

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

H. B. No. 457

Representative Antani

A BILL

To amend sections 2951.08, 2967.131, and 2967.15 of
the Revised Code to require that an offender
serving a community control sanction or a
parolee who fails a drug test for heroin,
fentanyl, or carfentanil be held in jail or
admitted to a residential treatment program for
up to 30 days.

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

Section 1. That sections 2951.08, 2967.131, and 2967.15 of
the Revised Code be amended to read as follows:

Sec. 2951.08. (A) During a period of community control,
any field officer or probation officer may arrest the person
under a community control sanction without a warrant and bring
the person before the judge or magistrate before whom the cause
was pending. During a period of community control, any peace
officer may arrest the person under a community control sanction
without a warrant upon the written order of the chief probation
officer of the probation agency if the person under a community
control sanction is under the supervision of that probation
agency or on the order of an officer of the adult parole

authority created pursuant to section 5149.02 of the Revised Code if the person under a community control sanction is under the supervision of the authority. During a period of community control, any peace officer may arrest the person under a community control sanction on the warrant of the judge or magistrate before whom the cause was pending.

During a period of community control, any peace officer may arrest the person under a community control sanction without a warrant if the peace officer has reasonable ground to believe that the person has violated or is violating any of the following that is a condition of the person's community control sanction:

(1) A condition that prohibits ownership, possession, or use of a firearm, deadly weapon, ammunition, or dangerous ordnance;

(2) A condition that prohibits the person from being within a specified structure or geographic area;

(3) A condition that confines the person to a residence, facility, or other structure;

(4) A condition that prohibits the person from contacting or communicating with any specified individual;

(5) A condition that prohibits the person from associating with a specified individual;

(6) A condition as provided in division (A)(1)(a) of section 2929.25 of the Revised Code or in division (A)(1) of section 2929.15 or (A)(8) of section 2929.27 of the Revised Code that requires that the person not ingest or be injected with a drug of abuse and submit to random drug testing and requires that the results of the drug test indicate that the person did

not ingest or was not injected with a drug of abuse. 49

(B) Within three business days after making an arrest 50
under this section, the arresting field officer, probation 51
officer, or peace officer or the department or agency of the 52
arresting officer shall notify the chief probation officer or 53
the chief probation officer's designee that the person has been 54
arrested. Within thirty days of being notified that a field 55
officer, probation officer, or peace officer has made an arrest 56
under this section, the chief probation officer or designee, or 57
another probation officer designated by the chief probation 58
officer, promptly shall bring the person who was arrested before 59
the judge or magistrate before whom the cause was pending. 60

(C) Nothing in this section limits the powers of arrest 61
granted to certain law enforcement officers and citizens under 62
sections 2935.03 and 2935.04 of the Revised Code. 63

(D) A probation officer shall receive the actual and 64
necessary expenses incurred in the performance of the officer's 65
duties. 66

(E) If an offender is subject to random drug testing as a 67
condition of a community control sanction and the results of a 68
drug test indicate that the offender has ingested or was 69
injected with heroin, fentanyl, or carfentanil, the offender 70
shall be arrested and held in jail or admitted into a 71
residential drug treatment program for thirty days or until the 72
court before whom the original cause was pending determines the 73
appropriate punishment for the violation under section 2929.15 74
or 2929.25 of the Revised Code, whichever occurs first. The 75
state shall pay the costs of the residential drug treatment 76
program if the offender enters treatment before the court's 77
determination. 78

(F) As used in this section, "random drug testing" has the 79
same meaning as in section 5120.63 of the Revised Code. 80

Sec. 2967.131. (A) In addition to any other terms and 81
conditions of a conditional pardon or parole, of transitional 82
control, or of another form of authorized release from 83
confinement in a state correctional institution that is granted 84
to an individual and that involves the placement of the 85
individual under the supervision of the adult parole authority, 86
and in addition to any other sanctions of post-release control 87
of a felon imposed under section 2967.28 of the Revised Code, 88
the authority or, in the case of a conditional pardon, the 89
governor shall include in the terms and conditions of the 90
conditional pardon, parole, transitional control, or other form 91
of authorized release or shall include as conditions of the 92
post-release control the conditions that the individual or felon 93
not leave the state without permission of the court or the 94
individual's or felon's parole or probation officer and that the 95
individual or felon abide by the law during the period of the 96
individual's or felon's conditional pardon, parole, transitional 97
control, other form of authorized release, or post-release 98
control. 99

