

AN ACT

To amend sections 311.29, 2921.01, and 5149.03 and to enact sections 5120.64, 5120.65, 5120.651, 5120.652, 5120.653, 5120.654, 5120.655, 5120.656, and 5120.657 of the Revised Code to permit the Department of Rehabilitation and Correction to establish a prison nursery program permitting certain incarcerated women and the children born to them while incarcerated to reside together in an institution operated by the Department; to specifically authorize county sheriffs and the Adult Parole Authority to contract with any private person or entity, subject to specified criteria, for the return of Ohio prisoners from outside of Ohio into Ohio; and to specifically include within the definition of "detention" a prisoner's confinement in any vehicle, airplane, or place while being returned to Ohio under such a contract.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 311.29, 2921.01, and 5149.03 be amended and sections 5120.64, 5120.65, 5120.651, 5120.652, 5120.653, 5120.654, 5120.655, 5120.656, and 5120.657 of the Revised Code be enacted to read as follows:

Sec. 311.29. (A) As used in this section, "Chautauqua assembly" has the same meaning as in section 4511.90 of the Revised Code.

(B) The sheriff may, from time to time, enter into contracts with any municipal corporation, township, township police district, metropolitan housing authority, port authority, water or sewer district, school district, library district, health district, park district created pursuant to section 511.18 or 1545.01 of the Revised Code, soil and water conservation district, water conservancy district, or other taxing district or with the board of county commissioners of any contiguous county with the concurrence of the

sheriff of the other county, and such subdivisions, authorities, and counties may enter into agreements with the sheriff pursuant to which the sheriff undertakes and is authorized by the contracting subdivision, authority, or county to perform any police function, exercise any police power, or render any police service in behalf of the contracting subdivision, authority, or county, or its legislative authority, that the subdivision, authority, or county, or its legislative authority, may perform, exercise, or render.

Upon the execution of an agreement under this division and within the limitations prescribed by it, the sheriff may exercise the same powers as the contracting subdivision, authority, or county possesses with respect to such policing that by the agreement the sheriff undertakes to perform or render, and all powers necessary or incidental thereto, as amply as such powers are possessed and exercised by the contracting subdivision, authority, or county directly.

Any agreement authorized by division (A), (B), or (C) of this section shall not suspend the possession by a contracting subdivision, authority, or county of any police power performed or exercised or police service rendered in pursuance to the agreement nor limit the authority of the sheriff.

(C) The sheriff may enter into contracts with any Chautauqua assembly that has grounds located within the county, and the Chautauqua assembly may enter into agreements with the sheriff pursuant to which the sheriff undertakes to perform any police function, exercise any police power, or render any police service upon the grounds of the Chautauqua assembly that the sheriff is authorized by law to perform, exercise, or render in any other part of the county within ~~his~~ the sheriff's territorial jurisdiction. Upon the execution of an agreement under this division, the sheriff may, within the limitations prescribed by the agreement, exercise such powers with respect to such policing upon the grounds of the Chautauqua assembly, provided that any limitation contained in the agreement shall not be construed to limit the authority of the sheriff.

(D) Contracts entered into under division (A), (B), or (C) of this section shall provide for the reimbursement of the county for the costs incurred by the sheriff for such policing including, but not limited to, the salaries of deputy sheriffs assigned to such policing, the current costs of funding retirement pensions and of providing workers' compensation, the cost of training, and the cost of equipment and supplies used in such policing, to the extent that such equipment and supplies are not directly furnished by the contracting subdivision, authority, county, or Chautauqua assembly. Each such contract shall provide for the ascertainment of such costs and shall be of any duration, not in excess of four years, and may contain any other terms

that may be agreed upon. All payments pursuant to any such contract in reimbursement of the costs of such policing shall be made to the treasurer of the county to be credited to a special fund to be known as the "sheriff's policing revolving fund," hereby created. Any moneys coming into the fund shall be used for the purposes provided in divisions (A) to (D) of this section and paid out on vouchers by the county commissioners as other funds coming into their possession. Any moneys credited to the fund and not obligated at the termination of the contract shall be credited to the county general fund.

