
**Rules of
Department of Corrections
Division 80—State Board of Probation and Parole
Chapter 2—Parole Consideration and
Conditional Release**

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Title 14—DEPARTMENT OF CORRECTIONS

Division 80—State Board of Probation and Parole

Chapter 2—Parole Consideration and Conditional Release

14 CSR 80-2.010 Parole Eligibility, Hearings, Reviews and Presumptive Release Dates

PURPOSE: This rule sets forth the purpose and procedures for parole hearings, the possible results, when an inmate can plan for release and the type of release as further explained in this chapter.

(1) Parole Hearings.

(A) Parole hearings allow the inmates the opportunity to—

1. Present to the parole board in person their own versions of the present offense and prior criminal history if any;
2. Discuss their problems and needs;
3. Discuss their evaluations of the progress made, or expected to be made, toward rehabilitation while confined;
4. Present their reasons why they think they should be paroled;
5. Present their plans for the future; and
6. Present and discuss any other matters that are appropriate for consideration including challenging allegations of fact that they perceive to be false.

(B) Parole hearings provide the parole board the opportunity to—

1. Review all available reports and case history material pertinent to the case. These may include medical, psychological and psychiatric reports, prior record of arrests, convictions and incarcerations and circumstances, and past and present patterns of behavior and confidential information;
2. Review institutional adjustment, conduct and progress as this will reflect upon their attitudes and preparation to resume life in free society; and
3. Evaluate the inmate as a person and as an individual in regard to suitability for parole release.

(2) Parole hearings are conducted monthly at each major institution.

(3) Parole Eligibility.

(A) The Missouri statutes (section 217.690, RSMo) state that before ordering the parole of any offender, the board shall have the offender appear before a hearing panel, which shall interview him/her.

(B) An inmate need not make an application for a parole hearing, as s/he will be automatically scheduled by the parole board. An inmate will receive written notice of the date of hearing approximately forty-five (45) days prior to his/her appearance before the parole board.

1. An inmate may request that his/her parole hearing be scheduled for a later date. A request for a continuance of less than three (3) months will not be accepted by the board.

2. An inmate who has a sentence of less than twenty-four (24) months may waive the right to a personal hearing within sixty (60) days of reception into the Missouri Department of Corrections. A hearing *in absentia* will take place within ten (10) working days of the parole board receiving the waiver and report from the institutional parole office.

(4) Minimum Parole Eligibility.

(A) When an inmate has been convicted of a felony where a dangerous or deadly weapon is used and is guilty under section 571.015, RSMo of the crime of armed criminal action, minimum parole eligibility is as follows:

1. First conviction of armed criminal action—an inmate must serve a minimum of three (3) calendar years;

2. Second conviction of armed criminal action—committed at different times, an inmate must serve a minimum of five (5) calendar years;

3. Third conviction of armed criminal action—committed at different times, an inmate must serve a minimum of ten (10) calendar years; and

4. In all of the cases listed in paragraphs (4)(A)1.—3., if the armed criminal action sentence, concurrent sentences, or both, are longer than the previously mentioned minimum, parole eligibility will be determined according to subparagraph (4)(F)2.A. This happens only when the minimum eligibility exceeds the mandatory requirement of the armed criminal action sentence. This also applies to consecutive sentences when appropriate.

(B) When an inmate has been sentenced to life imprisonment under the capital murder statute prior to October 1, 1984 (former section 565.008, RSMo), the parole eligibility time will be after fifty (50) years has been served on the sentence.

(C) When an inmate has been convicted under section 558.019, RSMo, the minimum parole eligibility is as follows:

1. A prior offender, one who previously has been convicted of one (1) felony, must serve forty percent (40%) of his/her sentence;

2. A persistent offender, one who previously has been convicted of two (2) felonies committed at different times, must serve sixty percent (60%) of his/her sentence;

3. A class X-offender, one who previously has been convicted of three (3) felonies committed at different times, must serve eighty percent (80%) of his/her sentence; and

4. A sentence of life shall be calculated at fifty (50) years. Any sentence alone or with other consecutive sentences that total over seventy-five (75) years shall be considered to be seventy-five (75) years.

(D) All inmates imprisoned for sexual assault offenses shall participate in and complete the prescribed treatment program developed by the Department of Corrections prior to being eligible for parole (section 589.040, RSMo).