(B) (1) The department of rehabilitation and correction, as 100
a condition of parole or post-release control, may require that 101
the individual or felon shall not ingest or be injected with a 102
drug of abuse and shall submit to random drug testing as 103
provided in divisions (B) (2), (3), and (4) of this section and 104
that the results of the drug test indicate that the individual 105
or felon did not ingest or was not injected with a drug of 106
abuse. 107

(2) If the adult parole authority has general control and 108

supervision of an individual or felon who is required to submit 109
to random drug testing as a condition of parole or post-release 110
control under division (B) (1) of this section, the authority may 111
cause the individual or felon to submit to random drug testing 112
performed by a laboratory or entity that has entered into a 113
contract with any of the governmental entities or officers 114
authorized to enter into a contract with that laboratory or 115
entity under section 341.26, 753.33, or 5120.63 of the Revised 116
Code. 117

(3) If no laboratory or entity described in division (B) 118
(2) of this section has entered into a contract as specified in 119
that division, the adult parole authority shall cause the 120
individual or felon to submit to random drug testing performed 121
by a reputable public laboratory to determine whether the 122
individual or felon who is the subject of the drug test ingested 123
or was injected with a drug of abuse. 124

(4) If a laboratory or entity has entered into a contract 125
with a governmental entity or officer as specified in division 126
(B) (2) of this section, the laboratory or entity shall perform 127
the random drug testing under division (B) (2) of this section in 128
accordance with the applicable standards that are included in 129
the terms of that contract. A public laboratory shall perform 130
the random drug tests under division (B) (3) of this section in 131
accordance with the standards set forth in the policies and 132
procedures established by the department of rehabilitation and 133
correction pursuant to section 5120.63 of the Revised Code. An 134
individual or felon who is required under division (B) (1) of 135
this section to submit to random drug testing as a condition of 136
parole or post-release control and whose test results indicate 137
that the individual or felon ingested or was injected with a 138
drug of abuse shall pay the fee for the drug test if the adult 139

parole authority requires payment of a fee. A laboratory or 140
entity that performs the random drug testing on a parolee or 141
releasee under division (B) (2) or (3) of this section shall 142
transmit the results of the drug test to the adult parole 143
authority. 144

(5) If an individual or felon is subject to random drug 145
testing as a condition of parole or post-release control and the 146
results of a drug test indicate that the individual or felon has 147
ingested or was injected with heroin, fentanyl, or carfentanil, 148
an adult parole authority field officer shall arrest and confine 149
the individual or felon in the county jail pursuant to division 150
(A) of section 2967.15 of the Revised Code. The individual or 151
felon shall be held in jail or admitted into a residential 152
treatment program for substance abuse for thirty days or until 153
the adult parole authority determines whether to impose a prison 154
term for the individual's or felon's violation of the conditions 155
of parole or post-release control, whichever occurs first. The 156
state shall pay the costs of the residential treatment program 157
if the individual or felon enters treatment before the adult 158
parole authority's determination. 159

(C) During the period of a conditional pardon or parole, 160
of transitional control, or of another form of authorized 161
release from confinement in a state correctional institution 162
that is granted to an individual and that involves the placement 163
of the individual under the supervision of the adult parole 164
authority, and during a period of post-release control of a 165
felon imposed under section 2967.28 of the Revised Code, 166
authorized field officers of the authority who are engaged 167
within the scope of their supervisory duties or responsibilities 168
may search, with or without a warrant, the person of the 169
individual or felon, the place of residence of the individual or 170

felon, and a motor vehicle, another item of tangible or 171
intangible personal property, or other real property in which 172
the individual or felon has a right, title, or interest or for 173
which the individual or felon has the express or implied 174
permission of a person with a right, title, or interest to use, 175
occupy, or possess, if the field officers have reasonable 176
grounds to believe that the individual or felon has left the 177
state, is not abiding by the law, or otherwise is not complying 178
with the terms and conditions of the individual's or felon's 179
conditional pardon, parole, transitional control, other form of 180
authorized release, or post-release control. The authority shall 181
provide each individual who is granted a conditional pardon or 182
parole, transitional control, or another form of authorized 183
release from confinement in a state correctional institution and 184
each felon who is under post-release control with a written 185
notice that informs the individual or felon that authorized 186
field officers of the authority who are engaged within the scope 187
of their supervisory duties or responsibilities may conduct 188
those types of searches during the period of the conditional 189
pardon, parole, transitional control, other form of authorized 190
release, or post-release control if they have reasonable grounds 191
to believe that the individual or felon has left the state, is 192
not abiding by the law, or otherwise is not complying with the 193
terms and conditions of the individual's or felon's conditional 194
pardon, parole, transitional control, other form of authorized 195
release, or post-release control. 196

