

_____ moved to amend as follows:

In line 2 of the title, after "2929.14" insert ", 4123.01"	1
In line 3 of the title, delete ", "	2
In line 4 of the title, delete "3923.283"	3
In line 12, after "2929.14" insert ", 4123.01"	4
In line 13, delete ", 3923.283"	5
In line 273, after " <u>degree</u> " insert " <u>and there is a presumption for a</u> <u>prison term for the offense</u> "	6
In line 1192, after "(B) (11)," insert " <u>(B) (12),</u> "	8
In line 1952, after "(9)" insert " <u>If a mandatory prison term is</u> <u>imposed on an offender pursuant to division (B) (12) of this section, the</u> <u>offender shall serve that mandatory prison term consecutively to and prior</u> <u>to any prison term imposed for the underlying violation of division (C) (3)</u> <u>of section 2903.13 or division (D) (5) of section 2903.11 of the Revised</u> <u>Code. Except as otherwise provided in division (C) of this section, any</u> <u>other prison term or mandatory prison term previously or subsequently</u> <u>imposed upon the offender shall be served consecutively to the prison term</u>	9
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<u>imposed pursuant to division (B) (12) of this section.</u>	17
<u>(10)"</u>	18
In line 1953, strike through the first "or"; after "(8)" insert " <u>,</u> <u>or (9)"</u>	19 20
In line 1957, strike through "(10)" and insert " <u>(11)"</u>	21
In line 1963, strike through "(11)" and insert " <u>(12)"</u>	22
Delete lines 2222 through 2258	23
After line 2258, insert:	24
"Sec. 4123.01. As used in this chapter:	25
(A) (1) "Employee" means:	26
(a) Every person in the service of the state, or of any county, municipal corporation, township, or school district therein, including regular members of lawfully constituted police and fire departments of municipal corporations and townships, whether paid or volunteer, and wherever serving within the state or on temporary assignment outside thereof, and executive officers of boards of education, under any appointment or contract of hire, express or implied, oral or written, including any elected official of the state, or of any county, municipal corporation, or township, or members of boards of education.	27 28 29 30 31 32 33 34 35 36 37
As used in division (A) (1) (a) of this section, the term "employee" includes the following persons when responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person's regular employment or voluntary service when responding, on the	38 39 40 41 42 43

condition that the person responds to the situation as the	44
person otherwise would if the person were on duty in the	45
person's jurisdiction:	46
(i) Off-duty peace officers. As used in division (A)(1)(a)	47
(i) of this section, "peace officer" has the same meaning as in	48
section 2935.01 of the Revised Code.	49
(ii) Off-duty firefighters, whether paid or volunteer, of	50
a lawfully constituted fire department.	51
(iii) Off-duty first responders, emergency medical	52
technicians-basic, emergency medical technicians-intermediate,	53
or emergency medical technicians-paramedic, whether paid or	54
volunteer, of an ambulance service organization or emergency	55
medical service organization pursuant to Chapter 4765. of the	56
Revised Code.	57
(b) Every person in the service of any person, firm, or	58
private corporation, including any public service corporation,	59
that (i) employs one or more persons regularly in the same	60
business or in or about the same establishment under any	61
contract of hire, express or implied, oral or written, including	62
aliens and minors, household workers who earn one hundred sixty	63
dollars or more in cash in any calendar quarter from a single	64
household and casual workers who earn one hundred sixty dollars	65
or more in cash in any calendar quarter from a single employer,	66
or (ii) is bound by any such contract of hire or by any other	67
written contract, to pay into the state insurance fund the	68
premiums provided by this chapter.	69
(c) Every person who performs labor or provides services	70
pursuant to a construction contract, as defined in section	71
4123.79 of the Revised Code, if at least ten of the following	72