(E) An inmate convicted of pharmacy robbery in the first degree (section 569.025, RSMo) shall not be eligible for parole until s/he has served a minimum of ten (10) years' imprisonment.

(F) An inmate convicted of pharmacy robbery in the second degree (section 569.035, RSMo) shall not be eligible for parole until s/he has served a minimum of five (5) years' imprisonment.

(G) For the purpose of retribution and general deterrence, in the board's discretion, inmates convicted of class C and D offenses shall not be eligible for parole until fifteen percent (15%) of the maximum sentence has been served. Inmates convicted of class A and B offenses shall not be eligible for parole until one-third (1/3) of the maximum sentence has been served.

(H) For inmates serving life sentences and for inmates with sentences of forty-five (45) years or more, the board considers the deterrent and retributive portion of the sentence to have been served when the inmate has completed fifteen (15) years of the maximum sentence. For inmates serving multiple life sentences or other sentences concurrent or consecutive to a life sentence, the board, due to the nature and length of the sentences, may determine not to set a minimum eligibility date.

(5) Nonparolable Offenses. A person convicted of the following offenses is not eligible for parole:

(A) An inmate convicted of murder first degree and sentenced to life imprisonment (section 565.020, RSMo);

(B) An inmate convicted as a persistent sexual offender (section 558.018, RSMo);

(C) An inmate convicted of tampering with a victim/witness (section 575.270, RSMo);

(D) An inmate convicted between March 16, 1986 and August 28, 1989 for the third offense of possession of Schedule I or II controlled substances or has been convicted two (2) or more times of any felony relating to controlled substances (section 195.200, RSMo);

(E) An inmate convicted between March 16, 1986 and August 28, 1989 of selling, giving or delivering any controlled substance listed in Schedule I or II who previously has been convicted of any felony relating to controlled substances, shall not be eligible for parole (section 195.200, RSMo);

(F) An inmate convicted on or after August 28, 1989 of certain drug trafficking offenses, or who is classified by law as a prior or persistent offender of certain drug offenses shall not be eligible for parole (sections 195.222, 195.291, 195.292, 195.295 and 195.296, RSMo); or

(G) An inmate convicted as a class X-offender and sentenced to twenty-five (25) years or less.

(6) Parole Hearing—Setting Presumptive Release Date. A parole hearing automatically will be scheduled for all inmates eligible for parole under state law in accordance with the following schedule:

Sentence Length (Years)	Months of Incarceration (Including Jail Time) to be Served Prior to Hearing
2	ASAP
3	ASAP
4	4
5	6
6	8
7	10
8	24
9	30
10	36
11-15	42
16-20	60
21-25	78
26-30	96
31-35	114
36-40	132
41-44	144
45 and Over	156

Inmates who have consecutive sentences will be given a hearing based on the hearing schedule for each sentence. The months for each sentence will be added together to set the hearing date.

(7) Hearing Procedure.

(A) The inmate will appear before the hearing panel. The hearing panel shall consist of one (1) member of the parole board and two (2) hearing officers appointed by the board.

1. While it is not at all necessary, inmates may have a person of their choice at the hearing. The inmate's representative may offer a statement on behalf of the inmate, ask questions and provide any additional information that may be requested by the hearing panel.

2. Other inmates may not be present at the hearing.

3. The parole board shall notify the victim or representative of the victim of the right to be present at the parole consideration hearing of any inmate. Any victim or person representing the victim who attends a parole consideration hearing may provide information to the hearing panel in reference to the board's deliberation regarding parole release.

A. The victim or person representing the victim who attends a hearing may be accompanied by one (1) other person.

B. The victim or person representing the victim who attends a hearing may give testimony in the presence of the inmate or to the hearing panel without the inmate being present.

C. The victim or person representing the victim may call or write the parole board rather than attend the hearing.

D. The victim or person representing the victim may have a personal meeting with a board member at the board's central office in Jefferson City.

4. The parole board, upon written request of the judge, the prosecuting attorney, or a representative of law enforcement from the jurisdiction in which the crime was committed, shall provide notice prior to the parole consideration hearing for any inmate. The judge, prosecuting attorney, a representative from law enforcement, or a combination of them, may attend the hearing and provide information to the hearing panel in reference to the board's deliberation regarding parole release.

5. The hearing panel shall limit or exclude any irrelevant or repetitious statement.

6. The parole board will notify any person referred to in paragraph (7)(A)3. or 4. the results of any parole eligibility hearing if they indicate a desire to be notified.

