

**As Reported by the Senate Judiciary--Criminal Justice Committee**

**127th General Assembly**

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**S. B. No. 108**

**Senator Schaffer**

**Cosponsors: Senators Stivers, Schuring, Cafaro**

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**A B I L L**

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 a criminal 3  
offense committed while the person held public 4  
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 a criminal offense committed 18

while the person held a public office in this state, whether or 19  
not the offense was related to the person's actions as a public 20  
official. 21

(2) "Public office" means any elected federal, state, or 22  
local government office in this state. 23

(B) Upon the filing of a motion by the eligible offender or 24  
upon its own motion, a sentencing court may reduce the offender's 25  
stated prison term through a judicial release in accordance with 26  
this section. The court shall not reduce the stated prison term of 27  
an offender who is not an eligible offender. An eligible offender 28  
may file a motion for judicial release with the sentencing court 29  
within the following applicable period of time: 30

(1)(a) Except as otherwise provided in division (B)(1)(b) or 31  
(c) of this section, if the stated prison term was imposed for a 32  
felony of the fourth or fifth degree, the eligible offender may 33  
file the motion not earlier than thirty days or later than ninety 34  
days after the offender is delivered to a state correctional 35  
institution. 36

(b) If the stated prison term is five years and is an 37  
aggregate of stated prison terms that are being served 38  
consecutively and that were imposed for any combination of 39  
felonies of the fourth degree and felonies of the fifth degree, 40  
the eligible offender may file the motion after the eligible 41  
offender has served four years of the stated prison term. 42

(c) If the stated prison term is more than five years and not 43  
more than ten years and is an aggregate of stated prison terms 44  
that are being served consecutively and that were imposed for any 45  
combination of felonies of the fourth degree and felonies of the 46  
fifth degree, the eligible offender may file the motion after the 47  
eligible offender has served five years of the stated prison term. 48

(2) Except as otherwise provided in division (B)(3) or (4) of 49

this section, if the stated prison term was imposed for a felony 50  
of the first, second, or third degree, the eligible offender may 51  
file the motion not earlier than one hundred eighty days after the 52  
offender is delivered to a state correctional institution. 53

(3) If the stated prison term is five years, the eligible 54  
offender may file the motion after the eligible offender has 55  
served four years of the stated prison term. 56

(4) If the stated prison term is more than five years and not 57  
more than ten years, the eligible offender may file the motion 58  
after the eligible offender has served five years of the stated 59  
prison term. 60

(5) If the offender's stated prison term includes a mandatory 61  
prison term, the offender shall file the motion within the time 62  
authorized under division (B)(1), (2), (3), or (4) of this section 63  
for the nonmandatory portion of the prison term, but the time for 64  
filing the motion does not begin to run until after the expiration 65  
of the mandatory portion of the prison term. 66

(C) Upon receipt of a timely motion for judicial release 67  
filed by an eligible offender under division (B) of this section 68  
or upon the sentencing court's own motion made within the 69  
appropriate time period specified in that division, the court may 70  
schedule a hearing on the motion. The court may deny the motion 71  
without a hearing but shall not grant the motion without a 72  
hearing. If a court denies a motion without a hearing, the court 73  
may consider a subsequent judicial release for that eligible 74  
offender on its own motion or a subsequent motion filed by that 75  
eligible offender. If a court denies a motion after a hearing, the 76  
court shall not consider a subsequent motion for that eligible 77  
offender. The court shall hold only one hearing for any eligible 78  
offender. 79

A hearing under this section shall be conducted in open court 80

within sixty days after the date on which the motion is filed, 81  
provided that the court may delay the hearing for a period not to 82  
exceed one hundred eighty additional days. If the court holds a 83  
hearing on the motion, the court shall enter a ruling on the 84  
motion within ten days after the hearing. If the court denies the 85  
motion without a hearing, the court shall enter its ruling on the 86  
motion within sixty days after the motion is filed. 87

(D) If a court schedules a hearing under division (C) of this 88  
section, the court shall notify the eligible offender of the 89  
hearing and shall notify the head of the state correctional 90  
institution in which the eligible offender is confined of the 91  
hearing prior to the hearing. The head of the state correctional 92  
institution immediately shall notify the appropriate person at the 93  
department of rehabilitation and correction of the hearing, and 94  
the department within twenty-four hours after receipt of the 95  
notice, shall post on the database it maintains pursuant to 96  
section 5120.66 of the Revised Code the offender's name and all of 97  
the information specified in division (A)(1)(c)(i) of that 98  
section. If the court schedules a hearing for judicial release, 99  
the court promptly shall give notice of the hearing to the 100  
prosecuting attorney of the county in which the eligible offender 101  
was indicted. Upon receipt of the notice from the court, the 102  
prosecuting attorney shall notify the victim of the offense for 103  
which the stated prison term was imposed or the victim's 104  
representative, pursuant to section 2930.16 of the Revised Code, 105  
of the hearing. 106

