



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 196
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Williams and Seitz

Sarah A. Maki, Attorney

SUMMARY

Penalties for technical violations of community control sanctions

- Permits a more restrictive nonresidential sanction or temporary incarceration to be used as additional penalties for technical violations of community control sanctions by a felony offender.
- Modifies the definition of technical violation to apply to all felonies rather than only to fifth degree felonies and fourth degree felonies that are not offenses of violence or sexually oriented offenses.

Maximum periods of community control sanctions

- Specifies that the duration of all community control sanctions imposed on a felony offender must not exceed five years for any first or second degree felony, three years for any third degree felony, or two years for any fourth or fifth degree felony.
- Specifies that the duration of all community control sanctions imposed on a misdemeanor offender and in effect for an offender at any time must not exceed two years.
- Specifies that the period of community control sanctions imposed on an eligible offender, a state of emergency-qualifying offender, or an 80%-qualifying offender who is granted judicial release must be no longer than as follows:
 - Five years if the most serious offense from which the judicial release is granted is a first or second degree felony;
 - Three years if the most serious offense from which judicial release is granted is a third degree felony;
 - Two years if the most serious offense from which judicial release is granted is a fourth or fifth degree felony.

DETAILED ANALYSIS

Penalties for technical violations of community control sanctions

Penalties

Under current law, a court that sentences an offender to a community control sanction for a felony may impose on an offender who violates the conditions of the sanction, violates a law, or leaves the state without the permission of the court or the offender's probation officer one or more of three types of penalties. The bill retains the three penalties and adds a fourth type of penalty for technical violations as follows:¹

1. Under current law and subject to the bill's additional penalties described in (4) below, a longer time under the same sanction if the total time under the sanction does not exceed the applicable limit for the offense;²
2. Under current law and subject to the bill's additional penalties described in (4) below, a more restrictive sanction, including but not limited to, a new term a community-based correctional facility, halfway house, or jail;³
3. Under current law and subject to the bill's additional penalties described in (4) below, a prison term provided that a prison term is subject to the following limitations and rules, as applicable:⁴
 - a. If the prison term is imposed under the authority of the bill's additional penalties described in (4) below for any technical violation of the conditions of a community control sanction imposed for a fifth degree felony, the prison term must not exceed 90 days, provided that if the remaining period of community control at the time of the violation of the remaining period of the reserved prison sentence at the time is less than 90 days, the prison term must not exceed the length of the remaining period of community control or the remaining period of the reserved prison sentence;
 - b. If the prison term is imposed under authority of the bill's additional penalties described in (4) below for any technical violation of the conditions of a community control sanction imposed for a fourth degree felony that is not an offense of violence and is not a sexually oriented offense, the prison term must not exceed 180 days, provided that if the remaining period of the community control at the time of the violation or the remaining period of the reserved prison sentence at that time is less than 180 days, the prison term must not exceed the length of the remaining

¹ R.C. 2929.15(B)(1).

² R.C. 2929.15(A)(1) and (B)(1)(a).

³ R.C. 2929.15(B)(1)(b).

⁴ R.C. 2929.15(B)(1)(c).

- period of community control or the remaining period of the reserved prison sentence;
- c. A court is not limited in the number of times it may sentence an offender to a prison term for violating the conditions of a community control sanction, violating a law, or leaving the state without permission. If an offender violates the conditions of a community control sanction, violates a law, or leaves the state without permission, is sentenced to a prison term for the violation or conduct, is released from the term after serving it, and subsequently violates the conditions of the community control sanction, violates a law, or leaves the state without permission, the court may impose a new prison term penalty on the offender for the subsequent violation or conduct.
4. Under the bill, if the conditions of the community control sanction imposed for a felony are violated by a “technical violation,” (a defined term – see below) one or more of the following penalties:⁵
- a. A more restrictive nonresidential sanction;
 - b. A temporary incarceration sanction consisting of whichever of the following is applicable;
 - i. For a first technical violation during a period of community control that includes the violated sanction, a sanction of jail incarceration of not more than 15 days;
 - ii. For a second technical violation during a period of community control that includes the violated sanction, a sanction of jail incarceration of not more than 30 days;
 - iii. For a third technical violation during a period of community control that includes the violated sanction, a sanction of jail incarceration of not more than 45 days;
 - iv. For a fourth or subsequent technical violation during a period of community control that includes the violated sanction, any sanction of⁶ temporary incarceration described in (1) to (3) above.