(B) The interview will be recorded.

(C) The hearing shall not be open to the public and the records of all hearings shall be treated as confidential and shall not be opened to inspection by the inmate concerned, the inmate's representative or any other unauthorized persons (section 217.670, RSMo).

(D) The inmate who waives a personal appearance before the hearing panel shall have his/her case considered by the board *in absentia*.

(E) An inmate who is serving a Missouri sentence in another state is under the same rules governing the granting of paroles and conditional release rules as an inmate who is serving his/her sentence in a Missouri institution. The inmate may waive his/her right to a personal hearing in another state. In reference to the Missouri sentence, the board will hear these cases *in absentia* upon receipt of a report from the appropriate authorities in the other state.

(8) Board Decisions.

(A) The parole board will reach a decision within ten (10) working days from the date of the hearing, or as soon as practicable, and the inmate will receive a written notice of the board's action as soon as the notice can be prepared and delivered.

(B) The board may request a number of different kinds of investigation reports. These may include field investigations, institutional investigations, psychological, or psychiatric evaluations, or a combination of these.

(C) The board may request the inmate's authorization to obtain any medical, psychological or psychiatric evaluations, or a combination of these, that may have been made in the past.

(D) The board may set a presumptive release date, either by parole or conditional release, or continue the inmate for a reconsideration hearing.

(E) The setting of a presumptive release date does not automatically entitle the inmate to be released on that date. Release shall be dependent upon a finding by the board that the inmate has a continued record of good conduct and an acceptable release plan.

(F) All release dates are set on the assumption that the information from the inmate has not been given fraudulently or withheld from the board. If evidence comes to the attention of the board that an inmate has concealed or misrepresented information deemed significant or if information which has not been considered previously comes to the attention of the board, the case may be reopened to determine whether the release should be voided.

(9) Statement of Reasons for Decision.

(A) The reasons for decisions above the guidelines, for extension of the presumptive release date, denial of good time credit and for inmates for whom a presumptive release date has not been set may include, but are not limited to, the following reasons, with further specification of board policy where appropriate:

1. Release at this time would depreciate the seriousness of the offense committed or promote disrespect for the law;

2. There does not appear to be a reasonable probability at this time that the inmate would live and remain at liberty without violating the law;

3. The inmate has not substantially observed the rules of the institution in which confined; and

4. Release at this time is not in the best interest of society.

(B) The inmate shall receive a copy of the salient factor score sheet.

(10) Appeal.

(A) An inmate may appeal an adverse board decision or special condition. Conditional release extension decisions by the board may not be appealed. This appeal must be in writing on forms provided by the institutional parole officer and filed within thirty (30) days after the decision has been received. An inmate is presumed to have received his/her decision within ten (10) working days of the date of the notice of this decision to the inmate. The appeal shall be considered by the board within thirty (30) days of receipt of the appeal and the inmate will be advised of the board's decision as soon as the notice can be prepared and delivered. If no appeal is filed, this decision shall stand as final.

(B) Appeals under this section may be based upon the following grounds:

1. Parole decision guidelines were applied incorrectly;

2. The decision outside the guidelines was not supported by the reasons stated;

3. There was significant information in existence but not known to the board at the time of the hearing;

4. That especially mitigating circumstances justify a different decision; and

5. The special condition(s) ordered by the board is unreasonable.

(11) Reconsideration Hearing.

(A) The purpose of a reconsideration hearing shall be to consider the inmate's case and any significant development or changes in the inmate's status that may have occurred subsequent to the previous hearing.

(B) In the case of an inmate with a sentence of less than ten (10) years, reconsideration hearings shall be conducted every twelve (12) months until a presumptive release date has been established by the board.

(C) In the case of an inmate with a sentence of ten (10) years or more who has been granted an early initial hearing, the subsequent hearing shall be in accordance with the hearing schedule in section (6).

(D) In other cases of an inmate with a sentence of ten (10) years or more, reconsideration hearings shall be conducted every

twenty-four (24) months until a presumptive release date has been established by the board.

(E) In the case of inmates classified by the board as dangerous or persistent offenders, reconsideration hearings shall be conducted every five (5) years until a presumptive release date has been established by the board.

(12) A prerelease review shall be held to determine whether the conditions of a presumptive release date have been satisfied, and to review any additional information that may be available to the board.

(A) Prior to a presumptive release date, the case shall be reviewed.

