

As Passed by the House

127th General Assembly

Regular Session

2007-2008

Sub. S. B. No. 108

Senator Schaffer

Cosponsors: Senators Stivers, Schuring, Cafaro, Mason, Amstutz, Fedor,

Harris, Padgett, Sawyer, Wilson, Grendell, Miller, D.

Representatives Bacon, Ciafardini, Domenick, Grady, Hughes

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A BILL

To amend section 2929.20 of the Revised Code to 1
prohibit a court from granting judicial release to 2
any person serving a prison term for any of a list 3
of specified felony offenses committed while the 4
person held public office. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 2929.20 of the Revised Code be 6
amended to read as follows: 7

Sec. 2929.20. (A) As used in this section: 8

(1)(a) Except as provided in division (A)(1)(b) of this 9
section, "eligible offender" means any person serving a stated 10
prison term of ten years or less when either of the following 11
applies: 12

~~(1)(i)~~ (i) The stated prison term does not include a mandatory 13
prison term. 14

~~(2)(ii)~~ (ii) The stated prison term includes a mandatory prison 15
term, and the person has served the mandatory prison term. 16

(b) "Eligible offender" does not include any person who is 17
serving a stated prison term for any of the following criminal 18
offenses that was a felony and was committed while the person held 19
a public office in this state: 20

(i) A violation of section 2921.02, 2921.03, 2921.05, 21
2921.31, 2921.32, 2921.41, 2921.42, or 2923.32 of the Revised 22
Code; 23

(ii) A violation of section 2913.42, 2921.04, 2921.11, or 24
2921.12 of the Revised Code, when the conduct constituting the 25
violation was related to the duties of the offender's public 26
office or to the offender's actions as a public official holding 27
that public office; 28

(iii) A violation of an existing or former municipal 29
ordinance or law of this or any other state or the United States 30
that is substantially equivalent to any violation listed in 31
division (A)(1)(b)(i) of this section; 32

(iv) A violation of an existing or former municipal ordinance 33
or law of this or any other state or the United States that is 34
substantially equivalent to any violation listed in division 35
(A)(1)(b)(ii) of this section, when the conduct constituting the 36
violation was related to the duties of the offender's public 37
office or to the offender's actions as a public official holding 38
that public office; 39

(v) A conspiracy to commit, attempt to commit, or complicity 40
in committing any offense listed in division (A)(1)(b)(i) or 41
described in division (A)(1)(b)(iii) of this section; 42

(vi) A conspiracy to commit, attempt to commit, or complicity 43
in committing any offense listed in division (A)(1)(b)(ii) or 44
described in division (A)(1)(b)(iv) of this section, if the 45
conduct constituting the offense that was the subject of the 46
conspiracy, that would have constituted the offense attempted, or 47

constituting the offense in which the offender was complicit was 48
or would have been related to the duties of the offender's public 49
office or to the offender's actions as a public official holding 50
that public office. 51

(2) "Public office" means any elected federal, state, or 52
local government office in this state. 53

(B) Upon the filing of a motion by the eligible offender or 54
upon its own motion, a sentencing court may reduce the offender's 55
stated prison term through a judicial release in accordance with 56
this section. The court shall not reduce the stated prison term of 57
an offender who is not an eligible offender. An eligible offender 58
may file a motion for judicial release with the sentencing court 59
within the following applicable period of time: 60

(1)(a) Except as otherwise provided in division (B)(1)(b) or 61
(c) of this section, if the stated prison term was imposed for a 62
felony of the fourth or fifth degree, the eligible offender may 63
file the motion not earlier than thirty days or later than ninety 64
days after the offender is delivered to a state correctional 65
institution. 66

(b) If the stated prison term is five years and is an 67
aggregate of stated prison terms that are being served 68
consecutively and that were imposed for any combination of 69
felonies of the fourth degree and felonies of the fifth degree, 70
the eligible offender may file the motion after the eligible 71
offender has served four years of the stated prison term. 72

(c) If the stated prison term is more than five years and not 73
more than ten years and is an aggregate of stated prison terms 74
that are being served consecutively and that were imposed for any 75
combination of felonies of the fourth degree and felonies of the 76
fifth degree, the eligible offender may file the motion after the 77
eligible offender has served five years of the stated prison term. 78

(2) Except as otherwise provided in division (B)(3) or (4) of this section, if the stated prison term was imposed for a felony of the first, second, or third degree, the eligible offender may file the motion not earlier than one hundred eighty days after the offender is delivered to a state correctional institution.

