



Ohio Administrative Code

Rule 5120-2-06 Earned credit for productive program participation.

Effective: May 4, 2020

(A) Except as otherwise provided in this rule, any person confined in a state correctional institution may earn credit as a deduction from the person's sentence for each full month of productive participation in any academic or vocational program, prison industry, or alcohol and drug treatment, unit management program, or mental health program specifically approved by the director. A person may also earn credit as a deduction from the person's sentence for productively participating in a substance use disorder treatment program established by the department pursuant to section 5120.035 of the Revised Code. A person earning credit towards a sentence pursuant to section 2967.193 of House Bill 261 of the 117th General Assembly, for a crime committed prior to July 1, 1996 may earn two days of credit for such participation as described in paragraph (I) of this rule as a deduction from the person's minimum or definite sentence. A person earning credit towards a sentence for a crime committed on or after July 1, 1996 or otherwise sentenced pursuant to section 2967.193 of Senate Bill 2 of the 121st General Assembly, may earn one day of credit from the person's stated prison term. A person earning credit towards a sentence for an offense committed on or after September 30, 2011 may earn one day of credit or five days of credit as provided in paragraph (K) of this rule. Unless the person is serving a mandatory prison term, a prison term imposed for an offense of violence, or a prison term imposed for a sexually oriented offense, notwithstanding the maximum aggregate days of credit specified in paragraph (Y) of this rule, a person who successfully completes a program described in paragraph (H) of this rule shall earn a one-time credit of ninety days toward satisfaction of the person's stated prison term or a one-time ten per cent reduction of the person's stated prison term, whichever is less.

(B) The director or designee shall issue and maintain a list containing the specific name of each approved program at each institution. Programs may be added or deleted according to a procedure approved by the director. No inmate shall be awarded earned credit for participating in any program not specifically named on the director's list. The director's approved list shall be verified annually for each institution through the department's audit process.

(C) The following types of programs may be approved for earned credit by the director as academic



or vocational educational programs:

(1) Adult basic literacy education (A.B.L.E.);

(2) Pre-GED;

(3) GED and high school;

(4) College programs;

(5) Vocational and apprenticeship programs;

(6) Work extension program job assignments, where after successful completion, during the current incarceration, of an approved related institutional training program, the inmate applies the learned skills in the performance of the inmate's duties in the inmate's current institutional job assignment.

(D) Prison industries that may be approved for earned credit by the director are those operated through Ohio penal industries.

(E) The following types of programs may be approved for earned credit by the director as alcohol and drug treatment programs:

(1) Therapeutic communities;

(2) Residential alcohol and drug treatment programs;

(3) Alcohol and drug day treatment programs;

(4) Alcohol and drug treatment outpatient group counseling.

(5) Continuing care programs.

(6) Substance use disorder treatment program established by the department pursuant to section



5120.035 of the Revised Code.

(F) The following types of programs may be approved for earned credit by the director as mental health programs:

- (1) Residential mental health programs;
- (2) Mental health day treatment programs.

(G) The following types of programs may be approved for earned credit by the director as unit management programs:

- (1) Cognitive behavioral program;
- (2) Reintegration unit program.

(H) Successful completion of the following types of programs may be approved by the director for a one-time credit of ninety days toward satisfaction of the stated prison term or a ten per cent reduction of the stated prison term, whichever is less:

- (1) An Ohio high school diploma or Ohio certificate of high school equivalence certified by the Ohio central school system;
- (2) A therapeutic drug community program;
- (3) All three phases of the intensive outpatient drug treatment program;
- (4) A career technical vocational school program;
- (5) A college certification program;
- (6) The criteria for a certificate of achievement and employability as specified in division (A)(1) of section 2961.22 of the Revised Code.



(I) Inmates earning credit pursuant to House Bill 261 of the 117th General Assembly, may earn two days of credit for participating in an approved academic or vocational or prison industries program as defined in paragraphs (C) and (D) of this rule in addition to two days credit for participating in programs listed in paragraph (E) or (F) of this rule. However, no inmate sentenced under House Bill 261 of the 117th General Assembly shall earn days of credit for participation in more than one academic or vocational education program or prison industry during a particular month. No inmate sentenced under House Bill 261 of the 117th General Assembly shall earn days of credit for participating in more than one residential or outpatient alcohol, drug, sex offender, or therapeutic community, or mental health treatment program during a particular month. Once an inmate earning credit pursuant to House Bill 261 of the 117th General Assembly has earned and has been properly credited with days of credit pursuant to this rule, the credit earned shall not be forfeited for any reason. Such inmates, therefore, are exempt from paragraph (S) of this rule, which describes conditions for possible withdrawal of previously earned credit for those inmates earning credit under Senate Bill 2 of the 121st General Assembly or House Bill 86 of the 129th General Assembly.

