As Introduced

133rd General Assembly

Regular Session 2019-2020 H. B. No. 502

Representative Crossman

Cosponsors: Representatives Sobecki, Upchurch, Boyd, Denson, Howse, Skindell, Brown, Weinstein

A BILL

To amend section 5120.10 and to enact section	1
5120.101 of the Revised Code to adopt several	2
jail reform procedures related to compliance	3
with the Minimum Standards for Jails in Ohio.	4

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

Section 1. That section 5120.10 be amended and section	5
5120.101 of the Revised Code be enacted to read as follows:	6
Sec. 5120.10. (A)(1) The director of rehabilitation and	7
correction, by rule, shall promulgate minimum standards for	8
jails in Ohio, including minimum security jails dedicated under	9
section 341.34 or 753.21 of the Revised Code. Whenever the	10
director files a rule or an amendment to a rule in final form	11
with both the secretary of state and the director of the	12
legislative service commission pursuant to section 111.15 of the	13
Revised Code, the director of rehabilitation and correction	14
promptly shall send a copy of the rule or amendment, if the rule	15
or amendment pertains to minimum jail standards, by ordinary	16
mail to the political subdivisions or affiliations of political	17
subdivisions that operate jails to which the standards apply.	18

H. B. No. 502 As Introduced

(2) The rules promulgated in accordance with division (A) 19 (1) of this section shall serve as criteria for the 20 investigative and supervisory powers and duties vested by 21 division (D) of this section in the division of parole and 22 community services of the department of rehabilitation and 23 correction or in another division of the department to which 24 those powers and duties are assigned. 25 (3) The division of parole and community services, or 26 another division of the department assigned by the director to 27 perform this duty, shall inspect the jails in Ohio to determine 28 whether the particular jail being inspected is in compliance 29 with the minimum standards for jails in Ohio adopted under 30 authority of division (A)(1) of this section that apply to that 31 jail. If the division of parole and community services, as a 32 result of such an inspection, has reason to believe that a 33 particular jail in Ohio is not in compliance with the minimum 34 standards for jails in Ohio adopted under authority of division 35 (A) (1) of this section that apply to that jail, the division, or 36 another division of the department assigned by the director to 37 perform this duty, shall investigate the possible noncompliance. 38 39 (B) (1) The director may initiate an action in the court of common pleas of the county in which a facility that is subject 40

to the rules promulgated under division (A)(1) of this section41is situated to enjoin compliance with the minimum standards for42jails or with the minimum standards and minimum renovation,43modification, and construction criteria for jails.44

(2) If the division of parole and community services, as a	45
result of an inspection or investigation described in division	46
(A)(3) of this section, determines that a jail in Ohio is not in	47
compliance with the minimum standards for jails in Ohio adopted	48

under authority of division (A)(1) of this section that apply to	49
that jail and if the director does not initiate an action as	50
described in division (B)(1) of this section, the director shall	51
provide the jail with a written notice of noncompliance and	52
required compliance, as specified in section 5120.101 of the	53
Revised Code.	54
(C) Upon the request of an administrator of a jail	55
facility, the chief executive of a municipal corporation, or a	56
board of county commissioners, the director of rehabilitation	57
and correction or the director's designee shall grant a variance	58
from the minimum standards for jails in Ohio for a facility that	59
is subject to one of those minimum standards when the director	60
determines that strict compliance with the minimum standards	61
would cause unusual, practical difficulties or financial	62
hardship, that existing or alternative practices meet the intent	63
of the minimum standards, and that granting a variance would not	64
seriously affect the security of the facility, the supervision	65
of the inmates, or the safe, healthful operation of the	66
facility. If the director or the director's designee denies a	67
variance, the applicant may appeal the denial pursuant to	68
section 119.12 of the Revised Code.	69
(D) The following powers and duties shall be exercised by	70
the division of parole and community services unless assigned to	71
another division by the director:	72
(1) The investigation and supervision of county and	73
municipal jails, workhouses, minimum security jails, and other	74

correctional institutions and agencies, including the75inspections and investigations required under division (A) (3) of76this section;77