criteria apply:	73
(i) The person is required to comply with instructions from the other contracting party regarding the manner or method of performing services;	74 75 76
(ii) The person is required by the other contracting party to have particular training;	77 78
(iii) The person's services are integrated into the regular functioning of the other contracting party;	79 80
(iv) The person is required to perform the work personally;	81 82
(v) The person is hired, supervised, or paid by the other contracting party;	83 84
(vi) A continuing relationship exists between the person and the other contracting party that contemplates continuing or recurring work even if the work is not full time;	85 86 87
(vii) The person's hours of work are established by the other contracting party;	88 89
(viii) The person is required to devote full time to the business of the other contracting party;	90 91
(ix) The person is required to perform the work on the premises of the other contracting party;	92 93
(x) The person is required to follow the order of work set by the other contracting party;	94 95
(xi) The person is required to make oral or written reports of progress to the other contracting party;	96 97
(xii) The person is paid for services on a regular basis	98

such as hourly, weekly, or monthly;	99
(xiii) The person's expenses are paid for by the other contracting party;	100 101
(xiv) The person's tools and materials are furnished by the other contracting party;	102 103
(xv) The person is provided with the facilities used to perform services;	104 105
(xvi) The person does not realize a profit or suffer a loss as a result of the services provided;	106 107
(xvii) The person is not performing services for a number of employers at the same time;	108 109
(xviii) The person does not make the same services available to the general public;	110 111
(xix) The other contracting party has a right to discharge the person;	112 113
(xx) The person has the right to end the relationship with the other contracting party without incurring liability pursuant to an employment contract or agreement.	114 115 116
Every person in the service of any independent contractor or subcontractor who has failed to pay into the state insurance fund the amount of premium determined and fixed by the administrator of workers' compensation for the person's employment or occupation or who is a self-insuring employer and who has failed to pay compensation and benefits directly to the employer's injured and to the dependents of the employer's killed employees as required by section 4123.35 of the Revised Code, shall be considered as the employee of the person who has entered into a contract, whether written or verbal, with such	117 118 119 120 121 122 123 124 125 126

independent contractor unless such employees or their legal representatives or beneficiaries elect, after injury or death, to regard such independent contractor as the employer.	127 128 129
(d) Every person who operates a vehicle or vessel in the performance of services for or on behalf of a motor carrier transporting property, unless all of the following factors apply to the person:	130 131 132 133
(i) The person owns the vehicle or vessel that is used in performing the services for or on behalf of the carrier, or the person leases the vehicle or vessel under a bona fide lease agreement that is not a temporary replacement lease agreement. For purposes of this division, a bona fide lease agreement does not include an agreement between the person and the motor carrier transporting property for which, or on whose behalf, the person provides services.	134 135 136 137 138 139 140 141
(ii) The person is responsible for supplying the necessary personal services to operate the vehicle or vessel used to provide the service.	142 143 144
(iii) The compensation paid to the person is based on factors related to work performed, including on a mileage-based rate or a percentage of any schedule of rates, and not solely on the basis of the hours or time expended.	145 146 147 148
(iv) The person substantially controls the means and manner of performing the services, in conformance with regulatory requirements and specifications of the shipper.	149 150 151
(v) The person enters into a written contract with the carrier for whom the person is performing the services that describes the relationship between the person and the carrier to be that of an independent contractor and not that of an	152 153 154 155

employee.	156
(vi) The person is responsible for substantially all of the principal operating costs of the vehicle or vessel and equipment used to provide the services, including maintenance, fuel, repairs, supplies, vehicle or vessel insurance, and personal expenses, except that the person may be paid by the carrier the carrier's fuel surcharge and incidental costs, including tolls, permits, and lumper fees.	157 158 159 160 161 162 163
(vii) The person is responsible for any economic loss or economic gain from the arrangement with the carrier.	164 165
(2) "Employee" does not mean any of the following:	166
(a) A duly ordained, commissioned, or licensed minister or assistant or associate minister of a church in the exercise of ministry;	167 168 169
(b) Any officer of a family farm corporation;	170
(c) An individual incorporated as a corporation;	171
(d) An officer of a nonprofit corporation, as defined in section 1702.01 of the Revised Code, who volunteers the person's services as an officer;	172 173 174
(e) An individual who otherwise is an employee of an employer but who signs the waiver and affidavit specified in section 4123.15 of the Revised Code on the condition that the administrator has granted a waiver and exception to the individual's employer under section 4123.15 of the Revised Code;	175 176 177 178 179
(f) (i) A qualifying employee described in division (A) (14) (a) of section 5703.94 of the Revised Code when the qualifying employee is performing disaster work in this state during a disaster response period pursuant to a qualifying solicitation	180 181 182 183