(J) Except as otherwise provided in paragraph (X) of this rule, inmates earning credit pursuant to this rule sentenced under Senate Bill 2 of the 121st General Assembly for an offense committed before September 30, 2011 may earn only one day of credit per month regardless of program participation, and such credit may be forfeited pursuant to paragraph (S) of this rule.

(K) Except as otherwise provided in paragraphs (L) and (X) of this rule, inmates earning credit pursuant to this rule sentenced under House Bill 86 of the 129th General Assembly for an offense committed on or after September 30, 2011 may earn one day or five days of credit per month as prescribed in paragraph (K)(1), (K)(2), (K)(3), or (K)(4) of this rule. Such credit may be forfeited pursuant to paragraph (S) of this rule.

(1) An inmate may earn one day of credit if the most serious offense for which the offender is incarcerated is a first or second degree felony that is any of the following:

(a) Involuntary manslaughter (division (A) of section 2903.04 of the Revised Code);

(b) Voluntary manslaughter (section 2903.03 of the Revised Code);



- (c) Felonious assault (section 2903.11 of the Revised Code);
- (d) Permitting child abuse (section 2903.15 of the Revised Code);
- (e) Kidnapping (section 2905.01 of the Revised Code);
- (f) Soliciting (section 2907.24 of the Revised Code);
- (g) Prostitution (section 2907.25 of the Revised Code);
- (h) Aggravated arson (section 2909.02 of the Revised Code);
- (i) Vehicular vandalism (section 2909.09 of the Revised Code);
- (j) Railroad vandalism (section 2909.10 of the Revised Code);
- (k) Railroad grade crossing device vandalism (section 2909.101 of the Revised Code);
- (l) Criminal possession of a biological, chemical, or radiological weapon (section 2909.26 of the Revised Code);
- (m) Criminal use of a chemical, biological, or explosive weapon (section 2909.27 of the Revised Code);
- (n) Money laundering in support of terrorism (section 2909.29 of the Revised Code);
- (o) Aggravated robbery (section 2911.01 of the Revised Code);
- (p) Robbery (section 2911.02 of the Revised Code);
- (q) Aggravated burglary (section 2911.11 of the Revised Code);



- (r) Burglary (section 2911.12 of the Revised Code);
 - (s) Abortion manslaughter (section 2919.13 of the Revised Code);
 - (t) Dismemberment abortion (section 2919.15 of the Revised Code);
 - (u) Partial birth feticide (section 2919.151 of the Revised Code);
 - (v) Endangering children (section 2919.22 of the Revised Code);
 - (w) Escape (section 2921.34 of the Revised Code);
 - (x) Conspiracy (section 2923.01 of the Revised Code);
 - (y) Possession of a deadly weapon while under detention (section 2923.131 of the Revised Code);
 - (z) Discharging a firearm on or near a prohibited premises (section 2923.162 of the Revised Code);
 - (aa) Engaging in a pattern of corrupt activity (section 2923.32 of the Revised Code);
 - (bb) Tampering with drugs (section 2925.24 of the Revised Code);
 - (cc) Contaminating a substance for human consumption (section 2927.24 of the Revised Code);
- (2) An inmate may earn one day of credit if the most serious offense for which the offender is incarcerated is conspiracy or attempt to commit, or complicity in committing, any offense listed in paragraphs (K)(1)(a) to (K)(1)(bb) of this rule or for which the maximum penalty is life imprisonment.
- (3) An inmate may earn one day of credit if the offender is serving a stated prison term or a non-life felony indefinite prison term that includes a prison term imposed for any of the following offenses that are a felony, an essential element of which is any conduct or failure to act expressly involving any deadly weapon or dangerous ordnance:



- (a) Illegal conveyance of a deadly weapon or dangerous ordnance (division (A)(1) of section 2921.36 of the Revised Code);
- (b) Illegal possession of a firearm in a liquor permit premises (section 2923.121 of the Revised Code);
- (c) Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone (section 2923.122 of the Revised Code);
- (d) Illegal conveyance of a deadly weapon or dangerous ordnance into, or possession in, a courthouse (section 2923.123 of the Revised Code);
- (e) Having weapons while under disability (section 2923.13 of the Revised Code);
- (f) Possession of a deadly weapon while under detention (section 2923.131 of the Revised Code);
- (g) Improperly handling firearms in a motor vehicle (section 2923.16 of the Revised Code);
- (h) Improperly discharging a firearm at, into, or near a habitation, school safety zone, or school premises (section 2923.161 of the Revised Code);
- (i) Discharging a firearm at or near a prohibited premises (section 2923.162 of the Revised Code);
- (j) Unlawful possession of a dangerous ordnance or illegally manufacturing or processing explosives (section 2923.17 of the Revised Code);
- (k) Unlawful transaction in weapons (section 2923.20 of the Revised Code);
- (l) Defacing identification marks on a firearm or possessing a defaced firearm (section 2923.201 of the Revised Code);
- (m) Improperly furnishing firearms to a minor (section 2923.21 of the Revised Code).



(4) An inmate may earn five days of credit if the most serious offense for which the offender is incarcerated is not identified in paragraph (K)(1), (K)(2), or (K)(3) of this rule and is not a sexually oriented offense.

(L) An inmate sentenced under House Bill 86 of the 129th General Assembly for a sexually oriented offense committed on or after September 30, 2011 shall not be eligible for earned credit.

(M) Inmates earning credit pursuant to this rule sentenced under House Bill 86 of the 129th General Assembly for an offense committed on or after September 30, 2011 may earn a one-time credit equal to five days for completing two programs of a type described in paragraphs (C), (D), (E), (F)(2), and (F)(4) of this rule.

(N) An inmate earning credit towards a minimum or definite sentence pursuant to House Bill 261 of the 117th General Assembly and also earning credit towards a stated prison term pursuant to Senate Bill 2 of the 121st General Assembly for an offense committed before September 30, 2011, House Bill 86 of the 129th General Assembly for an offense committed on or after September 30, 2011, or Senate Bill 201 of the 132nd General Assembly for an offense committed on or after March 22, 2019, or any combination of those four, shall have the minimum or definite sentence, the stated prison term, or the minimum and maximum of a non-life felony indefinite prison term, independently reduced by the appropriate days of earned credit applicable to that particular sentence or prison term.

(O) In order to earn credit under this rule for a particular month, an inmate must enter the program on or before the first program day of the month and continue participating in the program through the last program day of the month. An inmate participating and remaining in good standing in an academic or vocational education program, which has a quarter or semester end during a month, shall be deemed to be participating in the program through the end of the month. An inmate who successfully completes a formal program resulting in the issuance of a certificate of completion during a month shall be deemed to have continued participating in the program through the end of that month.

(P) Regardless of the reason for absence, an inmate must attend seventy-five per cent of the



scheduled program/job sessions for any month in order to receive earned credit for that month.

(Q) No inmate will receive earned credit for program participation during any month in which the inmate has had an unexcused absence from the program. Unexcused absence includes but is not limited to an absence caused by confinement in security control or disciplinary control as a result of a violation of institution rules.

(R) No inmate shall earn credit during any month in which the inmate exhibits behavior considered to be a hindrance to the productive participation of the inmate or others, such as excessive noise, disruption, sleeping on assignment or tardiness. Such behavior shall be documented by a conduct report and substantiated through a guilty finding of the hearing officer or rules infraction board.

