

As Introduced

136th General Assembly

Regular Session

H. B. No. 667

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Representative Abrams

Cosponsors: Representatives Johnson, Robb Blasdel, Hall, T., John, White, A., Ray, Miller, K., Bird, Schmidt, Sigrist, Ghanbari

To amend sections 2929.141, 2929.34, 2935.10, 1
2935.11, 5120.021, 5120.038, 5589.21, and 2
5589.211 of the Revised Code to enact the Reagan 3
Tokes and Patrick Heringer Act to require 4
certain warrants to be entered into LEADS, to 5
require GPS monitoring of offenders released 6
from prison, and to modify T-CAP requirements. 7

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

Section 1. That sections 2929.141, 2929.34, 2935.10, 8
2935.11, 5120.021, 5120.038, 5589.21, and 5589.211 of the 9
Revised Code be amended to read as follows: 10

Sec. 2929.141. (A) Upon the conviction of or plea of 11
guilty to a felony by a person on post-release control at the 12
time of the commission of the felony, the court may terminate 13
the term of post-release control, and the court may do either of 14
the following regardless of whether the sentencing court or 15
another court of this state imposed the original prison term for 16
which the person is on post-release control: 17

(1) In addition to any prison term for the new felony, 18
impose a prison term for the post-release control violation. The 19

maximum prison term for the violation shall be the greater of 20
twelve months or the period of post-release control for the 21
earlier felony ~~minus any time that remains on the date that the~~ 22
~~person has spent under post-release control for the earlier~~ 23
~~committed the new felony.~~ In all cases, any prison term imposed 24
for the violation shall be reduced by any prison term that is 25
administratively imposed by the parole board as a post-release 26
control sanction. A prison term imposed for the violation shall 27
be served consecutively to any prison term imposed for the new 28
felony. The imposition of a prison term for the post-release 29
control violation shall terminate the period of post-release 30
control for the earlier felony. 31

(2) Impose a sanction under sections 2929.15 to 2929.18 of 32
the Revised Code for the violation that shall be served 33
concurrently or consecutively, as specified by the court, with 34
any community control sanctions for the new felony. 35

(B) If a person on post-release control was acting 36
pursuant to division (B) (2) (b) of section 2925.11 or a related 37
provision under section 2925.12, 2925.14, or 2925.141 of the 38
Revised Code and in so doing violated the conditions of a post- 39
release control sanction based on a minor drug possession 40
offense, as defined in section 2925.11 of the Revised Code, or 41
violated section 2925.12, division (C) (1) of section 2925.14, or 42
section 2925.141 of the Revised Code, the court shall not impose 43
any of the penalties described in division (A) of this section 44
based on the violation. 45

(C) Upon the conviction of or plea of guilty to a felony 46
by a person on transitional control under section 2967.26 of the 47
Revised Code at the time of the commission of the felony, the 48
court may, in addition to any prison term for the new felony, 49

impose a prison term not exceeding twelve months for having
committed the felony while on transitional control. An
additional prison term imposed pursuant to this section shall be
served consecutively to any prison term imposed for the new
felony. The sentencing court may impose the additional prison
term authorized by this section regardless of whether the
sentencing court or another court of this state imposed the
original prison term for which the person is on transitional
control.

Sec. 2929.34. (A) A person who is convicted of or pleads
guilty to aggravated murder, murder, or an offense punishable by
life imprisonment and who is sentenced to a term of life
imprisonment or a prison term pursuant to that conviction shall
serve that term in an institution under the control of the
department of rehabilitation and correction.

(B) (1) A person who is convicted of or pleads guilty to a
felony other than aggravated murder, murder, or an offense
punishable by life imprisonment and who is sentenced to a term
of imprisonment or a prison term pursuant to that conviction
shall serve that term as follows:

(a) Subject to divisions (B) (1) (b), (B) (2), and (B) (3) of
this section, in an institution under the control of the
department of rehabilitation and correction if the term is a
prison term or as otherwise determined by the sentencing court
pursuant to section 2929.16 of the Revised Code if the term is
not a prison term;

(b) In a facility of a type described in division (G) (1)
of section 2929.13 of the Revised Code, if the offender is
sentenced pursuant to that division.

