

CHAPTER 94. RELEASE AND PRERELEASE PROGRAMS

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Source

The provisions of this Chapter 94 adopted May 14, 1976, effective May 15, 1976, 6 Pa.B. 1100, unless otherwise noted.

Notes of Decisions

The Board of Probation and Parole has no authority to revoke a temporary home furlough. *Aub-erzinski v. Board of Probation and Parole*, 690 A.2d 776 (Pa. Cmwlth. 1997).

§ 94.1. Purpose.

It is the goal of the Department to administer its facilities and design programs to provide protection to society through the control and rehabilitation of offenders. In furtherance of that objective and the authority granted to the Department by the act of July 16, 1968 (P. L. 351, No. 173) (61 P. S. §§ 1051—1054), prerelease programs have been established. These programs are designed to provide opportunities for qualified inmates to have access to community resources, to demonstrate self-control and individual responsibility and to begin reintegration into the community. Criteria for participation in prerelease programs are designed to insure that the inmates who are selected to participate are those who will present the least risk to the community, and benefit most from the program, and to offer the opportunities to as many inmates as possible.

Authority

The provisions of this § 94.1 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 94.1 adopted May 14, 1976, effective May 15, 1976, 6 Pa.B. 1100; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (233007).

§ 94.2. Prerelease programs.

- (a) *Work/educational/vocational training release.*

(1) *Work release.* This is a program which enables an inmate to leave the facility and work in the community. The inmate is required to return to the facility at a designated time after the work day.

(2) *Educational/vocational training release.* This is a program which enables an inmate to leave the facility and participate in educational or vocational-technical training. The inmate is required to return to the facility at a designated time after completion of training for the day.

(b) *Temporary home furlough.* This is the authorized leave for an inmate from a facility for a period not to exceed 7-consecutive days for the purpose of furthering an inmate's rehabilitative programs. The inmate is required to return to the facility at a designated time after the furlough.

(c) *Community corrections.*

(1) *Community corrections center residency.* This is a program operated as a continuum of the rehabilitative services provided in the facilities. Community corrections centers are residences in the community with custodial structure and strong emphasis on guidance and counseling. These centers serve those inmates who qualify and who should benefit from a gradual reintegration into society.

(2) *Group home residency.* This is a program which complements community corrections center residency and consists of publicly or privately owned agencies approved by the Department for use by its residents. These residences provide specialized residential treatment, for example, drug and alcohol treatment, or additional bed resources and include 24-hour supervision, living quarters and special services for selected residents, and provisions for continued jurisdiction by community corrections. An exception to this paragraph shall have prior approval by the Director, Community Corrections Division and final approval by the Secretary or a designee.

(3) *Community corrections furlough program.* This is a program which complements community corrections center residency and is permitted with the approval of the community corrections center director or contract coordinator. It is the authorized leave of an inmate from a community corrections center or group home for a period not to exceed 7-consecutive days for the purpose of furthering the inmate's reintegration into the community. The inmate is required to return to the center or group home at a designated time.

Authority

The provisions of this § 94.2 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 94.2 adopted May 14, 1976, effective May 15, 1976, 6 Pa.B. 100; amended February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286445) to (286446).

§ 94.3. Procedures for participation in prerelease programs.

(a) The criteria for eligibility for prerelease programs are as follows:

(1) Inmates who have been sentenced to death or life imprisonment or other offenses specified by the Department in the *Department of Corrections Inmate Handbook*, DC-ADM 805—Policy and Procedures for Obtaining Pre-release—or any Department document that is disseminated to inmates are not eligible.

(2) Time-served requirements are as follows:

(i) To be time-eligible for placement in a community corrections center or group home, the inmate shall have completed at least one-half of the inmate's minimum sentence, be within 1 year of completing his minimum sentence, have no outstanding detainers, and have served at least 9 months in a facility. Exceptions may be made with written approval of the Secretary or a designee, when early transfer is necessary to assist in the inmate's access to medical or mental health care or to provide longer period of participation for an inmate who has been confined for an unusually long period of time. A contact may not be made with the court until the approval is obtained.

(ii) For other prerelease programs, the inmate is time-eligible after the inmate has completed one-half of the inmate's minimum sentence or one-half of the period ending with anticipated release date of an indeterminate sentence and has served at least 9 months in a facility. The inmate may have no detainers lodged against him for an untried offense or for a sentence with a maximum term in excess of 2 years. Inmates who are otherwise time-eligible who have detainers lodged against them for less than 2 years can be time-eligible for a prerelease program except community corrections center or group home upon written approval of the Secretary or a designee. No contact may be made with the court until the approval is obtained.