(S) Any inmate sentenced under Senate Bill 2 of the 121st General Assembly for an offense committed before September 30, 2011, under House Bill 86 of the 129th General Assembly for an offense committed on or after September 30, 2011, or under Senate Bill 201 of the 132nd General Assembly for an offense committed on or after March 22, 2019, having pled or been found guilty by the rules infraction board of a violation of the inmate rules of conduct as described in rule 5120-9-06 of the Administrative Code or a program related violation, including the program related violations described in paragraphs (O) and (P) of this rule, may have previously earned credit days forfeited. The rules infraction board, in addition to assessing any other appropriate disciplinary measures, may recommend the withdrawing of earned credit awarded from previous months. An inmate may not have more than fifty per cent of previously earned credit days withdrawn in any calendar month unless the rule violation for which credit is being withdrawn involved a serious act of violence. The department shall identify in its written policies the specific rule violations that constitute serious acts of violence for which more than fifty per cent of previously earned credit days may be withdrawn in any calendar month. If the fifty per cent calculation results in a one-half or half day remainder, the half day shall be rounded up to a full day. A recommendation by the rules infraction board to withdraw credit shall be reviewed by the warden for approval/disapproval/modification.

(T) Inmates sentenced under Senate Bill 201 of the 132nd General Assembly for an offense committed on or after March 22, 2019 who complete a program described in paragraph (H) of this rule, having plead or been found guilty by the rules infraction board of a violation of the inmate



rules of conduct as set forth in rule 5120-9-06 of Administrative Code or a program related violation, may have previously earned program credit forfeited.

(U) As soon as practicable after the last day of each month, the deputy warden or designee at each institution shall report to the bureau of sentence computation the name of each inmate in the institution who has earned credit pursuant to this rule. Each month the bureau shall credit the inmate appropriately with the credit earned for that month.

(V) No inmate serving a prison term of one, three, five or six years for use of a firearm imposed pursuant to section 2929.71 or 2929.72 of the Revised Code, in effect prior to July 1, 1996, for an offense committed prior to July 1, 1996, or pursuant to division (B)(1) of section 2929.14 of the Revised Code, effective July 1, 1996, for an offense committed on or after July 1, 1996, including prison terms imposed after September 30, 2011 pursuant to House Bill 86 of the 129th General Assembly, shall earn or be awarded any days of credit pursuant to this rule for any program participation which occurs while serving any such period of actual incarceration. An inmate against whom such a sentence was imposed may begin earning days of credit pursuant to this rule after serving any such term in its entirety if the inmate would otherwise be eligible for earned credit.

(W) An inmate who is granted a period of electronically monitored early release is not entitled, during that specified period of confinement, to earn any days of credit pursuant to this rule as a deduction from the inmate's prison term, regardless whether such prison term is for an offense committed before or after July 1, 1996.

(X) No inmate may earn days of credit pursuant to this rule if the inmate is serving a sentence of imprisonment for an offense, committed before July 1, 1996, of:

(1) Life with parole eligibility after serving fifteen full years for an offense of first degree murder or aggravated murder committed prior to October 19, 1981; or

(2) Life parole eligibility after serving twenty full years for the offense of aggravated murder with one of the specifications enumerated in section 2929.04 of the Revised Code; or

(3) Life with parole eligibility after serving thirty full years for the offense of aggravated murder



with one of the specifications enumerated in section 2929.04 of the Revised Code; or

(4) Life imposed prior to October 19, 1981, for an offense other than the offense of first degree or aggravated murder, for which the inmate becomes eligible for parole after serving ten full years pursuant to section 2967.13 of the Revised Code; or

(5) Life for rape or felonious sexual penetration; or

(6) A minimum term longer than fifteen years imposed under any law of this state in effect prior to January 1, 1974, for which the inmate becomes eligible for parole after serving ten full years pursuant to section 2967.13 of the Revised Code in effect prior to July 1, 1996.

(Y) The following prison terms, for crimes committed on or after July 1, 1996 or otherwise imposed pursuant to Senate Bill 2 of the 121st General Assembly, including prison terms imposed on or after September 30, 2011 pursuant to House Bill 86 of the 129th General Assembly or after March 22, 2019, pursuant to Senate Bill 201 of the 132nd General Assembly, shall not be reduced by any days of earned credit:

(1) A prison term for a felony for which a life term of imprisonment is imposed;

(2) A mandatory prison term imposed pursuant to division (F) of section 2929.13 of the Revised Code, effective July 1, 1996, for:

(a) Aggravated murder or murder;

(b) Rape, felonious sexual penetration, or an attempt to commit rape or felonious sexual penetration by force when the victim is under thirteen years of age;

(c) Any felony violation of section 2903.06 (vehicular homicide and aggravated vehicular homicide) of the Revised Code;

(d) Any first, second or third degree felony drug offense for which the imposition of a mandatory prison term is required;