received by the employee's employer; 184

 (ii) A qualifying employee described in division (A) (14) 185
 (b) of section 5703.94 of the Revised Code when the qualifying 186
 employee is performing disaster work in this state during a 187
 disaster response period on critical infrastructure owned or 188
 used by the employee's employer; 189

 (iii) As used in division (A) (2) (f) of this section, 190
 "critical infrastructure," "disaster response period," "disaster 191
 work," and "qualifying employee" have the same meanings as in 192
 section 5703.94 of the Revised Code. 193

 Any employer may elect to include as an "employee" within 194
 this chapter, any person excluded from the definition of 195
 "employee" pursuant to division (A) (1) (d) or (A) (2) (a), (b), 196
 (c), or (e) of this section in accordance with rules adopted by 197
 the administrator, with the advice and consent of the bureau of 198
 workers' compensation board of directors. If an employer is a 199
 partnership, sole proprietorship, individual incorporated as a 200
 corporation, or family farm corporation, such employer may elect 201
 to include as an "employee" within this chapter, any member of 202
 such partnership, the owner of the sole proprietorship, the 203
 individual incorporated as a corporation, or the officers of the 204
 family farm corporation. Nothing in this section shall prohibit 205
 a partner, sole proprietor, or any person excluded from the 206
 definition of "employee" pursuant to division (A) (2) (a), (b), 207
 (c), or (e) of this section from electing to be included as an 208
 "employee" under this chapter in accordance with rules adopted 209
 by the administrator, with the advice and consent of the board. 210

 In the event of an election, the employer or person 211
 electing coverage shall serve upon the bureau of workers' 212
 compensation written notice naming the person to be covered and 213

include the person's remuneration for premium purposes in all 214
future payroll reports. No partner, sole proprietor, or person 215
excluded from the definition of "employee" pursuant to division 216
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, shall 217
receive benefits or compensation under this chapter until the 218
bureau receives written notice of the election permitted by this 219
section. 220

For informational purposes only, the bureau shall 221
prescribe such language as it considers appropriate, on such of 222
its forms as it considers appropriate, to advise employers of 223
their right to elect to include as an "employee" within this 224
chapter a sole proprietor, any member of a partnership, or a 225
person excluded from the definition of "employee" under division 226
(A) (1) (d) or (A) (2) (a), (b), (c), or (e) of this section, that 227
they should check any health and disability insurance policy, or 228
other form of health and disability plan or contract, presently 229
covering them, or the purchase of which they may be considering, 230
to determine whether such policy, plan, or contract excludes 231
benefits for illness or injury that they might have elected to 232
have covered by workers' compensation. 233

(B) (1) "Employer" means: 234

(a) The state, including state hospitals, each county, 235
municipal corporation, township, school district, and hospital 236
owned by a political subdivision or subdivisions other than the 237
state; 238

(b) Every person, firm, professional employer 239
organization, alternate employer organization, and private 240
corporation, including any public service corporation, that (i) 241
has in service one or more employees or shared employees 242
regularly in the same business or in or about the same 243

establishment under any contract of hire, express or implied, 244
oral or written, or (ii) is bound by any such contract of hire 245
or by any other written contract, to pay into the insurance fund 246
the premiums provided by this chapter. 247

