As Introduced

133rd General Assembly

Regular Session 2019-2020

H. B. No. 502

Representative Crossman

Cosponsors: Representatives Sobecki, Upchurch, Boyd, Denson, Howse, Skindell, Brown, Weinstein

A BILL

То	amend section 5120.10 and to enact section	1
	5120.101 of the Revised Code to adopt several	2
	jail reform procedures related to compliance	3
	with the Minimum Standards for Jails in Ohio	4

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

Section 1. That section 5120.10 be amended and section	5
5120.101 of the Revised Code be enacted to read as follows:	6
Sec. 5120.10. (A) (1) The director of rehabilitation and	7
correction, by rule, shall promulgate minimum standards for	8
jails in Ohio, including minimum security jails dedicated under	9
section 341.34 or 753.21 of the Revised Code. Whenever the	10
director files a rule or an amendment to a rule in final form	11
with both the secretary of state and the director of the	12
legislative service commission pursuant to section 111.15 of the	13
Revised Code, the director of rehabilitation and correction	14
promptly shall send a copy of the rule or amendment, if the rule	15
or amendment pertains to minimum jail standards, by ordinary	16
mail to the political subdivisions or affiliations of political	17
subdivisions that operate jails to which the standards apply.	18

(2) The rules promulgated in accordance with division (A)	19
(1) of this section shall serve as criteria for the	20
investigative and supervisory powers and duties vested by	21
division (D) of this section in the division of parole and	22
community services of the department of rehabilitation and	23
correction or in another division of the department to which	24
those powers and duties are assigned.	25
(3) The division of parole and community services, or	26
another division of the department assigned by the director to	27
perform this duty, shall inspect the jails in Ohio to determine	28
whether the particular jail being inspected is in compliance	29
with the minimum standards for jails in Ohio adopted under	30
authority of division (A)(1) of this section that apply to that	31
jail. If the division of parole and community services, as a	32
result of such an inspection, has reason to believe that a	33
particular jail in Ohio is not in compliance with the minimum	34
standards for jails in Ohio adopted under authority of division	35
(A)(1) of this section that apply to that jail, the division, or	36
another division of the department assigned by the director to	37
perform this duty, shall investigate the possible noncompliance.	38
(B) (1) The director may initiate an action in the court of	39
common pleas of the county in which a facility that is subject	40
to the rules promulgated under division (A)(1) of this section	41
is situated to enjoin compliance with the minimum standards for	42
jails or with the minimum standards and minimum renovation,	43
modification, and construction criteria for jails.	44
(2) If the division of parole and community services, as a	45
result of an inspection or investigation described in division	46
(A) (3) of this section, determines that a jail in Ohio is not in	47
compliance with the minimum standards for jails in Ohio adopted	48

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under authority of division (A)(1) of this section that apply to	49
that jail and if the director does not initiate an action as	50
described in division (B)(1) of this section, the director shall	51
provide the jail with a written notice of noncompliance and	52
required compliance, as specified in section 5120.101 of the	53
Revised Code.	54
(C) Upon the request of an administrator of a jail	55
facility, the chief executive of a municipal corporation, or a	56
board of county commissioners, the director of rehabilitation	57
and correction or the director's designee shall grant a variance	58
from the minimum standards for jails in Ohio for a facility that	59
is subject to one of those minimum standards when the director	60
determines that strict compliance with the minimum standards	61
would cause unusual, practical difficulties or financial	62
hardship, that existing or alternative practices meet the intent	63
of the minimum standards, and that granting a variance would not	64
seriously affect the security of the facility, the supervision	65
of the inmates, or the safe, healthful operation of the	66
facility. If the director or the director's designee denies a	67
variance, the applicant may appeal the denial pursuant to	68
section 119.12 of the Revised Code.	69
(D) The following powers and duties shall be exercised by	70
the division of parole and community services unless assigned to	71
another division by the director:	72
(1) The investigation and supervision of county and	73
municipal jails, workhouses, minimum security jails, and other	74
correctional institutions and agencies, including the	75
inspections and investigations required under division (A)(3) of	76
this section;	77
(2) The review and approval of plans submitted to the	78

