

5120-2-04

**Reduction of minimum and maximum or definite sentence or stated prison term for jail time credit.**

- (A) The department of rehabilitation and correction shall reduce the minimum and maximum sentence, where applicable, the definite sentence or the stated prison term of an offender by the total number of days that the offender was confined for any reason arising out of the offense for which he was convicted and sentenced, including confinement in lieu of bail while awaiting trial, confinement for examination to determine his competence to stand trial or sanity, confinement in a community-based correctional facility and program or district community-based correctional facility and program, where applicable, and confinement while awaiting transportation to the place where he is to serve his sentence.
- (B) The sentencing court determines the amount of time the offender served before being sentenced. The court must make a factual determination of the number of days credit to which the offender is entitled by law and, if the offender is committed to a state correctional institution, forward a statement of the number of days of confinement which he is entitled by law to have credited. This information is required to be included within the journal entry imposing the sentence or stated prison term.
- (C) When the sheriff delivers the offender to the department of rehabilitation and correction's reception center, he shall present the managing officer with a copy of the offender's sentence, stated prison term or combination thereof that specifies the total number of days, if any, the offender was confined for any reason prior to conviction and sentence and a record of the days he was confined for the offense between the date of sentencing and the date committed to the reception center.
- (D) The number of days, if any, specified in the court's journal entry committing the offender to the department is the court's finding of the number of days the offender is entitled to by law, up to and including the date of the journal entry. The bureau of sentence computation shall reduce the offender's minimum and maximum, definite sentence or stated prison term by the number of days specified in the entry, plus the number of days the offender was confined as a result of the offense, between the date of the entry and the date committed to the department, as reflected in the sheriff's record.
- (E) If the court's journal entry of sentence or stated prison term fails to specify that the offender is entitled to any credit up to the date of sentencing, the bureau of sentence computation shall reduce the sentence or stated prison term only by the number of days the offender was confined between the date of the sentencing entry and the date the offender was committed to the department.
- (F) If an offender is serving two or more sentences, stated prison terms or combination thereof concurrently, the department shall independently reduce each sentence or

stated prison term for the number of days confined for that offense. Release of the offender shall be based upon the longest definite, minimum and/or maximum sentence or stated prison term after reduction for jail time credit.

(G) If an offender is serving two or more sentences, stated prison terms or combination thereof consecutively, the bureau of sentence computation shall aggregate the sentences, stated prison terms or combination thereof pursuant to rule 5120-2-03, 5120-2-03.1, or 5120-2-03 of the Administrative Code. The department of rehabilitation and correction shall reduce the aggregate definite sentence, aggregate stated prison term or aggregate minimum and aggregate maximum sentences or combination thereof, as determined by rule 5120-02-03, 5120-2-03.1 or 5120-2-03.2 of the Administrative Code, by the total number of days the offender was confined for all of the offenses for which the consecutive sentences, stated prison term or combination thereof were imposed. Generally, when consecutive sentences, stated prison terms or combination thereof are imposed by multiple journal entries, the bureau of sentence computation shall reduce the aggregate sentence, stated prison terms or combination thereof by the sum of the days specified in each of the journal entries plus the number of days the offender was confined between the date of the last journal entry and the date committed to the institution. However, if any of the journal entries received on or after January 1, 1992, indicates that any particular day of confinement has been reported on more than one journal entry, the aggregate sentence, stated prison terms or combination thereof shall be reduced by one day for each day the offender was confined. If any of the journal entries received on or after January 1, 1992, indicates that any particular day of confinement has been reported more than once, the rules set forth hereinafter should be followed in determining whether any particular day of confinement has been reported more than once.

(1) When an offender receives consecutive sentences, stated prison terms or combination thereof from different counties, both the sentences, and/or prison terms and the jail time credit in each journal entry should be aggregated, unless other wise indicated. However, the transport time shall not be aggregated for each sentence and/or prison term, but rather shall only be credited one time.

(2) When an offender receives consecutive sentences, stated prison terms or combination thereof from the same county, the sentences and/or stated prison term shall be aggregated, the transport time shall not be aggregated, and jail time credit shall be determined in the following manner:

(a) If the number of days of jail time credit given for each sentence and/or stated prison term is identical, do not aggregate the jail time credit, but rather, only give the credit one time, unless otherwise ordered or indicated in the journal entry. The sheriff's letter may be used to

confirm duplicate dates of confinement.

(b) If the number of days of jail time credit for each sentence and/or stated prison term is not identical, aggregate the credit in the following situations:

(i) The journal entry orders or indicates that the jail time credit shall be aggregated.

(ii) The dates of confinement are not indicated in the journal entry or the sheriff's letter and there is no indication whether any of the dates of confinement are reported more than once.

(c) If the number of days of jail time credit for each sentence and/or stated prison term is not identical and the journal entry does not provide otherwise, do not aggregate the credit in the following situations:

(i) The dates of confinement are indicated in the journal entry or the sheriff's letter and some or all of the dates are reported more than once. In such situations, the aggregate sentence, stated prison term or combination thereof shall be reduced by only one day for each day the offender was confined as indicated by the dates.

(ii) The journal entry orders or indicates that the jail time credit shall not be aggregated. In such situations, the aggregate sentence, stated prison term or combination thereof shall be reduced by the longest single amount of jail time credit ordered.

(3) When an offender goes out to court and receives an additional sentence, and/or stated prison term to run consecutive to his current sentence, stated prison terms or combination thereof, the sentences and/or stated prison terms shall be aggregated, but the offender shall not be given jail time credit for the period of time he was absent with leave (AWL) on the additional charges.

(H) The bureau of sentence computation shall not reduce a sentence, stated prison term or combination thereof for jail time credit except in accordance with this rule. A party questioning either the number of days contained in the journal entry or the record of the sheriff shall be instructed to address his concerns to the court or sheriff. Unless the court issues an entry modifying the amount of jail time credit or the sheriff sends the institution corrected information about time confined awaiting transport, no change will be made.

- (I) If an offender receives a sentence, or stated prison term to this department consecutive to or concurrent with a sentence in an institution in another state or a federal institution, no action will be taken towards considering him for parole or otherwise terminating his sentence, or stated prison term until the offender is either electronically or physically committed to the custody of this department. At that time, the offender's minimum and maximum, definite sentence or stated prison term shall be reduced pursuant to this rule by the total number of days confined for the crime as certified by the court and the sheriff.

Effective: 05/12/2013

R.C. 119.032 review dates: 01/10/2013 and 05/12/2018

CERTIFIED ELECTRONICALLY

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Certification

05/01/2013

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Date

Promulgated Under: 111.15  
Statutory Authority: 5120.01  
Rule Amplifies: 2967.191, 5120.15  
Prior Effective Dates: 11/12/75, 1/20/80, 8/1/80, 1/16/84, 11/30/87 (Emer.),  
2/29/88, 7/1/93, 3/13/98, 4/10/2003