Sec. 2967.15. (A) If an adult parole authority field 197
officer has reasonable cause to believe that a person who is a 198
parolee or releasee, who is under transitional control, or who 199
is under another form of authorized release and who is under the 200
supervision of the adult parole authority has violated or is 201

violating the condition of a conditional pardon, parole, other 202
form of authorized release, transitional control, or post- 203
release control specified in division (A) of section 2967.131 of 204
the Revised Code or any other term or condition of the person's 205
conditional pardon, parole, other form of authorized release, 206
transitional control, or post-release control, the field officer 207
may arrest the person without a warrant or order a peace officer 208
to arrest the person without a warrant. ~~A-Except as provided in~~ 209
division (B) (5) of section 2967.131 of the Revised Code, a 210
person so arrested shall be confined in the jail of the county 211
in which the person is arrested or in another facility 212
designated by the chief of the adult parole authority until a 213
determination is made regarding the person's release status. 214
Upon making an arrest under this section, the arresting or 215
supervising adult parole authority field officer promptly shall 216
notify the superintendent of parole supervision or the 217
superintendent's designee, in writing, that the person has been 218
arrested and is in custody and submit an appropriate report of 219
the reason for the arrest. 220

(B) Except as otherwise provided in this division, prior 221
to the revocation by the adult parole authority of a person's 222
pardon, parole, or other release and prior to the imposition by 223
the parole board or adult parole authority of a new prison term 224
as a post-release control sanction for a person, the adult 225
parole authority shall grant the person a hearing in accordance 226
with rules adopted by the department of rehabilitation and 227
correction under Chapter 119. of the Revised Code. The adult 228
parole authority is not required to grant the person a hearing 229
if the person is convicted of or pleads guilty to an offense 230
that the person committed while released on a pardon, on parole, 231
or another form of release, or on post-release control and upon 232

which the revocation of the person's pardon, parole, other 233
release, or post-release control is based. 234

If a person who has been pardoned is found to be a 235
violation of the conditions of the parolee's conditional pardon 236
or commutation of sentence, the authority forthwith shall 237
transmit to the governor its recommendation concerning that 238
violation, and the violator shall be retained in custody until 239
the governor issues an order concerning that violation. 240

If the authority fails to make a determination of the case 241
of a parolee or releasee alleged to be a violator of the terms 242
and conditions of the parolee's or releasee's conditional 243
pardon, parole, other release, or post-release control sanctions 244
within a reasonable time, subject to division (B) (5) of section 245
2967.131 of the Revised Code, the parolee or releasee shall be 246
released from custody under the same terms and conditions of the 247
parolee's or releasee's original conditional pardon, parole, 248
other release, or post-release control sanctions. 249

(C) (1) If a person who is a parolee or releasee, who is 250
under transitional control, or who is under another form of 251
authorized release under the supervision of the adult parole 252
authority absconds from supervision, the supervising adult 253
parole authority field officer shall report that fact to the 254
superintendent of parole supervision, in writing, and the 255
authority shall declare that person to be a violator at large. 256
Upon being advised of the apprehension and availability for 257
return of a violator at large, the superintendent of parole 258
supervision shall determine whether the violator at large should 259
be restored to parole, transitional control, another form of 260
authorized release, or post-release control. 261

The time between the date on which a person who is a 262

parolee or other releasee is declared to be a violator or 263
violator at large and the date on which that person is returned 264
to custody in this state under the immediate control of the 265
adult parole authority shall not be counted as time served under 266
the sentence imposed on that person or as a part of the term of 267
post-release control. 268

(2) A person who is under transitional control or who is 269
under any form of authorized release under the supervision of 270
the adult parole authority is considered to be in custody while 271
under the transitional control or on release, and, if the person 272
absconds from supervision, the person may be prosecuted for the 273
offense of escape. 274

(D) A person who is a parolee or releasee, who is under 275
transitional control, or who is under another form of authorized 276
release under the supervision of the adult parole authority and 277
who has violated a term or condition of the person's conditional 278
pardon, parole, transitional control, other form of authorized 279
release, or post-release control shall be declared to be a 280
violator if the person is committed to a correctional 281
institution outside the state to serve a sentence imposed upon 282
the person by a federal court or a court of another state or if 283
the person otherwise leaves the state. 284

(E) As used in this section, "peace officer" has the same 285
meaning as in section 2935.01 of the Revised Code. 286

Section 2. That existing sections 2951.08, 2967.131, and 287
2967.15 of the Revised Code are hereby repealed. 288