



**OHIO**

**CRIMINAL SENTENCING COMMISSION**

Chief Justice Maureen O'Connor, Chair • Sara Andrews, Director

**MEMORANDUM**

**To: Sara Andrews, Director**

**From: Jo Ellen Cline, Criminal Justice Counsel**

**Date: November 23, 2015**

**RE: Summary of Confinement Credit Proposal**

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At its November 2015 meeting, the Ohio Criminal Sentencing Commission approved draft statutory changes to R.C. 2152.18 making changes regarding confinement credit for juvenile offenders. This memorandum summarizes the proposed language and its genesis.

**Background**

The Ohio Department of Youth Services requested review of R.C. 2152.18 regarding confinement credit because there was confusion on the application of the statute and, in addition, there had been several DYS facilities that had been the subject of confinement credit entries brought by the Office of the Ohio Public Defender. (See attached spreadsheet).

R.C. 2152.18 was revised in S.B. 337 (eff. 09/28/12) to include language that had been traditionally been used in calculating adult jail time credit. The language was written in the negative and indicated that confinement would not be credited in certain circumstances but did not specify when a juvenile was eligible for credit. In addition, the language included halfway houses which are not used in the juvenile system. DYS and juvenile courts were encountering difficulty in making the juvenile world fit into the adult language that was adopted in S.B. 337.

The Juvenile Justice Committee of the Ohio Criminal Sentencing Commission was tasked with reviewing the Department's proposal. The committee is comprised of juvenile judges, legislators, prosecutors, defense counsel, a court administrator, juvenile advocates, and behavioral health experts.

**Proposed Statutory Changes**

The proposed draft does two things: first, it eliminates the current language that would not apply in the juvenile world and states that a juvenile is credited for any time



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they are confined, a term defined in division (F) of the proposal; second, the proposal allows the juvenile court continuing jurisdiction to consider confinement credit disputes.

The proposed language defines confinement as any time spent in a “locked and secure facility” or a “community correction facility”. Defining confinement in this way should alleviate confusion in the courts as to whether or not time should be credited to the juvenile. In addition, under current law a juvenile would need to proceed to the Court of Appeals if they dispute the time they have been credited by the juvenile court. This process is onerous and unwieldy. Allowing the juvenile court to resolve confinement credit disputes mirrors what happens in the adult system and increases judicial economy.

The Ohio Department of Youth Services does not anticipate any major fiscal impact from the change and indicated during the committee’s discussions that these revisions would make operations easier for both the Department and the courts.

### **Conclusion**

The Ohio Criminal Sentencing Commission unanimously approved the proposed language for presentation to the General Assembly at its November 20, 2015 meeting.

## **2152.18 No designation of institution of commitment.**

(A) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall not designate the specific institution in which the department is to place the child but instead shall specify that the child is to be institutionalized in a secure facility.

(B) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall state in the order of commitment the total number of days that the child has been confined in connection with the delinquent child complaint upon which the order of commitment is based. The court shall ~~not only~~ include days that the child has been ~~under electronic monitoring or house arrest or days that the child has been confined in a halfway house~~. The department shall reduce the minimum period of institutionalization that was ordered by both the total number of days that the child has been so confined as stated by the court in the order of commitment and the total number of any additional days that the child has been confined subsequent to the order of commitment but prior to the transfer of physical custody of the child to the department.

The juvenile court retains continuing jurisdiction to correct any error not previously raised at disposition in making a determination under this division. The delinquent child may, at any time after disposition, file a motion in the juvenile court to correct any error made in making a determination under this division and the court may in its discretion grant or deny that motion. If the court changes the number of days in its determination or redetermination, the court shall cause the entry granting that change to be delivered to the department of youth services without delay.

An inaccurate determination under this division is not grounds for setting aside the offender's adjudication or disposition and does not otherwise render the disposition void or voidable.

(C) (1) When a juvenile court commits a delinquent child to the custody of the department of youth services pursuant to this chapter, the court shall provide the department with the child's medical records, a copy of the report of any mental examination of the child ordered by the court, the Revised Code section or sections the child violated and the degree of each violation, the warrant to convey the child to the department, a copy of the court's journal entry ordering the commitment of the child to the legal custody of the department, a copy of the arrest record pertaining to the act for which the child was adjudicated a delinquent child, a copy of any victim impact statement pertaining to the act, and any other information concerning the child that the department reasonably requests. The court also shall complete the form for the standard predisposition investigation report that the department furnishes pursuant to section 5139.04 of the Revised Code and provide the department with the completed form.

The department may refuse to accept physical custody of a delinquent child who is committed to the legal custody of the department until the court provides to the department the documents specified in this division. No officer or employee of the department who refuses to accept physical custody of a delinquent child who is committed to the legal custody of the department shall be subject to prosecution or contempt of court for the refusal if the court fails to provide the documents specified in this division at the time the court transfers the physical custody of the child to the department.

(2) Within twenty working days after the department of youth services receives physical custody of a delinquent child from a juvenile court, the court shall provide the department with a certified copy of the child's birth certificate and the child's social security number or, if the court made all reasonable efforts to obtain the information but was unsuccessful, with documentation of the efforts it made to obtain the information.

