



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-DIR. 145.304

Date: October 14, 2022

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Supersedes: September 1, 2021

BOARD DIRECTIVE

SUBJECT: CUMULATIVE OR CONSECUTIVE SENTENCES

PURPOSE: To provide guidance for the voting members to process those cases where an offender received a cumulative or consecutive sentence.

AUTHORITY: Texas Government Code Sections 508.035(d), 508.0441, 508.045, and 508.150
Texas Administrative Code Title 37, Part 5, Chapter 145, Sections 145.12, 145.13, 145.15, 145.16, and 145.18
Board Policy BPP-POL. 145.203
Texas Code of Criminal Procedure Article 42.08

DISCUSSION: Section 508.150 of the Government Code became effective on September 1, 1997, which ordered cumulative sentences to be served in a series. Court rulings later identified two qualifiers to the new law: 1) If any of the cumulative sentences in the series were for offenses that occurred prior to September 1, 1987, then the offenses were to be served as previously required, with the sentences added together and all offenses reviewed together. 2) When an offender is released on parole, receives a new felony conviction, and is sentenced to a consecutive sentence prior to the revocation of the original sentence, the original parole release vote is considered approving parole for the first case in the series. In those instances, the consecutive sentence may be treated as a concurrent sentence for the purposes of a parole vote.

DEFINITIONS: Cumulative Sentence – the total number of years the court imposes or suspends sentences when a defendant is convicted of two or more cases.

Consecutive Sentence – when a defendant is convicted in two or more cases, the court imposes a judgment and sentence in the second and subsequent convictions to begin when the judgment and sentence imposed in the first conviction ceases to operate.

Full Board – the entire membership of the Texas Board of Pardons and Paroles, which is authorized to vote cases pursuant to Section 508.046 of the Government Code.

PROCEDURE:

Board Policy BPP-POL. 145.203 Eligibility for Release; Consecutive (Cumulative) Felony Sentencing governs how the Board considers cases with consecutive or cumulative sentences. If all of the offenses in the series of cumulative sentences occurred on or after September 1, 1987, then each sentence in the series must be considered separately and apart from the other cumulative sentences in the series.

I. When an offender is required to serve a consecutive or cumulative sentence, the offender is in effect required to serve these sentences separately. Parole eligibility and cease to operate dates would be calculated only on the first cumulative sentence in the series, and the second in the series would have those calculations determined when the first in the series ceases to operate or receives a parole approval vote.

A. The full Board or parole panel determines a date that causes the second cumulative sentence to become effective (start running) and TDCJ then determines appropriate time calculations. This process continues for each sentence in the series and there is no limit on how many cumulative sentences a court can order for a defendant.

1. Example: a defendant sentenced to 10-year and 5-year cumulative sentences would be incarcerated on the first cumulative sentence in the series (the 10-year sentence). Parole eligibility would be calculated on that 10-year sentence, and a cease to operate date would also be calculated. If not approved for parole on initial or subsequent reviews on that cause number, the second sentence in the cumulative series, the 5-year sentence, would not begin until the cease to operate date of the first sentence in the series.

II. Voting Options

A. Board Rule 145.13 Action upon Review – Consecutive or Cumulative Felony Sentencing governs how the full Board or a parole panel will vote these types of cases. When the full Board or a parole panel reviews a consecutive felony sentencing case for parole, the vote shall indicate the Cause Number of the consecutive felony sentencing case it is considering. The full Board or parole panel will:

1. Vote CU/FI (Month/Year Cause Number of the first CU sentence in the series) and designate a new specific date on which the first CU sentence in the series will cease to operate and the second CU sentence in the series will begin; or

2. Vote CU/NR (Month/Year Cause Number of the first CU sentence in the series), deny favorable parole action, and set the next review date per Section 508.141(g) of the Government Code, and Board Policy BPP-POL. 145.203; or

3. Vote CU/SA (Month/Year Cause Number of the first CU sentence in the series), deny favorable parole action, and issue a Serve-All per Section 508.141(g) of the Government Code, and Board Policy BPP-POL. 145.203.
- B. Board Rule 145.12 Action Upon Review governs how the full Board or a parole panel will vote the case for the last consecutive or cumulative felony sentencing case in the series. The case shall be voted the same as in non-cumulative cases, i.e., FI-1, FI-2, etc., or NR Month/Year or Serve-All (SA).
- III. In the Series – There are cases where the offender may be sentenced to more than two sentences and one or more of the sentences may be cumulative to each other but NOT to the concurrent sentence(s). When cases are cumulative to each other, these offenses are considered in the series of cumulative sentences, and if both occurred on or after September 1, 1987, they are treated separately from each other but concurrent to the concurrent sentence(s).
- A. When the offender becomes eligible for parole on the concurrent sentence(s) and the first in the series of cumulative sentences, the full Board or a parole panel will review all the eligible sentences for parole and the first in the series of cumulative sentences. Anytime voting involves the first in the series of cumulative sentences, whether alone or with concurrent sentences, it always requires CU voting as outlined in Board Rule 145.13.
1. Example: a defendant sentenced to a single 20-year sentence (which occurred in 1981) has a concurrent 15-year sentence (which occurred after September 1, 1987) with a 10-year sentence (which also occurred after September 1, 1987) cumulative to the 15-year sentence only. The full Board or a parole panel will vote the 15-year sentence pursuant to Board Rule 145.13.

SIGNED THIS, THE 14TH DAY OF OCTOBER, 2022.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*