

## HB 86 Juvenile Provisions Judicial Release: Fact Sheet

On September 30, 2011, the provisions of HB 86 go into effect. Under prior law, judges were permitted to release a youth committed to the Department of Youth Services (DYS) only 1) during the youth's minimum term and 2) after the youth had served the full commitment for any sentencing specifications.

Under the new paragraph (D) in 2152.22, a judge may permit early release for youth who are committed to DYS with a minimum term and a maximum term of the youth's 21<sup>st</sup> birthday when:

- The youth has served their minimum commitment: Youth are eligible for release both during the DYS minimum sentence and after the minimum sentence is met regardless if they have a specification or not.
- The youth has one or more specifications that aggregate to over a year: If a youth has one or more specification under ORC 2152.17 (A), (B), (C), or (D) – which includes any and all specifications a youth can receive – that aggregate to over one year, the minimum sentence on the underlying offense and all of the specifications are aggregated and the youth becomes eligible for release after serving one year (even if they have not served their full specification time). *Note:* This provision does not affect youth who have a specification for a year or less; these youth remain eligible for release after their specification time is served. For further clarification, see Case #3 in the Judicial Release Practice Guide.

The procedure for release of youth under new paragraph (D) of 2152.22 is as follows:

- Notice of release: At the time of disposition, the court must give notice that the court may release the youth as provided in this paragraph for having served their minimum sentence expiration date or one-year specification time. However, even if a court does not give this notice, the youth is still eligible for release under these circumstances and the youth's adjudication and ability for post-adjudication relief still stand. - *new requirement*
- Who can request early release: DYS, the child, or the child's parents. - *mirrors 2152.22 (B) & (C)*
- Upon receipt of the request: The court can 1) approve or reject the request by journal entry or 2) schedule within thirty days a time for a hearing on whether the child is to be released. - *mirrors 2152.22 (B) & (C)*
- Hearing procedure: The court may order DYS to: 1) deliver the child to court on the hearing date (although the child does not have to be present for the hearing) and, 2) present a report on the child's progress in the institution to which the child was committed and recommendations for conditions of supervision post-release. - *mirrors 2152.22 (B) (3)*
- If release is rejected: If the child or parent filed the initial release request, they may make **one or more subsequent requests** for a release within the applicable period. However, these requests are limited to every **ninety days** the child is in a secure department facility. Once the subsequent requests are received, the court shall approve or disapprove the release by journal entry or schedule within thirty days a time for a hearing. - *mirrors 2152.22 (C)(2)*
- To where the youth is released:
  - If the release under paragraph (D) is granted during the second half of the youth's minimum term, the youth is released to DYS supervision and ORC 2152.22 (C)(2) and (3) apply (regarding the court to which the youth is released changing the youth's conditions of release and community placement).
  - In all other cases, the release is a judicial release to court supervision, and the second paragraph of division (B)(3) of O.R.C. 2152.22 applies.
- Post-release: Youth released under the new provisions are treated the same as youth released under ORC 2152.22 (C), meaning the youth can violate the terms of their release under ORC 2152.22(E) [former paragraph (D)] and receive a written treatment plan under ORC 2152.22(F) [former paragraph (E)]. In addition, DYS must file a written progress report on the youth every 30 days under ORC 2152.22(G) [former paragraph (F)].