(3) If an officer is preparing pursuant to section 2947.06 or 2951.03 of the Revised Code or Criminal Rule 32.2 a presentence investigation report pertaining to a person, the department shall make available to the officer, for use in preparing the report, any records or reports it possesses regarding that person that it received from a juvenile court pursuant to division (C)(1) of this section or that pertain to the treatment of that person after the person was committed to the custody of the department as a delinquent child.

(D) (1) Within ten days after an adjudication that a child is a delinquent child, the court shall give written notice of the adjudication to the superintendent of a city, local, exempted village, or joint vocational school district, and to the principal of the school the child attends, if the basis of the adjudication was the commission of an act that would be a criminal offense if committed by an adult, if the act was committed by the delinquent child when the child was fourteen years of age or older, and if the act is any of the following:

(a) An act that would be a felony or an offense of violence if committed by an adult, an act in the commission of which the child used or brandished a firearm, or an act that is a violation of section 2907.06, 2907.07, 2907.08, 2907.09, 2907.24, or 2907.241 of the Revised Code and that would be a misdemeanor if committed by an adult;

(b) A violation of section 2923.12 of the Revised Code or of a substantially similar municipal ordinance that would be a misdemeanor if committed by an adult and that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district;

(c) A violation of division (A) of section 2925.03 or 2925.11 of the Revised Code that would be a misdemeanor if committed by an adult, that was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district, and that is not a minor drug possession offense;

(d) An act that would be a criminal offense if committed by an adult and that results in serious physical harm to persons or serious physical harm to property while the child is at school, on any other property owned or controlled by the board, or at an interscholastic competition, an extracurricular event, or any other school program or activity;

(e) Complicity in any violation described in division (D)(1)(a), (b), (c), or (d) of this section that was alleged to have been committed in the manner described in division (D)(1)(a), (b), (c), or (d) of this section, regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the board of education of that school district.

(2) The notice given pursuant to division (D)(1) of this section shall include the name of the child who was adjudicated to be a delinquent child, the child's age at the time the child committed the act that was the basis of the adjudication, and identification of the violation of the law or ordinance that was the basis of the adjudication.

(3) Within fourteen days after committing a delinquent child to the custody of the department of youth services, the court shall give notice to the school attended by the child of the child's commitment by sending to that school a copy of the court's journal entry

ordering the commitment. As soon as possible after receipt of the notice described in this division, the school shall provide the department with the child's school transcript. However, the department shall not refuse to accept a child committed to it, and a child committed to it shall not be held in a county or district detention facility, because of a school's failure to provide the school transcript that it is required to provide under this division.

(4) Within fourteen days after discharging or releasing a child from an institution under its control, the department of youth services shall provide the court and the superintendent of the school district in which the child is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code with the following:

- (a) An updated copy of the child's school transcript;
- (b) A report outlining the child's behavior in school while in the custody of the department;
- (c) The child's current individualized education program, as defined in section 3323.01 of the Revised Code, if such a program has been developed for the child;
- (d) A summary of the institutional record of the child's behavior.

The department also shall provide the court with a copy of any portion of the child's institutional record that the court specifically requests, within five working days of the request.

(E) At any hearing at which a child is adjudicated a delinquent child or as soon as possible after the hearing, the court shall notify all victims of the delinquent act who may be entitled to a recovery under any of the following sections of the right of the victims to recover, pursuant to section 3109.09 of the Revised Code, compensatory damages from the child's parents; of the right of the victims to recover, pursuant to section 3109.10 of the Revised Code, compensatory damages from the child's parents for willful and malicious assaults committed by the child; and of the right of the victims to recover an award of reparations pursuant to sections 2743.51 to 2743.72 of the Revised Code.

(F) As used in this section:

(1) "Confined" means the placement of a child in a locked and secure facility, either adult or juvenile, or a locked and secure section of any facility, or any community correction facility as defined in 5139.01(A)(14) of the Revised Code.

(2) "Secure facility" has the same meaning as in section 5139.01(15) of the Revised Code.

Amended by 129th General Assembly File No.131, SB 337, §1, eff. 9/28/2012.

Effective Date: 07-05-2002; 09-16-2004



**Confinement Credit**  
**County & Race Averaged**  
2015

County	Race	Youth	Average	Total Average
<b>Totals</b>	B	127	100	<b>97</b>
	W	68	91	
	H	6	85	
	M	4	36	
	O	2	178	
	A	1	85	

\*There was one white youth from Hancock that received 1705 days of confinement credit that drove the average to 97, without him the average would be 89.