(2) If the term is a prison term, the person may be imprisoned in a jail that is not a minimum security jail pursuant to agreement under section 5120.161 of the Revised Code between the department of rehabilitation and correction and the local authority that operates the jail.	79 80 81 82 83
(3) (a) As used in divisions (B) (3) (a) to (d) of this section, "voluntary county" means any county in which the board of county commissioners of the county and the administrative judge of the general division of the court of common pleas of the county enter into an agreement of the type described in division (B) (3) (b) of this section and in which the agreement has not been terminated as described in that division.	84 85 86 87 88 89 90
(b) (i) In any voluntary county, the board of county commissioners of the county and the administrative judge of the general division of the court of common pleas of the county may agree to having the county participate in the targeted community alternatives to prison (T-CAP) program for prisoners who serve a term in a facility pursuant to division (B) (3) (c) of this section by submitting a memorandum of understanding, either as a single county or jointly with other counties, to the department of rehabilitation and correction for approval, pursuant to section 5149.38 of the Revised Code. A board of county commissioners and an administrative judge of a court of common pleas that enter into an agreement of the type described in this division may terminate the agreement, but a termination under this division shall take effect only at the end of the state fiscal biennium in which the termination decision is made.	91 92 93 94 95 96 97 98 99 100 101 102 103 104 105
(ii) The department of rehabilitation and correction shall establish deadlines for a voluntary county to indicate the voluntary county's participation in the targeted community	106 107 108

alternatives to prison (T-CAP) program before each state fiscal biennium.	109
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(iii) In reviewing a submitted memorandum of understanding for approval, the department of rehabilitation and correction shall prioritize a voluntary county that has previously been a voluntary county. The department of rehabilitation and correction may review a memorandum of understanding for a new voluntary county if the general assembly has appropriated sufficient funds for that purpose.	111
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(c) Except as provided in division (B) (3) (d) of this section, in any voluntary county, either division (B) (3) (c) (i) or divisions (B) (3) (c) (i) and (ii) of this section shall apply:	118
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(i) On and after July 1, 2018, no person sentenced by the court of common pleas of a voluntary county to a prison term for a felony of the fifth degree shall serve the term in an institution under the control of the department of rehabilitation and correction. The person shall instead serve the sentence as a term of confinement in a facility of a type described in division (C) or (D) of this section.	121
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(ii) On and after September 1, 2022, no person sentenced by the court of common pleas of a voluntary county to a prison term for a felony of the fourth degree shall serve the term in an institution under the control of the department of rehabilitation and correction. The person shall instead serve the sentence as a term of confinement in a facility of a type described in division (C) or (D) of this section.	128
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Nothing in this division relieves the state of its obligation to pay for the cost of confinement of the person in a community-based correctional facility under division (D) of this	135
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section.	138
(d) Division (B)(3)(c) of this section does not apply to any person to whom any of the following apply:	139 140
(i) The felony of the fourth or fifth degree was an offense of violence, as defined in section 2901.01 of the Revised Code, a sex offense under Chapter 2907. of the Revised Code, a violation of section 2925.03 of the Revised Code, or any offense for which a mandatory prison term is required.	141 142 143 144 145
(ii) The person previously has been convicted of or pleaded guilty to any felony offense of violence, as defined in section 2901.01 of the Revised Code, unless the felony of the fifth degree for which the person is being sentenced is a violation of division (I)(1) of section 2903.43 of the Revised Code.	146 147 148 149 150 151
(iii) The person previously has been convicted of or pleaded guilty to any felony sex offense under Chapter 2907. of the Revised Code.	152 153 154
(iv) <u>The person previously has been convicted of or pleaded guilty to two or more felony offenses that were not felony offenses of violence.</u>	155 156 157
(v) <u>The person previously was under a community control sanction for a felony offense that was not a felony offense of violence, and the person had the community control sanction for that felony offense unfavorably terminated.</u>	158 159 160 161
(vi) <u>The person was under post-release control at the time the person committed the felony of the fourth or fifth degree.</u>	162 163
(vii) <u>The person's sentence is required to be served concurrently to any other sentence imposed upon the person for a</u>	164 165