(2) The review and approval of plans submitted to the

78

(E) of this section; 80 (3) The management and supervision of the adult parole 81 authority created by section 5149.02 of the Revised Code; 82 (4) The review and approval of proposals for community-83 based correctional facilities and programs and district 84 community-based correctional facilities and programs that are 85 submitted pursuant to division (B) of section 2301.51 of the 86 Revised Code; 87 (5) The distribution of funds made available to the 88 89 division for purposes of assisting in the renovation, maintenance, and operation of community-based correctional 90 facilities and programs and district community-based 91 correctional facilities and programs in accordance with section 92 5120.112 of the Revised Code; 93 (6) The performance of the duty imposed upon the 94 department of rehabilitation and correction in section 5149.31 95 of the Revised Code to establish and administer a program of 96 subsidies to eligible municipal corporations, counties, and 97 groups of contiguous counties for the development, 98 99 implementation, and operation of community-based corrections programs; 100 (7) Licensing halfway houses and community residential 101 centers for the care and treatment of adult offenders in 102 accordance with section 2967.14 of the Revised Code; 103 (8) Contracting with a public or private agency or a 104 department or political subdivision of the state that operates a 105 licensed halfway house or community residential center for the 106

provision of housing, supervision, and other services to

department of rehabilitation and correction pursuant to division

Page 4

79

107

parolees, releasees, persons placed under a residential 108 sanction, persons under transitional control, and other eligible 109 offenders in accordance with section 2967.14 of the Revised 110 Code. 111

Other powers and duties may be assigned by the director of112rehabilitation and correction to the division of parole and113community services. This section does not apply to the114department of youth services or its institutions or employees.115

(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, "minimum123standards for jails in Ohio" means the minimum standards for124jails in Ohio adopted under authority of division (A) (1) of125section 5120.10 of the Revised Code.126

127 (B) If the division of parole and community services or another division of the department of rehabilitation and 128 correction assigned by the director of rehabilitation and 129 correction, as a result of an inspection or investigation 130 described in division (A)(3) of section 5120.10 of the Revised 131 Code, determines that a jail in Ohio is not in compliance with 132 the minimum standards for jails in Ohio that apply to that jail 133 and if the director does not initiate a court action as 134 described in division (B)(1) of that section, the director shall 135 send the jail written notice that does all of the following: 136

(1) Indicates that the division has determined that the	137
jail is not in compliance with the applicable minimum standards	138
for jails in Ohio;	139
	100
(2) Specifies the areas in which the jail is not in	140
compliance with the applicable minimum standards;	141
(3) Orders that the jail obtain compliance with the	142
applicable minimum standards within the applicable period of	143
time specified by the rule adopted under division (C) of this	144
section;	145
(4) Provides contact information for one or more persons	146
at the department who can answer questions regarding the	147
noncompliance and work with the jail to obtain compliance and,	148
if an outside corrections expert is appointed under division (D)	149
of this section, for the outside corrections expert.	150
(C) The director of rehabilitation and correction, by	151
rule, shall specify a period of time within which jails that are	152
rule, shall specify a period of time within which jails that are determined to not be in compliance with the applicable minimum	152 153
	_
determined to not be in compliance with the applicable minimum	153
determined to not be in compliance with the applicable minimum standards for jails in Ohio and that are sent a notice under	153 154
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	153 154 155
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	153 154 155 156
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	153 154 155 156 157
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.	153 154 155 156 157 158 159
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	153 154 155 156 157 158
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.	153 154 155 156 157 158 159
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	153 154 155 156 157 158 159 160
<pre>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</pre>	153 154 155 156 157 158 159 160 161
<pre>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</pre>	153 154 155 156 157 158 159 160 161 162

Page 6

noncompliance with the applicable minimum standards. An	166
appointment under this division is a temporary appointment, and	167
shall be in effect only for a period of time specified by the	168
department.	169
(E) If a jail is determined to not be in compliance with	170
the applicable minimum standards for jails in Ohio and is sent a	171
notice under division (B) of this section ordering that the jail	172
obtain compliance with the applicable minimum standards within a	173
specified period of time, and if the jail does not obtain	174
compliance with the applicable minimum standards within the	175
specified period of time, the director shall initiate an action	176
in the court of common pleas of the county in which the jail is	177
situated to obtain a court order that enjoins compliance with	178
the applicable minimum standards, orders the temporary	179
suspension of the operation of the jail until the jail obtains	180
compliance with the applicable minimum standards, or orders the	181
closure of the jail.	182
(F)(1) The attorney general shall establish and operate a	183
whistleblower hotline for the purpose of receiving information_	184
from persons as specified in division (F)(2) of this section.	185
Upon establishing the hotline, the attorney general shall_	186
publicize the fact that the hotline has been established, the	187
purpose of the hotline, contact information for the hotline, and	188
the fact that persons who make reports to the hotline are_	189
protected as described in division (F)(3) of this section.	190
(2) Any person who is an employee of a jail in Ohio, or	191
who performs any work in or makes deliveries to a jail in Ohio,	192
and who is not confined in the jail and is not a family member_	193
of or visitor to a person confined in the jail, may make a	194
report anonymously to the hotline established under division (F)	195

