

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

NUMBER: PD/POP-2.2.26

DATE: 1/8/98

PAGE: 1 of 3

SUPERSEDES: N/A

SUBJECT: DISCRETIONARY MANDATORY SUPERVISION RELEASE

AUTHORITY: TEX. GOV'T CODE ANN. §§ 508.149

PURPOSE: To establish guidelines for identifying and processing discretionary mandatory supervision cases for review by the Board of Pardons and Paroles, as outlined in House Bill 1433, 74th Legislature.

PROCEDURE:

- I. Texas law provides for discretionary mandatory supervision for offenders who have committed mandatory release-eligible crimes with an offense date on or after September 1, 1996. These offenders may not be released on mandatory supervision if the Board of Pardons and Paroles (BPP) determines that the release would endanger the public.
- II. A case shall be classified as discretionary mandatory if the offender is serving a sentence for any offense eligible for mandatory release with an offense date on or after September 1, 1996.
 - A. Any offender convicted at any time of an offense that disqualifies him/her for release on mandatory supervision (as described in Sec. 508.149, Tex. Gov't Code) shall be permanently classified as non-mandatory, regardless of the current offense.
 - B. An offender serving a sentence for both a mandatory-eligible offense committed prior to September 1, 1996, and a mandatory-eligible offense committed on or after September 1, 1996, shall be classified as discretionary mandatory until discharge of the sentence for the offense committed on or after September 1, 1996.
- III. The same standard procedures shall be followed for processing Case Summaries and preparing files for BPP review, regardless of whether the BPP will be conducting a parole review or a mandatory supervision review (see PD/AD-2.1.3). The files shall contain all information relevant to the parole or mandatory review process.

- IV. Review and Release Processing staff shall identify discretionary mandatory-eligible offenders and process their case files for review by the BPP.
 - A. Six months prior to the offender's minimum expiration date (or – in the case of offenders who have previously been denied mandatory supervision release by the Board – six months prior to the subsequent review date set by the Board), the discretionary mandatory review process shall be initiated through a weekly computer-generated report.
 - B. Offenders shall be identified as “House Bill 1433 cases” at the time of parole or discretionary mandatory review by Institutional Parole Office (IPO) staff responsible for completing Case Summaries.
 - C. Discretionary mandatory status shall be determined by the IPO staff responsible for completing the Case Summary, and this status shall be noted on the Case Summary.
 - D. If it is discovered during the mandatory release review that the offender has a non-mandatory offense, staff shall notify TDCJ-ID Classification and Records.

- V. The IPO shall determine the type of transmittal that needs to be prepared.
 - A. If it is discovered during the parole review process that the offender is within 180 days of his or her minimum expiration date, the IPO who completes the Case Summary shall add a transmittal to the file that indicates the pending minimum expiration date and provides the BPP with the following voting options.
 - 1. FI- [1, 2, 3, 4, 5, or 5], which shall approve parole release.
 - 2. RMS [release to mandatory supervision] [month/year], which indicates that the BPP will allow the offender to be released to mandatory supervision upon reaching the minimum expiration date.
 - 3. DMS [deny mandatory supervision] [month/year], which indicates that the BPP denies release to mandatory supervision and sets a subsequent review date.
 - B. If the offender is within 180 days of his or her minimum expiration date but is not due for a parole review, the IPO who completes the Case Summary shall add a transmittal to the file that indicates the pending minimum expiration date and provides the BPP with the following voting options.
 - 1. RMS [release to mandatory supervision] [month/year], which indicates that the BPP will allow the offender to be released to mandatory supervision upon reaching the minimum expiration date.
 - 2. DMS [deny mandatory supervision] [month/year], which indicates that the BPP denies release to mandatory supervision and sets a subsequent review date.

- C. The IPO shall attach the appropriate transmittal and forward the case file to the appropriate BPP panel for voting.
- VI. Upon receiving the results of the BPP vote, the IPO shall generate a status letter. One copy of the status letter shall be distributed to TDCJ-ID Classification and Records, one copy shall be given to the warden on the unit where the offender is housed, and one copy shall be given to the offender. The offender's copy shall not be delivered until five days after the warden's copy is delivered.
- A. If parole is approved, Review and Release Processing staff shall follow parole release procedures and the offender shall be released to parole supervision.
 - B. If parole is denied, but the offender is approved for mandatory supervision release by BPP vote (RMS), the offender shall be processed for release on the minimum expiration date. If the offender has already been voted RMS and subsequently commits a disciplinary infraction resulting in loss of class and/or time, a new commitment, time recalculation, etc., the case shall be sent back to the BPP for review.
 - C. If parole is denied and the offender is also denied mandatory release by BPP vote (DMS), Classification and Records will enter the maximum expiration date in the computer in both the minimum and maximum expiration date fields in order to convert the case to non-mandatory supervision status. The offender shall receive a BPP discretionary mandatory review within one year from the date following each "DMS" decision until his or her sentence is discharged.
- VII. The review/voting process shall continue at yearly intervals until one of the following occurs:
- A. Mandatory supervision release is allowed and the offender is released to the supervision of the Parole Division on the minimum expiration date; or
 - B. The offender reaches the maximum expiration date and is unconditionally released from TDCJ-ID custody.

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