The sheriff shall assign the number of deputies as may be provided for in any contract made pursuant to division (A), (B), or (C) of this section. The number of deputies regularly assigned to such policing shall be in addition to and an enlargement of the sheriff's regular number of deputies. Nothing in divisions (A) to (D) of this section shall preclude the sheriff from temporarily increasing or decreasing the deputies so assigned as emergencies indicate a need for shifting assignments to the extent provided by the contracts.

All such deputies shall have the same powers and duties, the same qualifications, and be appointed and paid and receive the same benefits and provisions and be governed by the same laws as all other deputy sheriffs.

~~Such contracts~~ Contracts under division (A), (B), or (C) of this section may be entered into jointly with the board of county commissioners, and sections 307.14 to 307.19 of the Revised Code apply to this section insofar as they may be applicable.

(E)(1) As used in division (E) of this section:

(a) "Ohio prisoner" has the same meaning as in section 5120.64 of the Revised Code.

(b) "Out-of-state prisoner" and "private contractor" have the same meanings as in section 9.07 of the Revised Code.

act entered into under this division shall include all of the following:

(a) Specific provisions that assign the responsibility for costs related to medical care of prisoners while they are being returned that is not covered by insurance of the private person or entity;

(b) Specific PROVISIONS that set forth the number of days, not exceeding ten, within which the private person or entity, after it receives the prisoner in the other state, must deliver the prisoner to the LOCATION in this state specified by the sheriff, subject to the exceptions adopted as described in division (E)(2)(c) of this section;

(c) Any exceptions to the specified number of days for delivery specified as described in division (E)(2)(b) of this section;

(d) A requirement that the private person or entity immediately report all escapes of prisoners who are being returned to this state, and the APPREHENSION of all prisoners who are being returned and who have escaped, to the sheriff and to the local law enforcement agency of this state or another state that has JURISDICTION over the place at which the escape occurs;

(e) A schedule of fines that the sheriff shall impose upon the private person or entity if the private person or entity fails to perform its contractual duties, and a requirement that, if the private person or entity fails to perform its contractual duties, the sheriff shall impose a fine on the private person or entity from the schedule of fines and, in ADDITION, may EXERCISE any other rights the sheriff has under the contract.

(f) If the contract is entered into on or after the effective date of the rules adopted by the department of REHABILITATION and CORRECTION under section 5120.64 of the Revised Code, specific PROVISIONS that comport with all applicable standards that are contained in those rules.

(3) If the PRIVATE person or entity that enters into the contract fails to perform its CONTRACTUAL duties, the sheriff shall impose upon the private person or entity a fine from the SCHEDULE, the money paid in satisfaction of the fine shall be paid into the county treasury, and the sheriff may exercise any other rights the sheriff has under the contract. if a fine is imposed under this division, the sheriff may reduce the payment owed to the private person or entity pursuant to any invoice in the amount of the fine.

(4) Upon the EFFECTIVE date of the rules adopted by the department of REHABILITATION and CORRECTION under section 5120.64 of the Revised Code, notwithstanding the existence of a contract entered into under division (E)(2) of this section, in no case shall the private person or entity that is a party to the contract return Ohio prisoners from outside of this state into this state for a sheriff unless the private person or entity complies with

all applicable standards that are contained in the rules.

(5) Divisions (E)(1) to (4) of this section do not apply regarding any out-of-state prisoner who is brought into this state to be housed pursuant to section 9.07 of the Revised Code in a correctional facility in this state that is managed and operated by a private contractor.

Sec. 2921.01. As used in sections 2921.01 to 2921.45 of the Revised Code:

(A) "Public official" means any elected or appointed officer, or employee, or agent of the state or any political subdivision, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges, and law enforcement officers.

(B) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor, or consultant;

(3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this division if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general, or special election, or if the person campaigns as a write-in candidate in any primary, general, or special election.

(C) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this state, by virtue of which the person directs, conducts, or participates in directing or conducting party affairs at any level of responsibility.

(D) "Official proceeding" means any proceeding before a legislative, judicial, administrative, or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary, or other person taking testimony or a deposition in connection with an official proceeding.