felony that is required to be served in an institution under the	166
control of the department of rehabilitation and correction.	167
(C) A person who is convicted of or pleads guilty to one	168
or more misdemeanors and who is sentenced to a jail term or term	169
of imprisonment pursuant to the conviction or convictions shall	170
serve that term in a county, multicounty, municipal, municipal-	171
county, or multicounty-municipal jail or workhouse; in a	172
community alternative sentencing center or district community	173
alternative sentencing center when authorized by section 307.932	174
of the Revised Code; or, if the misdemeanor or misdemeanors are	175
not offenses of violence, in a minimum security jail.	176
(D) Nothing in this section prohibits the commitment,	177
referral, or sentencing of a person who is convicted of or	178
pleads guilty to a felony to a community-based correctional	179
facility.	180
Sec. 2935.10. (A) <u>As used in this section:</u>	181
(1) <u>"Detention"</u> has the same meaning as in section 2921.01	182
<u>of the Revised Code.</u>	183
(2) <u>"Public safety answering point"</u> has the same meaning	184
<u>as in section 128.01 of the Revised Code.</u>	185
(3) <u>"Targeted violent offender"</u> means an offender to whom	186
<u>both of the following apply:</u>	187
(a) <u>The offender is subject to the supervision of the</u>	188
<u>adult parole authority.</u>	189
(b) <u>The offender has been determined to have a higher risk</u>	190
<u>of reoffending and a higher risk of committing a violent offense</u>	191
<u>upon reoffending based on the adult parole authority's use of</u>	192
<u>the Ohio risk assessment system, the state correctional</u>	193

institutional classification tool, the violence predictor risk 194
assessment, or another tool that assesses the offender's risk of 195
reoffending or committing a violent offense upon reoffending. 196

(B) Upon the filing of an affidavit or complaint as 197
provided by section 2935.09 of the Revised Code, if it charges 198
the commission of a felony, such judge, clerk, or magistrate, 199
unless the judge, clerk, or magistrate has reason to believe 200
that it was not filed in good faith, or the claim is not 201
meritorious, shall forthwith issue a warrant for the arrest of 202
the person charged in the affidavit, and directed to a peace 203
officer; otherwise the judge, clerk, or magistrate shall 204
forthwith refer the matter to the prosecuting attorney or other 205
attorney charged by law with prosecution for investigation prior 206
to the issuance of warrant. 207

(B)-(C) If the offense charged is a misdemeanor or 208
violation of a municipal ordinance, such judge, clerk, or 209
magistrate may: 210

(1) Issue a warrant for the arrest of such person, 211
directed to any officer named in section 2935.03 of the Revised 212
Code but in cases of ordinance violation only to a police 213
officer or marshal or deputy marshal of the municipal 214
corporation; 215

(2) Issue summons, to be served by a peace officer, 216
bailiff, or court constable, commanding the person against whom 217
the affidavit or complaint was filed to appear forthwith, or at 218
a fixed time in the future, before such court or magistrate. 219
Such summons shall be served in the same manner as in civil 220
cases. 221

(C)-(D) If the affidavit is filed by, or the complaint is 222

filed pursuant to an affidavit executed by, a peace officer who
has, at the officer's discretion, at the time of commission of
the alleged offense, notified the person to appear before the
court or magistrate at a specific time set by such officer, no
process need be issued unless the defendant fails to appear at
the scheduled time.

(D)(E) Any person charged with a misdemeanor or violation
of a municipal ordinance may give bail as provided in sections
2937.22 to 2937.46 of the Revised Code, for the person's
appearance, regardless of whether a warrant, summons, or notice
to appear has been issued.

