

5120-2-03.2 **Determination of multiple sentences ~~or prison terms on hybrid sentences.~~**

(A) ~~Definitions~~ As used in this rule:

- (1) ~~Prison term:~~ For purposes of this rule, prison term refers to prison terms "Senate Bill 2 sentence" means a prison term imposed for offenses committed on or after July 1, 1996 but before September 30, 2011, to be served with the department of rehabilitation and correction.
- (2) ~~Sentence:~~ For purposes of this rule, sentence refers to "Pre-Senate Bill 2 sentence" means prison terms imposed for offenses committed before July 1, 1996, to be served with the department of rehabilitation and correction. "Pre-Senate Bill 2 sentence" includes both definite and indefinite sentences.
- (3) "Pre-Senate Bill 2 definite sentence" means definite prison terms imposed for offenses committed before July 1, 1996, to be served with the department of rehabilitation and correction.
- (4) "Pre-Senate Bill 2 indefinite sentence" means indefinite sentences imposed for offenses committed before July 1, 1996, to be served with the department of rehabilitation and correction.
- (3)(5) ~~Hybrid sentence:~~ For the purposes of this rule, a hybrid sentence is a sentence that includes both a prison term and a sentence, as defined in this paragraph "House Bill 86 sentence" means a prison term imposed for offenses committed on or after September 30, 2011, which are subject to the earned credit provisions of section 2967.193 of the Revised Code as amended by House Bill 86 of the 129th General Assembly.

(B) This rule applies when an offender is serving a term of imprisonment for more than one felony and at least one of the felonies was committed prior to July 1, 1996, and at least one of the felonies was committed on or after July 1, 1996. In such situations, at least two, and potentially three, different sets of laws apply and the terms of imprisonment for each felony may be subject to different amounts of reduction for jail time credit. The determination of the length and expiration of the term of imprisonment for each felony must be determined in accordance with the set of laws in effect at the time the felony was committed. ~~These mixed cases will be hereinafter referred to as "hybrids".~~

(C) When a prison term for a crime committed on or after July 1, 1996, is imposed to run concurrently to a crime committed before July 1, 1996, the expiration date of each term of imprisonment must be determined independently in accordance with the appropriate set of laws. The expected expiration of the term for the crime committed on or after July 1, 1996 in most cases will be determined by diminishing

the term by jail credit. The expected expiration of the crime committed before July 1, 1996 in most cases will be determined by diminishing the sentence by good time and jail credit. The sentence with the latest expiration date becomes the controlling sentence regarding the offender's expected release.

- (D) During the period of imprisonment, the offender may be able to reduce each term by the appropriate amount of earned credit. In addition, if the sentence includes a pre-Senate Bill 2 sentence and a Senate Bill 2 sentence or House Bill 86 sentence, or both, the pre-Senate Bill 2 sentence is subject to denial of good time and the prison term any Senate Bill 2 sentence and any House Bill 86 sentence is each subject to loss of earned credit as provided in rule 5120-2-06 of the administrative code. Due to such differences, the controlling term can change during the period of imprisonment. Therefore, the expiration date of each term of imprisonment must be determined independently each time there is any reduction or increase in ~~either any~~ term. The offender cannot be released until ~~both the prison term every pre-Senate Bill 2 definite sentence and the every Senate Bill 2 and House Bill 86 sentence have~~ has expired; that is, until the definite term of imprisonment with the latest expiration date has expired.
- (E) When a ~~prison term for a crime committed on or after July 1, 1996,~~ Senate Bill 2 sentence or a House Bill 86 sentence is imposed to run consecutively to a pre-Senate Bill 2 definite sentence for a crime committed before July 1, 1996, the pre-Senate Bill 2 definite sentence shall be served first, then the prison term Senate Bill 2 sentence or House Bill 86 sentence. When a Senate Bill 2 sentence and House Bill 86 sentence are imposed to run consecutively, the Senate Bill 2 sentence shall be served first, then the House Bill 86 sentence. When a Senate Bill 2 sentence or House Bill 86 sentence is imposed to run consecutively to a pre-Senate Bill 2 indefinite sentence, any Senate Bill 2 sentence shall be served first, then any House Bill 86 sentence, and, lastly, the pre-Senate Bill 2 indefinite sentence shall be served.
- (F) While ~~the~~ a pre-Senate Bill 2 sentence is being served, the offender may be able to reduce the sentence by up to seven days per month of earned credit, and is subject to a potential denial of good time. Upon the expiration of the sentence, the prison term shall be served. While ~~the prison term~~ a Senate Bill 2 sentence is being served, the offender may be able to reduce the prison term by one day per month of earned credit and is subject to loss of earned credit as provided in rule 5120-2-06 of the administrative code. While a House Bill 86 sentence is being served, the offender may be able to reduce the prison term by one day per month or five days per month as provided in rule 5120-2-06 of the administrative code and is subject to loss of earned credit as provided in that rule. If an offender is serving more than one House Bill 86 sentence imposed to run consecutively to one another, for purposes of determining whether an offender is eligible for earned credit and how much, sentences for which the offender may earn zero days of credit per month, if any,

shall be served first, then sentences for which the offender may earn one day of credit per month, if any, shall be served and, lastly, sentences for which the offender may earn five days of credit per month, if any, shall be served.

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