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Stricken language would be deleted from and underlined language would be added to the present rule

2.19 - 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 (~~DA~~ACC) 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 parole or transfer 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~~ themselves. Therefore an offender is ~~not~~ ineligible for this program if:

1. They have failed to maintain Class I or II status at the time of ~~petition~~ application 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~~ ADC. Time served in the county jail shall not be counted toward program eligibility.
3. They have an active conviction for a felony involving violence, as defined under § 5-4-501(d)(2) ~~been convicted of any of the following:~~
 - a. Any homicide, ~~§§ 5-10-101—5-10-105~~
 - b. Battery in the first degree, ~~§ 5-13-201~~
 - c. Domestic battering in the first degree, ~~§ 5-26-303~~
 - d. Kidnapping, ~~§ 5-11-102~~
 - e. Aggravated robbery, ~~§ 5-12-103~~
 - f. Causing a catastrophe, ~~§ 5-38-202(a)~~
 - g. Engaging in a continuing criminal enterprise, ~~§ 5-64-405~~
 - h. Simultaneous possession of drugs and firearms, ~~§ 5-74-106~~
4. They have ever been convicted of any offense requiring registration under § 12-12-903 (Sex Offender Registration Act of 1997).
5. They have ~~been convicted of~~ an active conviction for, or documented criminal history 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 ever received a disciplinary while incarcerated, or conviction (§§ 5-54-110 – 5-54-112), for behavior related to an escape, or an attempted escape, from the ADC, ~~DA~~ACC, or a another law enforcement agency.
7. They have an active detainer or felony warrant lodged against them by another law enforcement agency or jurisdiction.

The Board may, upon request by the Director of ACC or their designee, consider granting a waiver to an offender otherwise excluded by the program's eligibility rules. The request shall be based at minimum on the following factors:

1. The results of a validated risk-needs assessment.

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2. The recommendation of field supervision staff, staff trained in area of offender reentry, and/or institutional or community-based treatment professionals;
3. The belief of the Director, or their designee, that placement in a transitional housing facility will not pose a detriment to the community or the offender.

Prior to implementation of the above process, the Director of ACC shall provide the Board with an outline of the procedures that will be utilized in making this determination. The Board shall, in an open meeting, adopt said procedures prior to their implementation. The same process of notification and adoption shall be utilized for any subsequent changes in any procedure previously adopted by the Board.

Eligible offenders shall submit a written ~~petition~~ request to the Board for consideration under this program through their unit Institutional Release Officer (IRO). The request shall at minimum be accompanied by confirmation that the offender has been accepted as a resident of a licensed transitional housing facility upon release. Once a ~~petition~~ request has been received and the offender's eligibility has been determined, the offender shall be scheduled for an Act 679 hearing before the Board. Offenders granted a waiver by the Board based upon the request of the Director of ACC, or their designee, shall be scheduled once the unit IRO is notified of the decision by the Chairman or their designee. 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 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 (~~DACC~~) pertaining to parole plan approval.

Inmates released under this program shall be supervised by officers of the ~~DACC~~ 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. Prior to release, ACC shall require offenders to sign a statement acknowledging: (1) their receipt and understanding of the Act 679 Conditions of Release (2) their receipt and understanding of, and willingness to adhere to, facility rules and (3) their parole or transfer eligibility date.

An offender who without permission leaves the custody of the transitional housing facility in which he or she is placed, prior to their parole or transfer eligibility date, 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 ~~DACC~~ 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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Arkansas Parole Board Act 679 Conditions of Release (For Offenders Released under Act 679 of 2005)

- 1. EMPLOYMENT:** You must maintain approved employment to be housed in the Transitional Living Facility. You must obtain permission from the Transitional Living Facility staff before quitting your employment. Termination from employment will result in removal from the Transitional Living Facility.
- 2. RESIDENCE:** You must be physically located at the Transitional Living Facility at all times unless you are at an approved employment site or unless approved in writing by your supervising officer.
- 3. LAWS:** You must obey all federal and state laws, local ordinances and court orders. You are required to pay all court ordered fines, fees and restitution. You must report any arrest, citation, or summons to your supervising officer within 48 hours.
- 4. WEAPONS:** You must not own, possess, use, pawn, sell, or have under your control any firearm (or imitation) or other dangerous weapon, or be in the company of any person possessing such weapons. You must not possess any ammunition.
- 5. ALCOHOL/CONTROLLED SUBSTANCES:** You will avoid the use of alcohol and all controlled substances. You must not sell, deliver, possess, or use controlled substances except as prescribed by a physician. You will submit yourself to random testing.
- 6. COOPERATION:** You must, at all times, cooperate with the Transitional Living Facility staff, and staff of the Arkansas Parole Board, Arkansas Department of Community Correction ~~Staff~~, and Arkansas Department of Corrections ~~Staff~~.
- 7. SEARCH & SEIZURE:** You must submit your person and/or property to search and seizure at any time, with or without, a search warrant, whenever requested to do so by Department of Community Correction Staff, or Transitional Living Facility Staff.
- 8. SPECIAL CONDITIONS:** I agree to abide by the specific rules and conditions ~~promulgated~~ established by the Transitional Living Facility to which I am being released. A signed copy of these rules will be attached to this document.

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