<b>Allen</b>	B			<b>367</b>
	W	1	367	
	M			
	O			
<b>Ashland</b>	B			<b>129</b>
	W	1	129	
	M			
	O			
<b>Auglaize</b>	B			<b>55</b>
	W	1	55	
	M			
	O			
<b>Belmont</b>	B			<b>76</b>
	W	1	76	
	M			
	O			
<b>Clark</b>	B	3	60	<b>67</b>
	W	1	87	
	M			
	O			
<b>Clinton</b>	B			<b>16</b>
	W	1	16	
	M			
	O			
<b>Cuyahoga</b>	B	45	93	<b>93</b>
	W	1	76	
	M	1	132	
	O			
<b>Defiance</b>	B	2	177	<b>108</b>
	W	4	73	
	M			
	O			



County	Race	Youth	Average	Total Average
Erie	B			<b>182</b>
	W	1	182	
	M			
	O			
Fairfield	B			<b>46</b>
	W	3	46	
	M			
	O			
Franklin	B	15	175	<b>156</b>
	W	2	129	
	H	2	81	
	O	1	76	
Fulton	B			<b>94</b>
	W	1	141	
	H	1	46	
	O			
Geauga	B	1	29	<b>17</b>
	W	3	13	
	M			
	O			
Greene	B	1	52	<b>118</b>
	W	1	184	
	M			
	O			
Hamilton	B	31	78	<b>77</b>
	W	2	43	
	M	1	87	
	A	1	85	
Hancock	B			<b>887</b>
	W	1	1705	
	M			
	H	1	68	
Harrison	B			<b>29</b>
	W	1	29	
	M			
	O			
Henry	B			<b>99</b>
	W	1	99	
	M			
	O			



County	Race	Youth	Average	Total Average
Highland	B			<b>66</b>
	W	3	66	
	M			
	O			
Licking	B	1		<b>55</b>
	W	12	60	
	M			
	O			
Lorain	B	3	90	<b>40</b>
	W	4	3	
	M			
	H	1	34	
Lucas	B	3	122	<b>84</b>
	W			
	M	2	28	
	O			
Marion	B	1	178	<b>95</b>
	W	3	68	
	M			
	O			
Median	B	2	186	<b>114</b>
	W	2	42	
	M			
	O			
Monroe	B	1	28	<b>28</b>
	W			
	M			
	O			
Montgomery	B	8	63	<b>80</b>
	W	1	18	
	M			
	O	1	279	
Noble	B			<b>8</b>
	W	1	8	
	M			
	O			
Paulding	B			<b>146</b>
	W	1	146	
	M			
	O			



County	Race	Youth	Average	Total Average
Pickaway	B			<b>54</b>
	W	1	54	
	M			
	O			
Putnam	B			<b>66</b>
	W	1	66	
	M			
	O			
Sandusky	B			<b>182</b>
	W			
	M			
	H	1	182	
Scioto	B			<b>0</b>
	W	1	0	
	M			
	O			
Shelby	B	1	185	<b>185</b>
	W			
	M			
	O			
Stark	B	4	95	<b>74</b>
	W	2	33	
	M			
	O			
Summit	B	2	85	<b>85</b>
	W			
	M			
	O			
Trumbull	B	3	124	<b>138</b>
	W	4	149	
	M			
	O			
Tuscarawas	B			<b>60</b>
	W	2	60	
	M			
	O			
Washington	B			<b>1</b>
	W	1	1	
	M	1	0	
	O			



Department of  
Youth Services

**Confinement Credit**  
**County & Race Averaged**  
2015

County	Race	Youth	Average	Total Average
Wood	B			<b>79</b>
	W	2	88	
	M			
	H	1	62	

\*\*Please note that the Department will see an increase in confinement credit after the Public Defender completes their review.

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\*\*\*Also, not all counties are represented in this total due to no commitment for the first six months of 2015.

## Facilities Confinement Credit Granted

County	Facility	Granted?
Cuyahoga	Abraxas	Yes
Cuyahoga	Abraxas	Yes
Franklin	Abraxas	Yes
Hamilton	Abraxas	Yes
Franklin	Bassett House	Yes
Cuyahoga	Bellefaire JCB (PA)	Juvenile Court denied, but reserved by the Court of Appeals and credit granted
Cuyahoga	Belmont Pines	Yes
Knox	Boy's Village	Juvenile Court denied, currently on appeal
Cuyahoga	Carrington Youth Academy	Yes
Cuyahoga	Carrington Youth Academy	Yes
Champaign	Central Ohio Youth Center	Yes
Franklin	Central Ohio Youth Center	Yes
Cuyahoga	Cleveland Christian Home	Yes
Franklin	COYC	Yes
Cuyahoga	Foundations for Living	Yes
Franklin	Foundations for Living	Yes
Hamilton	Hillcrest	Yes
Hamilton	Hillcrest	Yes
Hamilton	Hillcrest	Yes
Franklin	Maryhaven	Yes
Stark	Multi-County Juvenile Attention System (CCF)	Yes
Summit	Multi-County Juvenile Attention System (CCF)	Yes
Defiance	Northwest Ohio Juvenile Residential Center	Yes
Cuyahoga	Oakview Juvenile Residential Center (CCF)	Yes
Cuyahoga	Oakview Juvenile Residential Center (CCF)	Yes
Belmont	Oakwood	Juvenile Court denied, currently on appeal
Cuyahoga	Ohio Guidestone	Yes
Wood	Residential Center of Northwest Ohio (CCF)	Yes
Lucas	Youth Treatment Center	Juvenile Court denied, but reserved by the Court of Appeals and credit granted

The above data reference confinement credit and not programming.