(E)(F) Any warrant, summons, or any notice issued by the
peace officer shall state the substance of the charge against
the person arrested or directed to appear.

(F)(G) When the offense charged is a misdemeanor, and the
warrant or summons issued pursuant to this section is not served
within two years of the date of issue, a judge or magistrate may
order such warrant or summons withdrawn and the case closed,
when it does not appear that the ends of justice require keeping
the case open.

(G)(1)(H)(1) Any warrant issued for ~~a tier one offense~~ any
of the following shall be entered, by the law enforcement agency
requesting the warrant and within forty-eight hours of receipt
of the warrant, into the law enforcement automated data system
created by section 5503.10 of the Revised Code, and known as
LEADS, and the appropriate database of the national crime
information center (NCIC) maintained by the federal bureau of
investigation:

(a) A tier one offense; 251

<u>(b) A person who is under detention and breaks detention</u>	252
<u>or fails to return to detention and who is under a community</u>	253
<u>control sanction or a residential sanction for committing a tier</u>	254
<u>one offense;</u>	255
<u>(c) A person who is under detention and breaks detention</u>	256
<u>or fails to return to detention, who is under a community</u>	257
<u>control sanction or a residential sanction, and who is a</u>	258
<u>targeted violent offender.</u>	259
<u>(2) All warrants issued for tier one offenses under</u>	260
<u>division (H) (1) of this section shall be entered, by the law</u>	261
<u>enforcement agency that receives the warrant with a nationwide</u>	262
<u>extradition radius, into the law enforcement automated data</u>	263
<u>system created by section 5503.10 of the Revised Code, and known</u>	264
<u>as LEADS.</u>	265
<u>(3) If a warrant is issued under division (H) (1) (b) or (c)</u>	266
<u>of this section, the law enforcement agency requesting the</u>	267
<u>warrant, within forty-eight hours of receipt of the warrant,</u>	268
<u>shall notify the public safety answering point of the warrant.</u>	269
<u>(4) If a law enforcement agency discovers that a warrant</u>	270
<u>entered pursuant to section (G) (1) (H) (1) of this section into</u>	271
<u>the law enforcement automated data system and the appropriate</u>	272
<u>database of the national crime information center (NCIC)</u>	273
<u>maintained by the federal bureau of investigation was entered in</u>	274
<u>error, the law enforcement agency shall remove the warrant from</u>	275
<u>the law enforcement automated data system and the appropriate</u>	276
<u>database of the national crime information center (NCIC)</u>	277
<u>maintained by the federal bureau of investigation within forty-</u>	278
<u>eight hours following the discovery of the error.</u>	279
<u>(4)(5) If a warrant is entered pursuant to division (G) (1)</u>	280

(H) (1) of this section into the law enforcement automated data system and the national crime information center (NCIC) maintained by the federal bureau of investigation, a law enforcement agency shall remove the warrant from the system and center within forty-eight hours of warrant service or dismissal or recall by the issuing court. 281
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Sec. 2935.11. If the person summoned to appear as provided in division ~~(B)~~(C) of section 2935.10 of the Revised Code fails to appear without just cause and personal service of the summons was had upon ~~him~~the person, ~~he~~the person may be found guilty of contempt of court, and may be fined not to exceed twenty dollars for such contempt. Upon failure to appear the court or magistrate may forthwith issue a warrant for ~~his~~the person's arrest. 287
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Sec. 5120.021. (A) The provisions of Chapter 5120. of the Revised Code, as they existed prior to July 1, 1996, and that address the duration or potential duration of incarceration or parole or other forms of supervised release, apply to all persons upon whom a court imposed a term of imprisonment prior to July 1, 1996, and all persons upon whom a court, on or after July 1, 1996, and in accordance with law existing prior to July 1, 1996, imposed a term of imprisonment for an offense that was committed prior to July 1, 1996. 295
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(B) (1) The provisions of Chapter 5120. of the Revised Code, as they exist on or after July 1, 1996, and that address the duration or potential duration of incarceration or supervised release, apply to all persons upon whom a court imposed a stated prison term for an offense committed on or after July 1, 1996. 304
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(2) The provisions of Chapter 5120. of the Revised Code, 310

as they exist on or after ~~the effective date of this amendment~~ 311
March 22, 2019, and prior to the effective date of this 312
amendment, apply to an offender who is released from confinement 313
in a state correctional institution on or after ~~that date~~ March 314
22, 2019, and prior to the effective date of this amendment. 315

