



Judicial Impact Statement

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HB 403 – Transitional Control Veto

HB 403

Reps. Galonski, Hillyer

Title Information

To eliminate the requirement that a sentencing court must assent to the transfer of a prisoner to a transitional control program.

Background

The Ohio Revised Code currently requires that if the Ohio Department of Rehabilitations and Corrections recommends someone for transitional control (a 6-month reduction in sentence), the early release must have the approval of the sentencing judge unless the original sentence is longer than 2 years. The state of the statute as currently written is the result of a compromise that was reached during the vetting of SB 143 in the 130th General Assembly. Before that bill, the judiciary could veto any recommendation of transition control. In SB 143, judges agreed to a restricted veto that only applied to sentences less than two years in duration for a variety of reasons, including the relative lesser need for people with shorter sentences to have transition services; the relative lesser need for ODRC to reduce shorter sentences in their efforts to reduce prison population “creep” caused by longer sentences; and consideration of the victim.

Judicial Impact

The bill would undo the compromise of the 130th General Assembly; it would completely eliminate judicial discretion in altering sentences and instead put sentencing decisions in the hands of unelected persons whose job it is to carry out sentences, not decide them. Transitional control, once recommended by ODRC, happens by default. In other words, transitional control will happen if the judge responds in the affirmative OR if the judge does not respond at all.

What is a Judicial Impact Statement?

A Judicial Impact Statement describes as objectively and accurately as possible the probable, practical effects on Ohio's court system of the adoption of the particular bill. The court system includes people who use the courts (parties to suits, witnesses, attorneys and other deputies, probation officials, judges and others). The Ohio Judicial Conference prepares these statements pursuant to R.C. 105.911.

Conclusion

The judge is almost always in the best position to make decisions concerning transitional control and the qualitative analysis of the judge is part of the current success of transitional control. Many judges explicitly deny transitional control in order to utilize the risk reduction early release mechanism, because a particular offender may be more amenable to risk reduction than to transitional control.

There is some argument that transitional control is not being utilized enough as a way of keeping prison population down, but there are two important things to consider. First, there are a variety of ways for an inmate to be released from prison earlier than the minimum sentence and transitional control is just one of them. Second, the pool of transitional control eligible inmates has gotten considerably smaller in most counties,

mainly because low-level offenders who are most amenable to transitional control are being routed, more and more, to community-based sanctions instead of prison. So, for example, in Stark County, the number of offenders eligible for transitional control was 214 in 2016 and 146 in 2018, with only 14% not being granted transitional control. The majority of counties have fewer transitional control candidates in 2018 than in previous years and in about a quarter of counties, there is a clear and marked downward trend in numbers of offenders who are eligible for transitional control.