A BILL

To amend section 5120.10 and to enact section 5120.101 of the Revised Code to adopt several jail reform procedures related to compliance with the Minimum Standards for Jails in Ohio.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 5120.10 be amended and section 5120.101 of the Revised Code be enacted to read as follows:

Sec. 5120.10. (A)(1) The director of rehabilitation and correction, by rule, shall promulgate minimum standards for jails in Ohio, including minimum security jails dedicated under section 341.34 or 753.21 of the Revised Code. Whenever the director files a rule or an amendment to a rule in final form with both the secretary of state and the director of the legislative service commission pursuant to section 111.15 of the Revised Code, the director of rehabilitation and correction promptly shall send a copy of the rule or amendment, if the rule or amendment pertains to minimum jail standards, by ordinary mail to the political subdivisions or affiliations of political subdivisions that operate jails to which the standards apply.
(2) The rules promulgated in accordance with division (A) (1) of this section shall serve as criteria for the investigative and supervisory powers and duties vested by division (D) of this section in the division of parole and community services of the department of rehabilitation and correction or in another division of the department to which those powers and duties are assigned.

(3) The division of parole and community services, or another division of the department assigned by the director to perform this duty, shall inspect the jails in Ohio to determine whether the particular jail being inspected is in compliance with the minimum standards for jails in Ohio adopted under authority of division (A)(1) of this section that apply to that jail. If the division of parole and community services, as a result of such an inspection, has reason to believe that a particular jail in Ohio is not in compliance with the minimum standards for jails in Ohio adopted under authority of division (A)(1) of this section that apply to that jail, the division, or another division of the department assigned by the director to perform this duty, shall investigate the possible noncompliance.

(B)(1) The director may initiate an action in the court of common pleas of the county in which a facility that is subject to the rules promulgated under division (A)(1) of this section is situated to enjoin compliance with the minimum standards for jails or with the minimum standards and minimum renovation, modification, and construction criteria for jails.

(2) If the division of parole and community services, as a result of an inspection or investigation described in division (A)(3) of this section, determines that a jail in Ohio is not in compliance with the minimum standards for jails in Ohio adopted.
under authority of division (A)(1) of this section that apply to that jail and if the director does not initiate an action as described in division (B)(1) of this section, the director shall provide the jail with a written notice of noncompliance and required compliance, as specified in section 5120.101 of the Revised Code.

(C) Upon the request of an administrator of a jail facility, the chief executive of a municipal corporation, or a board of county commissioners, the director of rehabilitation and correction or the director's designee shall grant a variance from the minimum standards for jails in Ohio for a facility that is subject to one of those minimum standards when the director determines that strict compliance with the minimum standards would cause unusual, practical difficulties or financial hardship, that existing or alternative practices meet the intent of the minimum standards, and that granting a variance would not seriously affect the security of the facility, the supervision of the inmates, or the safe, healthful operation of the facility. If the director or the director's designee denies a variance, the applicant may appeal the denial pursuant to section 119.12 of the Revised Code.

(D) The following powers and duties shall be exercised by the division of parole and community services unless assigned to another division by the director:

(1) The investigation and supervision of county and municipal jails, workhouses, minimum security jails, and other correctional institutions and agencies, including the inspections and investigations required under division (A)(3) of this section;

(2) The review and approval of plans submitted to the
department of rehabilitation and correction pursuant to division (E) of this section;

(3) The management and supervision of the adult parole authority created by section 5149.02 of the Revised Code;

(4) The review and approval of proposals for community-based correctional facilities and programs and district community-based correctional facilities and programs that are submitted pursuant to division (B) of section 2301.51 of the Revised Code;

(5) The distribution of funds made available to the division for purposes of assisting in the renovation, maintenance, and operation of community-based correctional facilities and programs and district community-based correctional facilities and programs in accordance with section 5120.112 of the Revised Code;

(6) The performance of the duty imposed upon the department of rehabilitation and correction in section 5149.31 of the Revised Code to establish and administer a program of subsidies to eligible municipal corporations, counties, and groups of contiguous counties for the development, implementation, and operation of community-based corrections programs;

(7) Licensing halfway houses and community residential centers for the care and treatment of adult offenders in accordance with section 2967.14 of the Revised Code;

(8) Contracting with a public or private agency or a department or political subdivision of the state that operates a licensed halfway house or community residential center for the provision of housing, supervision, and other services to
parolees, releasees, persons placed under a residential
sanction, persons under transitional control, and other eligible
offenders in accordance with section 2967.14 of the Revised
Code.

Other powers and duties may be assigned by the director of
rehabilitation and correction to the division of parole and
community services. This section does not apply to the
department of youth services or its institutions or employees.

(E) No plan for any new jail, workhouse, or lockup, and no
plan for a substantial addition or alteration to an existing
jail, workhouse, or lockup, shall be adopted unless the
officials responsible for adopting the plan have submitted the
plan to the department of rehabilitation and correction for
approval, and the department has approved the plan as provided
in division (D)(2) of this section.

Sec. 5120.101. (A) As used in this section, "minimum
standards for jails in Ohio" means the minimum standards for
jails in Ohio adopted under authority of division (A)(1) of
section 5120.10 of the Revised Code.

(B) If the division of parole and community services or
another division of the department of rehabilitation and
correction assigned by the director of rehabilitation and
correction, as a result of an inspection or investigation
described in division (A)(3) of section 5120.10 of the Revised
Code, determines that a jail in Ohio is not in compliance with
the minimum standards for jails in Ohio that apply to that jail
and if the director does not initiate a court action as
described in division (B)(1) of that section, the director shall
send the jail written notice that does all of the following:
(1) Indicates that the division has determined that the jail is not in compliance with the applicable minimum standards for jails in Ohio;

(2) Specifies the areas in which the jail is not in compliance with the applicable minimum standards;

(3) Orders that the jail obtain compliance with the applicable minimum standards within the applicable period of time specified by the rule adopted under division (C) of this section;

(4) Provides contact information for one or more persons at the department who can answer questions regarding the noncompliance and work with the jail to obtain compliance and, if an outside corrections expert is appointed under division (D) of this section, for the outside corrections expert.