(B) Following review, the board shall—

1. Approve the release date;

2. Advance or delay the release date for purpose of release planning; and

3. Upon receipt of new information that indicates it is not appropriate for the inmate to be released on his/her presumptive release date—

A. Cancel the release date and reschedule for release; or

B. Cancel the release date and schedule for a reconsideration hearing.

Auth: sections 217.040 and 217.690, RSMo (Cum. Supp. 1989) and 595.209, RSMo (1986). This rule was previously filed as 13 CSR 80-2.010. Original rule filed Feb. 5, 1968, effective Feb. 15, 1968. Amended: Filed Aug. 2, 1971, effective Aug. 12, 1971. Emergency amendment filed Dec. 20, 1976, effective Dec. 30, 1976, expired April 28, 1977. Amended: Filed Dec. 20, 1976, effective April 11, 1977. Amended: Filed Nov. 13, 1979, effective March 13, 1980. Emergency amendment filed May 13, 1982, effective July 1, 1982, expired Oct. 29, 1982. Amended: Filed May 13, 1982, effective Aug. 12, 1982. Emergency amendment filed Nov. 12, 1982, effective Nov. 22, 1982, expired Feb. 20, 1983. Amended: Filed Nov. 12, 1982, effective Feb. 11, 1983. Amended: Filed Feb. 9, 1983, effective June 11, 1983. Emergency amendment filed Oct. 3, 1984, effective Oct. 13, 1984, expired Feb. 10, 1985. Amended: Filed Oct. 3, 1984, effective Jan. 12, 1985. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 20, 1986. Amended: Filed Sept. 16, 1985, effective Jan. 13, 1986. Emergency amendment filed Oct. 11, 1985, effective Oct. 21, 1985, expired Feb. 18, 1986. Amended: Filed July 15, 1988, effective Nov. 1, 1988. Amended: Filed March 21, 1989, effective July 27, 1989. Emergency amendment filed Feb. 15, 1991, effective March 1, 1991, expired June 28, 1991. Amended:

Filed Feb. 15, 1991, effective Aug. 30, 1991. Emergency amendment filed Oct. 29, 1991, effective Nov. 28, 1991, expired March 26, 1992. Amended: Filed Oct. 29, 1991, effective April 9, 1992. Emergency amendment filed Nov. 26, 1991, effective Dec. 6, 1991, expired April 4, 1992. Amended: Filed Nov. 26, 1991, effective April 9, 1992. Emergency amendment filed Feb. 10, 1992, effective March 26, 1992, expired May 15, 1992. Emergency amendment filed Feb. 19, 1992, effective Feb. 29, 1992, expired June 27, 1992. Emergency amendment filed May 12, 1992, effective June 26, 1992, expired July 31, 1992. Amended: Filed Feb. 19, 1992, effective Aug. 6, 1992.

14 CSR 80-2.020 Parole Policy Guidelines

PURPOSE: This rule establishes a uniform parole policy in order to promote consistent exercise of discretion and equitable decision-making without removing individual case consideration.

(1) Parole guidelines indicate the customary range of time to be served before release for various combinations of offense seriousness and offender characteristics and sentence length. The time ranges specified by the guidelines are established specifically for cases with good institutional adjustment and program progress. Mitigating or aggravating circumstances may warrant decisions outside the guidelines. If a decision above the guidelines is reached, the reasons shall be stated in the notice to the inmate.

(A) An evaluation sheet containing a salient factor score serves as an aid in determining release.

(B) The board shall review the guidelines, including the salient factor score, periodically and may revise or modify them at any time as deemed appropriate.

(C) If an offense can be classified under more than one (1) class, or multiple separate offenses are involved, the most serious applicable class shall be used. Multiple separate offenses may be considered an aggravating factor in decisions reached above the guidelines.

(D) The board reserves the right to consider total offense behavior as an aggravating factor in decisions reached above the guidelines.

(E) Guidelines shall not apply to inmates serving sentences of more than thirty (30) years or under two (2) years, or to any new consecutive sentence received as the result of a



parole violation. The board, in its discretion, shall consider these on a case-by-case basis.

(F) The time-to-be-served guidelines, salient factor score sheets and offense classification may be obtained from the Board of Probation and Parole.

(G) Guidelines for inmates convicted of C and D felonies whose sentences were enhanced by the court to extended prison terms will be scored on the A and B felony matrix.

