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## **DEPARTMENT OF REHABILITATION AND CORRECTION**

### **Targeted Community Alternatives to Prison (T-CAP)**

- Changes the name “Targeting Community Alternatives to Prison” program to “Targeted Community Alternatives to Prison” program.
- Requires the Department of Rehabilitation and Correction (DRC) to establish deadlines for a voluntary county to indicate its participation in T-CAP before each state fiscal biennium.
- Requires a memorandum of understanding to set forth the plans by which the county will use the grant money provided to it in the state fiscal years within the specified state fiscal biennium.

### **Earned credit**

- Effective April 4, 2024, increases the maximum credit a prisoner may earn for participating in a DRC-approved program from 8% to 15% of the prisoner’s sentence; specifies that if a prisoner has met the 8% cap as of October 3, 2023, or reaches the 8% cap between October 3, 2023, and April 3, 2024, the cap is 15% of the prisoner’s sentence.
- Stipulates that this change applies only with respect to the time the prisoner is confined between October 3, 2023, and April 4, 2024, and the 15% cap that takes effect April 4, 2024, will apply only with respect to the time a prisoner is confined on or after that date.

### **Public records – correctional and youth services employee**

- Modifies the public records exception for “restricted portions of a body-worn or dashboard camera recording” by adding correctional employees and youth services employees in each place there is a reference to peace officers and law enforcement.

### **Adult Parole Authority termination of post-release control**

- Modifies the Adult Parole Authority’s functions with respect to the classifying, as “favorable” or “unfavorable,” the termination of an offender’s post-release control.

### **Full board hearings**

- Removes the ability for a board hearing officer, a board member, or the Office of Victims’ Services to petition for a full parole board hearing.
- Provides that if a victim of certain offenses, the victim’s representative, or specified other persons request a full board hearing, they must do so through the Office of Victims’ Services.
- Permits certain family members of a victim to request, through the Office of Victims’ Services, for the board to hold a full board hearing and, if a request is made, the majority of those present at the board meeting must determine whether a full board hearing will be held.

- Requires the parole board to grant a full board hearing request submitted by a prosecuting attorney.
- Allows the State Public Defender, when designated by DRC, to appear at a full board hearing and to give testimony or to submit a written statement.

## **Ohio Penal Industries**

- Requires DRC to allow prisoners working toward completion of a high school diploma or equivalent to participate in Ohio Penal Industries.

## **Victim conference communications**

- Provides that communications during a victim conference are confidential and are not public records.

## **Local jail grants**

- Requires DRC to determine, by July 1, 2024, which counties will receive local jail grant assistance, using a funding formula by which TAX ranks counties by their property tax and sales tax revenues.
- Requires DRC to adopt application guidelines and conduct a needs assessment before determining which counties receive funding.
- Provides that a county's portion of the basic project cost is a percentage equal to the county's percentile ranking pursuant to the funding formula, except that the state must pay at least 25% of the basic project cost.

## **Targeted Community Alternatives to Prison (T-CAP)**

(R.C. 2929.34 and 5149.38)

The act changes the name "Targeting Community Alternatives to Prison" program to "*Targeted* Community Alternatives to Prison" (T-CAP) program. It clarifies that in any voluntary county, the board of county commissioners and the Administrative Judge of the General Division of the Court of Common Pleas may agree to have the county participate in the program by submitting a memorandum of understanding (MOU), either as a single county or jointly with other counties, to the Department of Rehabilitation and Correction (DRC) for approval.

The act requires DRC to establish deadlines for a voluntary county to indicate its participation in T-CAP before each state fiscal biennium. In reviewing a submitted MOU for approval, DRC must prioritize a voluntary county that has previously been a voluntary county. DRC may review a MOU for a new voluntary county if the General Assembly has appropriated sufficient funds for that purpose. Under former law, the MOU had to be submitted to DRC for approval by no later than September 1, 2022.

The act requires the MOU to set forth the plans by which the county will use grant money in the fiscal years within the state fiscal biennium. Under continuing law, the MOU must specify the manner in which the county will address a per diem reimbursement of local correctional

facilities for prisoners who serve a prison term under T-CAP. The per diem reimbursement rate must be determined and specified in the MOU.

## **Earned credit**

(R.C. 2967.193 and 2967.194)

Under continuing law, until April 4, 2024, the aggregate days of credit provisionally earned by a person for participating in and completing a program or activity and the aggregate days of credit finally credited to a person must not exceed 8% of the total number of days in the person's stated prison term.

