



## Ohio Revised Code

### Section 2929.20 Sentence reduction through judicial release.

Effective: September 14, 2016

Legislation: Senate Bill 97, House Bill 64 - 131st General Assembly

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(A) As used in this section:

(1)(a) Except as provided in division (A)(1)(b) of this section, "eligible offender" means any person who, on or after April 7, 2009, is serving a stated prison term that includes one or more nonmandatory prison terms.

(b) "Eligible offender" does not include any person who, on or after April 7, 2009, is serving a stated prison term for any of the following criminal offenses that was a felony and was committed while the person held a public office in this state:

(i) A violation of section 2921.02, 2921.03, 2921.05, 2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised Code;

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 2921.12 of the Revised Code, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(iii) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(i) of this section;

(iv) A violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially equivalent to any violation listed in division (A)(1)(b)(ii) of this section, when the conduct constituting the violation was related to the duties of the offender's public office or to the offender's actions as a public official holding that public office;

(v) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(i) or described in division (A)(1)(b)(iii) of this section;



(vi) A conspiracy to commit, attempt to commit, or complicity in committing any offense listed in division (A)(1)(b)(ii) or described in division (A)(1)(b)(iv) of this section, if the conduct constituting the offense that was the subject of the conspiracy, that would have constituted the offense attempted, or constituting the offense in which the offender was complicit was or would have been related to the duties of the offender's public office or to the offender's actions as a public official holding that public office.

(2) "Nonmandatory prison term" means a prison term that is not a mandatory prison term.

(3) "Public office" means any elected federal, state, or local government office in this state.

(4) "Victim's representative" has the same meaning as in section 2930.01 of the Revised Code.

(5) "Imminent danger of death," "medically incapacitated," and "terminal illness" have the same meanings as in section 2967.05 of the Revised Code.

(B) On the motion of an eligible offender or upon its own motion, the sentencing court may reduce the eligible offender's aggregated nonmandatory prison term or terms through a judicial release under this section.

(C) An eligible offender may file a motion for judicial release with the sentencing court within the following applicable periods:

(1) If the aggregated nonmandatory prison term or terms is less than two years, the eligible offender may file the motion not earlier than thirty days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than thirty days after the expiration of all mandatory prison terms.

(2) If the aggregated nonmandatory prison term or terms is at least two years but less than five years, the eligible offender may file the motion not earlier than one hundred eighty days after the offender is delivered to a state correctional institution or, if the prison term includes a mandatory prison term or terms, not earlier than one hundred eighty days after the expiration of all mandatory prison terms.



(3) If the aggregated nonmandatory prison term or terms is five years, the eligible offender may file the motion not earlier than the date on which the eligible offender has served four years of the offender's stated prison term or, if the prison term includes a mandatory prison term or terms, not earlier than four years after the expiration of all mandatory prison terms.

(4) If the aggregated nonmandatory prison term or terms is more than five years but not more than ten years, the eligible offender may file the motion not earlier than the date on which the eligible offender has served five years of the offender's stated prison term or, if the prison term includes a mandatory prison term or terms, not earlier than five years after the expiration of all mandatory prison terms.

(5) If the aggregated nonmandatory prison term or terms is more than ten years, the eligible offender may file the motion not earlier than the later of the date on which the offender has served one-half of the offender's stated prison term or the date specified in division (C)(4) of this section.

(D) Upon receipt of a timely motion for judicial release filed by an eligible offender under division (C) of this section or upon the sentencing court's own motion made within the appropriate time specified in that division, the court may deny the motion without a hearing or schedule a hearing on the motion. The court shall not grant the motion without a hearing. If a court denies a motion without a hearing, the court later may consider judicial release for that eligible offender on a subsequent motion filed by that eligible offender unless the court denies the motion with prejudice. If a court denies a motion with prejudice, the court may later consider judicial release on its own motion. If a court denies a motion after a hearing, the court shall not consider a subsequent motion for that eligible offender. The court shall hold only one hearing for any eligible offender.

A hearing under this section shall be conducted in open court not less than thirty or more than sixty days after the motion is filed, provided that the court may delay the hearing for one hundred eighty additional days. If the court holds a hearing, the court shall enter a ruling on the motion within ten days after the hearing. If the court denies the motion without a hearing, the court shall enter its ruling on the motion within sixty days after the motion is filed.