(E) "Detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any public or private facility for custody of persons charged with or convicted of crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States; hospitalization, institutionalization, or confinement in any public or private facility that is ordered pursuant to or under the authority of

section 2945.37, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation; except as provided in this division, supervision by any employee of any facility of any of those natures that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; ~~or~~ supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this state into this state by a private person or entity pursuant to a contract entered into under division (E) of section 311.29 of the Revised Code or division (B) of section 5149.03 of the Revised Code. For a person confined in a county jail who participates in a county jail industry program pursuant to section 5147.30 of the Revised Code, "detention" includes time spent at an assigned work site and going to and from the work site.

(F) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

(G) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.

(H) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," "political party," and "political contributing entity" have the same meanings as in section 3517.01 of the Revised Code.

(I) "Provider agreement" and "medical assistance program" have the same meanings as in section 2913.40 of the Revised Code.

Sec. 5120.64. (A) As used in this section:

(1) "Ohio prisoner" means a person who is charged with or convicted of a crime in this state or who is alleged or found to be a delinquent child in this state.

(2) "Out-of-state prisoner" and "private contractor" have the same meanings as in section 9.07 of the Revised Code.

(B) Not later than nine months after the effective date of this section, the department of rehabilitation and correction, in consultation with the attorney general, the county commissioners association of Ohio, and the buckeye state sheriffs association, shall adopt rules under Chapter 119. of the

Revised Code regarding the return of Ohio prisoners from outside of this state into this state by a private person or entity pursuant to a contract entered into with a sheriff under authority of division (e) of section 311.29 of the Revised Code or the adult parole authority under authority of division (b) of section 5149.03 of the Revised Code. The rules shall establish all of the following:

(1) Standards that specify required training of officers and employees of the private person or entity that actually engage in the return of the prisoners, including standards related to the length and nature of the training;

(2) Physical standards for vehicles used in the return of the prisoners;

(3) standards that govern the responsibility of the private person or entity to do one or more of the following:

(a) Provide an adequate policy of liability insurance to cover all injuries, death, or loss to person or property that arise from or is related to its return of the prisoners;

(b) indemnify and hold harmless the sheriff, the county, and all county officers and employees regarding a contract for the return of prisoners entered into under division (E) of section 311.29 of the Revised Code or the department of rehabilitation and correction and all state officers and employees regarding a contract for the return of prisoners entered into under division (B) of section 5149.03 of the Revised Code;

(c) File a performance bond or other surety to guarantee performance.

(4) Standards requiring the private person or entity to have criminal records checks and pre-employment drug testing performed for officers and employees of the private person or entity that actually engage in the return of the prisoners and to have a random drug-screening policy and be able to document compliance with the policy;

(5) Standards requiring the private person or entity to have twenty-four-hour operations staff to constantly monitor activities in the field and to have on-board, constant communication ability with vehicles in the field;

(6) Standards requiring the officers and employees of the private person or entity that actually engage in the return of the prisoners to be CPR and first-aid certified.

(C) Upon the effective date of the rules adopted under division (B) of this section, in no case shall a private person or entity return Ohio prisoners from outside of this state into this state for a sheriff or for the adult parole authority unless the private person or entity complies with all applicable standards that are contained in the rules.

(D) This section does not apply regarding any out-of-state prisoner who is brought into this state to be housed pursuant to section 9.07 of the Revised Code in a correctional facility in this state that is managed and operated by a private contractor.

Sec. 5120.65. (A) The department of rehabilitation and correction may establish in one or more of the institutions for women operated by the department a prison nursery program under which eligible inmates and children born to them while in the custody of the department may reside together in the institution. If the department establishes a prison nursery program in one or more INSTITUTIONS under this section, SECTIONS 5120.651 to 5120.657 of the Revised Code apply regarding the program. If the department establishes a prison nursery program and an inmate participates in the program, neither the inmate's participation in the program nor any provision of sections 5120.65 to 5120.658 of the Revised Code affects, modifies, or interferes with the inmate's custodial rights of the child or establishes legal custody of the child with the department.