Page 7

(1) of this section, that provides information regarding	196
conditions of the jail that the person making the report	197
reasonably believes do not comply with the minimum standards for	198
jails in Ohio that apply to that jail. A person making a report	199
under this division may not be required to provide the person's	200
name or other identifying information to make the report.	201
(3)(a) Except as otherwise provided in division (F)(3)(c)	202
of this section, no person involved in the operation of any jail	203
in Ohio shall take any disciplinary action against an employee	204
for making any report as authorized by division (F)(2) of this	205
section, including, without limitation, doing any of the	206
following:	207
(i) Removing or suspending the employee from employment;	208
(ii) Withholding from the employee salary increases or	209
employee benefits to which the employee is otherwise entitled;	210
(iii) Transferring or reassigning the employee;	211
(iv) Denying the employee promotion that otherwise would	212
have been received;	213
(v) Reducing the employee in pay or position.	214
(b) Except as otherwise provided in division (F)(3)(c) of	215
this section, no person involved in the operation of any jail in	216
Ohio shall take any retaliatory action against a person who	217
performs any work in or makes deliveries to a jail in Ohio for	218
making any report as authorized by division (F)(2) of this	219
section.	220
(c) An employee of a jail in Ohio, and a person who	221
performs any work in or makes deliveries to a jail in Ohio,	222
shall make a reasonable effort to determine the accuracy of any	223

information reported under division (F)(2) of this section. An	224
employee of a jail in Ohio is subject to disciplinary action,	225
including suspension or removal, as determined by the employee's	226
appointing authority, and a person who performs any work in or	227
makes deliveries to a jail in Ohio is subject to retaliatory	228
action, for purposely, knowingly, or recklessly reporting false	229
information under division (F)(2) of this section.	230
(d) As used in division (F)(3)(c) of this section,	231
"purposely," "knowingly," and "recklessly" have the same	232
meanings as in section 2901.22 of the Revised Code.	233
Section 2. That existing section 5120.10 of the Revised	234
Code is hereby repealed.	235
Section 3. (A) There is hereby established the jail system	236
improvement study commission. The commission shall consist of	237
five members. Two of the members shall be members of the senate,	238
with one of those members appointed by the senate president and	239
one appointed by the senate minority leader; two of the members	240
shall be members of the house of representatives, with one of	241
those members appointed by the speaker of the house of	242
representatives and one appointed by the minority leader of the	243
house of representatives; and one of the members shall be	244
appointed by the governor. All appointments shall be made to the	245
commission not later than thirty days after the effective date	246
of this section.	247
The commission shall meet initially not later than	248
fourteen days after the last of its members is appointed. At its	249
first meeting, the commission shall select joint chairpersons,	250
with one being a member appointed by either the president of the	251
senate or the speaker of the house of representatives, and one	252
being a member appointed by either the minority leader of the	253

senate or the minority leader of the house of representatives.254After its first meeting, the commission shall meet at the call255of the joint chairpersons.256

The members of the commission shall serve without257compensation, but each member shall be reimbursed for the258member's actual and necessary expenses incurred in the259performance of the member's official duties on the commission.260

(B) The jail system improvement study commission shall 261 study, investigate, and evaluate all aspects of the operation of 262 all jails in Ohio, including employee training, physical 263 facilities, the sufficiency of resources being supplied by the 264 state for the operation of these facilities, and the sufficiency 265 of the minimum standards for jails in Ohio then in effect. All 266 state agencies and jails shall cooperate with the commission in 267 its study, investigation, and evaluation performed under this 268 division. 269

(C) Not later than the date that is nine months after the 270 last member of the commission is appointed, the jail system 271 improvement study commission shall complete its study, 272 investigation, and evaluation under division (B) of this 273 section, prepare a report that contains its findings and its 274 recommendations for improvements needed in the jail system in 275 this state to ensure the efficient and safe operation of the 276 jails, and send a copy of the report to the governor, the 277 president and minority leader of the senate, and the speaker and 278 minority leader of the house of representatives. Upon the 279 presentation of its report, the commission shall cease to exist. 280

Page 10