

---

## DEPARTMENT OF REHABILITATION AND CORRECTION

### **Judicial release on compassionate medical grounds**

- Authorizes a court, on its own motion, to grant judicial release to an offender in a state correctional institution on compassionate medical grounds if the offender has not been sentenced to death or imprisonment for life.

### **Community-based substance use treatment**

- Requires the Department of Rehabilitation and Correction (DRC) to establish and operate a community-based substance use disorder treatment program for "qualified prisoners," and gives DRC discretion in determining the prisoners to place in the program.
- Specifies that the program's purpose is to provide assessment and treatment to help reduce substance use relapses and recidivism for qualified prisoners while preparing them for community reentry and improving public safety.
- Authorizes DRC to permit a prisoner successfully participating in the program to reside at an approved residence, with electronic monitoring, if it determines that residing there will serve the program's purposes for the prisoner.
- Specifies that a prisoner's program placement, participation, or completion does not reduce the prisoner's prison term other than for time served or credits earned, but, along with the prisoner's substance abuse recovery needs, must be considered in making post-release control decisions for the prisoner.

### **Halfway house and community-based correctional facility programs**

- Allows the Division of Parole and Community Services to spend up to one-half percent of the annual appropriation made for halfway house programs and community-based correctional facility programs for goods or services that benefit those programs.
- Specifies that a term in a halfway house or an alternative residential facility is not considered imprisonment.

### **Ohio penal industry prices**

- Removes the requirement that the Office of Budget and Management approve prices fixed by DRC for labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions.



## **Classified employee fallback rights**

- Modifies fallback provisions for DRC permanent classified employees, including adding reasons for which the employee may be reinstated to the classified position and specifying reasons for which the employee forfeits the right of reinstatement.

## **Monthly personnel report**

- Eliminates a requirement that the managing officer of each DRC institution file a monthly report with the DRC Director outlining all appointments, resignations, and discharges.

## **Community-based correctional officer collective bargaining**

- Limits the ability of employees of community-based correctional facilities and district community-based correctional facilities who were subject to a collective bargaining agreement on June 1, 2005, to collectively bargain with their public employers to allow them to bargain only if the public employer elects to do so.
- Makes these community-based correctional facilities employees ineligible to serve on the Ohio Elections Commission.

## **Substance Abuse Recovery Program Study**

- Requires DRC, by June 30, 2016, to study the feasibility of converting an existing facility into a substance abuse recovery prison.

## **Fund closures**

- Abolishes the Confinement Cost Reimbursement Fund and the Laboratory Services Fund.

## **Judicial release on compassionate medical grounds**

(R.C. 2929.20)

The act authorizes a sentencing court to grant judicial release to an offender in a state correctional institution who is in imminent danger of death, terminally ill, or medically incapacitated and who is neither on death row nor serving a life sentence. The court may grant the release on its own motion when the Director of Rehabilitation and Correction certifies to the court that the offender is in imminent danger of death, terminally ill, or medically incapacitated, so long as the court determines that the release would not create undue risk to public safety. The court may request health care



records from the Department of Rehabilitation and Correction (DRC) to verify the certification.

A motion made by the court to release an offender on compassionate medical grounds is subject to all of the notice, hearing, and other procedural requirements that apply to judicial release generally. However, the court may waive the offender's appearance due to the offender's condition and grant the motion without a hearing if the prosecutor and the victim or victim's representative indicate that they do not wish to participate or present relevant information.

After granting judicial release, the court must place the offender under an appropriate community control sanction and under the supervision of the Adult Parole Authority or the court's probation department. The period of the community control must not expire earlier than the date on which all of the offender's mandatory prison terms expire. If the offender violates the community control sanction, the court may revoke the judicial release.