(3) The inmate shall have favorable recommendation of the correctional facility staff—for example, counselor, work supervisor, housing officer, education/vocational supervisor and deputy facility managers for treatment and operations.

(4) The inmate may have had no Class I misconduct and no more than one Class II misconduct during the 9 months prior to application, and have sustained no Class I misconduct and no more than one Class II misconduct from the time of application to the time of transfer.

(5) The inmate shall obtain a medical clearance by the facility medical officer.

(6) The inmate's application shall be approved by the facility manager and by the Secretary or regional director of the Department, or both, if an inmate is serving a sentence for an offense specified in the *Department of Corrections Inmate Handbook*, or any Department document that is disseminated to inmates that requires approval.

(7) If the inmate has not completed his minimum sentence, the notice process in § 94.5 (relating to notification process) shall be followed.

(8) Applications for transfer to community corrections require evaluation and concurrence by the staff of the appropriate region of community corrections and approval by the Director of Community Corrections.

(9) The inmate shall execute a written acknowledgement that he is required to abide by the rules and regulations of the prerelease program. In the case of community corrections placement, the written agreement shall be signed prior to transfer.

(10) After transfer into a prerelease program, the inmate may continue to participate in the program only while adequate resources are available to provide care, custody and control for the inmate within the program to which the inmate has been admitted. The inmate's privilege to participate in prerelease programs may be suspended or revoked for administrative or disciplinary reasons. The Department will establish procedures to govern the revocation of prerelease privileges.

(b) The process of obtaining prerelease transfer is initiated when an inmate submits an application to the inmate's counselor for participation in work/educational/vocational release, or for a temporary home furlough or for transfer to a community corrections placement. An inmate will not be granted prerelease transfer for any purpose unless the inmate satisfies all of the criteria in this section. Satisfying the eligibility criteria for prerelease transfer does not mean the inmate will automatically be permitted to participate in prerelease programs. Other considerations such as the staff's evaluation of the inmate's progress, the relevancy of the particular prerelease program to the inmate's reintegration, the safety of the community and the victim of the inmate's crime and the availability of space will be taken into consideration. Approval for participation in one prerelease program does not imply clearance for, or preclude application for participation in any other program. The application must specify a particular prerelease program.

(c) Special exception to subsection (a) or (b), other than subsection (a)(1), (2)(ii) and (6)—(9), may be recommended in writing by a facility manager to the Secretary or a designee.

(d) Inmates serving Federal sentences in facilities shall be eligible for prerelease transfer under rules and regulations established by the United States Department of Justice, Federal Bureau of Prisons, and subject to subsections (a) and (b), and the subsequent approval of Federal and State authorities.

(e) Inmates serving sentences from other jurisdictions under the Interstate Corrections Compact (61 P. S. §§ 1061—1063) are eligible subject to subsections (a) and (b) and the sending state's written approval.

Authority

The provisions of this § 94.3 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 94.3 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286447) to (286449).

Notes of Decisions*Authority of Officials*

Denial of an inmate's request for admission to a prerelease program was not based on his classification as a dangerous offender and sexual predator by the Department of Corrections, where the Department exercised its lawful discretion and denied the inmate's request for admission to a prerelease program based upon the belief that the inmate's violent criminal history rendered him ineligible, at that time, for admission to such a program. *Hugie v. Horn*, 730 A.2d 1042 (Pa. Cmwlth. 1999).

Corrections officials' consideration of prisoners convictions and history in denying prisoner's application for prerelease status was a proper exercise of professional judgment and not an arbitrary action which would establish denial of equal protection. *Reider v. Bureau of Correction*, 502 A.2d 272 (Pa. Cmwlth. 1985).

Constitutional Right to Participate

The fact that one's temporary home furlough was approved and then arbitrarily revoked does not alter the well settled proposition that one has no constitutional right to participate in a pre-release program. *Auberzinski v. Board of Probation and Parole*, 690 A.2d 776 (Pa. Cmwlth. 1997).

Drug Testing

Because petitioner failed to establish a liberty interest with due process protection, petitioner had no clear legal right to relief and mandamus was unavailable when petitioner claimed that positive drug urinalysis was the result of heart medication rather than cocaine abuse. *Wilder v. Department of Corrections*, 673 A.2d 30 (Pa. Cmwlth. 1996); appeal denied 681 A.2d 1344 (Pa. 1996).

Rights of Prisoners

Since the prerelease transfer regulations did not give rise to an expectation of prerelease, a prisoner had no liberty interest which was violated by denial of prerelease even though the minimum eligibility criteria have been satisfied. *Reider v. Bureau of Correction*, 502 A.2d 272 (Pa. Cmwlth. 1985).

Cross References

This section cited in 37 Pa. Code § 94.4 (relating to application process); and 37 Pa. Code § 94.6 (relating to staff responsibilities).

