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## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. Boggs and Carfagna

Nicholas A. Keller, Attorney

### SUMMARY

- Regarding global positioning system (GPS) monitoring used for offenders released from prison under such monitoring:
  - Replaces the purposes of a GPS-related study that the Department of Rehabilitation and Correction (DRC) is required to conduct so that the study's purpose will be to analyze the use of GPS monitoring as a supervision tool;
  - Requires that the monitoring specify restrictions, including inclusionary zones and necessary exclusionary zones and authorizes the restrictions to include an inclusionary zone curfew and other reasonable restrictions;
  - Requires that contracts that DRC enters into with third-party contract administrators for monitoring mandate that the GPS used include a crime scene correlation program with continuous monitoring under which law enforcement personnel may obtain access to information regarding such an offender's location;
  - Requires DRC to establish system requirements for GPS monitoring of such offenders by DRC, third-party contract administrators, or secondary entities under contract with such an administrator to perform the actual monitoring;
  - Requires that specified information about such offenders be entered into the Law Enforcement Automated Data System (LEADS) for access by law enforcement personnel; and
  - Requires that DRC, third-party administrators, and secondary entities performing actual monitoring under a contract provide law enforcement personnel upon request with information regarding a supervised offender's current and, if available, prior locations and recent criminal activity possibly related to the offender's location.

- 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 workload and caseload standards for its parole and field officers and have enough trained officers to comply with the standards.
- 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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## **DETAILED ANALYSIS**

### **Overview**

The bill modifies the law regarding certain release terms and supervision of felony offenders released from prison by requiring the Department of Rehabilitation and Correction (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 (APA) 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 provides for the entry into the Law Enforcement Automated Data System (LEADS) for law enforcement use of specified information about such offenders and requires the State Criminal Sentencing Commission to appoint an Offender Supervision Study Committee.

### **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, or who, on or after that date, is placed under post-release control (PRC) that includes GPS monitoring as a condition under the post-release control.<sup>1</sup>

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<sup>1</sup> R.C. 5120.038(A); also R.C. 5120.021(B)(3).

## **DRC study of GPS-related issues**

### **Conduct and purpose of study, and submission to legislative leadership and Governor**

Existing law, which was enacted in Am. Sub. S.B. 201 of the 132nd General Assembly (the Reagan Tokes Law) and took effect on March 22, 2019, requires DRC to study the feasibility of contracting with a third-party contract administrator for GPS monitoring that would include a crime scene correlation program that could interface by link with a statewide database for GPS-monitored offenders. The study must be completed not later than June 30, 2019. The study also must analyze the use of GPS monitoring as a supervision tool. DRC is required to consider specified factors (described below) in conducting the study. Upon completion of the study, DRC must submit copies of the study to the Senate President and Minority Leader, the House of Representatives Speaker and Minority Leader, and the Governor.<sup>2</sup>

The bill retains the requirement that DRC conduct a GPS-related study by June 30, 2019, but it repeals the currently specified purposes of the study and the listing of factors that DRC must consider in conducting the study. Under the bill, DRC must conduct the study to analyze the use of GPS monitoring as a supervision tool. As under existing law, upon completion of the study, DRC must submit copies of the study to the specified legislative leaders and the Governor.<sup>3</sup>

### **Factors that DRC currently must consider**

Currently, DRC must consider a list of factors in conducting the study described above. The bill repeals the list of factors, but, as described in succeeding parts of this analysis, addresses some of the issues to which the factors pertain in other substantive provisions. The factors that currently must be considered are:<sup>4</sup>

1. The ability of DRC or another state entity to establish and operate a statewide Internet database of GPS-monitored offenders and the specific information that such a database could include.
2. The capability for a GPS monitoring system run by a third-party contract administrator to include a crime scene correlation program that interfaces by link with a statewide database of GPS-monitored offenders.
3. The ability of local law enforcement representatives to remotely search a statewide Internet database of GPS-monitored offenders that is linked with a crime scene correlation program.
4. The capability for a GPS monitoring system with crime scene correlation features to allow local law enforcement representatives without a subpoena or warrant to access

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<sup>2</sup> R.C. 5120.038(B) and redesignated (C).

