

As Introduced

**136th General Assembly
Regular Session
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H. B. No. 796

Representative Williams

To amend sections 751.08, 5120.10, and 5120.16 of
the Revised Code to ensure that jail inmates,
city infirmary inmates, and prisoners under
control of the department of rehabilitation and
correction are housed in accordance with their
biological sex.

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

Section 1. That sections 751.08, 5120.10, and 5120.16 of
the Revised Code be amended to read as follows:

Sec. 751.08. The director of public safety shall see that
the inmates of a city infirmary are comfortably provided for and
kindly treated, and ~~he~~the director of public safety may provide
for the care and support of the males and females in separate
buildings, or in separate departments of the same building. For
purposes of this section, "males and females" refers to
biological sex, as defined in section 3129.01 of the Revised
Code.

Sec. 5120.10. (A) (1) Except as provided in this division,
the director of rehabilitation and correction, by rule, shall
promulgate minimum standards for jails in Ohio, including
minimum security jails dedicated under section 341.34 or 753.21

of the Revised Code. Whenever the director files a rule or an 21
amendment to a rule in final form with both the secretary of 22
state and the director of the legislative service commission 23
pursuant to section 111.15 of the Revised Code, the director of 24
rehabilitation and correction promptly shall send a copy of the 25
rule or amendment, if the rule or amendment pertains to minimum 26
jail standards, by ordinary mail to the political subdivisions 27
or affiliations of political subdivisions that operate jails to 28
which the standards apply. The director shall not adopt any rule 29
requiring support staff in a jail to obtain an occupational 30
license as defined in section 4798.01 of the Revised Code. 31

(2) The rules promulgated in accordance with division (A) 32
(1) of this section shall serve as criteria for the 33
investigative and supervisory powers and duties vested by 34
division (D) of this section in the division of parole and 35
community services of the department of rehabilitation and 36
correction or in another division of the department to which 37
those powers and duties are assigned. 38

(3) Notwithstanding any rule promulgated in accordance 39
with division (A) (1) of this section, a political subdivision or 40
affiliate of a political subdivision that operates a jail shall 41
ensure that jail inmates are separated by biological sex, as 42
defined in section 3129.01 of the Revised Code. 43

(B) The director may initiate an action in the court of 44
common pleas of the county in which a facility that is subject 45
to the rules promulgated under division (A) (1) of this section 46
is situated to enjoin compliance with the minimum standards for 47
jails or with the minimum standards and minimum renovation, 48
modification, and construction criteria for jails. 49

(C) Upon the request of an administrator of a jail 50

facility, the chief executive of a municipal corporation, or a 51
board of county commissioners, the director of rehabilitation 52
and correction or the director's designee shall grant a variance 53
from the minimum standards for jails in Ohio for a facility that 54
is subject to one of those minimum standards when the director 55
determines that strict compliance with the minimum standards 56
would cause unusual, practical difficulties or financial 57
hardship, that existing or alternative practices meet the intent 58
of the minimum standards, and that granting a variance would not 59
seriously affect the security of the facility, the supervision 60
of the inmates, or the safe, healthful operation of the 61
facility. If the director or the director's designee denies a 62
variance, the applicant may appeal the denial pursuant to 63
section 119.12 of the Revised Code. 64

(D) The following powers and duties shall be exercised by 65
the division of parole and community services unless assigned to 66
another division by the director: 67

(1) The investigation and supervision of county and 68
municipal jails, workhouses, minimum security jails, and other 69
correctional institutions and agencies; 70

(2) The review and approval of plans submitted to the 71
department of rehabilitation and correction pursuant to division 72
(E) of this section; 73

(3) The management and supervision of the adult parole 74
authority created by section 5149.02 of the Revised Code; 75

(4) The review and approval of proposals for community- 76
based correctional facilities and programs and district 77
community-based correctional facilities and programs that are 78
submitted pursuant to division (B) of section 2301.51 of the 79

Revised Code;	80
(5) The distribution of funds made available to the	81
division for purposes of assisting in the renovation,	82
maintenance, and operation of community-based correctional	83
facilities and programs and district community-based	84
correctional facilities and programs in accordance with section	85
5120.112 of the Revised Code;	86
(6) The performance of the duty imposed upon the	87
department of rehabilitation and correction in section 5149.31	88
of the Revised Code to establish and administer a program of	89
subsidies to eligible municipal corporations, counties, and	90
groups of contiguous counties for the development,	91
implementation, and operation of community-based corrections	92
programs;	93
(7) Licensing halfway houses and community residential	94
centers for the care and treatment of adult offenders in	95
accordance with section 2967.14 of the Revised Code;	96
(8) Contracting with a public or private agency or a	97
department or political subdivision of the state that operates a	98
licensed halfway house or community residential center for the	99
provision of housing, supervision, and other services to	100
parolees, releasees, persons placed under a residential	101
sanction, persons under transitional control, and other eligible	102
offenders in accordance with section 2967.14 of the Revised	103
Code.	104
Other powers and duties may be assigned by the director of	105
rehabilitation and correction to the division of parole and	106
community services. This section does not apply to the	107
department of youth services or its institutions or employees.	108

(E) No plan for any new jail, workhouse, or lockup, and no 109
plan for a substantial addition or alteration to an existing 110
jail, workhouse, or lockup, shall be adopted unless the 111
officials responsible for adopting the plan have submitted the 112
plan to the department of rehabilitation and correction for 113
approval, and the department has approved the plan as provided 114
in division (D) (2) of this section. 115