The act provides that if a person is confined in a state correctional institution or in the substance use disorder treatment program after October 3, 2023, and if the person as of October 3, 2023, has met the 8% limit, or the person meets that 8% limit between October 3, 2023, and April 3, 2024, both of the following apply:

- On or after October 3, 2023, the 8% limit no longer applies to the person;
- On or after October 3, 2023, the aggregate days of credit provisionally earned by a person for program or activity participation and completion and the aggregate days of credit finally credited to a person must not exceed 15% of the total number of days in the person's stated prison term.

The act clarifies that the above provisions will apply to the prisoner with respect to the time that the prisoner was confined on and after October 3, 2023, and prior to April 4, 2024.

Under continuing law, on or after April 4, 2024, the aggregate days of credit provisionally earned by a person for program or activity participation and program and activity completion and the aggregate days of credit finally credited to a person must not exceed 15% of the total number of days in the person's stated prison term. The act reaffirms that this provision will apply only with respect to the time that a prisoner is confined on or after April 4, 2024.

## **Public records – correctional and youth services employee**

(R.C. 149.43)

Under continuing law, "public record" means records kept by any public office. "Restricted portions of a body-worn or dashboard camera recording" is an exception to the Public Records Law. The definition of "restricted portions of a body-worn or dashboard camera recording" contains references to peace officers and law enforcement. When the references are made, the definition sometimes refers to correctional employees and youth services employees. The act modifies the definition of "restricted portions of a body-worn or dashboard camera recording" by adding a reference to correctional employees and youth services employees in each place that refers to peace officers and law enforcement. "Restricted portions of a body-worn or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard recording that shows, communicates, or discloses any of the following:

- The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when DRC, the Department of Youth

Services (DYS), or the law enforcement agency knows or has reason to know the person is a child based on its records or content of the recording (under continuing law);

- The death of a person or a deceased person's body, unless the death was caused by a correctional employee, youth services employee, or peace officer or the consent of the decedent's executor or administrator has been obtained (under continuing law);
- The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless the consent of the decedent's executor or administrator has been obtained (under continuing law);
- Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless the consent of the injured person or the injured person's guardian has been obtained (under continuing law);
- A person's nude body, unless the person's consent has been obtained (under continuing law);
- Protected health information, the identity of the person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter (under the act);
- Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence (under continuing law);
- Information that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive confidential information to DRC, DYS, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person (under continuing law);

- Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer (under continuing law);
- Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety (under the act);
- A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency (under the act);
- A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities (under the act);
- The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer (under the act);
- Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location (under the act).

## **Adult Parole Authority termination of post-release control**

(R.C. 2967.16)

The act modifies law that pertains to the Adult Parole Authority's functions with respect to the termination of an offender's post-release control (PRC). PRC is imposed on specified categories of offenders convicted of a felony, upon their release from confinement in a state correctional institution. Under continuing law, when a prisoner released under a period of PRC has faithfully performed the conditions and obligations of the prisoner's PRC sanctions, and has obeyed the Authority's rules and regulations that apply to the prisoner, or has the period of PRC terminated by a court, the Authority may terminate the period of PRC and issue to the prisoner a certificate of termination.

Specifically, the act:

1. Replaces the law that required the Authority to classify the termination as "favorable" or "unfavorable," depending on the offender's conduct and compliance with the supervision conditions, with a provision that instead allows the Authority to classify the termination as "unfavorable" if the offender's conduct and compliance with the supervision conditions is unsatisfactory (it removes the references to a "favorable" classification);

2. Specifies that if the Authority does not classify the termination of PRC as "unfavorable," the offender's conduct and compliance with the supervision conditions may not be considered as an "unfavorable" termination by a court, when considering the factors described in a specified provision of the Felony Sentencing Law at a future sentencing hearing for a felony. (The specified Felony Sentencing Law provision requires the sentencing court to consider a list of factors as indicating that the felon is likely to commit future crimes – the listed factors include that, at the time of committing the offense, the felon had been "unfavorably" terminated from post-release

control for a prior offense, under the provision described above in (1) or under continuing law's R.C. 2929.141.)

3. In a provision that requires DRC, to adopt a rule by January 2003, establishing the criteria for classification of a PRC termination as "favorable" or "unfavorable," eliminates the reference to "favorable."

## **Full parole board hearings**

(R.C. 5149.101)

The act removes the ability for a board hearing officer, a board member, or the Office of Victims' Services to petition for a full parole board hearing that relates to the proposed parole or re-parole of a prisoner. Under the act, if a victim of certain offenses, the victim's representative, spouse, parent or parents, sibling, or child of a victim requests a full board hearing, they must do so through the Office of Victims' Services.