(3) The provisions of Chapter 5120. of the Revised Code, 316
as they exist on or after the effective date of this amendment, 317
apply to an offender who is released from confinement in a state 318
correctional institution on or after that date. 319

(C) Nothing in this section limits or affects the 320
applicability of any provision in Chapter 5120. of the Revised 321
Code, as amended or enacted on or after July 1, 1996, that 322
pertains to an issue other than the duration or potential 323
duration of incarceration or supervised release, to persons in 324
custody or under the supervision of the department of 325
rehabilitation and correction. 326

Sec. 5120.038. (A) As used in this section, "GPS-monitored 327
offender" means an offender who, on or after the effective date 328
of divisions (B) to (D) of this section, is released from 329
confinement in a state correctional institution under a 330
conditional pardon, parole, other form of authorized release, or 331
transitional control that includes global positioning system 332
monitoring as a condition of the person's release, or who, on or 333
after that date, is placed under post-release control that 334
includes global positioning system monitoring as a condition 335
under the post-release control. 336

~~(B) Not later than June 30, 2019, the department of~~ 337
~~rehabilitation and correction shall study the feasibility of~~ 338
~~contracting with a third-party contract administrator for global~~ 339
~~position system monitoring that would include a crime scene~~ 340

~~correlation program that could interface by link with a statewide database for GPS-monitored offenders. The study also shall analyze the use of GPS monitoring as a supervision tool. In conducting the study, the department shall consider all of the following factors:~~ 341
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~~(1) The ability of the department 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.~~ 346
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~~(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.~~ 350
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~~(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.~~ 354
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~~(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 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.~~ 358
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~~(5) The ability of law enforcement representatives to~~ 369

~~obtain, without a warrant or subpoena, information about a GPS-monitored offender from either an employee of the department or a third party contract administrator who is monitoring the offender, including information of the types listed in division (B) (4) of this section.~~ 370
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~~(6) The types of offenders for whom GPS monitoring would be beneficial, the appropriate length for monitoring, and the costs related to GPS monitoring.~~ 375
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~~(C) Upon completion of the study specified in division (B) of this section, the department shall submit copies of the study to the president and minority leader of the senate, the speaker and minority leader of the house of representatives, and the governor.~~ 378
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(B) (1) On and after the effective date of this amendment, each global positioning system monitor that is used to monitor a GPS-monitored offender shall specify and monitor restrictions for the offender. The restrictions shall include for the offender inclusionary zones and exclusionary zones, and may include for the offender a curfew specifying times of required presence in the inclusionary zone and any other reasonable restrictions. 383
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(2) On or after the effective date of this amendment, the department of rehabilitation and correction shall contract with a single vendor for global positioning system monitoring of GPS-monitored offenders under this section. Any contract that the department of rehabilitation and correction enters into on or after the effective date of this amendment with a vendor for global positioning system monitoring of GPS-monitored offenders shall require all of the following: 391
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(a) That the global positioning system used by the vendor 399
to perform the actual monitoring of the offender include a crime 400
scene correlation program; 401

(b) That the crime scene correlation program included in 402
the vendor's global positioning system to perform the actual 403
monitoring of the offender will allow local law enforcement 404
representatives or their designees to obtain, without need for a 405
subpoena or warrant, real-time access or active global 406
positioning system access to information contained in the 407
program about a GPS-monitored offender's location at that time 408
and, to the extent that it is available, at other previous 409
points in time identified by the representative or designee, 410
about the location of recent criminal activity in or near the 411
offender's inclusionary or exclusionary zones, and about any 412
possible connection between the offender's location and that 413
recent criminal activity; 414