Definition of technical violation

The bill modifies the definition of “technical violation” to apply to all felonies rather than only to fifth degree felonies and fourth degree felonies that are not offenses of violence or sexually oriented offenses. Under the bill, “technical violation” means a violation of the conditions of a community control sanction imposed for a felony and to which neither of the following applies: (1) the violation consists of a new criminal offense that is a felony or that is a

⁵ R.C. 2929.15(B)(1)(d) and (3).

⁶ This language may have been intended to cover any sanction *or* temporary incarceration prescribed in current law for a community control violation as the referenced language covers both temporary incarceration and other sanctions (such as extension of the period of community control).

misdemeanor, other than a minor misdemeanor, and the violation is committed while under the community control sanction, and (2) the violation consists of or includes the offender's articulated or demonstrated refusal to participate in the community control sanction imposed on the offender or any of its conditions, and the refusal demonstrates to the court that the offender has abandoned the objects of the community control sanction or condition.⁷

Maximum period of community control sanctions

Felony

Generally

The bill specifies that the duration of all community control sanctions, including any period of supervised community service work, imposed on a felony offender must not exceed five years for any first or second degree felony, three years for any third degree felony, or two years for any fourth or fifth degree felony. Under current law, the duration of all community control sanctions imposed on an offender must not exceed five years.⁸

The bill provides that a community control sanction imposed for an offense continues for the period that a judge or magistrate determines and, subject to the five-year, three-year, or two-year community control maximum that is applicable to the offense if it is a felony, may be extended. Under current law, a community control sanction imposed for an offense continues for a period that a judge or magistrate determines and is subject to the five-year limit. If the offender under the community control sanction absconds from the jurisdiction of the court without permission of the court or probation officer or if the offender is confined to any institution for the commission of any offense, the period of community control ceases to run until the time that the offense is brought before the court for its further action.⁹

Misdemeanor

Under current law, if a court is sentencing an offender for a misdemeanor, other than a minor misdemeanor, the sentencing court may directly impose a sentence that consists of one or more community control sanctions.¹⁰ The bill provides that the duration of all community control sanctions, including any period of supervised community service work, imposed on a misdemeanor offender and in effect for an offender at any time must not exceed two years. Under current law, the duration of all community control sanctions imposed on an offender and in effect for an offender at any time must not exceed five years.¹¹

The bill provides that a community control sanction imposed for an offense continues for the period that a judge or magistrate determines and, subject to the two-year community

⁷ R.C. 2929.15(E).

⁸ R.C. 2929.15(A)(1) and (B)(1)(a) and 2951.02(B)(5).

⁹ R.C. 2951.07.

¹⁰ R.C. 2929.25(A)(1)(a).

¹¹ R.C. 2929.25(A)(2) and (3) and (D)(2)(a) and 2951.02(B)(5).

control maximum that is applicable to the offense if it is a misdemeanor, may be extended as described above. Under current law, a community control sanction imposed for an offense continues for a period that a judge or magistrate determines and is subject to the five-year limit.¹²

Judicial release

Under current law, if the court grants a motion for judicial release for an eligible offender, a state of emergency-qualifying offender, or an 80%-qualifying offender, the court must place the offender under an appropriate community control sanction. The bill provides that the period of community control must be no longer than five years if the most serious offense from which the judicial release is granted is a first or second degree felony, no longer than three years if the most serious offense from which judicial release is granted is a third degree felony, and no longer than two years if the most serious offense from which judicial release is granted is a fourth or fifth degree felony. Under current law, the period of community control must be no longer than five years.¹³

HISTORY

Action	Date
Introduced	05-31-23

ANHB0196IN-135/ks

¹² R.C. 2951.07.

¹³ R.C. 2929.20(K), (N)(5)(b), and (O)(6).