(e) Any other first or second degree felony if the offender previously was convicted of or pled guilty to aggravated murder, murder or any first or second degree felony;

(f) Any felony, other than a violation of section 2923.12 (carrying a concealed weapon) of the Revised Code, if the offender had a firearm on or about the offender's person or under the offender's control while committing the felony; or

(g) Corrupt activity in violation of section 2923.32 of the Revised Code when the most serious offense in the pattern of corrupt activity that is the basis of the offense is a felony of the first degree;

(3) A mandatory prison term imposed pursuant to division (B)(2)(a) of section 2929.14 of the Revised Code, effective July 1, 1996, for being a repeat violent offender. If the court also imposes an optional, additional term pursuant to division (B)(2)(b) of section 2929.14 of the Revised Code, an inmate, who has completed serving the mandatory prison term, may earn credit while serving the additional, optional prison term;

(4) A mandatory ten year prison term imposed pursuant to division (B)(3)(a) of section 2929.14 of the Revised Code, effective July 1, 1996, for a drug offense or for otherwise being a major drug offender, for corrupt activity with the most serious offense in the pattern of corrupt activity being a first degree felony, or for attempted rape or felonious sexual penetration by force with the victim being under thirteen years of age. If the court also imposes an optional, additional term pursuant to division (B)(3)(b) of section 2929.14 of the Revised Code, an inmate, who has completed serving the mandatory ten year prison term, may earn credit while serving the additional, optional prison term;

(5) A prison term imposed for a violation of post release control.

(6) A prison term imposed as part of a risk reduction sentence under section 2929.143 of the Revised Code.

(Z) If an inmate is earning credit towards a sentence pursuant to House Bill 261 of the 117th General Assembly for an offense committed prior to July 1, 1996, the cumulative total of any days of credit awarded under this rule and rule 5120-2-07 of the Administrative Code, plus any



diminution of sentence granted pursuant to rule 5120-2-05 of the Administrative Code, shall not exceed for such inmate one-third of the minimum or definite sentence, or in the case of a life sentence for which diminution and days of credit may be earned, one-third of the number of years before parole eligibility. No term of actual incarceration imposed pursuant to section 2929.71 or 2929.72 of the Revised Code in effect prior to July 1, 1996, for using a firearm in the commission of an offense shall be considered as a part of a minimum sentence or a part of the number of years before parole eligibility for eligible life sentences in calculating the maximum possible diminution pursuant to this paragraph.

The aggregate days of credit earned by an inmate sentenced under House Bill 86 of the 129th General Assembly for an offense committed on or after September 30, 2011 shall not exceed eight per cent of the total number of days in the inmate's stated prison term, provided that the one-time credit described in paragraphs (A) and (H) of this rule, if earned by an inmate, shall not be included in determining whether that inmate's aggregate days of credit exceed that limit.

(AA) Days of credit earned pursuant to this rule shall be used for no purpose other than to reduce the inmate's definite or minimum sentence or stated prison term, or the minimum and maximum of a non-life felony indefinite prison term. If an inmate is earning credit towards a sentence pursuant to House Bill 261 of the 117th General Assembly for an offense committed prior to July 1, 1996, once the inmate has served sufficient time to become eligible for parole consideration or has earned and had credited time off for good behavior pursuant to rule 5120-2-05 of the Administrative Code, and days of credit pursuant to this rule and rule 5120-2-07 of the Administrative Code equal to one-third of his minimum or definite sentence, or in the case of an eligible life sentence, one-third of the number of year's before parole eligibility, no further calculation and crediting of days of credit pursuant to this rule is necessary for such sentence.

(BB) Each year, beginning in 2012, on or before the thirtieth day of September, the department of rehabilitation and correction shall seek written comments from the Ohio prosecuting attorneys association, the Ohio judicial conference, the Ohio public defender, the Ohio association of criminal defense lawyers, the Ohio criminal sentencing commission, and the Ohio common pleas judges association regarding the department's administration of the earned credit program as described in this rule. The department shall consider the comments it receives in evaluating the program and in adopting or modifying the policies and procedures the department uses to administer



the program.

(CC) As used in this rule:

(1) "Offense of violence" has the same meaning as in section 2901.01 of the Revised Code.

(2) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.