<sup>3</sup> R.C. 5120.038(B).

<sup>4</sup> R.C. 5120.038(B)(1) to (6), repealed by the bill.

information contained in the crime scene correlation program about a GPS-monitored offender, including the offender's current location, the offender's location at previous points in time, the location of recent criminal activity in or near the offender's inclusionary or exclusionary zones included as restrictions under the offender's supervision, and any possible connection between the offender's location and that recent criminal activity.

5. The ability of law enforcement representatives to obtain, without a warrant or subpoena, information about a GPS-monitored offender from either an employee of DRC or a third-party contract administrator who is monitoring the offender, including information of the types listed above in paragraph (4).
6. The types of offenders for whom GPS monitoring would be beneficial, the appropriate length for monitoring, and the costs related to GPS monitoring.

### **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 restrictions 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.<sup>5</sup>

### **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 all of the following specifications:<sup>6</sup>

First, the GPS used by the administrator, or by any "secondary entity" (see "**Definition of "secondary entity"**," below) under contract with the administrator to perform the actual monitoring of the offender, must include a "crime scene correlation program" to which access can be obtained under provisions of the bill (see below).

Second, the crime scene correlation program included in the administrator's system, or in the system of a secondary entity under contract with the administrator to perform the actual monitoring of the offender, must allow local law enforcement representatives or their designees 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

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<sup>5</sup> R.C. 5120.038(C)(1).

<sup>6</sup> R.C. 5120.038(C)(2).

offender's inclusionary or exclusionary zones, and about any possible connection between the offender's location and that recent criminal activity.

Third, the administrator, or the secondary entity under contract with the administrator to perform the actual monitoring of the offender, must allow access to the crime scene correlation program included in the administrator's or secondary entity's system to law enforcement representatives as described below.

Fourth, the GPS used by the administrator, or by any secondary entity under contract with the administrator to perform the actual monitoring of the offender, must be monitored continuously and the access described in the preceding and second preceding paragraphs must be afforded 24 hours a day and seven days a week.

### **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, and any secondary entity under contract with such a third-party contract administrator to perform the actual 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, any third-party contract administrator used for GPS monitoring, and any secondary entity under contract with such a third-party contract administrator to perform the actual monitoring of a GPS-monitored offender, must comply with the established system requirements in the monitoring of a GPS-monitored offender.<sup>7</sup>

### **Inclusion in LEADS of information regarding GPS-monitored offenders**

As soon as possible after, but not later than 12 months after, the bill's effective date, DRC must adopt procedures that DRC and third-party contract administrators that are being used for GPS monitoring of a GPS-monitored offender must use to provide to the Bureau of Criminal Identification and Investigation (BCII) specified information (see the third succeeding paragraph) for each GPS-monitored offender being monitored by DRC or the administrator.

On and after the date on which DRC adopts the procedures, DRC must provide to BCII the specified information to be added to LEADS for each GPS-monitored offender that DRC is monitoring, and each third-party contract administrator that is being used for GPS monitoring of a GPS-monitored offender must provide to BCII the specified information to be added to LEADS for each GPS-monitored offender that the administrator is monitoring. If the third-party contract administrator has contracted with a secondary entity to perform the actual monitoring of a GPS-monitored offender, the information the administrator provides to BCII also must

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<sup>7</sup> R.C. 5120.038(D).

include the specified information to be added to LEADS for each GPS-monitored offender that the secondary entity is monitoring. DRC and each third-party administrator must provide the information in accordance with the procedures adopted by DRC, as described above. Upon receipt of the information, BCII immediately must enter the information into LEADS. The Superintendent of the State Highway Patrol must ensure that LEADS is so configured as to permit the entry into, and transmission through, the system of that information.

