



Ohio Administrative Code

Rule 5120-2-15 Request for eighty per cent court release.

Effective: [May 4, 2020](#)

(A) As used in this rule:

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

(2) Stated prison term has the same meaning as in section 2929.01 of the Revised Code.

(3) Victims immediate family has the same meaning as in section 2967.12 of the Revised Code.

(B) Inmates who satisfy the minimum eligibility criteria specified in paragraphs (C) and (H) of this rule are eligible to be considered by the department of rehabilitation and correction to be the subject of a request for court release consideration pursuant to section 2967.19 of the Revised Code.

(C) Subject to paragraphs (C)(1) to (C)(3) and (H) of this rule, an inmate who has served eighty per cent of the inmate's stated prison term or minimum portion of a non-life felony indefinite prison term, is eligible to be selected to be the subject of a request for court release consideration pursuant to section 2967.19 of the Revised Code.

(1) If the inmate is serving a stated prison term or minimum portion of a non-life felony indefinite prison term of less than one year, the inmate is not eligible.

(2) If the inmate is serving a stated prison term or non-life felony indefinite prison term that includes a prison term imposed for any of the following offenses, the inmate is not eligible at any point during the inmate's incarceration:

(a) Aggravated murder;

(b) Murder;



- (c) Voluntary manslaughter;
- (d) Involuntary manslaughter;
- (e) Felonious assault;
- (f) Kidnapping;
- (g) Rape;
- (h) Aggravated arson;
- (i) Aggravated burglary;
- (j) Aggravated robbery;
- (k) Complicity in, an attempt to commit, or conspiracy to commit any offense listed in paragraphs (C)(2)(a) to (C)(2)(j) of this rule;
- (l) Any offense for which the inmate received a prison term of life imprisonment, including any term of life imprisonment that has parole eligibility;
- (m) Any of the following offenses if the inmates commission of the offense was a felony:
 - (i) Illegal conveyance of a deadly weapon or dangerous ordnance;
 - (ii) Illegal possession of firearm in liquor permit premises;
 - (iii) Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone;
 - (iv) Illegal conveyance of a deadly weapon or dangerous ordnance into, or possession in, a courthouse;



- (v) Having weapons while under disability;
 - (vi) Possession of a deadly weapon while under detention;
 - (vii) Improperly handling firearms in a motor vehicle;
 - (viii) Improperly discharging a firearm at, into, or near a habitation, school safety zone, or school premises;
 - (ix) Discharging a firearm at or near prohibited premises;
 - (x) Unlawful possession of a dangerous ordnance or illegally manufacturing or processing explosives;
 - (xi) Unlawful transaction in weapons;
 - (xii) Defacing identification marks of a firearm or possessing a defaced firearm;
 - (xiii) Improperly furnishing firearms to a minor.
 - (n) Any violation of section 2925.03 of the Revised Code that is a felony of the first or second degree;
 - (o) Engaging in a pattern of corrupt activity;
 - (p) Any offense sentenced under section 2971.03 of the Revised Code;
 - (q) Any sexually oriented offense as defined in section 2950.01 of the Revised Code.
- (3) In addition to the disqualifying offenses in paragraph (C)(2) of this rule, an inmate shall not be eligible to be the subject of a request to the court for early release consideration while the inmate is serving a prison term imposed for the following offenses and specifications:



- (a) A gun specification;
 - (b) A repeat violent offender specification;
 - (c) A human trafficking specification;
 - (d) The underlying felony to which any of the specifications described in paragraphs (C)(3)(a)(i) to (C)(3)(a)(iii) of this rule attaches;
 - (e) Trafficking in persons;
 - (f) An offense that qualifies the inmate as a repeat violent offender as defined in section 2929.01 of the Revised Code.
- (4) Prison terms for the offenses and specifications identified in paragraph (C)(3) of this rule shall be deemed to be served prior to any other prison terms when an inmate has been ordered by the sentencing court to serve the offenses and/or specifications consecutively to any other prison terms.
- (5) If an inmate fully serves the prison terms imposed for offenses and/or specifications described in paragraph (C)(3) of this rule and if the inmate has additional time to be served on a stated prison term, the inmate may be eligible to be selected to be the subject of a request to the court for early release when:
- (a) The inmate has served at least eighty per cent of the additional time that remains to be served; and,
 - (b) The inmate meets the requirements of paragraphs (C)(1) and (C)(2) of this rule.
- (D) In considering an application for early release consideration at the time the recommendation is made, the division of parole and community services (DPCS) shall consider the following conditions:



