



OHIO LEGISLATIVE SERVICE COMMISSION

Sub. Bill Comparative Synopsis

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Sub. H.B. 365

132nd General Assembly
(H. Criminal Justice)

This table summarizes how the latest substitute version of H.B. 365 differs from the bill as introduced. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same. As context, H.B. 365 enacts an indefinite prison term sentencing mechanism for a first or second degree felony, or a specified category of third degree felony, committed on or after its effective date if an offender is sentenced to a prison term. The indefinite prison term consists of a minimum term selected by the sentencing judge from a range of authorized terms, and a maximum term set by statute and based on the minimum term imposed.

Topic	Previous Version (As Introduced)	Sub. Version (L_132_1563-2)
Presumption of release	Establishes a rebuttable presumption that an offender sentenced to a nonlife felony indefinite prison term (hereafter, "indefinite prison term") must be released from service of the sentence on the expiration of the offender's minimum prison term or on the "offender's presumptive earned early release date," whichever is earlier. "Offender's presumptive earned early release date" means the date determined under the provision described below by the reduction of the offender's minimum prison term for specified conduct (R.C. 2967.271(A) and (B)).	Establishes a similar presumption, except that references to an "offender's presumptive earned early release date" are replaced with the "offender's earned early release date" due to the removal of any presumption of early release, as described in the provisions below (R.C. 2929.19(B)(2) and 2967.271(A) and (B)).

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<p>Rebuttal of presumption of release</p>	<p>Allows DRC to rebut the presumption of release for an offender sentenced to an indefinite prison term under the mechanism only if it determines, at a hearing, that one or more of the following apply (<i>R.C. 2929.19(B)(2)(c) and 2967.271(C)</i>):</p> <p>(1) Regardless of the offender's security level at the time of the hearing: (a) the offender committed institutional rule infractions in prison that compromised a prison's security, compromised the safety of a prison's staff or inmates, or caused or threatened physical harm to a prison's staff or inmates, or committed an unprosecuted violation of law, and the infractions or violations demonstrate that the offender has not been rehabilitated and (b) the offender's behavior while incarcerated demonstrates that the offender continues to pose a threat to society.</p> <p>(2) Regardless of the offender's security level at the time of the hearing, DRC placed the offender in extended restrictive housing at any time within the year preceding the hearing.</p> <p>(3) At the time of the hearing, the offender is classified by DRC as a security level 3, 4, or 5, or at a higher security level.</p>	<p>Requires consideration of the same factors if DRC intends to rebut the presumption of release, but divides the first factor into two separate factors and modifies the factor regarding housing status. Regarding housing status, instead requires DRC to consider whether, regardless of the security level in which the offender is classified at the time of review, at any time within the past year, DRC placed the offender in a housing status to which both of the following apply (<i>R.C. 2929.19(B)(2)(c) and 2967.271(C)</i>):</p> <p>(a) The housing status has limited privileges, restricts the offender's interaction with other prisoners, or has limited privileges and restricts the offender's interaction with other prisoners;</p> <p>(b) DRC has by rule specified the housing status as one that overcomes the presumption of release.</p> <p>Eliminates the hearing prior to determining whether to rebut the presumption of release, except when DRC intends to rebut the presumption of release on the basis of a potential threat to society, in which case a hearing is required (<i>R.C. 2967.271(E)</i>).</p> <p>Requires the offender to attend if DRC conducts a hearing to rebut the presumption of release on the basis of a potential threat to society and allows the offender to participate in the hearing if the offender so chooses. In certain circumstances, DRC may permit the offender to appear at the hearing by use of video conferencing equipment (<i>R.C. 2967.271(E)</i>).</p>

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Earned reduction of minimum prison term	Allows DRC to grant an offender sentenced to a indefinite prison term a reduction in the minimum term imposed under that sentence for the offender's exceptional conduct while incarcerated or the offender's adjustment to incarceration. A reduction must be for 5% to 15% of the offender's minimum term, as DRC specifies by rule. The date determined by reduction of an offender's minimum term under this provision is the offender's "presumptive earned early release date" (R.C. 2967.271(F)(1)).	Allows the director of DRC to recommend to the offender's sentencing court a reduction in the offender's minimum prison term, and requires the court to make its determination according to the procedure described below (R.C. 2967.272).
Procedure for recommending a reduction of the minimum prison term	No provision.	<p>Specifies that DRC's director must notify the sentencing court of the Director's recommendation of a sentence reduction not earlier than 90 days prior to the date on which the Director wishes to credit the reduction toward the satisfaction of the offender's minimum prison term (R.C. 2967.272(A)).</p> <p>Requires that the Director include with the notice an institutional summary report that describes the offender's participation in rehabilitative programs and activities and any other documentation requested by the court, if available (R.C. 2967.271(A)(3) and 2967.272(A)).</p> <p>Describes what must be in the notice the Director sends to the sentencing court, including the length of the recommended reduction and the reasons for the recommendation (R.C. 2967.272(B)).</p> <p>Requires DRC to promptly provide to the prosecuting attorney of the county in which the offender was indicted a copy of the Director's</p>

