



Ohio Revised Code

Section 5120.53 Transfer or exchange of convicted offender to foreign country pursuant to treaty.

Effective: July 1, 1996

Legislation: Senate Bill 2 - 121st General Assembly

(A) If a treaty between the United States and a foreign country provides for the transfer or exchange, from one of the signatory countries to the other signatory country, of convicted offenders who are citizens or nationals of the other signatory country, the governor, subject to and in accordance with the terms of the treaty, may authorize the director of rehabilitation and correction to allow the transfer or exchange of convicted offenders and to take any action necessary to initiate participation in the treaty. If the governor grants the director the authority described in this division, the director may take the necessary action to initiate participation in the treaty and, subject to and in accordance with division (B) of this section and the terms of the treaty, may allow the transfer or exchange to a foreign country that has signed the treaty of any convicted offender who is a citizen or national of that signatory country.

(B)(1) No convicted offender who is serving a term of imprisonment in this state for aggravated murder, murder, or a felony of the first or second degree, who is serving a mandatory prison term imposed under section 2925.03 or 2925.11 of the Revised Code in circumstances in which the court was required to impose as the mandatory prison term the maximum prison term authorized for the degree of offense committed, who is serving a term of imprisonment in this state imposed for an offense committed prior to the effective date of this amendment that was an aggravated felony of the first or second degree or that was aggravated trafficking in violation of division (A)(9) or (10) of section 2925.03 of the Revised Code, or who has been sentenced to death in this state shall be transferred or exchanged to another country pursuant to a treaty of the type described in division (A) of this section.

(2) If a convicted offender is serving a term of imprisonment in this state and the offender is a citizen or national of a foreign country that has signed a treaty of the type described in division (A) of this section, if the governor has granted the director of rehabilitation and correction the authority described in that division, and if the transfer or exchange of the offender is not barred by division (B)(1) of this section, the director or the director's designee may approve the offender for transfer or



exchange pursuant to the treaty if the director or the designee, after consideration of the factors set forth in the rules adopted by the department under division (D) of this section and all other relevant factors, determines that the transfer or exchange of the offender is appropriate.

(C) Notwithstanding any provision of the Revised Code regarding the parole eligibility of, or the duration or calculation of a sentence of imprisonment imposed upon, an offender, if a convicted offender is serving a term of imprisonment in this state and the offender is a citizen or national of a foreign country that has signed a treaty of the type described in division (A) of this section, if the offender is serving an indefinite term of imprisonment, if the offender is barred from being transferred or exchanged pursuant to the treaty due to the indefinite nature of the offender's term of imprisonment, and if in accordance with division (B)(2) of this section the director of rehabilitation and correction or the director's designee approves the offender for transfer or exchange pursuant to the treaty, the parole board, pursuant to rules adopted by the director, shall set a date certain for the release of the offender. To the extent possible, the date certain that is set shall be reasonably proportionate to the indefinite term of imprisonment that the offender is serving. The date certain that is set for the release of the offender shall be considered only for purposes of facilitating the international transfer or exchange of the offender, shall not be viable or actionable for any other purpose, and shall not create any expectation or guarantee of release. If an offender for whom a date certain for release is set under this division is not transferred to or exchanged with the foreign country pursuant to the treaty, the date certain is null and void, and the offender's release shall be determined pursuant to the laws and rules of this state pertaining to parole eligibility and the duration and calculation of an indefinite sentence of imprisonment.

(D) If the governor, pursuant to division (A) of this section, authorizes the director of rehabilitation and correction to allow any transfer or exchange of convicted offenders as described in that division, the director shall adopt rules under Chapter 119. of the Revised Code to implement the provisions of this section. The rules shall include a rule that requires the director or the director's designee, in determining whether to approve a convicted offender who is serving a term of imprisonment in this state for transfer or exchange pursuant to a treaty of the type described in division (A) of this section, to consider all of the following factors:

(1) The nature of the offense for which the offender is serving the term of imprisonment in this state;



- (2) The likelihood that, if the offender is transferred or exchanged to a foreign country pursuant to the treaty, the offender will serve a shorter period of time in imprisonment in the foreign country than the offender would serve if the offender is not transferred or exchanged to the foreign country pursuant to the treaty;
- (3) The likelihood that, if the offender is transferred or exchanged to a foreign country pursuant to the treaty, the offender will return or attempt to return to this state after the offender has been released from imprisonment in the foreign country;
- (4) The degree of any shock to the conscience of justice and society that will be experienced in this state if the offender is transferred or exchanged to a foreign country pursuant to the treaty;
- (5) All other factors that the department determines are relevant to the determination.