(B) As used in sections 5120.651 to 5120.657 of the Revised Code:

(1) "prison nursery program" means the prison nursery program established by the department of REHABILITATION and CORRECTION under this section, if one is so established.

(2) "public assistance" has the same meaning as in section 5101.58 of the Revised Code.

(3) "support" has the same meaning as in section 3113.21 of the Revised Code.

Sec. 5120.651. An inmate is eligible to participate in the prison nursery program if she is pregnant at the time she is delivered into the custody of the department of rehabilitation and correction, she gives birth on or after the date the program is implemented, she is subject to a sentence of imprisonment of not more than eighteen months, and she and the child meet any other criteria established by the department.

Sec. 5120.652. To participate in the prison nursery program, each eligible inmate selected by the department shall do all the following:

(A) Agree in writing to do all the following:

(1) Comply with any program, educational, counseling, and other requirements established for the program by the department of rehabilitation and correction;

(2) If eligible, have the child participate in the medicaid program or a health insurance program;

(3) accept the normal risks of childrearing;

(4) abide by any court decisions regarding the allocation of parental

rights and responsibilities with respect to the child.

(B) Assign to the department any rights to support from any other person, excluding support assigned pursuant to section 5107.20 of the Revised Code and medical support assigned pursuant to section 5101.59 of the Revised Code;

(C) Specify with whom the child is to be placed in the event the inmate's participation in the program is terminated for a reason other than release from imprisonment.

Sec. 5120.653. An inmate's participation in the prison nursery program may be terminated by the department of rehabilitation and correction if one of the following occurs:

(A) The inmate fails to comply with the agreement entered into under division (A) of section 5120.652 of the Revised Code.

(B) The inmate's child becomes seriously ill, cannot meet medical criteria established by the department of rehabilitation and correction for the program, or otherwise cannot safely participate in the program.

(C) A court issues an order that designates a person other than the inmate as the child's residential parent and legal custodian.

(D) A juvenile court, in an action brought pursuant to division (A)(2) of section 2151.23 of the Revised Code, grants custody of the child to a person other than the inmate.

(E) An order is issued pursuant to section 3109.04 of the Revised Code granting shared parenting of the child.

(F) An order of disposition regarding the child is issued pursuant to division (A)(2), (3), or (4) of section 2151.353 of the Revised Code granting temporary, permanent, or legal custody of the child to a person, other than the inmate, or to a public children services agency or private child placing agency.

(G) The inmate is released from imprisonment.

Sec. 5120.654. (A) The rights to support assigned by an inmate pursuant to section 5120.652 of the Revised Code constitute an obligation of the person who is responsible for providing the support to the department of rehabilitation and correction for the support provided the inmate and child pursuant to the prison nursery program. The division of child support in the department of job and family services shall collect support payments made pursuant to the assignment and forward them to the department of rehabilitation and correction.

(B) The department of rehabilitation and correction may receive the following:

(1) Money that is assigned or donated on behalf of, and public

assistance provided to, a specific inmate or child participating in the prison nursery program;

(2) Money assigned or donated to establish and maintain the prison nursery program.

(C) The amounts described in division (B)(1) of this section shall be placed in the individual nursery account created and maintained under section 5120.655 of the Revised Code for the inmate and child for whom the money was received. The money described in division (B)(2) of this section shall be deposited in the appropriate prison nursery program fund.

Sec. 5120.655. The managing officer of each institution in which a prison nursery program is established pursuant to section 5120.65 of the Revised Code shall do the following:

(A) Create and maintain a prison nursery program fund to pay expenses associated with the prison nursery program;

(B) Create and maintain an individual nursery account for each inmate participating in the prison nursery program at the institution to help pay for the support provided to the inmate and child pursuant to the program.

Sec. 5120.656. Notwithstanding any other provision of the Revised Code, neither the prison nursery program nor the department of rehabilitation and correction, with respect to the program, is subject to any regulation, licensing, or oversight by the department of job and family services unless the departments agree to voluntary regulation, licensing, or oversight by the department of job and family services.

