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Early Release Program for Offenders to Transitional Housing Facilities – Act 679 of 2005

Offenders held in the Department of Correction (ADC), other than those excluded below, shall be eligible for early release to a transitional housing facility, or an equivalent entity, licensed by the Department of Community Correction (DCC) up to one (1) year prior to the offender's date of eligibility for parole or transfer. An offender's home or the residence of an offender's family member shall not be considered a transitional housing facility for the purposes of this program. Offenders released under this program must reside at an approved transitional housing facility until they reach their eligibility date.

It is determined that there is a reasonable probability that an offender within one (1) or more of the following categories cannot be placed in a transitional housing facility under the provisions of this program without posing a detriment to the community or the offender. Therefore an offender is not eligible for this program if:

1. They have failed to maintain Class I or II status at the time of petition or between the time of their hearing and release to the transitional housing facility.
2. They have served less than 6 months in the Department of Correction. Time served in the county jail shall not be counted toward program eligibility.
3. They have been convicted of any of the following:
 - a. Any homicide, §§ 5-10-101 – 5-10-105, unless the offense is listed under § 16-93-612(e)(1)
 - b. Battery in the first degree, § 5-13-201
 - c. Domestic battering in the first degree, § 5-26-303
 - d. Kidnapping, § 5-11-102, unless the offense is listed under § 16-93-612(e)(1)
 - e. Aggravated robbery, § 5-12-103, unless the offense is listed under § 16-93-612(e)(1)
 - f. Causing a catastrophe, § 5-38-202(a), unless the offense is listed under § 16-93-612(e)(1)
 - g. Engaging in a continuing criminal enterprise, § 5-64-405
 - h. Simultaneous possession of drugs and firearms, § 5-74-106
4. They have been convicted of any offense requiring registration under § 12-12-903 (Sex Offender Registration Act of 1997).
5. They have been convicted of any offense determined by the Board to, by its nature or definition, involves violence, the threat of violence, the potential threat of violence, or the disregard for the safety of the lives of others.
6. They have received a disciplinary or conviction (§§ 5-54-110 – 5-54-112) for behavior related to an escape, or an attempted escape, from the ADC, DCC, or a law enforcement agency.

Eligible offenders shall submit a written petition the Board for consideration under this program through their unit Institutional Release Officer. Once a petition has been received and the offender's eligibility has been determined, the offender shall be scheduled for an Act 679 hearing before the Board. Hearings scheduled under this program shall follow the distribution of all applicable notices under § 16-93-615 and all applicable policies established by the Board

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pertaining to a parole/transfer hearing (to include the right to appeal a denial of eligibility or release) and by the Department of Community Correction (DCC) pertaining to parole plan approval.

Inmates released under this program shall be supervised by officers of the DCC under the guidelines of the Act 679 Conditions of Release established by the Board (see Board Manual Attachments). The conditions must be based on a reasoned, rational plan developed in conjunction with validated risk-needs assessment and include at minimum a curfew requiring an offender placed in a transitional housing facility under this program to present themselves at a scheduled time to be confined in the transitional housing facility.

An offender who without permission leaves the custody of the transitional housing facility in which he or she is placed may be subject to criminal prosecution for escape, §§ 5-54-110 – 5-54-112. Facilities receiving an offender released under this program shall be provided with information by DCC on reporting an offender who without permission leaves the custody of the facility prior to their eligibility date.

Revocation of placement in transitional housing must follow the revocation proceedings established in § 16-93-705.

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