(3) If the stated prison term is five years, the eligible offender may file the motion after the eligible offender has served four years of the stated prison term.

(4) If the stated prison term is more than five years and not more than ten years, the eligible offender may file the motion after the eligible offender has served five years of the stated prison term.

(5) If the offender's stated prison term includes a mandatory prison term, the offender shall file the motion within the time authorized under division (B)(1), (2), (3), or (4) of this section for the nonmandatory portion of the prison term, but the time for filing the motion does not begin to run until after the expiration of the mandatory portion of the prison term.

(C) Upon receipt of a timely motion for judicial release filed by an eligible offender under division (B) of this section or upon the sentencing court's own motion made within the appropriate time period specified in that division, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but shall not grant the motion without a hearing. If a court denies a motion without a hearing, the court may consider a subsequent judicial release for that eligible offender on its own motion or a subsequent motion filed by that eligible offender. 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 110
within sixty days after the date on which the motion is filed, 111
provided that the court may delay the hearing for a period not to 112
exceed one hundred eighty additional days. If the court holds a 113
hearing on the motion, the court shall enter a ruling on the 114
motion within ten days after the hearing. If the court denies the 115
motion without a hearing, the court shall enter its ruling on the 116
motion within sixty days after the motion is filed. 117

(D) If a court schedules a hearing under division (C) of this 118
section, the court shall notify the eligible offender of the 119
hearing and shall notify the head of the state correctional 120
institution in which the eligible offender is confined of the 121
hearing prior to the hearing. The head of the state correctional 122
institution immediately shall notify the appropriate person at the 123
department of rehabilitation and correction of the hearing, and 124
the department within twenty-four hours after receipt of the 125
notice, shall post on the database it maintains pursuant to 126
section 5120.66 of the Revised Code the offender's name and all of 127
the information specified in division (A)(1)(c)(i) of that 128
section. If the court schedules a hearing for judicial release, 129
the court promptly shall give notice of the hearing to the 130
prosecuting attorney of the county in which the eligible offender 131
was indicted. Upon receipt of the notice from the court, the 132
prosecuting attorney shall notify the victim of the offense for 133
which the stated prison term was imposed or the victim's 134
representative, pursuant to section 2930.16 of the Revised Code, 135
of the hearing. 136

(E) Prior to the date of the hearing on a motion for judicial 137
release under this section, the head of the state correctional 138
institution in which the eligible offender in question is confined 139
shall send to the court a report on the eligible offender's 140
conduct in the institution and in any institution from which the 141

eligible offender may have been transferred. The report shall 142
cover the eligible offender's participation in school, vocational 143
training, work, treatment, and other rehabilitative activities and 144
any disciplinary action taken against the eligible offender. The 145
report shall be made part of the record of the hearing. 146

(F) If the court grants a hearing on a motion for judicial 147
release under this section, the eligible offender shall attend the 148
hearing if ordered to do so by the court. Upon receipt of a copy 149
of the journal entry containing the order, the head of the state 150
correctional institution in which the eligible offender is 151
incarcerated shall deliver the eligible offender to the sheriff of 152
the county in which the hearing is to be held. The sheriff shall 153
convey the eligible offender to the hearing and return the 154
offender to the institution after the hearing. 155

