



## Ohio Revised Code

### Section 2152.22 Child committed to legal custody of department of youth services; judicial release.

Effective: September 10, 2012

Legislation: House Bill 487 - 129th General Assembly

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(A) When a child is committed to the legal custody of the department of youth services under this chapter, the juvenile court relinquishes control with respect to the child so committed, except as provided in divisions (B), (C), (D), and (H) of this section or in sections 2152.82 to 2152.86 of the Revised Code. Subject to divisions (B), (C), and (D) of this section, sections 2151.353 and 2151.412 to 2151.421 of the Revised Code, sections 2152.82 to 2152.86 of the Revised Code, and any other provision of law that specifies a different duration for a dispositional order, all other dispositional orders made by the court under this chapter shall be temporary and shall continue for a period that is designated by the court in its order, until terminated or modified by the court or until the child attains twenty-one years of age.

The department shall not release the child from a department facility and as a result shall not discharge the child or order the child's release on supervised release prior to the expiration of the minimum period specified by the court in division (A)(1) of section 2152.16 of the Revised Code and any term of commitment imposed under section 2152.17 of the Revised Code or prior to the child's attainment of twenty-one years of age, except upon the order of a court pursuant to division (B), (C), or (D) of this section or in accordance with section 5139.54 of the Revised Code.

(B)(1) Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to court supervision under this division during the first half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the first half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (B)(1) of this



section, it shall request the court that committed the child to grant a judicial release of the child to court supervision under this division. During whichever of those periods is applicable, the child or the parents of the child also may request that court to grant a judicial release of the child to court supervision. Upon receipt of a request for a judicial release to court supervision under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following: approve the release by journal entry; schedule within thirty days after the request is received a time for a hearing on whether the child is to be released; or reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, the child or the child's parent may make one additional request for a judicial release to court supervision within the applicable period. The additional request may be made no earlier than thirty days after the filing of the prior request for a judicial release to court supervision. Upon the filing of a second request for a judicial release to court supervision, the court shall either approve or disapprove the release by journal entry or schedule within thirty days after the request is received a time for a hearing on whether the child is to be released.

(3) If a court schedules a hearing under division (B)(2) of this section, it may order the department to deliver the child to the court on the date set for the hearing and may order the department to present to the court a report on the child's progress in the institution to which the child was committed and recommendations for conditions of supervision of the child by the court after release. The court may conduct the hearing without the child being present. The court shall determine at the hearing whether the child should be granted a judicial release to court supervision.

If the court approves the release under this division, it shall order its staff to prepare a written treatment and rehabilitation plan for the child that may include any conditions of the child's release that were recommended by the department and approved by the court. The committing court shall send the juvenile court of the county in which the child is placed a copy of the recommended plan. The court of the county in which the child is placed may adopt the recommended conditions set by the committing court as an order of the court and may add any additional consistent conditions it considers appropriate. If a child is granted a judicial release to court supervision, the release discharges the child from the custody of the department of youth services.



(C)(1) Unless the court grants judicial release under division (D)(1)(b) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child to department of youth services supervision under this division during the second half of the prescribed minimum term for which the child was committed to the department or, if the child was committed to the department until the child attains twenty-one years of age, during the second half of the prescribed period of commitment that begins on the first day of commitment and ends on the child's twenty-first birthday, provided any commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code has ended.

(2) If the department desires to release a child during a period specified in division (C)(1) of this section, it shall request the court that committed the child to grant a judicial release to department of youth services supervision. During whichever of those periods is applicable, the child or the child's parent also may request the court that committed the child to grant a judicial release to department of youth services supervision. Upon receipt of a request for judicial release to department of youth services supervision, the child, or the child's parent, or upon its own motion at any time during that period, the court shall do one of the following: approve the release by journal entry; schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be released; or reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for release under this division by the child or the child's parent, the child or the child's parent may make one or more subsequent requests for a release within the applicable period, but may make no more than one request during each period of ninety days that the child is in a secure department facility after the filing of a prior request for early release. Upon the filing of a request for release under this division subsequent to an initial request, the court shall either approve or disapprove the release by journal entry or schedule a time within thirty days after receipt of the request for a hearing on whether the child is to be released.

(3) If a court schedules a hearing under division (C)(2) of this section, it may order the department to deliver the child to the court on the date set for the hearing and shall order the department to present to the court at that time a treatment plan for the child's post-institutional care. The court may conduct the hearing without the child being present. The court shall determine at the hearing whether the child should be granted a judicial release to department of youth services supervision.



If the court approves the judicial release to department of youth services supervision, the department shall prepare a written treatment and rehabilitation plan for the child pursuant to division (F) of this section that shall include the conditions of the child's release. It shall send the committing court and the juvenile court of the county in which the child is placed a copy of the plan. The court of the county in which the child is placed may adopt the conditions set by the department as an order of the court and may add any additional consistent conditions it considers appropriate, provided that the court may not add any condition that decreases the level or degree of supervision specified by the department in its plan, that substantially increases the financial burden of supervision that will be experienced by the department, or that alters the placement specified by the department in its plan. If the court of the county in which the child is placed adds to the department's plan any additional conditions, it shall enter those additional conditions in its journal and shall send to the department a copy of the journal entry of the additional conditions.

If the court approves the judicial release to department of youth services supervision, the actual date on which the department shall release the child is contingent upon the department finding a suitable placement for the child. If the child is to be returned to the child's home, the department shall return the child on the date that the court schedules for the child's release or shall bear the expense of any additional time that the child remains in a department facility. If the child is unable to return to the child's home, the department shall exercise reasonable diligence in finding a suitable placement for the child, and the child shall remain in a department facility while the department finds the suitable placement.