(c) That the global positioning system used by the vendor 415
to perform the actual monitoring of the offender be monitored 416
continuously and that the access described in division (B) (2) (b) 417
of this section be afforded twenty-four hours a day and seven 418
days a week. 419

(C) (1) On and after the effective date of this amendment, 420
the vendor used for global positioning system monitoring of a 421
GPS-monitored offender shall comply in the monitoring of the 422
offender with system requirements of the department of 423
rehabilitation and correction that exist on that date for global 424
positioning system monitoring of such offenders. 425

(2) If, on the effective date of this amendment, the 426
department of rehabilitation and correction has not established 427
system requirements of the type described in division (C) (1) of 428

this section, within a reasonable period of time after that 429
effective date, the department shall establish system 430
requirements for global positioning system monitoring of GPS- 431
monitored offenders. After establishment of the requirements, 432
the department and the vendor used for global positioning system 433
monitoring shall comply with the established system requirements 434
in the monitoring of a GPS-monitored offender. 435

(D) The department of rehabilitation and correction may, 436
in accordance with Chapter 119. of the Revised Code, adopt rules 437
prescribing procedures for implementing the global positioning 438
system monitoring of a GPS-monitored offender under this 439
section. 440

Sec. 5589.21. (A) No railroad company shall obstruct, or 441
permit or cause to be obstructed a public street, road, or 442
highway, by permitting a railroad car, locomotive, or other 443
obstruction to remain upon or across it for longer than five 444
minutes, to the hindrance or inconvenience of travelers or a 445
person passing along or upon such street, road, or highway. 446

(B) At the end of each five minute period of obstruction 447
of a public street, road, or highway, each railroad company 448
shall cause such railroad car, locomotive, or other obstruction 449
to be removed for sufficient time, not less than three minutes, 450
to allow the passage of persons and vehicles waiting to cross. 451

(C) This section does not apply to obstruction of a public 452
street, road, or highway by a continuously moving through train 453
or caused by circumstances wholly beyond the control of the 454
railroad company, but does apply to other obstructions, 455
including without limitation those caused by stopped trains and 456
trains engaged in switching, loading, or unloading operations. 457

(D) If a railroad car, locomotive, or other obstruction is 458
obstructing a public street, road, or highway in violation of 459
division (A) of this section and the violation occurs in the 460
unincorporated area of one or more counties, or in one or more 461
municipal corporations, the officers and employees of each 462
affected county or municipal corporation may charge the railroad 463
company with only one violation of the law arising from the same 464
facts and circumstances and the same act. 465

(E) Upon the filing of an affidavit or complaint for 466
violation of division (A) of this section, summons shall be 467
issued to the railroad company pursuant to division ~~(B)~~(C) of 468
section 2935.10 of the Revised Code, which summons shall be 469
served on the regular ticket or freight agent of the company in 470
the county where the offense occurred. 471

Sec. 5589.211. No railroad company shall obstruct, or 472
permit or cause to be obstructed, a public street, road, or 473
highway, by permitting any part of a train whose crew has 474
abandoned the locomotive to remain across it for longer than 475
five minutes to the hindrance or inconvenience of travelers or a 476
person passing along or upon the street, road, or highway, 477
unless the safety of the train crew requires them to abandon the 478
locomotive. 479

Upon the filing of an affidavit or complaint for violation 480
of this section, summons shall be issued to the railroad company 481
pursuant to division ~~(B)~~(C) of section 2935.10 of the Revised 482
Code, which summons shall be served on the regular ticket or 483
freight agent of the company in the county where the offense 484
occurred. 485

Section 2. That existing sections 2929.141, 2929.34, 486
2935.10, 2935.11, 5120.021, 5120.038, 5589.21, and 5589.211 of 487

the Revised Code are hereby repealed.

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Section 3. This act shall be known as the Reagan Tokes and
Patrick Heringer Act.

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