If the offender's health improves so that the offender is no longer terminally ill, medically incapacitated, or in imminent danger of death, the court must revoke the judicial release upon its own motion and specify its findings on the record. The court must hold a hearing concerning the revocation unless the offender waives the hearing. If the court holds a hearing, the court must allow all of the following individuals to present written and oral information relevant to the motion:

- The offender and the offender's attorney;
- The prosecutor;
- The victim or the victim's representative;
- Any other person the court determines is likely to present additional relevant information.

## **Community-based substance use treatment**

(R.C. 2967.193 and 5120.035)

### **Establishment, purpose, and "qualified prisoners"**

The act requires DRC to establish and operate a program for community-based substance use disorder treatment (SUDT) program for qualified prisoners. The purpose of the program is to provide substance use disorder assessment and treatment through community treatment providers to help reduce substance use relapses and recidivism



for qualified prisoners while preparing them for community reentry and improving public safety. "Qualified prisoner" means a person who satisfies all of the following:

- (1) Is confined in a state correctional institution under a prison term imposed for a fourth or fifth degree felony that is not an offense of violence;
- (2) Has not previously been convicted of an offense of violence;
- (3) As determined by DRC, using a standardized assessment tool, has a substance use disorder;
- (4) Has not more than 12 months remaining to be served under that prison term;
- (5) Is not serving any prison term other than that term;
- (6) Is 18 or older;
- (7) Does not show signs of drug or alcohol withdrawal and does not require medical detoxification;
- (8) As determined by DRC, is physically and mentally capable of uninterrupted participation in the SUDT program.

### **Placement and community treatment providers**

DRC must determine which qualified prisoners in its custody should be placed in the SUDT program, and it has full discretion in making that determination. If DRC determines that a qualified prisoner should be placed in the program, it may refer the prisoner to a community treatment provider it has approved (see below) and transfer the prisoner from prison to the provider's approved and licensed facility. Except as described below regarding authorized residence placement, no prisoner may be placed under the program in any facility other than an approved facility of a community treatment provider.

If DRC places a prisoner in the SUDT program, the prisoner must receive credit against the prisoner's prison term for all time served in the provider's facility and may earn days of credit under DRC's earned credit program (see below), but the prisoner's program placement, participation, or completion otherwise does not result in any reduction of the prisoner's prison term.

"Community treatment provider" means a program that provides substance use disorder assessment and treatment for persons, is located outside of a state correctional institution, provides the assessment and treatment for qualified prisoners referred and transferred to it under the program in a suitable licensed a halfway house, reentry



center, or community residential center), and initially houses all qualified prisoners referred and transferred to it under the program in its suitable licensed facility while undergoing assessment and treatment.

### **Unsatisfactory participation – return to prison**

If DRC places a prisoner in the SUDT program, the prisoner does not satisfactorily participate in the program, and the prisoner has not served the prisoner's entire prison term, DRC may remove the prisoner from the program and return the prisoner to a prison.

### **Satisfactory participation – housing, record sealing**

If DRC places a prisoner in the SUDT program and the prisoner is satisfactorily participating, DRC may permit the prisoner to reside at a residence it has approved if it determines, with input from the community treatment provider, that residing there will help the prisoner prepare for community reentry and reduce substance use relapses and recidivism. If permitted to reside at an approved residence, the prisoner must be monitored during that residence by an electronic monitoring device.

If DRC determines that a prisoner successfully completed the program and, if applicable, a term of post-release control, and the prisoner submits an application under the Conviction Record Sealing Law for sealing the record of the conviction, DRC's Director may issue to the court a letter in support of the application.

### **DRC evaluation of participating prisoner**

When a prisoner has been placed in the SUDT program, before being released from DRC's custody upon completion of the prisoner's prison term, DRC must evaluate the prisoner, the prisoner's participation in the program, and the prisoner's needs regarding substance use disorder treatment upon release. Before the prisoner is released, the Parole Board or a court acting pursuant to an agreement must consider the evaluation, in addition to all other information and materials considered, in making post-release control decisions for the prisoner.

