



Ohio Revised Code

Section 2967.26 Transitional control program.

Effective: March 22, 2019

Legislation: Senate Bill 201 - 132nd General Assembly

(A)(1) The department of rehabilitation and correction, by rule, may establish a transitional control program for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final one hundred eighty days of the prisoner's confinement. If the department establishes a transitional control program under this division, the division of parole and community services of the department of rehabilitation and correction may transfer eligible prisoners to transitional control status under the program during the final one hundred eighty days of their confinement and under the terms and conditions established by the department, shall provide for the confinement as provided in this division of each eligible prisoner so transferred, and shall supervise each eligible prisoner so transferred in one or more community control sanctions. Each eligible prisoner who is transferred to transitional control status under the program shall be confined in a suitable facility that is licensed pursuant to division (C) of section 2967.14 of the Revised Code, or shall be confined in a residence the department has approved for this purpose and be monitored pursuant to an electronic monitoring device, as defined in section 2929.01 of the Revised Code. If the department establishes a transitional control program under this division, the rules establishing the program shall include criteria that define which prisoners are eligible for the program, criteria that must be satisfied to be approved as a residence that may be used for confinement under the program of a prisoner that is transferred to it and procedures for the department to approve residences that satisfy those criteria, and provisions of the type described in division (C) of this section. At a minimum, the criteria that define which prisoners are eligible for the program shall provide all of the following:

(a) That a prisoner is eligible for the program if the prisoner is serving a prison term or term of imprisonment for an offense committed prior to March 17, 1998, and if, at the time at which eligibility is being determined, the prisoner would have been eligible for a furlough under this section as it existed immediately prior to March 17, 1998, or would have been eligible for conditional release under former section 2967.23 of the Revised Code as that section existed immediately prior to March 17, 1998;

(b) That no prisoner who is serving a mandatory prison term is eligible for the program until after



expiration of the mandatory term;

(c) That no prisoner who is serving a prison term or term of life imprisonment without parole imposed pursuant to section 2971.03 of the Revised Code is eligible for the program.

(2) At least sixty days prior to transferring to transitional control under this section a prisoner who is serving a definite term of imprisonment or definite prison term of two years or less for an offense committed on or after July 1, 1996, or who is serving a minimum term of two years or less under a non-life felony indefinite prison term, the division of parole and community services of the department of rehabilitation and correction shall give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found and of the fact that the court may disapprove the transfer of the prisoner to transitional control and shall include the institutional summary report prepared by the head of the state correctional institution in which the prisoner is confined. The head of the state correctional institution in which the prisoner is confined, upon the request of the division of parole and community services, shall provide to the division for inclusion in the notice sent to the court under this division an institutional summary report on the prisoner's conduct in the institution and in any institution from which the prisoner may have been transferred. The institutional summary report shall cover the prisoner's participation in school, vocational training, work, treatment, and other rehabilitative activities and any disciplinary action taken against the prisoner. If the court disapproves of the transfer of the prisoner to transitional control, the court shall notify the division of the disapproval within thirty days after receipt of the notice. If the court timely disapproves the transfer of the prisoner to transitional control, the division shall not proceed with the transfer. If the court does not timely disapprove the transfer of the prisoner to transitional control, the division may transfer the prisoner to transitional control.

(3)(a) If the victim of an offense for which a prisoner was sentenced to a prison term or term of imprisonment has requested notification under section 2930.16 of the Revised Code and has provided the department of rehabilitation and correction with the victim's name and address or if division (A)(3)(b) of this section applies, the division of parole and community services, at least sixty days prior to transferring the prisoner to transitional control pursuant to this section, shall notify the victim of the pendency of the transfer and of the victim's right to submit a statement to the division regarding the impact of the transfer of the prisoner to transitional control. If the victim



subsequently submits a statement of that nature to the division, the division shall consider the statement in deciding whether to transfer the prisoner to transitional control.