If any information DRC provides to BCII under the provisions described above becomes inaccurate, DRC immediately must update the information so that it is current and accurate and immediately provide the updated information to BCII. If any information a third-party contract administrator provides to BCII under those provisions, including any information with respect to a secondary entity under contract with the administrator, becomes inaccurate, the administrator similarly must update the information and provide the updated information to BCII. Upon receipt of such updated information, BCII immediately must enter the updated information into LEADS.<sup>8</sup>

The information the bill requires to be entered into LEADS must include, for each GPS-monitored offender for whom the information is required, 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) 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, and (6) the identity of, and contact information for, whichever of the following is applicable: (a) if a DRC employee is monitoring the offender, the employee, (b) if a third-party contract administrator is being used for GPS monitoring of the offender, the third-party contract administrator, and (c) if a secondary entity under contract with a third-party contract administrator is performing the actual monitoring of a GPS-monitored offender, the secondary entity.<sup>9</sup>

### **Real-time access or active GPS access to information about GPS-monitored offender's location**

If a local law enforcement representative, through use of LEADS or in any other manner, learns the identity of, and contact information for, a DRC employee who is monitoring a GPS-monitored offender, the identity of, and contact information for, a third-party contract administrator that is being used for GPS monitoring of a GPS-monitored offender, or the identity of, and contact information for, a secondary entity under contract with a third-party contract administrator to perform the actual monitoring of a GPS-monitored offender, the representative or another law enforcement officer designated by the representative may

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<sup>8</sup> R.C. 5120.038(E)(1); also division (A)(2).

<sup>9</sup> R.C. 5120.038(E)(3).

contact the employee, the administrator, or the secondary entity 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, the third-party contract administrator, or the secondary entity, 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, administrator, or secondary entity has obtained about the location of recent criminal activity in or near the GPS-monitored offender's inclusionary or 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, administrator, or secondary entity, without need for a subpoena or warrant, must provide the representative or designee with that information to the extent that it is available.<sup>10</sup>

### **Definition of "secondary entity"**

As used in the bill's GPS-related provisions described above, a "secondary entity" is an entity under contract with a third-party contract administrator with which DRC has entered into a contract for GPS monitoring of GPS-monitored offenders.<sup>11</sup>

## **Reentry programs of the Department of Rehabilitation and Correction**

The bill enacts provisions that address reentry programs for "target offenders" released from a state prison. 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 require that all target offenders reside in the

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<sup>10</sup> R.C. 5120.038(E)(2).

<sup>11</sup> R.C. 5120.038(A)(3).



program's facility during a part or for the entire period of the target offender's conditional release or term of post-release control.<sup>12</sup>

## **Adult Parole Authority parole and field officer caseloads and workloads**

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 "caseload" and a "workload" for parole and field officers. The caseload and workload 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) "caseload" 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 workload of the officer for each of those persons, and (2) "workload" 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.<sup>13</sup>

## **State Criminal Sentencing Commission's Offender Supervision Study Committee**

The bill requires the State Criminal Sentencing Commission (SCSC) 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 SCSC: 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; DRC's Director 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. SCSC 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

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<sup>12</sup> R.C. 5120.113(E) and 2967.14(A); also R.C. 5120.021.

<sup>13</sup> R.C. 5149.04(E).



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 SCSC.

The members of the Committee who are not members of the SCSC 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 SCSC duties. Existing R.C. 181.21, which governs SCSC members, including the fact that they serve without compensation but are reimbursed for their actual and necessary expenses incurred in the performance of official SCSC duties, applies to the members of the Committee who are SCSC members.

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 SCSC 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 SCSC 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 SCSC.<sup>14</sup>

In addition to its other duties specified by law, the SCSC 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 SCSC'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 SCSC will be required to consider all findings and recommendations of the Committee contained in the Committee's report submitted to the SCSC, and the SCSC's report to the General Assembly may be, but is not required to be, the same as the Committee's report submitted to the SCSC.<sup>15</sup>

## HISTORY

Action	Date
Introduced	04-24-19

H0215-I-133/ar

<sup>14</sup> R.C. 181.21(E).

<sup>15</sup> R.C. 181.21(E)(2) and 181.26(D).