### **Treatment provider application for participation**

DRC must accept applications from community treatment providers that wish to participate in the SUDT program, and must approve for participation in the program at least four and not more than eight of the providers that apply. To the extent feasible, DRC must approve one or more providers from each geographical quadrant of the state. Each community treatment provider that applies to participate in the program must be certified by the Department of Mental Health and Addiction Services to



provide substance use disorder treatment, but is not required to be certified by that Department to provide halfway house or residential treatment.

### **DRC rules**

DRC must adopt rules for the SUDT program and operate the program in accordance with the act and those rules. The rules must establish, at a minimum, criteria: that establish which qualified prisoners are eligible for the program; that must be satisfied to transfer a qualified prisoner to an approved residence; for the removal of a prisoner from the program; for determining when an offender has successfully completed the program; and for community treatment providers to provide assessment and treatment including minimum standards for treatment.

### **Earned credits**

An offender placed in the SUDT program may earn days of credit under DRC's preexisting earned credit program. The offender may earn one day or five days of credit for each completed month during which the offender productively participates in the program.

An offender placed in the SUDT program may earn: (1) one day of credit if the prison term the offender is serving includes a term imposed for a "sexually oriented offense" (as defined in the SORN Law) committed prior to September 30, 2011, or includes a term imposed for a felony other than carrying a concealed weapon an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance, (2) one day of credit if the offender's fourth or fifth degree felony was committed prior to September 30, 2011, and (3) five days of credit if the offender's fourth or fifth degree felony was committed on or after September 30, 2011. The aggregate days of credit the offender may earn may not exceed 8% of the total number of days in the person's stated prison term.

The following provisions of the preexisting earned credit program apply to prisoners placed in the SUDT program:

--Provisions that disqualify offenders serving sentences for specified offenses from earning credits; and

--Provisions that specify procedures for determining whether an offender is to be awarded credits, procedures for denial or withdrawal of a day of credit that otherwise could have been awarded, the number of days of credit an offender may earn based on the offender's offense, and the number of aggregate days that an offender may earn.



## **Halfway house and community-based correctional facility programs**

(R.C. 1.05, 2967.14, and 5120.112)

The act allows the Division of Parole and Community Services to expend up to one-half percent of the annual appropriation made for halfway house programs and community-based correctional facility programs for goods or services that benefit those programs.

The act also specifies that a term in a halfway house or an alternative residential facility is not considered imprisonment.

## **Ohio penal industry prices**

(R.C. 5120.28)

The act removes the requirement that the Office of Budget and Management approve the prices fixed by DRC at which all labor and services performed, agricultural products produced, and articles manufactured in correctional and penal institutions are furnished to the state, its political subdivisions, and public institutions, and to private persons.

## **Classified employee fallback rights**

(R.C. 5120.38, 5120.381, and 5120.382)

Continuing law allows a DRC employee who moves from a classified position within DRC to an unclassified position (as a managing officer, deputy warden, or otherwise), to resume the classified position held by the employee immediately prior to the move. The act expands these "fallback rights" to allow the employee to resume the classified position (or a substantially equal position, as certified by the DRC Director and approved by the Director of Administrative Services (DAS)) even if the employee has held multiple unclassified positions since the move. If the employee's prior classified position has been placed in the unclassified service or is otherwise unavailable, the DRC Director must appoint the employee to a classified DRC position that is comparable in compensation to the prior position, as certified by the DAS Director.

### **Triggering fallback rights**

Under the act, fallback rights for DRC employees are triggered only when the employee is demoted to a pay range lower than the employee's current pay range or when the DRC Director revokes the employee's appointment to the unclassified service. Additionally, for an employee appointed to the unclassified position on or after



January 1, 2016, these fallback rights may be exercised only within five years after the effective date of the employee's appointment to the unclassified position. And an employee forfeits these fallback rights if the employee is removed from the unclassified position due to incompetence; inefficiency; dishonesty; drunkenness; immoral conduct; insubordination; discourteous treatment of the public; neglect of duty; a violation of DRC law or DRC or DAS rules; any other failure of good behavior; any other acts of misfeasance, malfeasance, or nonfeasance in office; or a conviction of or plea of guilty to a felony. An employee who transfers to a different agency also loses any right to resume a classified position with DRC upon that transfer.

