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Limited Incarceration for Parole "Technical Violations" with Public Safety / Victim Exception – CS Art., §7-401 & 7-504

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11 **(3) IF THE GOVERNOR DOES NOT DISAPPROVE THE DECISION WITHIN**
12 **180 DAYS AFTER RECEIPT OF THE WRITTEN TRANSMITTAL, THE DECISION BECOMES**
13 **EFFECTIVE.**

14 (j) The Commission shall issue regulations to implement the provisions of this
15 section.

16 **7-401.**

17 (a) If a parolee is alleged to have violated a condition of parole, one commissioner
18 shall hear the case on revocation of the parole at the time and place that the Commission
19 designates.

20 (b) (1) Each individual charged with a parole violation is entitled to be
21 represented by counsel of the individual's choice or, if eligible, counsel provided by the Public
22 Defender's office.

23 (2) The Commission shall keep a record of the hearing.

24 (c) If the commissioner finds from the evidence that the parolee has violated a
25 condition of parole, the commissioner may take any action that the commissioner considers
26 appropriate, including:

27 (1) (i) **SUBJECT TO SUBSECTION (D)(1) OF THIS SECTION, revoking**
28 **the order of parole;**

29 (ii) setting a future hearing date for consideration for reparole; and

30 (iii) remanding the individual to the Division of Correction or local
31 correctional facility from which the individual was paroled; or

1 (2) continuing parole:

2 (i) without modification of its conditions; or

3 (ii) with modification of its conditions, including a requirement that
4 the parolee spend all or part of the remaining parole period in a home detention program.

5 (d) (1) **SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, IF AN ORDER**
6 **OF PAROLE IS REVOKED DUE TO A TECHNICAL VIOLATION, AS DEFINED IN § 6-101 OF**
7 **THIS ARTICLE, THE COMMISSIONER HEARING THE PAROLE REVOCATION MAY**
8 **REQUIRE THE INDIVIDUAL TO SERVE A PERIOD OF IMPRISONMENT OF:**

9 (I) **FOR A FIRST VIOLATION, NOT MORE THAN 15 DAYS;**

10 (II) **FOR A SECOND VIOLATION, NOT MORE THAN 30 DAYS; AND**

11 (III) **FOR A THIRD VIOLATION, NOT MORE THAN 45 DAYS.**

12 (2) Subject to paragraph [(2)] (3) of this subsection and further action by
13 the Commission, if the order of parole is revoked FOR A FOURTH OR SUBSEQUENT
14 TECHNICAL VIOLATION OR A VIOLATION THAT IS NOT A TECHNICAL VIOLATION, the
15 commissioner hearing the parole revocation, in the commissioner's discretion, may require
16 the inmate to serve any unserved portion of the sentence originally imposed.

17 [(2)] (3) An inmate may not receive credit for time between release on
18 parole and revocation of parole if:

19 (i) the inmate was serving a sentence for a violent crime when parole
20 was revoked; and

21 (ii) the parole was revoked due to a finding that the inmate committed
22 a violent crime while on parole.

23 (4) (I) **THERE IS A REBUTTABLE PRESUMPTION THAT THE LIMITS**
24 **ON THE PERIOD OF IMPRISONMENT THAT MAY BE IMPOSED FOR A TECHNICAL**
25 **VIOLATION ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION ARE APPLICABLE.**

26 (II) **THE PRESUMPTION MAY BE REBUTTED IF A COMMISSIONER**
27 **FINDS AND STATES ON THE RECORD, AFTER CONSIDERATION OF THE FOLLOWING**
28 **FACTORS, THAT ADHERING TO THE LIMITS ON THE PERIOD OF IMPRISONMENT**
29 **ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION WOULD CREATE A RISK**
30 **TO PUBLIC SAFETY, A VICTIM, OR A WITNESS:**

31 1. **THE NATURE OF THE PAROLE VIOLATION;**

1 **2. THE FACTS AND CIRCUMSTANCES OF THE CRIME FOR**
2 **WHICH THE PAROLEE WAS CONVICTED; AND**

3 **3. THE PAROLEE'S HISTORY.**

4 **(III) ON FINDING THAT ADHERING TO THE LIMITS WOULD**
5 **CREATE A RISK TO PUBLIC SAFETY, A VICTIM, OR A WITNESS UNDER SUBPARAGRAPH**
6 **(II) OF THIS PARAGRAPH, THE COMMISSIONER MAY:**

7 **1. DIRECT IMPOSITION OF A LONGER PERIOD OF**
8 **IMPRISONMENT THAN PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION, BUT NO**
9 **MORE THAN THE TIME REMAINING ON THE ORIGINAL SENTENCE; OR**

10 **2. COMMIT THE PAROLEE TO THE DEPARTMENT OF**
11 **HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8-507 OF THE HEALTH-**
12 **GENERAL ARTICLE.**

13 **(IV) A FINDING UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH**
14 **OR AN ACTION UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH IS SUBJECT TO**
15 **APPEAL UNDER TITLE 12, SUBTITLE 3 OR TITLE 12, SUBTITLE 4 OF THE COURTS**
16 **ARTICLE.**

17 (e) Subject to subsection (d) of this section, if a sentence has commenced as
18 provided under § 9-202(c)(2) of this article and the inmate is serving that sentence when the
19 order of parole is revoked, any reimposed portion of the sentence originally imposed shall
20 begin at the expiration of any sentences which were begun under § 9-202(c)(2) of this article.

21 (f) (1) The inmate may seek judicial review in the circuit court within 30 days
22 after receiving the written decision of the Commission.

