

As Introduced

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

H. B. No. 796

Representative Barnes

A BILL

To amend section 5120.10 and to enact section 1
5120.101 of the Revised Code to allow a private 2
citizen to request an injunction against a jail 3
for failure to comply with minimum standards, to 4
provide a judicial procedure to ensure a jail 5
inmate receives emergency medical care, and to 6
name the act the "Prisoners' Human Rights Act." 7

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

Section 1. That section 5120.10 be amended and section 8
5120.101 of the Revised Code be enacted to read as follows: 9

Sec. 5120.10. (A) (1) The director of rehabilitation and 10
correction, by rule, shall promulgate minimum standards for 11
jails in Ohio, including minimum security jails dedicated under 12
section 341.34 or 753.21 of the Revised Code. Whenever the 13
director files a rule or an amendment to a rule in final form 14
with both the secretary of state and the director of the 15
legislative service commission pursuant to section 111.15 of the 16
Revised Code, the director of rehabilitation and correction 17
promptly shall send a copy of the rule or amendment, if the rule 18
or amendment pertains to minimum jail standards, by ordinary 19

mail to the political subdivisions or affiliations of political 20
subdivisions that operate jails to which the standards apply. 21

(2) The rules promulgated in accordance with division (A) 22
(1) of this section shall serve as criteria for the 23
investigative and supervisory powers and duties vested by 24
division (D) of this section in the division of parole and 25
community services of the department of rehabilitation and 26
correction or in another division of the department to which 27
those powers and duties are assigned. 28

(B) (1) The director may initiate an action in the court of 29
common pleas of the county in which a facility that is subject 30
to the rules promulgated under division (A) (1) of this section 31
is situated to enjoin compliance with the minimum standards for 32
jails or with the minimum standards and minimum renovation, 33
modification, and construction criteria for minimum security 34
jails. 35

(2) Any private citizen having knowledge of a jail's 36
failure to comply with the minimum standards promulgated under 37
division (A) (1) of this section may initiate an action in the 38
court of common pleas of the county in which a facility that is 39
subject to the rules promulgated under division (A) (1) of this 40
section is situated or in the municipal court of the municipal 41
corporation in which such facility is situated to enjoin 42
compliance with the minimum standards for jails. 43

(3) If a court issues an injunction against a jail 44
pursuant to division (B) (1) or (2) of this section, the court 45
shall appoint an independent monitor to ensure the jail's 46
compliance with the minimum standards. The monitor shall report 47
to the court any subsequent violations of the minimum standards, 48
and the court shall impose sanctions for the jail's failure to 49

comply with its order. 50

(C) Upon the request of an administrator of a jail 51
facility, the chief executive of a municipal corporation, or a 52
board of county commissioners, the director of rehabilitation 53
and correction or the director's designee shall grant a variance 54
from the minimum standards for jails in Ohio for a facility that 55
is subject to one of those minimum standards when the director 56
determines that strict compliance with the minimum standards 57
would cause unusual, practical difficulties or financial 58
hardship, that existing or alternative practices meet the intent 59
of the minimum standards, and that granting a variance would not 60
seriously affect the security of the facility, the supervision 61
of the inmates, or the safe, healthful operation of the 62
facility. If the director or the director's designee denies a 63
variance, the applicant may appeal the denial pursuant to 64
section 119.12 of the Revised Code. 65

(D) The following powers and duties shall be exercised by 66
the division of parole and community services unless assigned to 67
another division by the director: 68

(1) The investigation and supervision of county and 69
municipal jails, workhouses, minimum security jails, and other 70
correctional institutions and agencies; 71

(2) The review and approval of plans submitted to the 72
department of rehabilitation and correction pursuant to division 73
(E) of this section; 74

(3) The management and supervision of the adult parole 75
authority created by section 5149.02 of the Revised Code; 76

(4) The review and approval of proposals for community- 77
based correctional facilities and programs and district 78

community-based correctional facilities and programs that are 79
submitted pursuant to division (B) of section 2301.51 of the 80
Revised Code; 81

(5) The distribution of funds made available to the 82
division for purposes of assisting in the renovation, 83
maintenance, and operation of community-based correctional 84
facilities and programs and district community-based 85
correctional facilities and programs in accordance with section 86
5120.112 of the Revised Code; 87