(1) The inmate's academic, vocational education programs, or alcohol or drug treatment programs; or involvement in meaningful activity;

(2) The inmate's assignments and whether the inmate consistently performed each work assignment to the satisfaction of the department staff responsible for supervising the inmates work;

(3) The inmate transferred to and actively participated in core curriculum programming at a reintegration center prison;

(4) The inmate's disciplinary history;

(5) The inmate's security level.

(E) An inmate is ineligible for early release consideration if the inmate is presently:

(1) Incarcerated for a new felony committed by the offender while the offender was on parole or post-release control;

(2) Serving an indefinite sentence, not to include a non-life felony indefinite prison term;

(3) Subject to a detainer for any sentence of imprisonment imposed but not fully served, for any post-release control, parole, or community control violation, or be subject to a wanted detainer or a notify detainer for any untried felony charge or for any United States immigration action; and

(F) An inmates eligibility to be the subject of a notice to the sentencing court requesting early release consideration does not create any right in the inmate to be identified by DPCS as the subject of a court request for early release consideration. If DPCS declines to recommend an inmate to be the subject of a request for early release consideration by the court, that decision is final and does not create in the inmate a right to any administrative appeal of that decision.

(G) If a notice to the sentencing court requesting early release consideration is sent to the court on behalf of an inmate pursuant to this rule, that notice shall be sent not earlier than ninety days prior to the date on which the inmate has served eighty per cent of that portion of the stated prison term that



the inmate must serve to become eligible for release. The department shall include with the notice sent to the court information about the offender, including, but not limited to, an institutional summary report that details the offenders conduct and rehabilitative activities while incarcerated. The written notice also shall include the name and contact information of a department employee who is available to answer any questions about the inmate. The department shall provide copies of all information provided to the court to the prosecuting attorney of the county in which the inmate was convicted. The department shall provide a copy of the institutional summary report to any law enforcement agency that requests it.

(H) Subject to paragraph (K)(1) of this rule, the department shall give notice of the departments submission of a request for early release consideration to any victim of the inmate or the victims representative who is registered with the office of victim services.

(1) If the offense to which the early release consideration request pertains was an offense of violence of the first, second, or third degree, the notice required under this paragraph shall be provided regardless of whether the victim has requested notification unless the victim has requested that the notification not be provided. If the notice pertains to an offense committed before March 22, 2013 and if the department has not previously successfully provided notice to the victim with respect to that offense and the inmate who committed it, the notice also shall inform the victim that the victim may request that the victim not receive any further notices with respect to that offense or the inmate who committed it and shall describe the procedure for making that request.

(2) In the case of an early release consideration request that pertains to an offense of violence of the first, second, or third degree, the department also shall provide notice of the request to the law enforcement agency that arrested the inmate if any officer of that agency was a victim of the offense and any member of the victims immediate family when the family member has requested notification.

(3) Notices provided under paragraph (K) of this rule may be provided by ordinary mail, telephone, or electronic means.

(I) If the court grants a hearing for release of an inmate who is the subject of a written notice requesting early release consideration, the department shall deliver the inmate to the custody of the



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sheriff if the inmate is ordered to be conveyed to the court. If the court orders or permits the inmate to appear at the hearing by videoconference, the department shall make the inmate available by videoconference at such time as the court orders. Regardless of whether the hearing is to be conducted in court or by videoconference, the department shall advise the inmate of the inmates right to have present at the hearing an attorney retained by the inmate to present information on the inmates behalf. As part of that advisement, the department shall inform the inmate that the department will not be responsible for procuring an attorney to represent the inmate at the hearing or to otherwise provide any legal representation on behalf of the inmate before the hearing, during the hearing, or at any time thereafter.