All such employers are subject to this chapter. Any member 248
of a firm or association, who regularly performs manual labor in 249
or about a mine, factory, or other establishment, including a 250
household establishment, shall be considered an employee in 251
determining whether such person, firm, or private corporation, 252
or public service corporation, has in its service, one or more 253
employees and the employer shall report the income derived from 254
such labor to the bureau as part of the payroll of such 255
employer, and such member shall thereupon be entitled to all the 256
benefits of an employee. 257

(2) "Employer" does not include a franchisor with respect 258
to the franchisor's relationship with a franchisee or an 259
employee of a franchisee, unless the franchisor agrees to assume 260
that role in writing or a court of competent jurisdiction 261
determines that the franchisor exercises a type or degree of 262
control over the franchisee or the franchisee's employees that 263
is not customarily exercised by a franchisor for the purpose of 264
protecting the franchisor's trademark, brand, or both. For 265
purposes of this division, "franchisor" and "franchisee" have 266
the same meanings as in 16 C.F.R. 436.1. 267

(C) "Injury" includes any injury, whether caused by 268
external accidental means or accidental in character and result, 269
received in the course of, and arising out of, the injured 270
employee's employment. "Injury" does not include: 271

(1) Psychiatric conditions except where as follows: 272

<u>(a) Where the claimant's psychiatric conditions have</u>	273
<u>arisen from an injury or occupational disease sustained by that</u>	274
<u>claimant or where;</u>	275
<u>(b) Where the claimant's psychiatric conditions have</u>	276
<u>arisen from sexual conduct in which the claimant was forced by</u>	277
<u>threat of physical harm to engage or participate;</u>	278
<u>(c) Where the claimant is a corrections officer, as</u>	279
<u>defined in section 4123.026 of the Revised Code, diagnosed with</u>	280
<u>post-traumatic stress disorder that has arisen from the</u>	281
<u>claimant's employment under either of the following</u>	282
<u>circumstances:</u>	283
<u>(i) A threat of imminent severe physical injury or death</u>	284
<u>to the corrections officer;</u>	285
<u>(ii) Witnessing or learning about events surrounding</u>	286
<u>injury or death that involve grievous bodily harm done to</u>	287
<u>another employee at the facility at which the corrections</u>	288
<u>officer is employed.</u>	289
(2) Injury or disability caused primarily by the natural	290
deterioration of tissue, an organ, or part of the body;	291
(3) Injury or disability incurred in voluntary	292
participation in an employer-sponsored recreation or fitness	293
activity if the employee signs a waiver of the employee's right	294
to compensation or benefits under this chapter prior to engaging	295
in the recreation or fitness activity;	296
(4) Injury or disability sustained by an employee who	297
performs the employee's duties in a work area that is located	298
within the employee's home and that is separate and distinct	299
from the location of the employer, unless all of the following	300

apply:	301
(a) The employee's injury or disability arises out of the employee's employment.	302
(b) The employee's injury or disability was caused by a special hazard of the employee's employment activity.	304
(c) The employee's injury or disability is sustained in the course of an activity undertaken by the employee for the exclusive benefit of the employer.	306
(5) A condition that pre-existed an injury unless that pre-existing condition is substantially aggravated by the injury. Such a substantial aggravation must be documented by objective diagnostic findings, objective clinical findings, or objective test results. Subjective complaints may be evidence of such a substantial aggravation. However, subjective complaints without objective diagnostic findings, objective clinical findings, or objective test results are insufficient to substantiate a substantial aggravation.	309
(D) "Child" includes a posthumous child and a child legally adopted prior to the injury.	318
(E) "Family farm corporation" means a corporation founded for the purpose of farming agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons or the spouse of persons related to each other within the fourth degree of kinship, according to the rules of the civil law, and at least one of the related persons is residing on or actively operating the farm, and none of whose stockholders are a corporation. A family farm corporation does not cease to qualify under this division where, by reason of any devise, bequest, or the operation of the laws of descent or	320