(6) The performance of the duty imposed upon the 88
department of rehabilitation and correction in section 5149.31 89
of the Revised Code to establish and administer a program of 90
subsidies to eligible municipal corporations, counties, and 91
groups of contiguous counties for the development, 92
implementation, and operation of community-based corrections 93
programs; 94

(7) Licensing halfway houses and community residential 95
centers for the care and treatment of adult offenders in 96
accordance with section 2967.14 of the Revised Code; 97

(8) Contracting with a public or private agency or a 98
department or political subdivision of the state that operates a 99
licensed halfway house or community residential center for the 100
provision of housing, supervision, and other services to 101
parolees, releasees, persons placed under a residential 102
sanction, persons under transitional control, and other eligible 103
offenders in accordance with section 2967.14 of the Revised 104
Code. 105

Other powers and duties may be assigned by the director of 106
rehabilitation and correction to the division of parole and 107

community services. This section does not apply to the 108
department of youth services or its institutions or employees. 109

(E) No plan for any new jail, workhouse, or lockup, and no 110
plan for a substantial addition or alteration to an existing 111
jail, workhouse, or lockup, shall be adopted unless the 112
officials responsible for adopting the plan have submitted the 113
plan to the department of rehabilitation and correction for 114
approval, and the department has approved the plan as provided 115
in division (D) (2) of this section. 116

Sec. 5120.101. (A) As used in this section: 117

(1) "Emergency medical condition" has the same meaning as 118
in section 1753.28 of the Revised Code. 119

(2) "Jail" means a facility that is subject to the rules 120
promulgated under division (A) (1) of section 5120.10 of the 121
Revised Code. 122

(B) If an inmate under the care and custody of a jail has 123
an emergency medical condition and the jail is not providing 124
emergency medical treatment to that inmate, any person, 125
including an inmate, may petition the court of common pleas of 126
the county in which the jail is situated or the municipal court 127
of the municipal corporation in which the jail is situated to 128
order immediate medical care for the inmate. The person shall 129
attach a notarized affidavit to the petition stating the facts 130
upon which the petition is based. 131

(C) (1) If a person files a petition pursuant to division 132
(B) of this section, the court shall hold an ex parte hearing on 133
the same day that the petition is filed. If the petition is 134
filed on a weekend-day or legal holiday, a judge or magistrate 135
shall be made available to promptly consider the petition by 136

phone or in person, and such a consideration shall suffice as 137
the ex parte hearing for purposes of this division. The court, 138
for good cause shown, may enter an ex parte order requiring the 139
jail to provide emergency medical care or transfer the inmate to 140
an appropriate medical facility within twenty-four hours. 141

(2) Within the twenty-four hours that an ex parte order 142
issued under division (C) (1) of this section is in effect, the 143
official in charge of the jail, or the official's designee, 144
shall provide a written report to the court explaining its 145
response to the inmate's emergency medical condition. The report 146
shall indicate whether a physician or qualified health care 147
professional had previously examined the inmate, whether the 148
inmate's health records indicated a medical condition requiring 149
treatment, and whether the jail provided that treatment. 150

(D) A jail that is subject to an ex parte order issued 151
under division (C) (1) of this section may request a full 152
hearing, after complying with the order to provide emergency 153
medical care, to contest any allegations that the jail failed to 154
provide emergency medical care to the inmate. If the jail 155
requests a full hearing, the court shall schedule the full 156
hearing for a date that is within ten court days after the ex 157
parte hearing. The court shall give notice of the date, time, 158
and location of the full hearing to the person who filed the 159
petition for an ex parte order, the official in charge of the 160
jail, and the inmate whose medical condition was at issue, and 161
they all shall be given an opportunity to be heard at the full 162
hearing. The report prepared under division (C) (2) of this 163
section may be used as evidence at the full hearing. The court 164
shall determine at the full hearing whether the jail is liable 165
for failure to provide emergency medical care. An order issued 166
after a full hearing is a final, appealable order. 167

Section 2. That existing section 5120.10 of the Revised	168
Code is hereby repealed.	169
Section 3. This act shall be known as the "Prisoners'	170
Human Rights Act."	171