department of rehabilitation and correction pursuant to division	79
(E) of this section;	80
(3) The management and supervision of the adult parole	81
authority created by section 5149.02 of the Revised Code;	82
authority created by section 3149.02 or the Revised Code,	02
(4) The review and approval of proposals for community-	83
based correctional facilities and programs and district	84
community-based correctional facilities and programs that are	85
submitted pursuant to division (B) of section 2301.51 of the	86
Revised Code;	87
(5) The distribution of funds made available to the	88
division for purposes of assisting in the renovation,	89
maintenance, and operation of community-based correctional	90
facilities and programs and district community-based	91
correctional facilities and programs in accordance with section	92
5120.112 of the Revised Code;	93
(6) The performance of the duty imposed upon the	94
department of rehabilitation and correction in section 5149.31	95
of the Revised Code to establish and administer a program of	96
subsidies to eligible municipal corporations, counties, and	97
groups of contiguous counties for the development,	98
implementation, and operation of community-based corrections	99
programs;	100
(7) Licensing halfway houses and community residential	101
centers for the care and treatment of adult offenders in	102
accordance with section 2967.14 of the Revised Code;	103
(8) Contracting with a public or private agency or a	104
department or political subdivision of the state that operates a	105
licensed halfway house or community residential center for the	106
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provision of housing, supervision, and other services to	ΙΟ /

parolees, releasees, persons placed under a residential	108
sanction, persons under transitional control, and other eligible	109
offenders in accordance with section 2967.14 of the Revised	110
Code.	111
Other powers and duties may be assigned by the director of	112
rehabilitation and correction to the division of parole and	113
community services. This section does not apply to the	114
department of youth services or its institutions or employees.	115
(E) No plan for any new jail, workhouse, or lockup, and no	116
plan for a substantial addition or alteration to an existing	117
jail, workhouse, or lockup, shall be adopted unless the	118
officials responsible for adopting the plan have submitted the	119
plan to the department of rehabilitation and correction for	120
approval, and the department has approved the plan as provided	121
in division (D)(2) of this section.	122
Sec. 5120.101. (A) As used in this section, "minimum	123
standards for jails in Ohio" means the minimum standards for	124
jails in Ohio adopted under authority of division (A)(1) of	125
section 5120.10 of the Revised Code.	126
(B) If the division of parole and community services or	127
another division of the department of rehabilitation and	128
correction assigned by the director of rehabilitation and	129
correction, as a result of an inspection or investigation	130
described in division (A)(3) of section 5120.10 of the Revised	131
Code, determines that a jail in Ohio is not in compliance with	132
the minimum standards for jails in Ohio that apply to that jail	133
and if the director does not initiate a court action as	134
described in division (B)(1) of that section, the director shall	135
send the jail written notice that does all of the following:	136

(1) Indicates that the division has determined that the	137
jail is not in compliance with the applicable minimum standards	138
for jails in Ohio;	139
(2) Specifies the areas in which the jail is not in	140
compliance with the applicable minimum standards;	141
(3) Orders that the jail obtain compliance with the	142
applicable minimum standards within the applicable period of	143
time specified by the rule adopted under division (C) of this	144
section;	145
(4) Provides contact information for one or more persons	146
at the department who can answer questions regarding the	147
noncompliance and work with the jail to obtain compliance and,	148
if an outside corrections expert is appointed under division (D)	149
of this section, for the outside corrections expert.	150
(C) The director of rehabilitation and correction, by	151
rule, shall specify a period of time within which jails that are	152
determined to not be in compliance with the applicable minimum	153
standards for jails in Ohio and that are sent a notice under	154
division (B) of this section must obtain compliance with the	155
applicable minimum standards. The rules may provide different	156
periods of time for different categories of jails and may	157
provide different periods of time for different types of	158
noncompliance.	159
(D) If a jail is determined to not be in compliance with	160
the applicable minimum standards for jails in Ohio and is sent a	161
notice under division (B) of this section ordering that the jail	162
obtain compliance with the applicable minimum standards within a	163
specified period of time, the department may appoint an outside	164
corrections expert to assist the jail in remediating the	165

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noncompliance with the applicable minimum standards. An	166
appointment under this division is a temporary appointment, and	167
shall be in effect only for a period of time specified by the	168
department.	169
(E) If a jail is determined to not be in compliance with	170
the applicable minimum standards for jails in Ohio and is sent a	171
notice under division (B) of this section ordering that the jail	172
obtain compliance with the applicable minimum standards within a	173
specified period of time, and if the jail does not obtain	174
compliance with the applicable minimum standards within the	175
specified period of time, the director shall initiate an action	176
in the court of common pleas of the county in which the jail is	177
situated to obtain a court order that enjoins compliance with	178
the applicable minimum standards, orders the temporary	179
suspension of the operation of the jail until the jail obtains	180
compliance with the applicable minimum standards, or orders the	181
closure of the jail.	182
(F)(1) The attorney general shall establish and operate a	183
whistleblower hotline for the purpose of receiving information	184
from persons as specified in division (F)(2) of this section.	185
Upon establishing the hotline, the attorney general shall	186
publicize the fact that the hotline has been established, the	187
purpose of the hotline, contact information for the hotline, and	188
the fact that persons who make reports to the hotline are	189
protected as described in division (F)(3) of this section.	190
(2) Any person who is an employee of a jail in Ohio, or	191
who performs any work in or makes deliveries to a jail in Ohio,	192
and who is not confined in the jail and is not a family member	193
of or visitor to a person confined in the jail, may make a	194
report anonymously to the hotline established under division (F)	195