(2) Institutional Conduct.

(A) The board believes that it has an obligation to contribute to the maintenance of order in correctional facilities by denying or deferring release to inmates who have failed to comply with institutional rules. The board takes into consideration the number and seriousness of the conduct violations.

(B) Inmates not fulfilling the conditions of their presumptive release dates by reason of conduct violations may have their presumptive release dates cancelled and new dates set, a reconsideration hearing scheduled, their conditional release dates extended, or any of these.

(3) Dangerous or Persistent Offender.

(A) An inmate classified by the board as a dangerous or persistent offender, whose release in the board's opinion would present a danger to the community or a high probability of recidivism, shall not be eligible for parole.

1. Inmates classified as dangerous or persistent offenders may petition the board for reconsideration based on evidence of progress toward rehabilitation. Grounds for reconsideration may include exceptional programming, outstanding institutional conduct or other clearly exceptional circumstances.

2. Inmates may appeal for reconsideration on the basis that the classification of persistent or dangerous offender is erroneous and not supported by the facts.

3. If the board finds that the inmate is a dangerous or persistent offender, a five(5)-year reconsideration hearing shall be ordered.

(B) A dangerous offender is one who has been sentenced for a felony during the commission of which s/he knowingly murdered or endangered or threatened the life of another person or knowingly inflicted or attempted or threatened to inflict serious physical injury on another person and previously has been convicted of a dangerous felony.

1. A dangerous felony is the crime of murder, forcible rape, assault, burglary, robbery or kidnapping.

2. A dangerous felony is the attempt to commit any of the crimes listed in paragraph (3)(B)1.

(C) A persistent offender is one who is serving his/her third or more separate prison incarceration.

(4) Mental Competency.

(A) Whenever reasonable doubt exists as to the mental competency of any inmate and the board believes the inmate represents a danger to him/herself or to others, the board may defer release.

(B) In determining mental competency the board shall consider oral or written psychiatric or psychological reports.

(5) Parole and Conditional Release Violators. In the board's discretion, parole and conditional release violators shall not be eligible for release consideration under the guideline policy on the revoked sentence. Parole guidelines may apply to new, concurrent or consecutive sentences received while on parole or conditional release.

Auth: section 217.690, RSMo (Cum. Supp. 1990). This rule was previously filed as 13 CSR 80-2.020. Original rule filed on Nov. 15, 1968, effective Nov. 25, 1968. Amended: Filed Aug. 2, 1971, effective Aug. 12, 1971. Emergency amendment filed Dec. 20, 1976, effective Dec. 30, 1976, expired April 28, 1977. Amended: Filed Dec. 20, 1976, effective April 11, 1977. Emergency amendment filed May 13, 1982, effective July 1, 1982, expired Oct. 29, 1982. Amended: Filed May 13, 1982, effective Aug. 12, 1982. Emergency amendment filed Oct. 3, 1984, effective Oct. 13, 1984, expired Feb. 10, 1985. Amended: Filed Oct. 3, 1984, effective Jan. 12, 1985. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 20, 1986. Amended: Filed Sept. 16, 1985, effective Jan. 13, 1986. Amended: Filed July 15, 1988, effective Nov. 1, 1988. Emergency amendment filed Oct. 29, 1991, effective Nov. 28, 1991, expired March 26, 1992. Amended: Filed Oct. 29, 1991, effective April 9, 1992. Emergency amendment filed Feb. 10, 1992, effective March 26, 1992, expired May 15, 1992.

14 CSR 80-2.030 Release on Parole

PURPOSE: This rule indicates that there are different circumstances under which a parole may be granted, certain requirements to be met before parole can be granted and certain restrictions on the length of time to be served on parole.

(1) Parole Release Plan.

(A) The board's institutional parole officer is available to offer assistance in helping the inmate develop home and employment plans. The inmate should feel free to talk with the institutional parole officer as often as necessary to try to develop a satisfactory plan.

(B) The home may be with members of the family, including relatives, a halfway house, through any recognized social agency that will agree to accept the inmate, a reputable rooming house, hotel, etc. or to a community corrections program.

(C) Employment may be offered to the inmate by a legitimate employer. Under some circumstances, the board may approve self-employment. The job must provide steady employment and earnings adequate to meet the needs of the inmate and support his/her dependents.