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		<p>written notice, a copy of the institutional summary report, any other information provided to the court, and any other documentation requested by the prosecuting attorney, if available (R.C. 2967.272(C)).</p> <p>Requires the court to either deny the DRC Director's recommendation without a hearing or schedule a hearing to consider whether to grant the recommended reduction within 30 days of receiving the recommendation. In deciding whether to deny the recommendation without a hearing, the court must consider any report and other documentation submitted by the director (R.C. 2967.272(D)(1)).</p> <p>Requires the court to inform DRC and the prosecuting attorney of the county in which the offender was indicted if the court schedules a hearing to consider the Director's recommendation. The notice must include the date, time, and place of the hearing and inform the prosecuting attorney that the prosecutor may submit relevant information prior to the hearing (R.C. 2967.272(D)(3)).</p> <p>Requires the court, if it conducts a hearing, to consider all information submitted by the director, the prosecuting attorney, and the victim in deciding whether to grant the recommended reduction (R.C. 2967.272(E)).</p> <p>If the court denies the Director's recommended reduction, regardless of whether a hearing was conducted, DRC must not credit the disapproved</p>

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		<p>reduction toward satisfaction of the offender's minimum prison term (<i>R.C. 2967.272(D)(2) and (F)(1)</i>).</p> <p>Specifies the actions the court and DRC must take if the court grants the recommended reduction of the offender's minimum prison term. The date determined by DRC's crediting of the approved reduction toward satisfaction of the offender's minimum prison term is considered the offender's earned early release date (<i>R.C. 2967.272(F)(2) and (3) and (G)</i>).</p>
DRC rules regarding earned early release	<p>Requires the DRC to specify by rule: (1) the type of exceptional conduct and type of adjustment to incarceration that will qualify an offender for a reduction of the minimum term and (2) the percent of reduction that it may grant, based on the offense level of the offense for which the term was imposed (5% to 15% for each such offense level) (<i>R.C. 2967.271(F)(2)</i>).</p>	<p>Same, except that DRC is to specify by rule the percent of reduction that it may recommend, and that may be granted by a court, based on the offense level of the offense for which an indefinite prison term was imposed (<i>R.C. 2967.272(H)(2)</i>).</p>
Victim's rights	<p>Requires DRC to give the victim at least 60 days prior notice of the following (<i>R.C. 2930.16(C)(1) and 5120.66(A)(1)(b) and (c)</i>):</p> <p>(1) A hearing to determine whether the inmate must be released under a presumptive release;</p> <p>(2) The fact that the inmate will be having a hearing regarding the possible grant of release;</p> <p>(3) The date of the hearing; and</p> <p>(4) The right of any person to submit a written statement regarding the pending action.</p>	<p>Similar, except that because a hearing is not always required for a determination regarding presumptive release, the notice is required prior to DRC's determination as to whether the inmate will be released, with notice of the fact that DRC will be making such a determination, and, if DRC is conducting a hearing before making the determination, of the date of the hearing and the victim's right to submit a written statement regarding the pending action. Similar changes regarding DRC's Internet database posting. (<i>R.C. 2930.16(C)(1) and 5120.66(A)(1)(c)(iii)</i>).</p>

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	<p>Similar information must be posted on DRC's Internet database.</p> <p>No provision.</p> <p>Requires inclusion of a statement in the Attorney General's Crime Victims' Rights Pamphlet that the victim has a right to notice of any pending release under the presumptive release mechanism described above (R.C. 109.42(A)(9)).</p> <p>No provision.</p>	<p>Requires DRC to consider any written statement submitted by a victim before determining whether to rebut the presumption of release for an offender sentenced to an indefinite prison term (R.C. 2967.271(D)(3)).</p> <p>Requires inclusion of a statement in the Crime Victims' Rights Pamphlet that the victim has a right to notice of any pending petition for reduction of a presumptive release date and notice of any consideration by DRC as to whether to rebut the presumption of release and continue the offender's incarceration, and that the victim has a right to send a written statement regarding the pending action (R.C. 109.42(A)(9)).</p> <p>If DRC's director recommends a reduction of an offender's minimum prison term and the court grants a hearing to consider the recommendation, requires the prosecuting attorney to notify the victim or the victim's representative of the recommendation for a reduction, the date, time, and place of the hearing, the fact that the victim may submit to the court information relevant to the recommendation prior to the hearing, and the address and procedure for submitting the information (2967.272(D)(4)).</p>

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Reduction of prison term under existing mechanisms	Specifies that confinement credit and earned credit may be credited toward an offender's minimum and maximum term if the offender is serving an indefinite prison term (<i>R.C. 2929.19(B)(2)(h), 2967.191(B), and 2967.193(F)</i>).	Allows confinement credit and earned credit to be credited toward an offender's minimum prison term, but not the maximum (<i>R.C. 2929.19(B)(2)(h), 2967.191(B), and 2967.193(F)</i>).
GPS monitoring	Requires GPS monitoring for 14 days following a prisoner's release if the prisoner's minimum term under an indefinite prison term was reduced by 60 or more days of earned credit or by an earned reduction, as described above (<i>R.C. 2967.28(D)(2)</i>).	Requires the GPS monitoring only if the prisoner's minimum term was reduced by 60 or more days of earned credit (<i>R.C. 2967.28(D)(2)</i>).

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