Under former law, fallback rights were triggered when an employee was relieved of the employee's duties in the unclassified service. Former law did not specify employee behavior that may result in a forfeiture of fallback rights.

### **Treatment of a DRC employee who exercises fallback rights**

If a DRC employee utilizes the act's fallback rights, the act requires that the employee's unclassified DRC service be counted toward that employee's service in the prior classified position. Under former law, only service in an unclassified position held pursuant to the appointment from the classified service was counted toward the employee's service in the prior classified position. The act also entitles a DRC employee using these fallback provisions to all rights and benefits and any status that the classified position accrued during the employee's unclassified service. Former law instead entitled such an employee to the rights and emoluments accrued during that time.

### **Monthly personnel report**

(R.C. 5120.38)

The act eliminates a requirement that the managing officer of each DRC institution file with the DRC Director a monthly report of all appointments, resignations, and discharges.

### **Community-based correctional officer collective bargaining**

(R.C. 4117.01(C))

The act limits the ability of employees of community-based correctional facilities and district community-based correctional facilities who were subject to a collective bargaining agreement on June 1, 2005, to collectively bargain with their public employers. Under the act, these employees can collectively bargain with their public employer only if the public employer elects to do so, similar to continuing law with respect to community-based correctional facility employees who were not covered by a



collective bargaining agreement on that date. The public employer cannot be compelled to bargain with these employees.

Formerly, these employees had the right to collectively bargain with their public employer, and thus the public employer was required to do so if certain procedures contained in continuing law were satisfied.<sup>155</sup>

### **Membership on the Ohio Elections Commission**

Because the community-based correctional facilities employees described above are no longer considered to be public employees for purposes of collective bargaining, they also are ineligible to serve on the Ohio Elections Commission. Under continuing law, a person or employee excluded from the definition of "public employee" under the Public Employees' Collective Bargaining Law cannot be a Commission member.<sup>156</sup>

### **Substance Abuse Recovery Program Study**

(R.C. 5120.037)

The act requires DRC, not later than June 30, 2016, to study the feasibility of converting an existing state correctional facility, another existing facility controlled by DRC, an existing facility owned by the state or a political subdivision of the state, or an existing facility owned by a private entity into a substance abuse recovery prison. The purpose of the prison would be to help reduce relapses and recidivism while preparing offenders confined in the prison for reentry into the community. In conducting the study, DRC must do all of the following:

(1) Explore all alternatives for providing substance abuse recovery for offenders confined in the prison;

(2) Consider drug treatment and rehabilitation services to be provided in the prison to help to prepare offenders confined in the prison for reentry into the community;

(3) Consider the categories of offenders that should be confined in the prison, including whether DRC should be limited to placing an offender sentenced to or serving a prison term in the prison only if DRC knows or has reason to believe that drug usage by the offender was a factor leading to the offense for which the offender was sentenced to the prison term.

---

<sup>155</sup> R.C. 4117.03, not in the act.

<sup>156</sup> R.C. 3517.152, not in the act.



Upon completion of the study, DRC must submit copies of the study to the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the Governor.

### **Fund closures**

(R.C. 2929.18, 2969.14, and 5120.135)

Ongoing law requires offenders to reimburse DRC for certain costs it incurs in operating prisons or other facilities used to confine offenders. Under prior law, those reimbursements were deposited into the Confinement Cost Reimbursement Fund and used by DRC to fund the operation of those prisons and facilities. The act abolishes the Fund but retains the reimbursement requirement.

The act also abolishes the Laboratory Services Fund, which consisted of payments made by state agencies, local governments, and other entities for laboratory services provided to them by DRC, and removes the payment requirement.