(D) In some situations, the requirement of an employment offer may be waived by the parole board. This would include things such as old age, serious illness, physical incapacity or entry into a training or apprenticeship program to obtain or better develop a job skill. In any of these kinds of situations, the board will require assurance that the treatment, care and needs of the inmate will be adequately provided for.

(E) The inmate will not be released until the plan has been investigated and approved by the parole board.

(F) The inmate will not be released until s/he has satisfied any mandated programs.

(G) A detailed listing and explanation of the parole conditions is available in 14 CSR 80-3.010.

(2) Parole to Detainer.

(A) The parole board may consider release to an untried or prosecution-type of detainer in any jurisdiction inside/outside Missouri. In these instances, however, there must be an acceptable and approved parole release supervision plan available for the inmate. Every effort should be made by the inmate to satisfy the untried detainer or have it withdrawn. Official notice of any action taken on the detainers must be forwarded to the Missouri Department of Corrections or any other disposition as the Board of Probation and Parole may deem appropriate.

(B) The board will consider release to a detainer if the inmate is wanted for confinement in some other jurisdiction, either within or outside Missouri.

(C) The board will consider the granting of a dual or concurrent supervision with another paroling authority.

(3) Medical Parole.

(A) The board will consider a medical parole under the following conditions:

1. A specific recommendation to the parole board must be made by a competent medical, psychiatric or psychological practitioner for the treatment, care or custody of inmates who have serious physical, mental or emotional problems; and

2. The parole board must determine that the inmate will be able to obtain and receive proper care and helpful attention outside of the institution.

(B) If a medical parole is granted, the inmate, as far as possible and practicable, will be required to comply with all the conditions of parole as set forth on the parole release document.

(C) An inmate who has been granted a medical parole will be under the same kind and degree of field supervision as any other paroled prisoner, unless supervision is waived by the board.

(D) An inmate may be granted a medical parole for the specific purpose of special care or treatment. Upon recovery, or at any time, the inmate may be subject to return to the Missouri Department of Corrections or any other disposition as the Board of Probation and Parole may deem appropriate.

(4) Consecutive Sentences.

(A) At the time of the parole hearing or subsequent reconsideration hearing, the parole board may grant a parole. The parole will apply to the sentence the inmate is currently serving and consecutive paroles will be granted to apply to consecutive sentences.

(B) Inmates convicted of crimes which occurred after January 1, 1979 come under the provisions of the new criminal code. Under the code, the sentence consists of a prison term and a conditional release term. If the inmate is not released on the first sentence, upon completion of the prison term of the sentence, the conditional release term is held. If the inmate is paroled during the prison term of a consecutive sentence, the held conditional release term(s) first shall be served under release supervision. The sentence(s) for which parole was granted shall be served under supervision consecutive to the conditional release term(s).

(5) Escape.

(A) When an inmate escapes, the time served on the sentence stops at the time of escape and does not begin again until return to the institution.

(B) If an inmate has not been granted a parole hearing prior to the time of escape, the inmate may keep his/her scheduled parole hearing date. If that hearing date has passed, the board shall schedule a parole hearing at any time within one (1) year from the month of return to the Missouri Department of Corrections.

(C) If an inmate has had a parole hearing and escapes after the hearing, the board shall cancel their previous decision. The board then may schedule a parole hearing at any time within one (1) year from the month of return to the Missouri Department of Corrections or set a new release date.

(D) Since an escape usually is followed by prosecution for a new offense and, if convicted, a consecutive sentence is imposed, the rules relating to consecutive sentences will apply.

(6) Appeal of Sentence.

(A) Any inmate who has filed a writ or an appeal will be given a parole hearing in the same manner and at the time normally scheduled.

(B) Any court action pending in regard to the case of any inmate in itself will not prohibit favorable parole release consideration.

(7) Terms of Parole.

(A) Any inmate paroled from the Missouri Department of Corrections will be subject to parole supervision until completion of the maximum sentence.

(B) An inmate who is serving a long sentence and whose parole discharge date will be three (3) years or more after release on parole, will be considered for discharge from parole supervision at the end of three (3) years under parole supervision. Discharge from supervision after three (3) years is not automatic. The board will review the parolee's file, including community adjustment and all other factors.

(C) Time served on parole counts as time served on the sentence except parolees who—

1. Abscond from parole supervision, in the board's discretion, may not receive credit for time served while an absconder; and

2. Violate parole and receive a new sentence to a correctional institution outside the Missouri Department of Corrections, at the board's discretion, may not receive credit on their parole for the time served under the new conviction.

