

8) a presumptive supervised release provision

A sample provision follows which includes components that could comprise a presumptive supervised release system. Presumptive supervised release is intended to reduce recidivism and enhance positive public safety outcomes.

Presumptive Supervised Release in Conjunction with a Safety Valve Provision calculated by the staff of the Sentencing Commission to have no net incarceration increase, to be implemented no earlier than one year after enactment and after promulgation of regulations governing supervision, whichever is later. Stated another way; a presumptive supervised release provision that is reasonably expected, based on staff calculations to have no net increase in incarceration when balanced by the safety valve provision.

Except in extraordinary circumstances, there shall be a presumption that offenders released from sentences to the House of Correction or State Prison shall be subject to a period of supervised release. Extraordinary circumstances shall include but not be limited to individuals 70 years of age at the time of release or having no prior convictions except the governing offense and any other offenses for which the individual is sentenced on the same day of sentencing.

Length of Supervised Release

The length of supervision shall be six months if the maximum incarceration by statute is five years or less. One year for more than five years up to ten years maximum incarceration. Two years for more than ten years up to twenty years and three years supervision for more than twenty years maximum incarceration.

The term of supervision shall be reduced by 25% for good behavior.

Maximum Total Sanctions

The maximum total sanction is the same. For example, an individual with six months supervised release may not receive more than six months total incarceration even if the incarcerations are for multiple violations of supervised release.

The upper limit of any incarcerated term (or for the House of Correction the term), in addition to the term of supervised release may not exceed the statutory maximum incarceration.

Maximum incarceration for a single "technical violation" is 90 days except for violation of a non-contact, no abuse order or stay away order.

Conditions

The only required condition of post-release supervision is to not commit any state or federal criminal offense.

For individuals that score a medium or higher on a validated risk assessment instrument, conditions other than commit no criminal offense may be imposed including random drug or alcohol testing, if the next provision is satisfied.

No condition of drug or alcohol testing may be imposed except upon failure on a drug or alcohol test, or other evidence, by a preponderance of the evidence, that the individual has abused alcohol or used illegal drugs and a finding of a nexus of drugs or alcohol (as applicable) to criminal offending by the individual in the last ten years. A missed test may be deemed a failure.

GPS conditions may only be imposed when the one of the offenses involved relationship violation, crimes against children, sexual offenses, a restraining order violation, or known gang or organized crime members shown to have engaged in violence.

No fees or costs will be imposed for supervised release.