs of the Department of Rehabilitation and Correction

The bill enacts provisions that address reentry programs for "target offenders" released from DRC. For purposes of the provisions, a "target offender" is a parolee, a releasee, or a prisoner otherwise released from a state prison with respect to whom both of the following apply: (1) DRC or the APA intends to require the parolee, releasee, or prisoner to reside in a halfway house, reentry center, or 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 prisoner's or parolee's conditional release or of the releasee's term of post-release control, and (2) no halfway house, reentry center, or community residential center that has been licensed as described in clause (1) will accept the prisoner, parolee, or releasee to reside in the facility.

The bill requires that, not later than 24 months after its effective date, DRC, through the APA, must establish and implement a reentry program, including a facility, for all target offenders. The program and facility must satisfy all the standards that DRC's Division of Parole and Community Services adopts by rule for the licensure of halfway houses, reentry centers, and community residential centers. Upon the establishment and implementation of the program and facility, DRC or the APA must

⁶⁸ R.C. 5120.038(D).

require that all target offenders reside in the program's facility during a part or for the entire period of the target offender's conditional release or term of post-release control.⁶⁹

Adult Parole Authority parole and field officer case-loads and work-loads.

The bill requires the APA, not later than one year after the bill's effective date, to establish supervision standards for parole and field officers of the APA's Field Services Section. The standards must include a specification of a "case-load" and a "work-load" for parole and field officers. The case-load and work-load specified in the standards must comport with industry standards set forth by the American Probation and Parole Association. Not later than two years after establishing the standards, DRC must ensure that the Field Services Section has enough parole and field officers to comply with the standards and that the officers have been trained to the extent required to comply with the standards.

As used in the provisions described in the preceding paragraph: (1) "case-load" means the maximum number of persons paroled, conditionally pardoned, or released to community supervision who should be under the supervision of any parole or field officer, based on the aggregate of the work load of the officer for each of those persons, and (2) "work-load" means the minimum number of hours that a parole or field officer is expected to dedicate to each person paroled, conditionally pardoned, or released to community supervision who is under the officer's supervision, based on the person's risk classification.⁷⁰

Post-release control – life sentences and corrective change

The bill clarifies that the law's PRC provisions do not apply with respect to a term of life imprisonment imposed by a court.⁷¹ In *State ex rel. Carnail v. McCormick*,⁷² the Ohio Supreme Court held that the plain language of the current PRC provisions requires the imposition of PRC for all first degree felonies and all felony sex offenses, including rape in circumstances in which a term of life imprisonment is imposed. The bill removes from the PRC law the language that was the basis of the decision.

The bill also corrects incorrect language regarding mandatory PRC in provisions addressing a court's imposition of a prison term for a felony and addressing the court's

⁶⁹ R.C. 5120.113, 2967.14(A); also R.C. 5120.021.

⁷⁰ R.C. 5149.04(E).

⁷¹ R.C. 2929.14(D)(1), 2929.19(B)(2)(d), 2967.01(N) and (O), and 2967.28(B).

⁷² *State ex rel. Carnail v. McCormick* (2010), 126 Ohio St.3d 124.

warning to a person regarding PRC sentenced to a prison term to conform the provisions to the substantive provision that actually specifies when PRC is mandatory.⁷³

Technical change

In a provision of the Controlled Substances Law that pertains to the sentencing of a person who is convicted of a violation of any of a list of specified prohibitions under that Law and who is found to be a major drug offender, the bill repeals inaccurate language in the provision that refers to nonexistent R.C. 2929.14(B)(3)(a) and to a nonexistent additional prison term under R.C. 2929.14(B)(3)(b).⁷⁴