(D)(1) Subject to division (D)(3) of this section, the court that commits a delinquent child to the department of youth services may grant judicial release of the child under this division at any time after the expiration of one of the following periods of time:

(a) Except as otherwise provided in division (D)(1)(b) of this section, if the child was committed to the department for a prescribed minimum period and a maximum period not to exceed the child's attainment of twenty-one years, the court may grant judicial release of the child at any time after the expiration of the prescribed minimum term for which the child was committed to the department.

(b) If the child was committed to the department for both one or more definite periods under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code and a period of the type



described in division (D)(1)(a) of this section, all of the prescribed minimum periods of commitment imposed under division (A), (B), (C), or (D) of section 2152.17 of the Revised Code and the prescribed period of commitment of the type described in division (D)(1)(a) of this section shall be aggregated for purposes of this division, and the court may grant judicial release of the child at any time after the expiration of one year after the child begins serving the aggregate period of commitment.

(2) If a court grants a judicial release of a child under division (D)(1) of this section, the release shall be a judicial release to department of youth services supervision, if the release is granted during a period described in division (C)(1) of this section, and the second and third paragraphs of division (C)(3) of this section apply regarding the release. In all other cases, the release shall be a judicial release to court supervision, and the second paragraph of division (B)(3) of this section applies regarding the release.

(3) A court at the time of making the disposition of a child shall provide notice in the order of disposition that the judge is retaining jurisdiction over the child for the purpose of a possible grant of judicial release of the child under division (D)(1) of this section. The failure of a court to provide this notice does not affect the authority of the court to grant a judicial release under that division and does not constitute grounds for setting aside the child's delinquent child adjudication or disposition or for granting any post-adjudication relief to the child.

(4) The department of youth services, a child committed to the department, or the parents of the child, during a period specified in division (D)(1) of this section, may request the court that committed the child to grant a judicial release of the child under that division. Upon receipt of a request for judicial release of a child under this division from the department, the child, or the child's parent, or upon its own motion, the court that committed the child shall do one of the following:

(a) Approve the request by journal entry;

(b) Schedule within thirty days after the request is received a time for a hearing on whether the child is to be released;



(c) Reject the request by journal entry without conducting a hearing.

If the court rejects an initial request for a release under this division by the child or the child's parent, division (C)(2) of this section applies regarding the making of additional requests.

If the court schedules a hearing under this division to consider the judicial release, the first paragraph of division (B)(3) of this section applies regarding the hearing.

(E) If a child is released under division (B), (C), or (D) of this section and the court of the county in which the child is placed has reason to believe that the child's department is not in accordance with the conditions of the child's judicial release, the court of the county in which the child is placed shall schedule a time for a hearing to determine whether the child violated any of the post-release conditions, and, if the child was released under division (C) of this section or under division (D) of this section under department supervision, divisions (A) to (E) of section 5139.52 of the Revised Code apply regarding the child.

If that court determines at the hearing that the child violated any of the post-release conditions, the court, if it determines that the violation was a serious violation, may order the child to be returned to the department for institutionalization, consistent with the original order of commitment of the child, or in any case may make any other disposition of the child authorized by law that the court considers proper. If the court of the county in which the child is placed orders the child to be returned to a department of youth services institution, the time during which the child was held in a secure department facility prior to the child's judicial release shall be considered as time served in fulfilling the prescribed period of institutionalization that is applicable to the child under the child's original order of commitment. If the court orders the child returned to a department institution, the child shall remain in institutional care for a minimum of three months or until the child successfully completes a revocation program of a duration of not less than thirty days operated either by the department or by an entity with which the department has contracted to provide a revocation program.

(F) The department of youth services, prior to the release of a child pursuant to division (C) of this section or pursuant to division (D) of this section on department supervision, shall do all of the following:



- (1) After reviewing the child's rehabilitative progress history and medical and educational records, prepare a written treatment and rehabilitation plan for the child that includes conditions of the release;
- (2) Completely discuss the conditions of the plan prepared pursuant to division (F)(1) of this section and the possible penalties for violation of the plan with the child and the child's parents, guardian, or legal custodian;
- (3) Have the plan prepared pursuant to division (F)(1) of this section signed by the child, the child's parents, legal guardian, or custodian, and any authority or person that is to supervise, control, and provide supportive assistance to the child at the time of the child's release pursuant to division (C) or (D) of this section;
- (4) Prior to the child's release, file a copy of the treatment plan prepared pursuant to division (F)(1) of this section with the committing court and the juvenile court of the county in which the child is to be placed.
- (G) The department of youth services shall file a written progress report with the committing court regarding each child released pursuant to division (C) of this section or released pursuant to division (D) of this section on judicial release to department supervision at least once every thirty days unless specifically directed otherwise by the court. The report shall indicate the treatment and rehabilitative progress of the child and the child's family, if applicable, and shall include any suggestions for altering the program, custody, living arrangements, or treatment. The department shall retain legal custody of a child so released until it discharges the child or until the custody is terminated as otherwise provided by law.
- (H) When a child is committed to the legal custody of the department of youth services, the court retains jurisdiction to perform the functions specified in section 5139.51 of the Revised Code with respect to the granting of supervised release by the release authority and to perform the functions specified in section 5139.52 of the Revised Code with respect to violations of the conditions of supervised release granted by the release authority and to the revocation of supervised release granted by the release authority.