distribution, the ownership of shares of voting stock is	330
transferred to another person, as long as that person is within	331
the degree of kinship stipulated in this division.	332
(F) "Occupational disease" means a disease contracted in	333
the course of employment, which by its causes and the	334
characteristics of its manifestation or the condition of the	335
employment results in a hazard which distinguishes the	336
employment in character from employment generally, and the	337
employment creates a risk of contracting the disease in greater	338
degree and in a different manner from the public in general.	339
(G) "Self-insuring employer" means an employer who is	340
granted the privilege of paying compensation and benefits	341
directly under section 4123.35 of the Revised Code, including a	342
board of county commissioners for the sole purpose of	343
constructing a sports facility as defined in section 307.696 of	344
the Revised Code, provided that the electors of the county in	345
which the sports facility is to be built have approved	346
construction of a sports facility by ballot election no later	347
than November 6, 1997.	348
(H) "Private employer" means an employer as defined in	349
division (B) (1) (b) of this section.	350
(I) "Professional employer organization" has the same	351
meaning as in section 4125.01 of the Revised Code.	352
(J) "Public employer" means an employer as defined in	353
division (B) (1) (a) of this section.	354
(K) "Sexual conduct" means vaginal intercourse between a	355
male and female; anal intercourse, fellatio, and cunnilingus	356
between persons regardless of gender; and, without privilege to	357
do so, the insertion, however slight, of any part of the body or	358

any instrument, apparatus, or other object into the vaginal or	359
anal cavity of another. Penetration, however slight, is	360
sufficient to complete vaginal or anal intercourse.	361
(L) "Other-states' insurer" means an insurance company	362
that is authorized to provide workers' compensation insurance	363
coverage in any of the states that permit employers to obtain	364
insurance for workers' compensation claims through insurance	365
companies.	366
(M) "Other-states' coverage" means both of the following:	367
(1) Insurance coverage secured by an eligible employer for	368
workers' compensation claims of employees who are in employment	369
relationships localized in a state other than this state or	370
those employees' dependents;	371
(2) Insurance coverage secured by an eligible employer for	372
workers' compensation claims that arise in a state other than	373
this state where an employer elects to obtain coverage through	374
either the administrator or an other-states' insurer.	375
(N) "Limited other-states coverage" means insurance	376
coverage provided by the administrator to an eligible employer	377
for workers' compensation claims of employees who are in an	378
employment relationship localized in this state but are	379
temporarily working in a state other than this state, or those	380
employees' dependents.	381
(O) "Motor carrier" has the same meaning as in section	382
4923.01 of the Revised Code.	383
(P) "Alternate employer organization" has the same meaning	384
as in section 4133.01 of the Revised Code."	385
In line 2273, delete " <u>security or custody</u> " and insert " <u>corrections</u> ";	386

after " <u>role</u> " insert " <u>at any level of security</u> "	387
In line 2274, delete " <u>at a state correctional institution. The</u> "	388
Delete line 2275	389
In line 2276, delete " <u>being employed in any position</u> " and insert "or"	390 391
In line 2277, delete " <u>two</u> " and insert " <u>three</u> "	392
In line 2359, delete " <u>correctional institution</u> "	393
In line 2360, delete " <u>inspection committee</u> " and insert " <u>office of</u> <u>the attorney general</u> "	394 395
In line 2366, after " <u>to</u> " insert " <u>the following</u> "; after " <u>inmates</u> " insert ":"	396 397
(a) "	398
In line 2367, delete " <u>did</u> " and insert " <u>have</u> "; delete " <u>violate</u> " and insert " <u>committed a serious violation of</u> "; delete " <u>for twelve</u> " and insert <u>"during the six"</u> ; after " <u>months</u> " insert " <u>immediately</u> "	399 400 401
In line 2368, delete " <u>and require inmates who</u> "	402
Delete lines 2369 and 2370	403
In line 2371, delete " <u>removed from the program</u> " and insert ", <u>if the</u> <u>inmate has been incarcerated six consecutive months or longer</u> "; after ";" insert:	404 405 406
"(b) <u>Inmates who have not committed a serious violation of</u> <u>the inmate rules of conduct since being taken into custody for</u> <u>the inmate's current period of incarceration, if the inmate has</u> <u>been incarcerated for less than six months.</u> "	407 408 409 410
In line 2372, after " <u>(2)</u> " insert " <u>Require the department to draft</u> "	411

internal policies determining which violations are to be considered 412
"serious violations" for purposes of this section, which shall include all 413
violations of the inmate rules of conduct that are violent or of a sexual 414
nature. 415