(b) If a prisoner is incarcerated for the commission of aggravated murder, murder, or an offense of violence that is a felony of the first, second, or third degree or under a sentence of life imprisonment, except as otherwise provided in this division, the notice described in division (A)(3)(a) of this section shall be given regardless of whether the victim has requested the notification. The notice described in division (A)(3)(a) of this section shall not be given under this division to a victim if the victim has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the victim not be provided the notice. If notice is to be provided to a victim under this division, the authority may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The authority, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

Division (A)(3)(b) of this section, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19, division (D)(1) of section 2967.28, and division (A)(2) of section 5149.101 of the Revised Code enacted in the act in which division (A)(3)(b) of this section was enacted, shall be known as "Roberta's Law."

(4) The department of rehabilitation and correction, at least sixty days prior to transferring a prisoner to transitional control pursuant to this section, shall post on the database it maintains pursuant to section 5120.66 of the Revised Code the prisoner's name and all of the information specified in division (A)(1)(c)(iv) of that section. In addition to and independent of the right of a victim to submit a statement as described in division (A)(3) of this section or to otherwise make a statement and in addition to and independent of any other right or duty of a person to present information or make a statement, any person may send to the division of parole and community services at any time prior to the division's transfer of the prisoner to transitional control a written statement regarding the transfer of the prisoner to transitional control. In addition to the information, reports, and statements it considers under divisions (A)(2) and (3) of this section or that it otherwise considers, the division



shall consider each statement submitted in accordance with this division in deciding whether to transfer the prisoner to transitional control.

(B) Each prisoner transferred to transitional control under this section shall be confined in the manner described in division (A) of this section during any period of time that the prisoner is not actually working at the prisoner's approved employment, engaged in a vocational training or another educational program, engaged in another program designated by the director, or engaged in other activities approved by the department.

(C) The department of rehabilitation and correction shall adopt rules for transferring eligible prisoners to transitional control, supervising and confining prisoners so transferred, administering the transitional control program in accordance with this section, and using the moneys deposited into the transitional control fund established under division (E) of this section.

(D) The department of rehabilitation and correction may adopt rules for the issuance of passes for the limited purposes described in this division to prisoners who are transferred to transitional control under this section. If the department adopts rules of that nature, the rules shall govern the granting of the passes and shall provide for the supervision of prisoners who are temporarily released pursuant to one of those passes. Upon the adoption of rules under this division, the department may issue passes to prisoners who are transferred to transitional control status under this section in accordance with the rules and the provisions of this division. All passes issued under this division shall be for a maximum of forty-eight hours and may be issued only for the following purposes:

- (1) To visit a relative in imminent danger of death;
- (2) To have a private viewing of the body of a deceased relative;
- (3) To visit with family;
- (4) To otherwise aid in the rehabilitation of the prisoner.

(E) The division of parole and community services may require a prisoner who is transferred to transitional control to pay to the division the reasonable expenses incurred by the division in



supervising or confining the prisoner while under transitional control. Inability to pay those reasonable expenses shall not be grounds for refusing to transfer an otherwise eligible prisoner to transitional control. Amounts received by the division of parole and community services under this division shall be deposited into the transitional control fund, which is hereby created in the state treasury and which hereby replaces and succeeds the furlough services fund that formerly existed in the state treasury. All moneys that remain in the furlough services fund on March 17, 1998, shall be transferred on that date to the transitional control fund. The transitional control fund shall be used solely to pay costs related to the operation of the transitional control program established under this section. The director of rehabilitation and correction shall adopt rules in accordance with section 111.15 of the Revised Code for the use of the fund.

(F) A prisoner who violates any rule established by the department of rehabilitation and correction under division (A), (C), or (D) of this section may be transferred to a state correctional institution pursuant to rules adopted under division (A), (C), or (D) of this section, but the prisoner shall receive credit towards completing the prisoner's sentence for the time spent under transitional control.

If a prisoner is transferred to transitional control under this section, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control pursuant to section 2967.13 or 2967.28 of the Revised Code and rules adopted by the department of rehabilitation and correction. If the prisoner is released under post-release control, the duration of the post-release control, the type of post-release control sanctions that may be imposed, the enforcement of the sanctions, and the treatment of prisoners who violate any sanction applicable to the prisoner are governed by section 2967.28 of the Revised Code.