(1) of this section, that provides information regarding	196
conditions of the jail that the person making the report	197
reasonably believes do not comply with the minimum standards for	198
jails in Ohio that apply to that jail. A person making a report	199
under this division may not be required to provide the person's	200
name or other identifying information to make the report.	201
(3) (a) Except as otherwise provided in division (F) (3) (c)	202
of this section, no person involved in the operation of any jail	203
in Ohio shall take any disciplinary action against an employee	204
for making any report as authorized by division (F)(2) of this	205
section, including, without limitation, doing any of the	206
<pre>following:</pre>	207
(i) Removing or suspending the employee from employment;	208
(ii) Withholding from the employee salary increases or	209
employee benefits to which the employee is otherwise entitled;	210
(iii) Transferring or reassigning the employee;	211
(iv) Denying the employee promotion that otherwise would	212
have been received;	213
(v) Reducing the employee in pay or position.	214
(b) Except as otherwise provided in division (F)(3)(c) of	215
this section, no person involved in the operation of any jail in	216
Ohio shall take any retaliatory action against a person who	217
performs any work in or makes deliveries to a jail in Ohio for	218
making any report as authorized by division (F)(2) of this	219
section.	220
(c) An employee of a jail in Ohio, and a person who	221
performs any work in or makes deliveries to a jail in Ohio,	222
shall make a reasonable effort to determine the accuracy of any	223

information reported under division (F)(2) of this section. An	224
employee of a jail in Ohio is subject to disciplinary action,	225
including suspension or removal, as determined by the employee's	226
appointing authority, and a person who performs any work in or	227
makes deliveries to a jail in Ohio is subject to retaliatory	228
action, for purposely, knowingly, or recklessly reporting false	229
information under division (F)(2) of this section.	230
(d) As used in division (F)(3)(c) of this section,	231
"purposely," "knowingly," and "recklessly" have the same	232
meanings as in section 2901.22 of the Revised Code.	233
Section 2. That existing section 5120.10 of the Revised	234
Code is hereby repealed.	235
Section 3. (A) There is hereby established the jail system	236
improvement study commission. The commission shall consist of	237
five members. Two of the members shall be members of the senate,	238
with one of those members appointed by the senate president and	239
one appointed by the senate minority leader; two of the members	240
shall be members of the house of representatives, with one of	241
those members appointed by the speaker of the house of	242
representatives and one appointed by the minority leader of the	243
house of representatives; and one of the members shall be	244
appointed by the governor. All appointments shall be made to the	245
commission not later than thirty days after the effective date	246
of this section.	247
The commission shall meet initially not later than	248
fourteen days after the last of its members is appointed. At its	249
first meeting, the commission shall select joint chairpersons,	250
with one being a member appointed by either the president of the	251
senate or the speaker of the house of representatives, and one	252
being a member appointed by either the minority leader of the	253

senate or the minority leader of the house of representatives.	254
After its first meeting, the commission shall meet at the call	255
of the joint chairpersons.	256
The members of the commission shall serve without	257
compensation, but each member shall be reimbursed for the	258
member's actual and necessary expenses incurred in the	259
performance of the member's official duties on the commission.	260
(B) The jail system improvement study commission shall	261
study, investigate, and evaluate all aspects of the operation of	262
all jails in Ohio, including employee training, physical	263
facilities, the sufficiency of resources being supplied by the	264
state for the operation of these facilities, and the sufficiency	265
of the minimum standards for jails in Ohio then in effect. All	266
state agencies and jails shall cooperate with the commission in	267
its study, investigation, and evaluation performed under this	268
division.	269
(C) Not later than the date that is nine months after the	270
last member of the commission is appointed, the jail system	271
improvement study commission shall complete its study,	272
investigation, and evaluation under division (B) of this	273
section, prepare a report that contains its findings and its	274
recommendations for improvements needed in the jail system in	275
this state to ensure the efficient and safe operation of the	276
jails, and send a copy of the report to the governor, the	277
president and minority leader of the senate, and the speaker and	278
minority leader of the house of representatives. Upon the	279

presentation of its report, the commission shall cease to exist.

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