



## Ohio Revised Code

Section 2903.44 Out-of-state offenders with VOD duties; enrollment.

Effective: March 20, 2019

Legislation: Senate Bill 231 - 132nd General Assembly

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(A) Pursuant to this section, if a violent offender or qualifying out-of-state violent offender has VOD duties imposed under section 2903.42 or 2903.421 of the Revised Code and if a court has extended the offender's ten-year enrollment period pursuant to division (D)(2) of section 2903.43 of the Revised Code, the offender may file a motion to the court of common pleas of the county in which the offender resides requesting that the court terminate the offender's extended enrollment period and VOD duties during that period. A violent offender or qualifying out-of-state violent offender may file a motion under this division at any time during the offender's extended enrollment period, but may not file more than one motion under this division in any five-year period.

(B) A violent offender or qualifying out-of-state violent offender who makes a motion under division (A) of this section shall include with the motion all of the following:

(1) A certified copy of the judgment entry and any other documentation of the sentence or disposition given for the offense or offenses for which the offender was enrolled in the violent offender database;

(2) Documentation of the date of the offender's discharge from supervision or release, whichever is applicable;

(3) A statement asserting that the offender has not been convicted of or pleaded guilty to any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period;

(4) Evidence that the eligible offender has paid all financial sanctions imposed upon the offender pursuant to section 2929.18 or 2929.28 of the Revised Code.

(C) Upon the filing of a motion pursuant to division (A) of this section, the offender shall serve a copy of the motion on the prosecutor.



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Upon the filing of the motion, the court shall set a tentative date for a hearing on the motion that, except as otherwise provided in this division, is not later than ninety days after the date on which the motion is filed. The court may set a tentative date for a hearing that is later than that specified time if good cause exists to hold the hearing at a later date. The court shall notify the offender and the prosecutor of the date, time, and place of the hearing. The court shall forward a copy of the motion and its supporting documentation to the court's probation department or another appropriate agency to investigate the merits of the motion. The probation department or agency shall submit a written report detailing its investigation to the court within sixty days after receiving the motion and supporting documentation.

Upon receipt of the written report from the probation department or other appropriate agency, the court shall forward a copy of the motion, the supporting documentation, and the written report to the prosecutor.

(D) After the prosecutor is served with a copy of the motion and notice of the hearing as described in division (C) of this section, at least seven days before the hearing date, the prosecutor may file an objection to the motion with the court and serve a copy of the objection to the motion to the offender or the offender's attorney.

(E) In determining whether to grant a motion made under division (A) of this section, the court shall consider the evidence that accompanies the motion described in division (B) of this section and shall consider the written report submitted pursuant to division (C) of this section.

(F)(1) The court, without a hearing, may issue an order denying the offender's motion to terminate the offender's extended enrollment period and VOD duties during that period if the court, after considering the evidence, materials, and information specified under division (E) of this section, finds that the extended enrollment period and duties should not be terminated.

(2) If the prosecutor does not file an objection to the offender's motion as provided in division (D) of this section, the court, without a hearing, may issue an order that grants the motion and terminates the eligible offender's extended enrollment period and VOD duties during that period if the court, after considering the evidence, materials, and information specified under division (E) of this



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section, finds that the extended enrollment period and VOD duties should be terminated. This division does not apply if the prosecutor files an objection to the offender's application as provided in division (D)(2) of this section.

(3) If the court does not issue an order under division (F)(1) or (2) of this section, the court shall hold a hearing to determine whether to grant or deny the motion. At the hearing, the Rules of Civil Procedure apply, except to the extent that those Rules would by their nature be clearly inapplicable. At the hearing, the offender has the burden of going forward with the evidence and, except as otherwise provided in this division, the burden of proof, by a preponderance of the evidence, that the extended enrollment period and VOD duties should be terminated. If the prosecutor files an objection to the motion as provided in division (D) of this section that includes an allegation that the offender has been convicted of or pleaded guilty to any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period, the prosecutor has the burden of proving that allegation.

The court shall issue an order denying the offender's motion to terminate the offender's extended enrollment period and VOD duties if the prosecutor files such an objection to the motion that includes an allegation that the offender has been convicted of or pleaded guilty to any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period and proves that allegation. If, after considering the evidence, materials, and information specified under division (E) of this section, the court finds that the prosecutor has not alleged in an objection and proved that the offender has been convicted of or pleaded guilty to any other felony or any misdemeanor offense of violence during the offender's ten-year enrollment period or extended enrollment period, the court shall do one of the following:

(a) If the court finds that the offender has satisfied the burden of proof imposed on the offender as described in this division, the court shall issue an order that grants the motion and terminates the offender's extended enrollment period and VOD duties.

(b) If the court finds that the offender has not satisfied the burden of proof imposed on the offender, the court shall issue an order denying the motion.

(4) If the court issues an order under division (F)(1) or (3) of this section denying an offender's



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motion to terminate the offender's extended enrollment period and VOD duties, the offender may subsequently file another motion under this section requesting termination of the extended enrollment period and VOD duties but may not file more than one such motion in any five- year period.

(5) (a) Upon its issuance of an order under division (F) (1), (2), or (3) of this section, the court shall provide prompt notice of the order to the offender or the offender's attorney.

(b) If the court issues an order under division (F)(2) or (3) of this section that grants the offender's motion and terminates the offender's extended enrollment period and VOD duties, the court shall promptly forward a copy of the order to the bureau of criminal identification and investigation and to the prosecutor. Upon receipt of the order from the court, the bureau shall update all records pertaining to the offender to reflect the termination order. The bureau also shall provide notice of the issuance of the termination order to every sheriff with whom the offender has most recently enrolled or re- enrolled. Upon receipt of the order from the court, the prosecutor shall notify the victim of any offense for which the offender is enrolled in the violent offender database that the offender's extended enrollment period and VOD duties have been terminated.