(C) The director of rehabilitation and correction, by rule, shall specify a period of time within which jails that are determined to not be in compliance with the applicable minimum standards for jails in Ohio and that are sent a notice under division (B) of this section must obtain compliance with the applicable minimum standards. The rules may provide different periods of time for different categories of jails and may provide different periods of time for different types of noncompliance.

(D) If a jail is determined to not be in compliance with the applicable minimum standards for jails in Ohio and is sent a notice under division (B) of this section ordering that the jail obtain compliance with the applicable minimum standards within a specified period of time, the department may appoint an outside corrections expert to assist the jail in remediating the
noncompliance with the applicable minimum standards. An appointment under this division is a temporary appointment, and shall be in effect only for a period of time specified by the department.

(E) If a jail is determined to not be in compliance with the applicable minimum standards for jails in Ohio and is sent a notice under division (B) of this section ordering that the jail obtain compliance with the applicable minimum standards within a specified period of time, and if the jail does not obtain compliance with the applicable minimum standards within the specified period of time, the director shall initiate an action in the court of common pleas of the county in which the jail is situated to obtain a court order that enjoins compliance with the applicable minimum standards, orders the temporary suspension of the operation of the jail until the jail obtains compliance with the applicable minimum standards, or orders the closure of the jail.

(F)(1) The attorney general shall establish and operate a whistleblower hotline for the purpose of receiving information from persons as specified in division (F)(2) of this section. Upon establishing the hotline, the attorney general shall publicize the fact that the hotline has been established, the purpose of the hotline, contact information for the hotline, and the fact that persons who make reports to the hotline are protected as described in division (F)(3) of this section.

(2) Any person who is an employee of a jail in Ohio, or who performs any work in or makes deliveries to a jail in Ohio, and who is not confined in the jail and is not a family member of or visitor to a person confined in the jail, may make a report anonymously to the hotline established under division (F)
(1) of this section, that provides information regarding conditions of the jail that the person making the report reasonably believes do not comply with the minimum standards for jails in Ohio that apply to that jail. A person making a report under this division may not be required to provide the person's name or other identifying information to make the report.

(3)(a) Except as otherwise provided in division (F)(3)(c) of this section, no person involved in the operation of any jail in Ohio shall take any disciplinary action against an employee for making any report as authorized by division (F)(2) of this section, including, without limitation, doing any of the following:

(i) Removing or suspending the employee from employment;

(ii) Withholding from the employee salary increases or employee benefits to which the employee is otherwise entitled;

(iii) Transferring or reassigning the employee;

(iv) Denying the employee promotion that otherwise would have been received;

(v) Reducing the employee in pay or position.

(b) Except as otherwise provided in division (F)(3)(c) of this section, no person involved in the operation of any jail in Ohio shall take any retaliatory action against a person who performs any work in or makes deliveries to a jail in Ohio for making any report as authorized by division (F)(2) of this section.

(c) An employee of a jail in Ohio, and a person who performs any work in or makes deliveries to a jail in Ohio, shall make a reasonable effort to determine the accuracy of any
information reported under division (F)(2) of this section. An employee of a jail in Ohio is subject to disciplinary action, including suspension or removal, as determined by the employee's appointing authority, and a person who performs any work in or makes deliveries to a jail in Ohio is subject to retaliatory action, for purposely, knowingly, or recklessly reporting false information under division (F)(2) of this section.

(d) As used in division (F)(3)(c) of this section, "purposely," "knowingly," and "recklessly" have the same meanings as in section 2901.22 of the Revised Code.

Section 2. That existing section 5120.10 of the Revised Code is hereby repealed.

Section 3. (A) There is hereby established the jail system improvement study commission. The commission shall consist of five members. Two of the members shall be members of the senate, with one of those members appointed by the senate president and one appointed by the senate minority leader; two of the members shall be members of the house of representatives, with one of those members appointed by the speaker of the house of representatives and one appointed by the minority leader of the house of representatives; and one of the members shall be appointed by the governor. All appointments shall be made to the commission not later than thirty days after the effective date of this section.

The commission shall meet initially not later than fourteen days after the last of its members is appointed. At its first meeting, the commission shall select joint chairpersons, with one being a member appointed by either the president of the senate or the speaker of the house of representatives, and one being a member appointed by either the minority leader of the
senate or the minority leader of the house of representatives. After its first meeting, the commission shall meet at the call of the joint chairpersons.

The members of the commission shall serve without compensation, but each member shall be reimbursed for the member's actual and necessary expenses incurred in the performance of the member's official duties on the commission.

(B) The jail system improvement study commission shall study, investigate, and evaluate all aspects of the operation of all jails in Ohio, including employee training, physical facilities, the sufficiency of resources being supplied by the state for the operation of these facilities, and the sufficiency of the minimum standards for jails in Ohio then in effect. All state agencies and jails shall cooperate with the commission in its study, investigation, and evaluation performed under this division.

(C) Not later than the date that is nine months after the last member of the commission is appointed, the jail system improvement study commission shall complete its study, investigation, and evaluation under division (B) of this section, prepare a report that contains its findings and its recommendations for improvements needed in the jail system in this state to ensure the efficient and safe operation of the jails, and send a copy of the report to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. Upon the presentation of its report, the commission shall cease to exist.