(E) Prior to the date of the hearing on a motion for judicial 107  
release under this section, the head of the state correctional 108  
institution in which the eligible offender in question is confined 109  
shall send to the court a report on the eligible offender's 110  
conduct in the institution and in any institution from which the 111  
eligible offender may have been transferred. The report shall 112

cover the eligible offender's participation in school, vocational 113  
training, work, treatment, and other rehabilitative activities and 114  
any disciplinary action taken against the eligible offender. The 115  
report shall be made part of the record of the hearing. 116

(F) If the court grants a hearing on a motion for judicial 117  
release under this section, the eligible offender shall attend the 118  
hearing if ordered to do so by the court. Upon receipt of a copy 119  
of the journal entry containing the order, the head of the state 120  
correctional institution in which the eligible offender is 121  
incarcerated shall deliver the eligible offender to the sheriff of 122  
the county in which the hearing is to be held. The sheriff shall 123  
convey the eligible offender to the hearing and return the 124  
offender to the institution after the hearing. 125

(G) At the hearing on a motion for judicial release under 126  
this section, the court shall afford the eligible offender and the 127  
eligible offender's attorney an opportunity to present written 128  
information relevant to the motion and shall afford the eligible 129  
offender, if present, and the eligible offender's attorney an 130  
opportunity to present oral information relevant to the motion. 131  
The court shall afford a similar opportunity to the prosecuting 132  
attorney, the victim or the victim's representative, as defined in 133  
section 2930.01 of the Revised Code, and any other person the 134  
court determines is likely to present additional relevant 135  
information. The court shall consider any statement of a victim 136  
made pursuant to section 2930.14 or 2930.17 of the Revised Code, 137  
any victim impact statement prepared pursuant to section 2947.051 138  
of the Revised Code, and any report made under division (E) of 139  
this section. The court may consider any written statement of any 140  
person submitted to the court pursuant to division (J) of this 141  
section. After ruling on the motion, the court shall notify the 142  
victim of the ruling in accordance with sections 2930.03 and 143  
2930.16 of the Revised Code. 144

(H)(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 contained in 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 (H)(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.

(I) 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 community control 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 pursuant to the judicial release if the offender violates the sanction. If the court

reimposes the reduced sentence pursuant to this reserved right, it 177  
may do so either concurrently with, or consecutive to, any new 178  
sentence imposed upon the eligible offender as a result of the 179  
violation that is a new offense. The period of the community 180  
control sanction shall be no longer than five years. The court, in 181  
its discretion, may reduce the period of the community control 182  
sanction by the amount of time the eligible offender spent in jail 183  
for the offense and in prison. If the court made any findings 184  
pursuant to division (H)(1) of this section, the court shall serve 185  
a copy of the findings upon counsel for the parties within fifteen 186  
days after the date on which the court grants the motion for 187  
judicial release. 188

Prior to being released pursuant to a judicial release 189  
granted under this section, the eligible offender shall serve any 190  
extension of sentence that was imposed under section 2967.11 of 191  
the Revised Code. 192

If the court grants a motion for judicial release, the court 193  
shall notify the appropriate person at the department of 194  
rehabilitation and correction of the judicial release, and the 195  
department shall post notice of the release on the database it 196  
maintains pursuant to section 5120.66 of the Revised Code. 197

(J) In addition to and independent of the right of a victim 198  
to make a statement pursuant to section 2930.14, 2930.17, or 199  
2946.051 of the Revised Code and any right of a person to present 200  
written information or make a statement pursuant to division (G) 201  
of this section, any person may submit to the court, at any time 202  
prior to the hearing on the offender's motion for judicial 203  
release, a written statement concerning the effects of the 204  
offender's crime or crimes, the circumstances surrounding the 205  
crime or crimes, the manner in which the crime or crimes were 206  
perpetrated, and the person's opinion as to whether the offender 207  
should be released. 208

**Section 2.** That existing section 2929.20 of the Revised Code 209  
is hereby repealed. 210