

# JAIL-TIME CREDIT QUICK REFERENCE GUIDE

Prepared by a collaboration between the Ohio Department of Rehabilitation and Correction and the Office of the Ohio Public Defender

When someone is sentenced to serve time in an Ohio Department of Rehabilitation and Correction (DRC) facility, that person is entitled to jail-time credit for any time spent confined for any reason arising out of the offense for which the inmate was sentenced.<sup>1</sup> The right to credit for time served in confinement is fundamental and protected by the Equal Protection Clauses of the Ohio and United States Constitutions.<sup>2</sup> Jail-time credit is actually a portion of the sentence that the inmate has already served, so proper calculation is fiscally responsible and ensures fairness in the criminal justice system.

Although DRC is required to credit an inmate with time already served, **it is the trial court's responsibility to properly calculate the amount of days for which credit must be given.**<sup>3</sup> The trial court's credit calculation must be included in the defendant's sentencing entry.<sup>4</sup> The statute requiring jail-time credit makes no distinction between cases resulting from trials or pleas.<sup>5</sup> DRC is only responsible for calculating credit for time that an inmate has spent being transported or in DRC custody. Beyond that, DRC must rely on the amount of credit the trial court determines the inmate is entitled to by law; it cannot substitute its own judgment in complying with the mandate requiring that jail-time credit be given.<sup>6</sup>

**An inmate has the ability to file a motion to recover missing jail-time credit at any time after sentencing.**<sup>7</sup> The sentencing court retains continuing jurisdiction to grant or deny a motion for jail-time credit.<sup>8</sup>

Defendants who are sentenced to concurrent prison terms are entitled to have jail-time credit applied towards all prison terms for charges on which they were held.<sup>9</sup> A court cannot choose one of several concurrent terms against which to apply jail-time credit.<sup>10</sup> When a defendant is sentenced to consecutive terms, jail-time credit is only applied to one term.<sup>11</sup>

Jail-time credit affects the Judicial Release eligibility date for inmates serving a sentence of 5 or more years.<sup>12</sup>

## TIME THAT THE COURT MUST CREDIT

- Confinement in lieu of bail while awaiting trial (city and county jail).<sup>13</sup>
- Confinement in a juvenile facility before transfer to adult court.<sup>14</sup>
- Confinement for examination to determine competence or sanity.<sup>15</sup>
- Any other restraint that rises to the level of confinement, determined on a case-by-case basis.<sup>16</sup>
- Any time spent in a Community Based Correctional Facility.<sup>17</sup>
- Any other applicable time, for instance time held in another state before extradition to Ohio.<sup>18</sup>

## TIME TO BE CREDITED BY DRC

- Confinement while awaiting transportation to serve the current prison sentence or any prior prison sentences.<sup>19</sup>
- Any prior prison terms.

## TIME THAT NEED NOT BE CREDITED

- Time spent in a county jail serving another misdemeanor sentence.<sup>20</sup>
- Pre-indictment confinement (if on a different case).<sup>21</sup>

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<sup>1</sup> R.C. 2967.191.

<sup>2</sup> *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, ¶ 7.

<sup>3</sup> *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 2003-Ohio-2061, 786 N.E.2d 1286, ¶ 7.

<sup>4</sup> R.C. 2929.19(B)(2)(g)(i).

<sup>5</sup> R.C. 2967.191.

<sup>6</sup> *State ex rel. Corder v. Wilson*, 68 Ohio App.3d 567, 572-573, 589 N.E.2d 113 (1991).

<sup>7</sup> R.C. 2929.19(B)(2)(g)(iii); *State v. Thompson*, 147 Ohio St.3d 29, 2016-Ohio-2769.

<sup>8</sup> *Id.*

<sup>9</sup> *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, syllabus.

<sup>10</sup> *Id.* at ¶ 12.

<sup>11</sup> *Id.*

<sup>12</sup> R.C. 2929.20(C), amended 9/14/16.

<sup>13</sup> R.C. 2967.191.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *State v. Napier*, 93 Ohio St.3d 646, 648, 758 N.E.2d 1127 (2001).

<sup>18</sup> *See e.g. State v. Painter*, 11th Dist. Ashtabula No. 2009-A-0016, 2009-Ohio-4929.

<sup>19</sup> O.A.C. 5120-2-04.

<sup>20</sup> *State v. Pritschau*, 11th Dist. Lake No. 2015-L-115, 2016-Ohio-7147, ¶ 27.

<sup>21</sup> *State v. Smith*, 2d Dist. Champaign No. 2015-CA-37, 2016-Ohio-4983, ¶ 11.