Sec. 5120.657. If the department of rehabilitation and correction establishes the prison nursery program, it shall, in accordance with Chapter 119. of the Revised Code, adopt rules that establish requirements necessary and appropriate to the establishment, implementation, and operation of the program. The department shall adopt the rules prior to implementing the program.

Sec. 5149.03. (A) The adult parole authority shall administer Chapter 5149. and the provisions of Chapter 2967., Chapter 2971., and sections 2301.27 to 2301.32, 2941.46, 2951.05, 2951.06, and 2951.08 of the Revised Code that impose duties upon the authority.

The authority may enter into a written agreement with a person or government entity to share information, personnel, and services for one or more of the following purposes: training, crime interdiction, fugitive apprehension, and community supervision. The agreement may permit the authority to act in concert with and provide assistance to a law enforcement agency, as defined in section 5101.26 of the Revised Code, in detecting, tracking, apprehending, or detaining an individual subject to arrest.

(B)(1) As used in division (B) of this section:

(a) "Ohio prisoner" has the same meaning as in section 5120.64 of the Revised Code.

(b) "Out-of-state prisoner" and "private contractor" have the same meanings as in section 9.07 of the Revised Code.

(2) The adult parole authority, in order to discharge its duties under Chapters 2967. and 5149. of the Revised Code, may enter into a contract with a private person or entity for the return of Ohio prisoners who are the responsibility of the department of rehabilitation and correction from outside of this state to a location in this state specified by the adult parole authority. if the adult parole authority enters into a contract as described in this division, subject to division (B)(3) of this section, the private person or entity in accordance with the contract may return Ohio prisoners from outside of this state to locations in this state specified by the adult parole authority. a contract entered into under this division shall include all of the following:

(a) Specific provisions that assign the responsibility for costs related to medical care of prisoners while they are being returned that is not covered by insurance of the private person or entity;

(b) Specific provisions that set forth the number of days, not exceeding ten, within which the private person or entity, after it receives the prisoner in the other state, must deliver the prisoner to the location in this state specified by the adult parole authority, subject to the exceptions adopted as described in division (B)(2)(c) of this section;

(c) Any exceptions to the specified number of days for delivery specified as described in division (b)(2)(b) of this section;

(d) A requirement that the private person or entity immediately report all escapes of prisoners who are being returned to this state, and the apprehension of all prisoners who are being returned and who have escaped, to the adult parole authority and to the local law enforcement agency of this state or another state that has jurisdiction over the place at which the escape occurs;

(e) A schedule of fines that the adult parole authority shall impose upon the private person or entity if the private person or entity fails to perform its contractual duties, and a requirement that, if the private person or entity fails to perform its contractual duties, the adult parole authority shall impose a fine on the private person or entity from the schedule of fines and, in ADDITION, may EXERCISE any other rights it has under the contract.

(f) If the contract is entered into on or after the effective date of the rules adopted by the department of rehabilitation and correction under section

5120.64 of the Revised Code, specific provisions that comport with all applicable standards that are contained in those rules.

(3) If the PRIVATE person or entity that enters into the contract fails to perform its CONTRACTUAL duties, the adult parole authority shall impose upon the private person or entity a fine from the SCHEDULE, the money paid in satisfaction of the fine shall be paid into the state treasury, and the adult parole authority may exercise any other rights it has under the contract. if a fine is imposed under this division, the adult parole authority may reduce the payment owed to the private person or entity pursuant to any invoice in the amount of the fine.

(4) Upon the effective date of the rules adopted by the department of rehabilitation and correction under section 5120.64 of the Revised Code, notwithstanding the existence of a contract entered into under division (B)(2) of this section, in no case shall the private person or entity that is a party to the contract return Ohio prisoners from outside of this state into this state for the adult parole authority unless the private person or entity complies with all applicable standards that are contained in the rules.

(5) Divisions (B)(1) to (4) of this section do not apply regarding any out-of-state prisoner who is brought into this state to be housed pursuant to section 9.07 of the Revised Code in a correctional facility in this state that is managed and operated by a private contractor.

SECTION 2. That existing sections 311.29, 2921.01, and 5149.03 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

Sub. H. B. No. 661

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The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____