

5120-12-01

**Establishment of a transitional control program and minimum criteria defining eligibility.**

- (A) Section 2967.26 of the Revised Code permits the adult parole authority of the department of rehabilitation and correction to transfer eligible prisoners to transitional control status for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final one hundred eighty days of the prisoner's confinement. Eligible prisoners serving prison terms so transferred shall be confined in a suitable facility that is licensed according to division (C) of section 2967.14 of the Revised Code, or shall be confined in a residence the department has approved for this purpose and be monitored by an electronic monitoring device, as described in section ~~2929.23~~ 2929.01 of the Revised Code. The department may adopt specific policies and procedures to carry out the purposes of Chapter 5120-12 of the Administrative Code.
- (B) It is the intent of the department of rehabilitation and correction to establish a transitional control program to achieve the following goals:
- (1) To make effective use of the limited number of prison beds available by utilizing halfway house facility beds or by monitoring with an electronic monitoring device at approved residences for prisoners who are screened as appropriate for transfer to transitional control status.
  - (2) To provide a controlled, transitional period for screened prisoners to improve their education, vocational skills, or employability and to re-establish family ties and community support by the gradual reentry of prisoners into their home communities in a self-sufficient and productive manner.
- (C) A prisoner placed into the transitional control program shall retain the status of inmate, but the department of rehabilitation and correction has the authority to permit the prisoner to leave the facility or residence to which he is assigned to engage in employment; educational or vocational training; treatment programming; reestablish and maintain ties with family members; or for other activities approved by the department.
- (D) A prisoner is required to remain at the facility or approved residence to which he is assigned at all times, unless authorized to leave. If authorized to leave, the prisoner is required to return at the designated time. Leaving without authorization or failure to return at the designated time shall be considered by the department of rehabilitation and correction to be an escape pursuant to section 2921.34 of the Revised Code. If so, the department may declare the prisoner to be an escapee, stop the running of his sentence, and request prosecution.
- (E) For purposes of this rule, and other rules in this chapter of the Administrative Code,

the following definitions shall apply:

- (1) "Actual incarceration": a sentence required by statute to be served in prison for offenders convicted of offenses committed prior to July 1, 1996.
- (2) "Adult parole authority" (APA): that section of the division of parole and community services that includes probation development, the parole board, parole supervision and interstate compact of probation and parole.
- (3) "Bureau of community sanctions": that bureau within the division of parole and community services that includes community-based correctional facilities, community corrections act programs and halfway house contracts.
- (4) "Business days": the days of the week excluding Saturday, Sunday and holidays.
- (5) "Conditions of supervision": those general and special rules and regulations with which offenders are expected to comply as part of the criminal sentencing sanction of basic supervision or intensive supervision, as requirements of probation or parole supervision under former law or as requirements of other forms of community supervision. Conditions of supervision include the requirements that an offender obey the law, maintain appropriate contact with the supervising officer, and obtain permission from the supervising officer before changing residence.
- (6) "County in which the prisoner was sentenced": in accordance with division (A)(2) of section 2967.26 of the Revised Code, the court of the county in which the indictment against the prisoner was found or issued. (This court may disapprove of the transfer to transitional control of prisoners serving a term of imprisonment for an offense committed on or after July 1, 1996).
- (7) "Detainer": a request or notice filed by a criminal justice agency with an institution in which the prisoner is incarcerated, asking the institution either to hold the prisoner for the agency or to notify the agency when release of the prisoner is imminent.
- (8) "Division of parole and community services" (DPSC): that division of the department of rehabilitation and correction that includes the adult parole authority, the bureau of community sanctions and the bureau of adult detention and the office of victim services.
- (9) "Electronic Monitoring": monitoring through the use of an electronic monitoring device.

