

## 120 CMR: PAROLE BOARD

### 120 CMR 200.00: PAROLE ELIGIBILITY

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#### 200.01: Definitions

Early Consideration. Consideration for release prior to reaching parole eligibility date. House of correction inmates are the only class of inmates eligible for early consideration, unless an inmate is serving a state sentence for a crime committed before July 1, 1994 and the state sentence carries a 2/3 parole eligibility.

Interruption of Service of Sentences. Any interruption in the service of a sentence prior to the inmate reaching his or her parole eligibility date shall delay the inmate reaching his or her parole eligibility date. Parole eligibility will be delayed by the number of days that the sentence was interrupted and the inmate was not serving time on the sentence.

Measurement of Period of Confinement. The period of confinement shall be measured in days, months, and/or calendar years as stated by the court in the committing mittimus. For sentencing purposes, a month is 30 days. M.G.L. c. 4, § 7.

Minimum Mandatory Term. “Minimum mandatory term” for purposes of 120 CMR 200.000 applies to an inmate serving a sentence for violation of a statute which expressly provides for a minimum mandatory term of incarceration and which expressly precludes parole release prior to service of the mandatory term.

Parole Eligibility. The date on which an inmate becomes eligible for parole release.

#### 200.02: Parole Eligibility Calculations

(1) House of Correction Sentences. An inmate serving a house of correction sentence or total aggregate sentence of 60 days or more shall be eligible for parole. The parole eligibility date for house of correction inmates shall be ½ of the total aggregate term of incarceration or two years, whichever is shorter, unless the inmate is serving one or more minimum mandatory terms which exceed two years. The parole eligibility date for a house of correction inmate serving one or more minimum mandatory terms which exceed two years shall occur after the inmate has served a period of incarceration equal to the aggregate length of any mandatory minimum terms.

(2) State Prison Sentences. An inmate serving a state term shall be eligible for parole after serving the minimum term of sentence minus deductions for earned good time pursuant to M.G.L. c. 127, §§ 129C-D, good time credits, unless the inmate is serving a life sentence. An inmate sentenced for second degree life shall be eligible for parole after serving the minimum term of years fixed by the Court pursuant to M.G.L. c. 279, § 24, at 15 years, unless commuted to a lesser sentence which carries an earlier parole eligibility date. M.G.L. c. 265, § 2(c). An inmate sentenced for first degree life who committed the murder between the ages of 14 and 18 shall be eligible for parole after serving the minimum term of years fixed by the Court pursuant to M.G.L. c. 279, § 24, unless commuted to a lesser sentence which carries an earlier parole eligibility date. M.G.L. c. 265, § 2(b). No inmate sentenced for first degree life who committed the murder on or after the inmate’s eighteenth birthday shall be eligible for parole, unless commuted to a lesser sentence which carries a parole eligibility date. M.G.L. c. 265, § 2(a). Any inmate commuted to a lesser sentence shall be eligible for parole after serving the minimum term of sentence minus deductions for earned good time, good time credits.

200.03: Split Sentences

(1) House of Correction Sentences. A house of correction inmate shall be eligible for parole as provided in 120 CMR 200.02(1).

(2) Probation Violations. An inmate who has completed the original committed portion of his or her sentence and later is returned as a probation violator to serve out the balance of his or her sentence shall have parole eligibility calculated based on the entire term of the sentence imposed by the court.

200.04: Concurrent Sentences

(1) Mixed Sentences. An inmate serving a sentencing structure that has any combination of house of correction, ~~reformatory~~ and state sentences shall have the parole eligibility date for each component sentence determined. The latest occurring parole eligibility date shall control the parole eligibility date on the mixed sentencing structure.

(2) Same Sentences.

(a) House of Correction. An inmate serving concurrent house of correction terms shall be eligible for parole as provided in 120 CMR 200.02(1). The parole eligibility date for concurrent house of correction sentences shall be ½ of the total aggregate term of incarceration or two years, whichever is shorter unless the inmate is serving one or more minimum mandatory terms which exceed the two years. The parole eligibility for a house of correction inmate serving one or more minimum mandatory terms which exceed two years shall occur after the inmate has served a period of incarceration equal to the aggregate length of any mandatory minimum terms.

(b) State. An inmate serving concurrent state terms shall have parole eligibility determined by calculating the parole eligibility date on each component sentence as provided in 120 CMR 200.02(2) and determining which component carries the latest date. ~~The~~ latest date shall control parole eligibility for the aggregate sentencing structure.

200.05: Concurrent Sentence for Crime Committed while Incarcerated

(1) An inmate serving a sentence for a crime committed while incarcerated or while on escape, furlough or work release, shall be eligible for parole on that sentence as provided in 120 CMR 200.02. ~~120 CMR 200.05 shall include crimes committed while on escape, furlough or work release.~~

(2) An inmate serving a sentence for a crime committed while incarcerated, which is ordered to run concurrent with the balance of his or her governing sentence, shall have parole eligibility determined by calculating the parole eligibility for each new component sentence. The latest eligibility date on the new component sentences shall be the controlling parole eligibility date for the new aggregate sentencing structure.

200.06: Concurrent Sentence for Crime Committed while on Parole

A sentence for a crime committed while on parole may be served concurrent with the governing sentence if the Massachusetts parole violation warrant is served on the parolee prior to the imposition of the new sentence.

