

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 2929.01 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 field services, 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 , halfway houses, and other community residential centers.
- (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 required to comply as part of the criminal sentencing sanction of supervision, probation or parole supervision, or other forms of community supervision.
- (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 filed by a criminal justice agency with the institution in which a 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" (DPCS): that division of the department of rehabilitation and correction that includes the adult parole authority, the bureau of community sanctions, the bureau of adult detention, and the office of victim services.
- (9) "Electronic monitoring": a specified period during which an offender is restricted to a specified premises during which period the offender wears an electronic monitoring device and meets all other conditions imposed upon the offender.

- (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.
- (11) "Facility director": the individual designated as the head of a community correction center, halfway house residential center or other community-based facility.
- (12) "Halfway house": a facility licensed by the department of rehabilitation and correction under section 2967.14 of the Revised Code as a suitable facility for the care and treatment of adult offenders.
- (13) "Investigating authority": those individuals responsible for conducting home investigations, which includes employees of the adult parole authority and or halfway house staff.
- (14) "Licensed facility": includes but is not limited to halfway houses, community residential centers and similar facilities that have been licensed by the division of parole and community services to house eligible offenders.
- (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.
- (16) "Offender": any individual under the supervision of the adult parole authority.
- (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 adult parole 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 adult parole authority pursuant to section 2967.16 of the Revised Code. The term "parole", as defined in this paragraph, applies to persons sentenced for felonies prior to July 1, 1996.
- (18) "Parole officer": a person employed as a parole officer of the adult parole authority who supervises offenders and/or conducts investigations.

- (19) "Post-release control": a period of supervision for an offender by the adult parole authority following release from imprisonment that includes one or more post-release control sanctions imposed under section 2967.28 of the Revised Code.
- (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.
- (21) "Special conditions of supervision": special and specific conditions for individual offenders with which they must comply, that are related to the offender's previous offense pattern, and that are related to 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 field services section of the adult parole authority.
- (22) "Staffing": the process in which information is shared between the supervising officer, the supervisor designee, or any other authorized representative of the department of rehabilitation and correction to ensure appropriate supervision of the offender and/or report preparation.
- (23) "Supervising authority": the entity designated to provide supervision to offenders.
- (24) "Supervising officer": a person employed as a parole officer of the adult parole authority who supervises offenders.
- (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.
- (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.

- (27) "Unit supervisor": a person employed by the adult parole authority as a parole services supervisor who supervises parole officers.
  - (28) "Violation behavior": conduct by an offender during the period of adult parole authority supervision that is a violation of the conditions of release.
  - (29) "Violation hearing": an administrative hearing conducted by a representative or representatives of the parole board or designee of the chief of the 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.
  - (30) "Violation sanction": any penalty imposed on an offender who is found guilty of an offense or a violation of a condition of supervision. A sanction may be located in the community or in a prison.
  - (31) "Violator at large" (VAL): pursuant to section 2967.15 of the Revised Code, a person who is a parolee or releasee, who is under transitional control, or who is under another form of authorized release under the supervision of the adult parole authority who absconds from supervision.
- (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.
- (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.
- (9) Prisoners shall not be currently confined in any institution control status 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 past or current convictions for a violation of any sex offense included in Chapter 2907. of the Revised Code, except for violations of solicitation, section 2907.24, or prostitution, section 2907.25 of the Revised Code.
- (12) Prisoners shall not have any past or current convictions for escape, section 2921.34, aggravated vehicular assault, section 2903.08, vehicular homicide, section 2903.07, or aggravated vehicular homicide, section 2903.06 of the Revised Code.
- (13) Prisoners shall not have any past or current convictions for arson, section 2909.03, or aggravated arson, section 2909.02 of the Revised Code.

- (14) Prisoners shall not have any past or current convictions for conspiracy, section 2923.01, attempt, section 2923.02, or complicity, section 2923.03 of the Revised Code where the underlying offense is prohibited by this rule.

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WITHDRAWN ELECTRONICALLY

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Certification

02/04/2013

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Date

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