(D) For a detailed explanation and the applicable statutes involved, see 14 CSR 80-4 Rights of Alleged Parole Violator or Conditional Release Violator.

Auth: sections 217.690 and 549.261, RSMo (Cum. Supp. 1990). This rule was previously filed as 13 CSR 80-2.030. Original rule filed Feb. 5, 1968, effective Feb. 15, 1968. Amended: Filed Aug. 2, 1971, effective Aug. 12, 1971. Amended: Filed Nov. 13, 1979, effective March 13, 1980. Emergency amendment filed Feb. 9, 1981, effective Feb. 19, 1981, expired June 18, 1981. Amended: Filed Feb. 9, 1981, effective May 11, 1981. Emergency

amendment filed May 13, 1982, effective July 1, 1982, expired Oct. 29, 1982. Amended: Filed May 13, 1982, effective Aug. 12, 1982. Emergency amendment filed Oct. 3, 1984, effective Oct. 13, 1984, expired Feb. 10, 1985. Amended: Filed Oct. 3, 1984, effective Jan. 12, 1985. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 20, 1986. Amended: Filed Sept. 16, 1985, effective Jan. 13, 1986. Amended: Filed July 15, 1988, effective Nov. 1, 1988. Emergency amendment filed Oct. 29, 1991, effective Nov. 28, 1991, expired March 26, 1991. Amended: Filed Oct. 29, 1991, effective April 9, 1992. Emergency amendment filed Feb. 10, 1992, effective March 26, 1992, expired May 15, 1992.

14 CSR 80-2.040 Conditional Release

PURPOSE: This rule explains conditional release, which can affect any inmate convicted of a crime committed after January 1, 1979.

(1) Conditional release means the conditional discharge of an inmate by the parole board subject to conditions of release that the board deems reasonable to assist the offender to lead a law abiding life and subject to supervision of the Board of Probation and Parole. The conditions of release shall include avoidance of any other crime, federal or state, and other conditions that the board, in its discretion, deems reasonably necessary to assist the release in avoiding further violation of the law (section 558.011, RSMo).

(2) Conditional Release Terms Are Set by Law.

(A) The conditional release term will be one-third (1/3) of the sentence for those nine (9) years or less, the last three (3) years of sentences of those sentences of ten to fifteen (10–15) years and the last five (5) years of sentences more than fifteen (15) years.

(B) Time served on conditional release does count as time served on the sentence unless the inmate absconds from supervision. During which time the inmate is an absconder s/he, in the board's discretion, may not receive credit for time served while an absconder. Also, inmates who violate conditional release and receive a new sentence to a correctional institution outside the Missouri Department of Corrections, at the board's discretion, may not receive credit on the conditional release term for time served under the new conviction.

(3) Conditional releases with detainers will be released conditionally to the detainer at the normally scheduled time. The procedure will

remain the same as for paroling an inmate to a detainer as described in 14 CSR 80-3.010(2).

(4) An inmate with a consecutive sentence shall be held until the inmate completes the prison term of the consecutive sentence(s). The conditional release terms taken together shall constitute the time to be served on conditional release.

(5) Before the conditional release date, the institutional parole officer will contact the inmate regarding release plans. Community corrections programs also may be considered. Once the plan is developed, the board and parole staff will be notified and the plan then will be verified or an alternative plan will be developed.

(6) Conditions of conditional release will be the same as the conditions of parole as given in 14 CSR 80-3.010.

(7) Conditional release may be revoked by the board following the same procedures as for an alleged parole violator as given in 14 CSR 80-4. Following revocation an inmate may never be reinstated on conditional release but may be paroled at any time deemed appropriate by the parole board.

(8) Under the provisions of section 558.011, RSMo, the board has the authority to extend or deny conditional release.

(A) When an inmate is charged with a serious violation of institutional rules, the adjustment board holds a hearing and upon a finding of guilt the case is considered for referral to the Board of Probation and Parole. If the referral is made, the board shall convene a hearing within ten (10) working days of the receipt of the petition from the director of the Division of Adult Institutions. All hearings will be held in Jefferson City. Whether the violation for which an inmate is referred for extension is prosecuted in a court of law or not shall not be considered a mitigating factor in consideration of extending the conditional release date.