- (10) "Electronic monitoring device": in accordance with division (VV) of section 2929.01 of the Revised Code, any device that can be operated by electrical or battery power that includes a transmitter and receiver and can determine the location of a subject person at any time, or at a designated point in time through the use of a central monitoring computer or through other means. This includes but is not limited to satellite technology.
- ~~(9)~~(11) "Facility director": the individual designated as the head of a community correction center, halfway house residential center or other community-based facility.
- ~~(10)~~(12) "Halfway house": any private non-profit agency licensed to operate a residential facility that has a current contract with the department of rehabilitation and correction.
- (13) "Investigating Authority": those individuals responsible for conducting home investigations, which includes employees of the adult parole authority and or halfway house staff.
- ~~(11)~~(14) "Licensed facility": includes but is not limited to halfway houses, hospitals, community centers and similar facilities that have been licensed by the division of parole and community services to house eligible offenders.
- ~~(12)~~(15) "Mandatory sentence": a sentence required by statute to be served in prison. Examples include convictions for gun specifications, repeat violent offenders (RVO), major drug offender (MDO) and some drug offenses.
- ~~(13)~~(16) "Offender": any individual under the supervision of the adult parole authority.
- ~~(14)~~(17) "Parole": the release from confinement in any state penal or reformatory institution by the adult parole authority that is created by section 5149.02 of the Revised Code and under any terms and for any period of time that is prescribed by the authority in its published rules and official minutes. A parolee so released shall be supervised by the authority. Legal custody of a parolee shall remain in the department of rehabilitation and correction until a final release is granted by the authority pursuant to section 2967.16 of the Revised Code. The term "parole", as defined in this paragraph, applies to all persons who have committed felonies and have been sent to prison prior to July 1, 1996.
- ~~(15)~~(18) "Parole officer": a person employed as a parole officer of the adult parole

authority who supervises offenders and/or conducts investigations.

~~(16)~~(19) "Post release control": a period of supervision by the APA adult parole authority after the offender's release from prison that includes one or more sanctions as described in section 2929.16, 2929.17 or 2929.18 of the Revised Code.

~~(17)~~(20) "Relative" or "immediate family": parents, spouse, siblings, children, grandparents, or legal guardians of the offender. Persons who have served as substitute parents (in loco parentis) during the offender's formative years shall also be included when such status can be proven. In accordance with the law, adoptive or step-relationships shall be the same as natural relationships. Proof may be required for some relationships, including but not limited to birth certificates and marriage certificates.

~~(18)~~(21) "Special conditions of supervision": special and specific conditions for individual cases that are related to the previous offense pattern and the probability of further serious law violations by the individual offender. Special conditions may be imposed by the court, by the parole board or by the parole supervision section of the adult parole authority pursuant to policy.

~~(19)~~(22) "Staffing": the process in which information is shared between the supervising officer and the supervisor or designee to ensure appropriate supervision of the offender and/or report preparation.

~~(23)~~ "Supervising Authority": includes employees of a halfway house and or the adult parole authority designated to provide supervision to offenders placed on transitional control.

~~(20)~~(24) "Supervising officer": a person employed as a parole officer of the APA adult parole authority who supervises offenders.

~~(21)~~(25) "Transfer to transitional control status": movement of a prisoner from a prison to the transitional control program which involves closely monitored supervision and confinement in the community, such as a stay in a licensed facility or restriction to an approved residence on electronic monitoring, during the final one hundred eighty days of a prisoner's confinement, in accordance with section 2967.26 of the Revised Code.

~~(22)~~(26) "Unit": the assignment and alignment of staff into an organized grouping that is under the immediate direction of a supervisor. This subdivision can be multi-functional in providing field services and community court assistance.