(G) At the hearing on a motion for judicial release under 156
this section, the court shall afford the eligible offender and the 157
eligible offender's attorney an opportunity to present written 158
information relevant to the motion and shall afford the eligible 159
offender, if present, and the eligible offender's attorney an 160
opportunity to present oral information relevant to the motion. 161
The court shall afford a similar opportunity to the prosecuting 162
attorney, the victim or the victim's representative, as defined in 163
section 2930.01 of the Revised Code, and any other person the 164
court determines is likely to present additional relevant 165
information. The court shall consider any statement of a victim 166
made pursuant to section 2930.14 or 2930.17 of the Revised Code, 167
any victim impact statement prepared pursuant to section 2947.051 168
of the Revised Code, and any report made under division (E) of 169
this section. The court may consider any written statement of any 170
person submitted to the court pursuant to division (J) of this 171
section. After ruling on the motion, the court shall notify the 172
victim of the ruling in accordance with sections 2930.03 and 173

2930.16 of the Revised Code. 174

(H)(1) A court shall not grant a judicial release under this 175
section to an eligible offender who is imprisoned for a felony of 176
the first or second degree, or to an eligible offender who 177
committed an offense contained in Chapter 2925. or 3719. of the 178
Revised Code and for whom there was a presumption under section 179
2929.13 of the Revised Code in favor of a prison term, unless the 180
court, with reference to factors under section 2929.12 of the 181
Revised Code, finds both of the following: 182

(a) That a sanction other than a prison term would adequately 183
punish the offender and protect the public from future criminal 184
violations by the eligible offender because the applicable factors 185
indicating a lesser likelihood of recidivism outweigh the 186
applicable factors indicating a greater likelihood of recidivism; 187

(b) That a sanction other than a prison term would not demean 188
the seriousness of the offense because factors indicating that the 189
eligible offender's conduct in committing the offense was less 190
serious than conduct normally constituting the offense outweigh 191
factors indicating that the eligible offender's conduct was more 192
serious than conduct normally constituting the offense. 193

(2) A court that grants a judicial release to an eligible 194
offender under division (H)(1) of this section shall specify on 195
the record both findings required in that division and also shall 196
list all the factors described in that division that were 197
presented at the hearing. 198

(I) If the court grants a motion for judicial release under 199
this section, the court shall order the release of the eligible 200
offender, shall place the eligible offender under an appropriate 201
community control sanction, under appropriate community control 202
conditions, and under the supervision of the department of 203
probation serving the court, and shall reserve the right to 204

reimpose the sentence that it reduced pursuant to the judicial 205
release if the offender violates the sanction. If the court 206
reimposes the reduced sentence pursuant to this reserved right, it 207
may do so either concurrently with, or consecutive to, any new 208
sentence imposed upon the eligible offender as a result of the 209
violation that is a new offense. The period of the community 210
control sanction shall be no longer than five years. The court, in 211
its discretion, may reduce the period of the community control 212
sanction by the amount of time the eligible offender spent in jail 213
for the offense and in prison. If the court made any findings 214
pursuant to division (H)(1) of this section, the court shall serve 215
a copy of the findings upon counsel for the parties within fifteen 216
days after the date on which the court grants the motion for 217
judicial release. 218

Prior to being released pursuant to a judicial release 219
granted under this section, the eligible offender shall serve any 220
extension of sentence that was imposed under section 2967.11 of 221
the Revised Code. 222

If the court grants a motion for judicial release, the court 223
shall notify the appropriate person at the department of 224
rehabilitation and correction of the judicial release, and the 225
department shall post notice of the release on the database it 226
maintains pursuant to section 5120.66 of the Revised Code. 227

(J) In addition to and independent of the right of a victim 228
to make a statement pursuant to section 2930.14, 2930.17, or 229
2946.051 of the Revised Code and any right of a person to present 230
written information or make a statement pursuant to division (G) 231
of this section, any person may submit to the court, at any time 232
prior to the hearing on the offender's motion for judicial 233
release, a written statement concerning the effects of the 234
offender's crime or crimes, the circumstances surrounding the 235
crime or crimes, the manner in which the crime or crimes were 236

perpetrated, and the person's opinion as to whether the offender 237
should be released. 238

Section 2. That existing section 2929.20 of the Revised Code 239
is hereby repealed. 240