1. The inmate may call witnesses and cross-examine adverse witnesses.

2. The board will reach a decision within forty-eight (48) hours from the date of the hearing and the inmate will receive a notice of the board's action as soon as the notice can be prepared and delivered.

3. The board may extend the date of conditional release up to the maximum of the entire sentence.

4. If the violation occurs close to the conditional release date, the release may be held for a maximum of fifteen (15) working days to permit the necessary time for the process to be carried out. If the board has not

reached a decision at the end of a fifteen (15) working-day period, the inmate shall be released conditionally.

(B) The decision of the board is final. However the inmate, after one (1) year of verified clear conduct, may petition the board in writing for reconsideration. The board shall review the case, without a personal hearing, and forward the decision to the inmate in writing.

Auth: section 558.011.4(2), RSMo (Cum. Supp. 1990). This rule was previously filed as 13 CSR 80-2.040. Original rule filed Nov. 13, 1979, effective March 13, 1980. Emergency amendment filed May 13, 1982, effective July 1, 1982, expired Nov. 28, 1982. Amended: Filed May 13, 1982, effective Aug. 12, 1982. Emergency amendment filed Oct. 3, 1984, effective Oct. 13, 1984, expired Feb. 10, 1985. Amended: Filed Oct. 3, 1984, effective Jan. 12, 1985. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 20, 1986. Amended: Filed Sept. 16, 1985, effective Jan. 13, 1986. Amended: Filed July 15, 1988, effective Nov. 1, 1988. Emergency amendment filed Oct. 29, 1991, effective Nov. 28, 1991, expired March 26, 1992. Amended: Filed Oct. 29, 1991, effective April 9, 1992. Emergency amendment filed Feb. 10, 1992, effective March 26, 1992, expired May 15, 1992.

14 CSR 80-2.050 Administrative Parole

PURPOSE: This rule allows for release of those individuals committed under the new criminal code for crimes committed on or after January 1, 1979 and who are recommended for credit release by the institution head.

(1) At the board's discretion, an administrative parole may be issued to all individuals eligible for conditional release under the criminal code effective on and after January 1, 1979 who have been recommended for credit release by the institution head. The credit release date is the conditional release date less the credit time granted.

(A) Parole and conditional release violators may earn time credit. The credit shall be subtracted from the established maximum release date.

(B) Inmates serving sentences for nonparolable offenses as listed in 14 CSR 80-2.010(5), those sentenced as persistent or dangerous offenders under section 558.016, RSMo, those whose conditional release date has been extended to the maximum release

date because of disciplinary action or those whose conviction is based on a crime committed before January 1, 1979 are not eligible for time credit.

(C) Inmates convicted for the crime of armed criminal action (section 571.015, RSMo) or pharmacy robbery I/II (sections 569.025 and 569.035, RSMo) shall not be eligible for time credit until the minimum term required by statute has been served.

(2) In addition to the institutional record, the board also may consider the seriousness of the offense, prior criminal record and mental competency in determining administrative parole eligibility.

(3) Inmates classified as persistent or dangerous offenders shall not be eligible for administrative parole.

(4) Inmates serving mandatory sentences required by state law shall not be eligible for administrative parole.

(5) Inmates serving sentences for sex offenses as described in section 589.015, RSMo shall participate in and complete the prescribed treatment program prior to being eligible for administrative parole.

Auth: section 217.690, RSMo (Cum. Supp. 1990). Emergency rule filed Dec. 13, 1982, effective Dec. 23, 1982, expired April 22, 1983. Original rule filed Dec. 29, 1982, effective May 12, 1983. Emergency amendment filed Jan. 4, 1984, effective Jan. 14, 1984, expired April 30, 1984. Amended: Filed Jan. 4, 1984, effective April 12, 1984. Emergency amendment filed Oct. 3, 1984, effective Oct. 13, 1984, expired Feb. 10, 1985. Amended: Filed Oct. 3, 1984, effective Jan. 12, 1985. Emergency amendment filed Sept. 16, 1985, effective Sept. 26, 1985, expired Jan. 20, 1986. Amended: Filed Sept. 16, 1985, effective Jan. 13, 1986. Amended: Filed July 15, 1988, effective Nov. 1, 1988. Emergency amendment filed Oct. 29, 1991, effective Nov. 28, 1991, expired March 26, 1992. Amended: Filed Oct. 29, 1991, effective April 9, 1992. Emergency amendment filed Feb. 10, 1992, effective March 26, 1992, expired May 15, 1992.