Sec. 5120.16. (A) Persons sentenced to any institution, 116
division, or place under the control of the department of 117
rehabilitation and correction are committed to the control, 118
care, and custody of the department and shall be housed in 119
accordance with their biological sex, as defined in section 120
3129.01 of the Revised Code, while under the control of the 121
department. Subject to division (C) of this section, the 122
director of rehabilitation and correction or the director's 123
designee may direct that persons sentenced to the department, or 124
to any institution or place within the department, shall be 125
conveyed by the sheriff initially to an appropriate facility 126
established and maintained by the department, or committed 127
electronically in accordance with division (B) of this section, 128
for reception, examination, observation, and classification of 129
the persons so sentenced. Prior to removal of an individual on 130
an out of jurisdiction detainer, the sheriff shall convey the 131
sentenced person to the department of rehabilitation and 132
correction or electronically commit the sentenced person in 133
accordance with division (B) of this section. 134

If a presentence investigation report was not prepared 135
pursuant to section 2947.06 or 2951.03 of the Revised Code or 136
Criminal Rule 32.2 regarding any person sentenced to the 137
department or to any institution or place within the department, 138
the director or the director's designee may order the 139

department's field staff to conduct an offender background 140
investigation and prepare an offender background investigation 141
report regarding the person. The investigation and report shall 142
be conducted in accordance with division (A) of section 2951.03 143
of the Revised Code and the report shall contain the same 144
information as a presentence investigation report prepared 145
pursuant to that section. 146

When the examination, observation, and classification of 147
the person have been completed by the facility and a written 148
report of the examination, observation, and classification is 149
filed with the commitment papers, the director or the director's 150
designee, subject to division (B) of this section, shall assign 151
the person to a suitable state institution or place maintained 152
by the state within the director's department or shall designate 153
that the person is to be housed in a county, multicounty, 154
municipal, municipal-county, or multicounty-municipal jail or 155
workhouse, if authorized by section 5120.161 of the Revised 156
Code, there to be confined, cared for, treated, trained, and 157
rehabilitated until paroled, released in accordance with section 158
2929.20, 2967.26, 2967.28, or 5120.036 of the Revised Code, or 159
otherwise released under the order of the court that imposed the 160
person's sentence. No person committed by a probate court, a 161
trial court pursuant to section 2945.40, 2945.401, or 2945.402 162
of the Revised Code subsequent to a finding of not guilty by 163
reason of insanity, or a juvenile court shall be assigned to a 164
state correctional institution. 165

If a person is sentenced, committed, or assigned for the 166
commission of a felony to any one of the institutions or places 167
maintained by the department or to a county, multicounty, 168
municipal, municipal-county, or multicounty-municipal jail or 169
workhouse, the department, by order duly recorded and subject to 170

division (B) of this section, may transfer the person to any 171
other institution, or, if authorized by section 5120.161 of the 172
Revised Code, to a county, multicounty, municipal, municipal- 173
county, or multicounty-municipal jail or workhouse. 174

(B) An agreement may be entered into between a court of 175
common pleas and the department of rehabilitation and correction 176
under which persons may be electronically committed to the 177
department of rehabilitation and correction. 178

(C) If the case of a child who is alleged to be a 179
delinquent child is transferred for criminal prosecution to the 180
appropriate court having jurisdiction of the offense pursuant to 181
section 2152.12 of the Revised Code, if the child is convicted 182
of or pleads guilty to a felony in that case, if the child is 183
sentenced to a prison term, as defined in section 2901.01 of the 184
Revised Code, and if the child is under eighteen years of age 185
when delivered to the custody of the department of 186
rehabilitation and correction, all of the following apply 187
regarding the housing of the child: 188

(1) Until the child attains eighteen years of age, subject 189
to divisions (C) (2), (3), and (4) of this section, the 190
department shall house the child in a housing unit in a state 191
correctional institution separate from inmates who are eighteen 192
years of age or older. 193

(2) The department is not required to house the child in 194
the manner described in division (C) (1) of this section if the 195
child does not observe the rules and regulations of the 196
institution or the child otherwise creates a security risk by 197
being housed separately. 198

(3) If the department receives too few inmates who are 199

under eighteen years of age to fill a housing unit in a state 200
correctional institution separate from inmates who are eighteen 201
years of age or older, as described in division (C) (1) of this 202
section, the department may house the child in a housing unit in 203
a state correctional institution that includes both inmates who 204
are under eighteen years of age and inmates who are eighteen 205
years of age or older and under twenty-one years of age. 206

(4) Upon the child's attainment of eighteen years of age, 207
the department may house the child with the adult population of 208
the state correctional institution. 209

(D) The director or the director's designee shall develop 210
a policy for dealing with problems related to infection with the 211
human immunodeficiency virus. The policy shall include methods 212
of identifying individuals committed to the custody of the 213
department who are at high risk of infection with the virus and 214
counseling those individuals. 215

Arrangements for housing individuals diagnosed as having 216
AIDS or an AIDS-related condition shall be made by the 217
department based on security and medical considerations and in 218
accordance with division (C) of this section, if applicable. 219

Section 2. That existing sections 751.08, 5120.10, and 220
5120.16 of the Revised Code are hereby repealed. 221