23 (2) The court shall hear the action on the record.

24 **7-504.**

25 (a) (1) In this section[, "term] THE FOLLOWING WORDS HAVE THE
26 MEANINGS INDICATED.

27 (2) "TERM of confinement" has the meaning stated in § 3-701 of this article.

28 (3) "TECHNICAL VIOLATION" HAS THE MEANING STATED IN § 6-101
29 OF THIS ARTICLE.

30 (b) (1) [The] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
31 commissioner presiding at an individual's mandatory supervision revocation hearing may

1 revoke [any or all of the] diminution credits previously earned by the individual on the
 2 individual's term of confinement IN ACCORDANCE WITH THE FOLLOWING SCHEDULE:

3 (I) NOT MORE THAN 15 DAYS FOR A FIRST TECHNICAL
 4 VIOLATION;

5 (II) NOT MORE THAN 30 DAYS FOR A SECOND TECHNICAL
 6 VIOLATION;

7 (III) NOT MORE THAN 45 DAYS FOR A THIRD TECHNICAL
 8 VIOLATION; AND

9 (IV) UP TO ALL REMAINING DAYS FOR A FOURTH OR
 10 SUBSEQUENT TECHNICAL VIOLATION OR A VIOLATION THAT IS NOT A TECHNICAL
 11 VIOLATION.

12 (2) Nothing in this section affects the prohibition against the application of
 13 diminution credits under § 7-502 of this subtitle to the term of confinement of an inmate
 14 convicted and sentenced to imprisonment for a crime committed while on mandatory
 15 supervision.

16 (3) (I) THERE IS A REBUTTABLE PRESUMPTION THAT THE LIMITS
 17 ON THE REVOCATION OF DIMINUTION CREDITS FOR A TECHNICAL VIOLATION
 18 ESTABLISHED IN PARAGRAPH (1) OF THIS SUBSECTION ARE APPLICABLE.

19 (II) THE PRESUMPTION MAY BE REBUTTED IF A COMMISSIONER
 20 FINDS AND STATES ON THE RECORD, AFTER CONSIDERATION OF THE FOLLOWING
 21 FACTORS, THAT ADHERING TO THE LIMITS ON THE REVOCATION OF DIMINUTION
 22 CREDITS ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION WOULD
 23 CREATE A RISK TO PUBLIC SAFETY, A VICTIM, OR A WITNESS:

24 1. THE NATURE OF THE MANDATORY SUPERVISION
 25 VIOLATION;

26 2. THE FACTS AND CIRCUMSTANCES OF THE CRIME FOR
 27 WHICH THE INMATE WAS CONVICTED; AND

28 3. THE INMATE'S HISTORY.

29 (III) ON FINDING THAT ADHERING TO THE LIMITS WOULD
 30 CREATE A RISK TO PUBLIC SAFETY, A VICTIM, OR A WITNESS UNDER SUBPARAGRAPH
 31 (II) OF THIS PARAGRAPH, THE COMMISSIONER MAY:

1 **1. DIRECT THAT A GREATER NUMBER OF DIMINUTION**
2 **CREDITS BE REVOKED THAN PROVIDED IN PARAGRAPH (1) OF THIS SUBSECTION; OR**

3 **2. COMMIT THE INMATE TO THE DEPARTMENT OF**
4 **HEALTH AND MENTAL HYGIENE FOR TREATMENT UNDER § 8-507 OF THE HEALTH-**
5 **GENERAL ARTICLE.**

6 **(IV) A FINDING UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH**
7 **OR AN ACTION UNDER SUBPARAGRAPH (III) OF THIS PARAGRAPH IS SUBJECT TO**
8 **APPEAL UNDER TITLE 12, SUBTITLE 3 OR TITLE 12, SUBTITLE 4 OF THE COURTS**
9 **ARTICLE.**

10 **[(c) After an inmate's mandatory supervision has been revoked, the inmate may not**
11 **be awarded any new diminution credits on the term of confinement for which the inmate**
12 **was on mandatory supervision.]**

13 **9-402.**

14 **(a) In this section, "sentenced inmates" means those inmates confined in a local**
15 **correctional facility after being sentenced to the custody of the local correctional facility for**
16 **more than 12 months and not more than 18 months.**

17 **(b) Subject to subsection (d) of this section, for each fiscal year the State shall**
18 **provide each county a grant equal to at least \$45 for each day from the end of the 12th month**
19 **through the end of the 18th month that a sentenced inmate was confined in a local**
20 **correctional facility during the second preceding fiscal year.**

21 **(c) Subject to subsection (d) of this section, for each fiscal year the State shall**
22 **provide each county a grant equal to at least \$45 for each day:**

23 **(1) after the first day through the day of release that an inmate who has**
24 **been sentenced to the jurisdiction of the Division of Correction was confined in a local**
25 **correctional facility during the second preceding fiscal year; OR**

26 **(2) THAT AN INMATE WHO HAS BEEN SENTENCED TO THE**
27 **JURISDICTION OF THE DIVISION OF CORRECTION RECEIVED REENTRY OR OTHER**
28 **PRERELEASE PROGRAMMING AND SERVICES FROM A LOCAL CORRECTIONAL**
29 **FACILITY DURING THE SECOND PRECEDING FISCAL YEAR.**

30 **(d) (1) On or before October 1 of each year, each county shall submit to the**
31 **Department inmate days reports for the previous fiscal year.**

32 **(2) If a county fails to submit the information required under paragraph (1)**
33 **of this subsection when due, the Department shall deduct an amount equal to 20% of the**