Reagan Tokes Act

The bill names all of its provisions described above the "Reagan Tokes Act."⁷⁵

State Criminal Sentencing Commission's Offender Supervision Study Committee

The bill requires the State Criminal Sentencing Commission to establish an *ad hoc*, standing Offender Supervision Study Committee. The Committee will consist of one member who is a person appointed by the Governor and the following 12 members appointed by the Commission: one active parole line officer; one active probation officer; two members of the House of Representatives who may not be members of the same political party; two members of the Senate who may not be members of the same political party; one common pleas court judge; one representative of the Ohio Community Corrections Association; the Director of Rehabilitation and Corrections or the Director's representative; one county prosecuting attorney; the State Public Defender, the State Public Defender's representative, or a county public defender; and one sheriff. Commission members may serve on the Committee by designation of the Chief Justice, to the extent that they satisfy the criteria for service on the Committee. The Chief Justice is to designate a member to serve as Committee Chairperson, and the Committee is to select a Vice-Chairperson. The Committee must meet as necessary at the call of the Chairperson or on the written request of four or more of the Committee's members. In the absence of the Chairperson, the Vice-Chairperson is to perform the Chairperson's duties. A majority of the Committee members will constitute a quorum, and the votes of a majority of the quorum present will be required to validate any Committee action, including the content of reports and recommendations to the Commission.

⁷³ R.C. 2929.14(D)(1) and 2929.19(B)(2)(d).

⁷⁴ R.C. 3719.99(D)(1).

⁷⁵ R.C. 2901.011.



The members of the Committee who are not members of the Commission will serve without compensation, but each such member will be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official Commission duties. R.C. 181.21, which governs Commission members, including the fact that they serve without compensation but are reimbursed for their actual and necessary expenses incurred in the performance of official Commission duties, applies to the members of the Committee who are members of the Commission.

The Committee will be required to study and review all issues related to the supervision of offenders, including issues related to parole, community control, probation, community corrections, and transitional control, and issues related to interstate compact policies. The Committee will be required to submit a report to the Commission not later than December 31 in each even-numbered year that contains its findings with respect to the issues it studies and reviews and recommendations regarding possible changes in the law based on those findings.

The Commission may appoint persons who are experts in issues related to the supervision of offenders to assist the Committee in the performance of its duties described above. No person appointed in a capacity under this division may vote on any action of the committee, including the content of any report or recommendation to the commission.⁷⁶

In addition to its other duties specified by law, the State Criminal Sentencing Commission will be required to review all reports submitted to it by the Offender Supervision Study Committee under the provisions described above and, for each report so received, not later than 90 days after receiving the report, to submit a report to the General Assembly that contains the Commission's recommendations regarding possible changes in the law based on the findings of the Committee that are set forth in the report. In preparing its report to the General Assembly, the Commission will be required to consider all findings and recommendations of the Committee contained in the Committee's report submitted to the Commission, and the Commission's report to the General Assembly may be, but is not required to be, the same as the Committee's report submitted to the Commission.⁷⁷

Background

Under the existing Felony Sentencing law, a court sentencing a convicted felon to a prison term, other than for a felony for which a special sentence is required (e.g., a

⁷⁶ R.C. 181.21(E).

⁷⁷ R.C. 181.21(E)(2) and 181.26(D).

capital offense, a felony requiring a term of life imprisonment, or a felony covered by the Sexually Violent Predator Sentencing law), sentences the offender to a definite prison term selected by the sentencing judge from a range of specified terms authorized for the degree of the felony in question. The offender is not eligible or considered for parole, but in specified circumstances is eligible for a reduction of the definite sentence for related days of confinement or earned credits, for release on judicial release, or for release under the state's 80% release mechanism. Upon completion of the definite sentence, as reduced if applicable, the offender in some cases must, and in other cases may, be placed under PRC for a period set by statute or by the Parole Board subject to a maximum. An offender under PRC is supervised during the period of PRC. If an offender under PRC violates the PRC sanctions and conditions, the Parole Board or an involved court may impose other sanctions, including a possible return to prison subject to maximums.⁷⁸

HISTORY

ACTION	DATE
Introduced	10-02-17
Reported, H. Criminal Justice	---

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⁷⁸ Various sections in existing R.C. Chapters 2929. and 2967.