(E) If a court schedules a hearing under division (D) of this section, the court shall notify the eligible



offender and the head of the state correctional institution in which the eligible offender is confined prior to the hearing. The head of the state correctional institution immediately shall notify the appropriate person at the department of rehabilitation and correction of the hearing, and the department within twenty-four hours after receipt of the notice, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the offender's name and all of the information specified in division (A)(1)(c)(i) of that section. If the court schedules a hearing for judicial release, the court promptly shall give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted. Upon receipt of the notice from the court, the prosecuting attorney shall do whichever of the following is applicable:

(1) Subject to division (E)(2) of this section, notify the victim of the offense or the victim's representative pursuant to division (B) of section 2930.16 of the Revised Code;

(2) If the offense was an offense of violence that is a felony of the first, second, or third degree, except as otherwise provided in this division, notify the victim or the victim's representative of the hearing regardless of whether the victim or victim's representative has requested the notification. The notice of the hearing shall not be given under this division to a victim or victim's representative if the victim or victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or the victim's representative not be provided the notice. If notice is to be provided to a victim or victim's representative under this division, the prosecuting attorney may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The prosecuting attorney, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division. Division (E)(2) of this section, and the notice-related provisions of division (K) of this section, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (A)(3)(b) of section 2967.26, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (E)(2) of this section was enacted, shall be known as "Roberta's Law."

(F) Upon an offender's successful completion of rehabilitative activities, the head of the state



correctional institution may notify the sentencing court of the successful completion of the activities.

(G) Prior to the date of the hearing on a motion for judicial release under this section, the head of the state correctional institution in which the eligible offender is confined shall send to the court an institutional summary report on the eligible offender's conduct in the institution and in any institution from which the eligible offender may have been transferred. Upon the request of the prosecuting attorney of the county in which the eligible offender was indicted or of any law enforcement agency, the head of the state correctional institution, at the same time the person sends the institutional summary report to the court, also shall send a copy of the report to the requesting prosecuting attorney and law enforcement agencies. The institutional summary report shall cover the eligible offender's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the eligible offender. The report shall be made part of the record of the hearing. A presentence investigation report is not required for judicial release.

(H) If the court grants a hearing on a motion for judicial release under this section, the eligible offender shall attend the hearing if ordered to do so by the court. Upon receipt of a copy of the journal entry containing the order, the head of the state correctional institution in which the eligible offender is incarcerated shall deliver the eligible offender to the sheriff of the county in which the hearing is to be held. The sheriff shall convey the eligible offender to and from the hearing.

(I) At the hearing on a motion for judicial release under this section, the court shall afford the eligible offender and the eligible offender's attorney an opportunity to present written and, if present, oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim or the victim's representative, and any other person the court determines is likely to present additional relevant information. The court shall consider any statement of a victim made pursuant to section 2930.14 or 2930.17 of the Revised Code, any victim impact statement prepared pursuant to section 2947.051 of the Revised Code, and any report made under division (G) of this section. The court may consider any written statement of any person submitted to the court pursuant to division (L) of this section. After ruling on the motion, the court shall notify the victim of the ruling in accordance with sections 2930.03 and 2930.16 of the Revised Code.

(J)(1) A court shall not grant a judicial release under this section to an eligible offender who is



imprisoned for a felony of the first or second degree, or to an eligible offender who committed an offense under Chapter 2925. or 3719. of the Revised Code and for whom there was a presumption under section 2929.13 of the Revised Code in favor of a prison term, unless the court, with reference to factors under section 2929.12 of the Revised Code, finds both of the following:

(a) That a sanction other than a prison term would adequately punish the offender and protect the public from future criminal violations by the eligible offender because the applicable factors indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism;

(b) That a sanction other than a prison term would not demean the seriousness of the offense because factors indicating that the eligible offender's conduct in committing the offense was less serious than conduct normally constituting the offense outweigh factors indicating that the eligible offender's conduct was more serious than conduct normally constituting the offense.

(2) A court that grants a judicial release to an eligible offender under division (J)(1) of this section shall specify on the record both findings required in that division and also shall list all the factors described in that division that were presented at the hearing.