§ 94.4. Application process.

Application for prerelease programming shall be initiated by the inmate to his counselor, or if necessary, on the inmate's behalf by the counselor. Criteria in § 94.3(a)(1), (3)—(5), (8) and (9) (relating to the procedures for participation in prerelease programs) shall be met prior to submission to the facility manager for

his approval. The process may begin a reasonable time prior to the time the inmate becomes time-eligible.

Authority

The provisions of this § 94.4 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 94.4 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932. Immediately preceding text appears at serial page (261605).

§ 94.5. Notification process.

(a) If the facility manager approves an inmate's application for prerelease transfer, the facility manager shall notify the sentencing judge or if the sentencing judge is unavailable, the sentencing court, and the prosecuting district attorney's office by certified mail, of the inmate's proposed prerelease program. Comments will be considered.

(b) If the inmate has not finished his minimum sentence and an objection is received from the judge, or court if the judge is unavailable, within 30 days of the receipt of the proposed prerelease plan, representatives of the Department will contact the judge or court and if necessary arrange for a meeting to attempt to resolve the disagreement. If, within 20 days of the Department's receipt of the objections, the judge or court does not withdraw the objection and the Department does not withdraw its proposal for transfer, or the judge and the Department do not agree on an alternate proposal for transfer, the Department will refer the matter to the Board for a hearing in accordance with section 2 of the act of July 16, 1968 (P. L. 351, No. 173) (61 P. S. § 1052).

Authority

The provisions of this § 94.5 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 94.5 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial page (286450).

Cross References

This section cited in 37 Pa. Code § 94.3 (relating to procedures for participation in prerelease programs).

§ 94.6. Staff responsibilities.

(a) It is the primary responsibility of the inmate's counselor to process the inmate's application for participation in prerelease programs.

(1) The inmate's counselor is responsible for obtaining, integrating and coordinating the information necessary to determine the inmate's eligibility or noneligibility for participation in a prerelease program.

(2) The inmate's counselor will accept and review the inmate's application. If necessary, the counselor may help the inmate initiate this process. The inmate's counselor will also be responsible for having the housing officer, work supervisor and other appropriate staff complete relevant portions of the application and make recommendations concerning prerelease programming.

(3) The inmate's counselor shall verify, with the record officer, the necessary information with respect to the inmate's sentence and detainer status.

(4) The inmate's counselor will review and verify available information relevant to eligibility—for example, presentence investigation report, judge's sentencing notes, classification and reclassification summary records and cumulative adjustment record.

(5) The inmate's counselor will request proper psychological and psychiatric evaluations for those applicants who have a history of mental or emotional disorders, violent crimes or other situations when deemed advisable. The inmate's counselor may contact other persons and agencies to acquire additional information.

(6) When the necessary information has been obtained, the inmate's counselor will refer the application to his supervisors for review.

(b) It is the primary responsibility of the Corrections Classification Program Manager (CCPM) or other staff person designated by the facility manager to coordinate the staff evaluation and recommendation process.

(1) The CCPM or other staff person designated by the facility manager will chair a meeting of designated facility staff who shall make recommendations regarding prerelease programs. The inmate shall be present at this staff meeting for input.

(2) The staff's findings, recommendations and rationale shall be forwarded to the facility manager through both the Office of the Deputy Superintendent for Centralized Services and the Deputy Superintendent for Facilities Management, with comments by both.

(c) It is the responsibility of the facility manager to give final approval or disapproval of recommendations regarding prerelease programs. The inmate will be advised by the unit manager, in the presence of the inmate's counselor, of the final decision and its rationale. The decision and rationale will be documented in the cumulative adjustment record.

(d) Letters to judges and district attorneys shall be signed by the facility manager or a designee.

(e) The inmate's counselor shall discuss with the inmate prior to the commencement of the program, the objectives, rules and regulations of the program and obtain written agreement as provided for in § 94.3(a)(9) (relating to proce-

dures for participation in prerelease programs). The counselor shall review the program objectives on the inmate's cumulative adjustment record.

Authority

The provisions of this § 94.6 amended under section 506 of The Administrative Code of 1929 (71 P. S. § 186).

Source

The provisions of this § 94.6 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534; amended December 21, 2001, effective December 22, 2001, 31 Pa.B. 6932; amended April 15, 2005, effective April 16, 2005, 35 Pa.B. 2279. Immediately preceding text appears at serial pages (286450) to (286451).

§ 94.7. Effective date.

This chapter applies to inmates who apply to participate in prerelease programs after February 18, 1984.

Source

The provisions of this § 94.7 adopted February 17, 1984, effective February 18, 1984, 14 Pa.B. 534.

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