

5120:1-1-70

**Termination of the parole board's control over sexually violent predators.**

- (A) For purposes of this rule, "offender" means a sexually violent predator who is sentenced to a prison term pursuant to section 2971.03 of the Revised Code.
- (B) If a court imposes an indefinite prison term consisting of a minimum term fixed by the court from among the range of terms available as a definite term for the offense, and a maximum term of life imprisonment, pursuant to division (A)(3) of section 2971.03 of the Revised Code, the parole board shall determine whether to terminate its control over the offender's service of the prison term pursuant to this rule. The parole board may not terminate its control over an offender's service of a prison term under this rule until after the offender has served the minimum term imposed as part of the prison term and until the parole board has determined that the offender does not represent a substantial risk of physical harm to others.
- (C) As part of any determination pursuant to this rule, the parole board shall not consider the adequacy of the punishment imposed by the sentencing court. The parole board shall limit its consideration to determining whether the offender represents a substantial risk of physical harm to others.
- (D) Prior to any review and determination by the parole board, the department shall prepare, pursuant to section 5120.61 of the Revised Code, a report that contains its risk assessment for the offender or, if a risk assessment report previously has been prepared, an update of the most recent risk assessment and report.
- (E) The parole board chair or designee shall appoint a three parole board member panel to review the offender's case after the offender has served the minimum term imposed by the court. The panel shall determine whether to recommend that the parole board conduct a hearing to consider terminating control over the offender's service of the prison term. In making its determination, the panel shall consider the most recent risk assessment and report prepared by the department as set forth in paragraph (D) of this rule.
- (F) In addition to the report as set forth in paragraph (E) of this rule, the panel may consider the following:
- (1) The transcript of the proceedings held pursuant to section 2971.02 of the Revised Code, at which the court or the jury determined the sexually violent predator specification.
  - (2) Any pre-sentence investigation or offender background investigation reports that were prepared following the offender's conviction of the offense relating to the sexually violent predator specification.

- (3) Any other information the panel deems appropriate.
- (G) If two members of the three member parole board panel conducting the initial determination recommend that the case be heard by the full parole board, the parole board shall conduct a hearing. Otherwise, the decision of the panel declining to terminate control will be recorded in the official minutes of the parole board, and the next determination will be scheduled in two years unless an earlier date is recommended by a majority of the panel. Notice of the decision shall be sent to the offender ~~and to the victim or victim's representative upon request.~~
- (H) The hearing shall be conducted by at least a quorum of the members of the parole board. The following parties will be notified of the hearing date in writing at least twenty-one days in advance of the date of the hearing and will be permitted to appear and give testimony or to submit written statements.
- (1) The prosecuting attorney of the county in which the sexually violent predator specification was determined.
  - (2) The judge of the court of common pleas that imposed the sentence of incarceration upon the offender, or that judge's successor.
  - (3) The offender and the offender's legal counsel. The offender may be present through the means of videoconferencing, as may be arranged by the department.
  - (4) The victim or victims of the offense or offenses, or their representative(s), if requested.
- (I) At the hearing, the parole board shall consider the same information that was considered by the three-member panel pursuant to paragraph (E) of this rule, in addition to any statements or evidence presented by the parties listed in paragraph (H) of this rule, and may also consider information pursuant to paragraph (F) of this rule.
- (J) A decision to terminate its control over the offender's service of the prison term shall require a majority vote of the parole board . If the parole board votes to terminate control, it shall immediately provide written notice of its termination of control to the department, the court, the prosecuting attorney, the offender and the victim or victims of the offense or their representative(s), if requested. If the parole board votes to terminate control over the offender's service of the prison term, the parole board shall also recommend to the court modifications to the requirement that the offender serve the entire prison term in a state correctional institution.

(K) If the majority of the parole board members do not vote to terminate control over the offender's service of the prison term, the offender will be reviewed again as described by this rule in two years from the date of the hearing. The parole board may set a review date earlier than two years by majority vote.

Effective: 01/09/2012

R.C. 119.032 review dates: 01/04/2016

CERTIFIED ELECTRONICALLY

---

Certification

12/27/2011

---

Date

Promulgated Under: 119.03  
Statutory Authority: 5120.49  
Rule Amplifies: 2971.04, 5120.49  
Prior Effective Dates: 6/1/00, 7/17/03, 5/22/06