(K) If the court grants a motion for judicial release under this section, the court shall order the release of the eligible offender, shall place the eligible offender under an appropriate community control sanction, under appropriate conditions, and under the supervision of the department of probation serving the court and shall reserve the right to reimpose the sentence that it reduced if the offender violates the sanction. If the court reimposes the reduced sentence, it may do so either concurrently with, or consecutive to, any new sentence imposed upon the eligible offender as a result of the violation that is a new offense. Except as provided in division (R)(2) of this section, the period of community control shall be no longer than five years. The court, in its discretion, may reduce the period of community control by the amount of time the eligible offender spent in jail or prison for the offense and in prison. If the court made any findings pursuant to division (J)(1) of this section, the court shall serve a copy of the findings upon counsel for the parties within fifteen days after the date on which the court grants the motion for judicial release.

If the court grants a motion for judicial release, the court shall notify the appropriate person at the



department of rehabilitation and correction, and the department shall post notice of the release on the database it maintains pursuant to section 5120.66 of the Revised Code. The court also shall notify the prosecuting attorney of the county in which the eligible offender was indicted that the motion has been granted. Unless the victim or the victim's representative has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim or victim's representative not be provided the notice, the prosecuting attorney shall notify the victim or the victim's representative of the judicial release in any manner, and in accordance with the same procedures, pursuant to which the prosecuting attorney is authorized to provide notice of the hearing pursuant to division (E)(2) of this section. If the notice is based on an offense committed prior to March 22, 2013, the notice to the victim or victim's representative also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code.

(L) In addition to and independent of the right of a victim to make a statement pursuant to section 2930.14, 2930.17, or 2946.051 of the Revised Code and any right of a person to present written information or make a statement pursuant to division (I) of this section, any person may submit to the court, at any time prior to the hearing on the offender's motion for judicial release, a written statement concerning the effects of the offender's crime or crimes, the circumstances surrounding the crime or crimes, the manner in which the crime or crimes were perpetrated, and the person's opinion as to whether the offender should be released.

(M) The changes to this section that are made on September 30, 2011, apply to any judicial release decision made on or after September 30, 2011, for any eligible offender.

(N) Notwithstanding the eligibility requirements specified in division (A) of this section and the filing time frames specified in division (C) of this section and notwithstanding the findings required under division (J) of this section, the sentencing court, upon the court's own motion and after considering whether the release of the offender into society would create undue risk to public safety, may grant a judicial release to an offender who is not serving a life sentence at any time during the offender's imposed sentence when the director of rehabilitation and correction certifies to the sentencing court through the chief medical officer for the department of rehabilitation and correction that the offender is in imminent danger of death, is medically incapacitated, or is suffering from a terminal illness.



(O) The director of rehabilitation and correction shall not certify any offender under division (N) of this section who is serving a death sentence.

(P) A motion made by the court under division (N) of this section is subject to the notice, hearing, and other procedural requirements specified in divisions (D), (E), (G), (H), (I), (K), and (L) of this section, except for the following:

(1) The court may waive the offender's appearance at any hearing scheduled by the court if the offender's condition makes it impossible for the offender to participate meaningfully in the proceeding.

(2) The court may grant the motion without a hearing, provided that the prosecuting attorney and victim or victim's representative to whom notice of the hearing was provided under division (E) of this section indicate that they do not wish to participate in the hearing or present information relevant to the motion.

(Q) The court may request health care records from the department of rehabilitation and correction to verify the certification made under division (N) of this section.

(R)(1) If the court grants judicial release under division (N) of this section, the court shall do all of the following:

(a) Order the release of the offender;

(b) Place the offender under an appropriate community control sanction, under appropriate conditions;

(c) Place the offender under the supervision of the department of probation serving the court or under the supervision of the adult parole authority.

(2) The court, in its discretion, may revoke the judicial release if the offender violates the community control sanction described in division (R)(1) of this section. The period of that community control is not subject to the five-year limitation described in division (K) of this section and shall not expire





earlier than the date on which all of the offender's mandatory prison terms expire.

(S) If the health of an offender who is released under division (N) of this section improves so that the offender is no longer terminally ill, medically incapacitated, or in imminent danger of death, the court shall, upon the court's own motion, revoke the judicial release. The court shall not grant the motion without a hearing unless the offender waives a hearing. If a hearing is held, the court shall afford the offender and the offender's attorney an opportunity to present written and, if the offender or the offender's attorney is present, oral information relevant to the motion. The court shall afford a similar opportunity to the prosecuting attorney, the victim or the victim's representative, and any other person the court determines is likely to present additional relevant information. A court that grants a motion under this division shall specify its findings on the record.