A family member of a victim who is not listed above may also request for the board to hold such a full board hearing through the Office of Victims' Services. If such a request is made, the majority of those present at the board meeting must determine whether a full board hearing will be held.

Under the act, if a prosecuting attorney requests such a full board hearing, the board must hold a full board hearing.

The act allows the State Public Defender, when designated by the DRC, to appear at a full board hearing and to give testimony or to submit a written statement, as permitted by the board.

## **Ohio Penal Industries**

(R.C. 5145.161)

The act modifies the requirements of DRC's "program for employment of prisoners" by giving prisoners the opportunity to be assigned a job with the Ohio Penal Industries, or any other job level or grade of prisoner employment that the DRC Director may designate, if the prisoner is working toward the completion of, but has not yet obtained, a high school diploma or equivalent.

## **Victim conference communications**

(R.C. 2930.16)

The act requires the communications during a victim conference held pursuant to the Victim's Rights Law and the rules adopted by the Adult Parole Authority to be confidential, and provides that they are not public records under the Public Records Law.

The Victim's Rights Law requires the Authority to adopt rules providing for a victim conference upon request of the victim, a member of the victim's immediate family, or the victim's representative, prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a first, second, or third degree felony or is under a sentence of life imprisonment.

## Local jail grants

(Section 383.10)

Regarding funding line item 5ZQ0 501505, “Local Jail Grants,” the act requires DRC to distribute the funds to counties for the construction and renovation of county jails by July 1, 2024, using a funding formula to determine which counties will receive the funding, and what their percentage of the basic project cost will be.

### Funding formula

DRC must choose which projects to fund using a funding formula that ranks counties based on sales tax and property tax revenue. TAX conducts the ranking. The ranking formula is as follows:

- First, TAX takes the total value of all property in the county listed and assessed for taxation on the tax list in the preceding tax year, and lists each county in order of total value, ascending, so that the county with the lowest value is number one on the list – its property tax ranking.
- Second, TAX ranks each county based on the estimate of the gross amount of taxable retail sales sourced to the county as reported by TAX for the preceding fiscal year, computed by dividing the total amount of tax revenue received by the county during that period from sales taxes and use taxes by the aggregate sales tax rate currently levied by the county. TAX lists each county in order of total value, ascending, so that the county with the lowest value is number one on the list – its sales tax ranking. Any county that does not currently levy sales taxes is automatically ranked at number 88 on the list.
- Then, for each county, TAX adds the numbered rank for property values to the numbered rank for sales tax, and orders the counties according to the sum of the two ranks, the county with the lowest sum being number one on the list. The percentile ranking is determined by taking the county’s ranking on this final list, dividing it by 88, and multiplying it by 100. This percentile ranking not only is used to help determine which counties to invite to apply for assistance, but also is used to determine the county’s basic share of the project cost.

For this final ranking, if two or more counties are tied, the county with the lowest population receives the lowest final ranking. The final ranking for the counties should be numbers 1 through 88.

### Application process and needs assessment

Upon receiving the final rankings, DRC must select a number of the lowest ranking counties and invite the selected counties to apply for assistance. Two or more counties may apply jointly as long as at least one was invited to apply.

DRC must adopt guidelines to accept and review applications and designate projects, including guidelines requiring counties to justify the need for the project.

Upon a county's application, DRC must conduct a needs assessment for that county, to determine the following:

- The county's need for additional jail facilities, or for renovations or improvements to existing jail facilities, based on whether and to what extent existing facilities comply with safety and construction standards, including the age and condition of the facilities;
- The number of jail facilities to be included in a project;
- The estimated annual, monthly, or daily cost of operating the facility once it is operational, as reported and certified by the county auditor;
- The estimated basic project cost of constructing, acquiring, reconstructing, or making additions to each facility; and
- Whether the county has recently received a grant from the state to construct or renovate jail facilities.

Following the needs assessment, DRC may approve constructing, acquiring, reconstructing, or making additions to a jail facility only upon evidence that the proposed project conforms to existing construction and renovation standards, and that it keeps with the needs of the county or counties as determined by the needs assessment. Exceptions are authorized only in those areas where topography, sparsity of population, and other factors make larger jail facilities impracticable.

### **Basic project cost**

The county's portion of the basic project cost is equal to 1% of the basic project cost times the percentile in which the county ranks according to the county's percentile ranking. The state's portion is the remainder, except that the state's portion is always at least 25%. If the county's portion is calculated to exceed 75%, the county's portion must be 75%. For multicounty jail facilities, if the sum of two or more counties' portions of the total basic project cost are calculated to exceed 75% of the total basic project cost, the counties' portions are determined pro rata, so that the sum of the portions is 75%.