200.07: Concurrent with a Civil Commitment to the Massachusetts Treatment Center

An inmate serving a state sentence concurrent with a civil commitment to the Massachusetts Treatment Center for the Sexually Dangerous shall be eligible for parole as provided in 120 CMR 200.02(2).

200.08: Consecutive (“From and After”) Sentences

(1) House of Correction. Parole eligibility for an inmate serving consecutive house of correction sentences shall be determined as provided in 120 CMR 200.02(1).

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(2) State Prison. Parole eligibility for an inmate serving consecutive state prison sentences shall be determined by calculating the parole eligibility date for each component sentence. This shall be accomplished by basing parole eligibility dates on the running of each component sentence from-and-after each other in the order imposed. The dates calculated shall be aggregated with the latest date controlling the parole eligibility date for the aggregate sentencing structure.

(3) Exceptions. The following exceptions to the above-provisions shall be recognized:

(a) consecutive sentence for a crime committed while on parole shall not be aggregated with the governing sentence for purposes of determining parole eligibility on the consecutive sentence;

(b) A split sentence may not be aggregated with any other sentence to determine parole eligibility if the parole eligibility date of the split sentence exceeds the committed portion of that sentence;

(c) A sentence for a crime committed on or after January 1, 1988 which is ordered to run consecutive to a life sentence shall not be aggregated with ~~a~~ the life sentence for purposes of calculating parole eligibility on the consecutive sentence.

### 200.09: Forthwith Sentences

An inmate who is serving a house of correction ~~or a reformatory~~ sentence and receives a forthwith state sentence shall have parole eligibility calculated on the basis of the state sentence.

### 200.10 : Early Consideration of Parole Release

(1) House of Correction. For compelling reasons, a parole hearing panel may release a house of correction inmate up to 60 days earlier than his or her parole eligibility date. For compelling reasons, the full board may release a house of correction inmate more than 60 days from his or her parole eligibility date.

(2) State Prison. An inmate serving a state sentence is not eligible for early consideration of parole release, unless the inmate is serving a sentence for an offense committed before July 1, 1994 and the state sentence carries a 2/3 parole eligibility. An inmate serving a state sentence with a 1/3 parole eligibility may not petition for early consideration. An inmate serving a 2/3 sentence shall serve 1/3 of his or her sentence before he or she is eligible for early consideration. To petition for early consideration, an eligible state inmate shall present his or her petition to the Department of Correction.

(3) The Board may consider advancing the parole eligibility of an inmate based on its own review of a case or review of an inmate petition. An inmate filing a petition shall include with specificity the reason for his or her request for early consideration. A petition shall be given more weight when the inmate includes proof of his or her basis for the early consideration request.

(4) A compelling reason for granting early consideration includes, but is not limited to, the following:

(a) serious medical or physical condition;

(b) exceptional achievement in a rehabilitative program;

(c) acceptance into a community rehabilitative program;

(d) any other reason that the Board determines is sufficiently compelling to warrant early consideration for parole release.

(5) A majority vote by the panel or full Board shall be required to grant early consideration.

(6) The Board shall provide written notice of the early consideration request hearing to the sentencing judge, Office of the District Attorney that prosecuted the governing offense(s), and the victim(s) of the governing offenses, as certified by the Department of Criminal Justice Information Services, Criminal History Systems Board, of the governing offenses.

200.11: Early Parole for Pregnant Females

A pregnant inmate is immediately eligible for parole when she presents the Board with a treating physician's certification which states that the best interest of the mother or her unborn child require that she be granted parole release. The certification shall state the medical or physical condition warranting early consideration and the manner in which early release would serve to address the medical or physical condition.

200.12: Parole Eligibility for Habitual ~~Criminals and Habitual~~ Offenders

(1) Habitual Criminal. An offender who meets the criteria established under M.G.L. c. 279, § 25(a) shall be considered a Habitual Criminal. A Habitual Criminal is parole eligible after serving 2/3 of their maximum sentence. After serving 2/3 of their maximum sentence, a Habitual Criminal shall be eligible for parole every 2 years until released on parole or the sentence has expired. M.G.L. c, 127, § 133B.

(2) Habitual Offender. An offender who meets the criteria established under M.G.L. c. 279, § 25(b) shall be considered a Habitual Offender. A Habitual Offender shall be sentenced to the maximum term provided by law for the offense enumerated in clause (i) of M.G.L. c. 279, § 25(b). A Habitual Offender is not eligible for parole. M.G.L. c. 127, § 133B.

(3) The criteria and parole eligibility for offenders defined as Habitual Criminals or Habitual Offenders in 120 CMR 200.12 (1) and (2) only applies to offenses occurring on or after August 2, 2012. For offenses occurring prior to August 2, 2012, the statute in effect at the time of the offense governs, with parole eligibility at ½ of the maximum sentence and no category of Habitual Offenders who are not eligible for parole.

~~An inmate sentenced as a habitual offender shall be eligible for parole upon serving ½ of his or her maximum term of sentence.~~

REGULATORY AUTHORITY

120 CMR 200: M.G.L. c. 27, §§ 4-7; M.G.L. c. 127, §§ 128-133B, 142.