

Ohio Department of Rehabilitation and Correction
Administrative Rule

Sentence Reduction

5120-2-07

**Days of Credit for Maintaining
Minimum Security**

(A) Except as provided by paragraphs (F), (G), (H), (I) AND (J) of this rule, any OFFENDER who maintains minimum security status as defined by paragraphs (A), (B), and (C) of this rule is entitled to have three days of credit deducted from his minimum or definite sentence for each full month he remains at such status.

(B) Except as provided in paragraph (C) of this rule, "an OFFENDER on minimum security status" shall be defined as an OFFENDER designated as minimum security pursuant to this department's "Inmate Security Designation and Supervision Classification Manual" or as an OFFENDER who has been released on furlough for employment or education pursuant to section 2967.26 of the Revised Code.

(C) Notwithstanding paragraph (B) of this rule:

(1) No OFFENDER confined in security control or disciplinary control as a result of a violation of institution rules or in local control or administrative control shall be construed to be on minimum security status during the time spent in such control status.

(2) No furlougee confined in any jail as a result of an alleged violation of any furlough rule shall be construed to be on minimum security status for the time spent confined in such jail.

(3) No OFFENDER who is declared to be absent without leave from the institution and no furlougee who is declared a furlough violator at large shall be construed to be on minimum security.

(D) As soon as practicable after the last day of each month, the status of each OFFENDER on minimum security status as of the end of the last day of the month just ended will be examined. If the OFFENDER is found to have been on minimum security status at the beginning of the first day of the month and remained so during the entire month, three days shall be awarded to the OFFENDER and be deducted from his minimum or definite sentence.

(E) Once an OFFENDER has earned and been properly credited with days of credit pursuant to this rule, the days of credit shall not be forfeited for any reason.

(F) No OFFENDER serving a three-year term of actual incarceration for using a firearm in the commission of an offense, imposed pursuant to section 2929.71 of the Revised Code, shall earn or be awarded any days of credit pursuant to this rule for any time classified as minimum security while serving any such period of actual incarceration. An OFFENDER against whom such a sentence was imposed may begin earning days of credit pursuant to this rule after serving any such term of actual

incarceration in its entirety.

(G) No OFFENDER may earn days of credit pursuant to this rule if he is serving a sentence of imprisonment of:

(1) Life with parole eligibility after serving fifteen full years for an offense of first degree murder or aggravated murder committed prior to October 19, 1981; or

(2) Life with parole eligibility after serving twenty full years for the offense of aggravated murder with one of the specifications enumerated in section 2929.04 of the Revised Code; or

(3) Life with parole eligibility after serving thirty full years for the offense of aggravated murder with one of the specifications enumerated in section 2929.04 of the Revised Code; or

(4) Life imposed prior to October 19, 1981, for an offense other than the offense of first degree or aggravated murder, for which the OFFENDER becomes eligible for parole after serving ten full years pursuant to section 2967.13 of the Revised Code; or

(5) Life for rape or felonious sexual penetration; or

(6) A minimum term longer than fifteen years imposed under any law of this state in effect prior to January 1, 1974 for which the OFFENDER becomes eligible for parole after serving ten full years pursuant to section 2967.13 of the Revised Code.

(H) The cumulative total of any days of credit awarded under this rule, rules 5120-2-06 and 5120-2-08 of the Administrative Code, plus any diminution of sentence granted pursuant to rule 5120-2-05 of the Administrative Code, shall not exceed for any OFFENDER one-third of the minimum or definite sentence, or in the case of a life sentence for which diminution and days of credit may be earned, one-third of the number of years before parole eligibility. No term of actual incarceration imposed pursuant to section 2929.71 of the Revised Code for using a firearm in the commission of an offense shall be considered as a part of a minimum sentence or a part of the number of years before parole eligibility for eligible life sentences in calculating the maximum possible diminution pursuant to this paragraph.

(I) Days of credit earned pursuant to this rule shall be used for no purpose other than to reduce the OFFENDER'S definite or minimum sentence. Once an OFFENDER has served sufficient time to become eligible for parole consideration or has earned and had credited to him time off for good behavior pursuant to rule 5120-2-05 of the Administrative Code, and days of credit pursuant to this rule and rules 5120-2-06 and 5120-2-08 of the Administrative Code equal to one-third of his minimum or definite sentence, or in the case of an eligible life sentence, one-third of the number of years before parole eligibility, no further calculation and crediting of days of credit pursuant to this rule is necessary.

(J) THIS RULE DOES NOT APPLY TO ANY OFFENSE COMMITTED ON OR AFTER JULY 1, 1996.

EFFECTIVE DATE: March 13, 1998

CERTIFICATION: Reginald A. Wilkinson *Reginald A. Wilkinson*

PROMULGATED UNDER 111.15

RULE AUTHORIZED BY: 5120.01

RULE AMPLIFIES: 2967.26

119.032 REVIEW DATE: 1/12/98

PRIOR EFFECTIVE DATE: 11/30/87 (Emer.)