- ~~(23)~~(27) "Unit supervisor": a person employed by the APA adult parole authority as a parole services supervisor who supervises parole officers.
- ~~(24)~~(28) "Violation behavior": one or more acts committed by an offender during the period of APA adult parole authority supervision that are a violation of law or a violation of the conditions of release.
- ~~(25)~~(29) "Violation hearing": an administrative hearing conducted by a representative of the parole board or designee of the chief of the APA adult parole authority to determine whether an offender has violated one or more of the conditions of release and, if so, the specific sanction that should be imposed upon the offender.
- ~~(26)~~(30) "Violation sanction": an official response by the adult parole authority to a specific documented violation of a condition of supervision. A sanction is a mechanism used to address and impact an offender's violation behavior. A sanction may be located in the community or in a prison.
- ~~(27)~~(31) "Violator at large" (VAL): an offender defined by section 2967.15 of the Revised Code who absconds the supervision of the adult parole authority.
- (F) In order to be eligible for transitional control transfer pursuant to section 2967.26 of the Revised Code, a prisoner must meet all of the following minimum criteria:
- (1) A prisoner serving a prison term for an offense committed prior to the effective date of the statute authorizing the transitional control program is eligible if, at the time at which eligibility is being determined, the prisoner would have been eligible for a furlough under section 2967.26 of the Revised Code as that section existed immediately prior to the effective date of the statute authorizing the transitional control program, or would have been eligible for conditional release under section 2967.23 of the Revised Code as that section existed immediately prior to the effective date of the statute authorizing the transitional control program.
  - (2) When transferred, prisoners shall not have longer than one-hundred and eighty days of imprisonment to serve until the prisoner's parole eligibility, as defined under section 2967.13 of the Revised Code, or no longer than one-hundred and eighty days of imprisonment to serve until the expiration of the prisoner's stated prison term.
  - (3) Prisoners serving an actual incarceration prison sentence or serving a mandatory prison sentence are not eligible until after expiration of the actual

incarceration or mandatory sentence.

- (4) Prisoners shall not be serving a sentence of life imprisonment, ~~imposed for an offense committed on or after October 19, 1981, or serving a prison term or term of life imprisonment without parole imposed pursuant to section 2971.03 of the Revised Code.~~
- (5) Prisoners serving a sentence for a crime committed on or after July 1, 1996 shall not be disapproved for transfer to transitional control by the court of common pleas of the county in which the prisoner was sentenced.
- (6) The prisoner does not have a record of more than one commitment for an offense of violence as defined in division (A)(9) of section 2901.01 of the Revised Code, which was or is a felony offense including the present commitment, except violations of section 2911.12, burglary; section 2923.12, carrying concealed weapons; or section 2923.13, having weapons while under disability.
- (7) Prisoners shall not have a record of more than five felony commitments, including the present commitment, regardless of the offenses.
- (8) Prisoners shall not have a designated security level of level 3, level 4 or level 5. ~~Any inmate who was classified as "medium two" on December 31, 1998 and who would otherwise be eligible shall continue to be eligible for transitional control, unless the inmate's security level is subsequently increased to "close" or higher.~~
- (9) Prisoners shall not be currently confined in local control or administrative control as a result of any disciplinary action.
- (10) Prisoners shall not be subject to a detainer for any sentence of imprisonment imposed but not fully served, for any post release control, parole, or probation violation, or is subject to a wanted detainer or a notify detainer for any untried felony charge or for any U.S. immigration action.
- (11) Prisoners shall not have any convictions ~~been convicted in the past ten years, nor is the prisoner presently serving a term of imprisonment,~~ for a violation of any sex offense included in Chapter 2907. of the Revised Code.
- (12) Prisoners shall not presently be in prison for a violation of section 2921.34, escape, or section 2923.02, attempt, of the Revised Code where the underlying offense attempted is prohibited by this paragraph, or for a

violation of aggravated vehicular assault, section 2903.08, or vehicular homicide, section 2903.07, or aggravated vehicular homicide, section 2903.06 of the Revised Code.

(13) Prisoners shall not have any past convictions of arson or aggravated arson nor shall prisoners be presently serving a term of imprisonment for a violation of arson or aggravated arson included in section 2909.02 and section 2909.03 of the Revised Code.

Effective:

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Certification

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Date

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