(3) Require that inmates who join a program shall refrain 416
from committing a serious violation of the inmate rules of 417
conduct for the duration of the program or be automatically 418
removed from the program. 419

(4) " 420
In line 2375, delete "correctional institution inspection committee" 421
and insert "office of the attorney general" 422

In line 2378, delete "correctional" 423

In line 2379, delete "institution inspection committee" and insert 424
"office of the attorney general" 425

Delete line 2382 426

In line 2383, delete "institution inspection committee" and insert 427
"office of the attorney general" 428

In line 2456, after "2929.14" insert ", 4123.01" 429

The motion was _____ agreed to.

SYNOPSIS 430

Presumption of prison 431

R.C. 2903.13 432

Specifies that there is a presumption of a prison term for 433
a third degree felony assault violation occurring under 434
specified circumstances on or off the grounds of a state or 435
local correctional facility or Department of Youth Services 436
institution. 437

Consecutive sentencing 438

R.C. 2929.14 439

Requires the mandatory seven-year additional sentence 440
imposed for assault or felonious assault of a visitor, 441
volunteer, employee, or contractor at a prison, jail, youth 442
facility, or probation department to be served consecutively to 443
the sentence for the underlying assault or felonious assault, 444
and specifies that any other prison term or mandatory prison 445
term previously or subsequently imposed upon the offender must 446
be served consecutively to that seven-year prison term. 447

Mental health services 448

R.C. 3923.283 449

Removes provisions that would have required public 450
employee benefit plans to cover the full cost of mental health 451
services for employees of the Department of Rehabilitation and 452
Correction or a local correctional facility and spouses and 453
dependents of such employees, and prohibited a public employee 454
benefit plan from instituting coverage limits, copayments, 455
coinsurance, deductibles, or other out-of-pocket expense 456
requirements for providing such coverage. 457

Post-traumatic stress disorder 458

R.C. 4123.01 459

Makes a corrections officer who is diagnosed with post- 460

traumatic stress disorder (PTSD) eligible to receive 461
compensation and benefits under Ohio's Workers' Compensation 462
Law, regardless of whether the officer suffers an accompanying 463
physical injury if either of the following apply: 464

--The officer was threatened with imminent severe physical 465
injury or death; 466

--The officer witnessed or learned of events surrounding 467
an injury or death involving grievous bodily harm done to 468
another employee at the facility at which the officer is 469
employed. 470

Director of Rehabilitation and Correction 471

R.C. 5120.01 472

Requires the person appointed to the position of Director 473
of Rehabilitation and Correction to have an employment history 474
that includes being employed in a corrections role at any level 475
of security for at least five years or at a high security 476
correctional institution for at least three years. 477

Vocational training 478

R.C. 5120.012 479

Requires high security state correctional institutions to 480
offer vocational programming only to inmates with no serious 481
violations of the inmate rules of conduct during the six months 482
prior to the beginning of class if the offender has been 483
incarcerated six consecutive months or longer, and to inmates 484
who have been incarcerated for less than six months with no 485
serious violations since the offender arrived in the 486
Department's custody. 487

Requires the Department to draft internal policies 488

determining which violations are to be considered "serious	489
violations," which must include all violations of the inmate	490
rules of conduct that are violent or of a sexual nature.	491
Replacement of the Correctional Institution Inspection	492
Committee	493
R.C. 5120.012	494
Replaces any duties within the bill that were to be	495
performed by the Correctional Institution Inspection Committee	496
with the Office of the Attorney General.	497