

Sixth District Department of Correctional Services POLICY	Issue Date 10/12/18	Effective Date 11/1/18	Policy Number 919-18
Subject SPECIAL SENTENCE DISCHARGE		Review Month September	Author 0590 (MLA)
Rescinds	References Code of Iowa, Section 903.2(1)(a), 903B.1, 903B.2, 903B.15		

POLICY:

Since the special sentencing law which took effect July 1, 2005, Community Based Corrections is now supervising those on supervision for a sexual offense on the special sentence parole. In an effort to best utilize resources and provide for community safety, it is prudent to examine the dynamics of each case to ascertain if the community benefits from continued supervision and accompanying costs associated with an offender on long-term or lifetime supervision. Therefore, this policy establishes criterion for consideration of discharge from special sentence/lifetime parole supervision.

DEFINITION:

1. Lifetime Special Sentence - A person convicted of a class "C" felony or greater offense under chapter 709, or a class "C" felony under section 728.12, shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the Director of the Iowa Department of Corrections for the rest of the person's life, with eligibility for parole as provided in chapter 906. **(Iowa Code 903B.1)**
2. Ten Year Special Sentence - A person convicted of a misdemeanor or a class "D" felony offense under chapter 709, section 726.2, or section 728.12 shall also be sentenced, in addition to any other punishment provided by law, to a special sentence committing the person into the custody of the Director of the Iowa Department of Corrections for a period of ten years, with eligibility for parole as provided in chapter 906. **(Iowa Code 903B.2)**
3. Special Sentence Parole/Work Release - The board of parole shall determine whether the person should be released on parole or placed in a work release program. The special sentence imposed under this section shall commence upon completion of the sentence imposed under any applicable criminal sentencing provisions for the underlying criminal offense and the person shall begin the sentence under supervision as if on parole or work release. **(Iowa Code 903B.1, 903B.2)**
4. Special Sentence Revocation - The person shall be placed on the corrections continuum in chapter 901B, and the terms and conditions of the special sentence, including violations, shall be subject to the same set of procedures set out in chapters 901B, 905, 906, and 908, and rules adopted under those chapters for persons on parole or work release. The revocation of release shall not be for a period greater than two years upon any first revocation, and five years upon any second or subsequent revocation. A special sentence shall be considered a category "A" sentence for purposes of calculating earned time under section 903A.2. **(Iowa Code 903B.1, 903B.2)**

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PROCEDURE: (continued)

5. Discharge from Parole - If a person has been sentenced to a special sentence under section 903B.1 (lifetime) or 903B.2 (10 years), the person may be discharged early from the sentence in the same manner as any other person on parole. However, a person convicted of a violation of section 709.3 (Sexual abuse 2nd), 709.4 (Sexual abuse 3rd), or 709.8 (Lascivious Acts) committed on or with a child, or a person serving a sentence under section 902.12, (pertains to minimum sentence for certain felonies), shall not be discharged from parole until the person's term of parole equals the period of imprisonment specified in the person's sentence, less all time served in confinement. **(Iowa Code 906.15)**
6. Early Discharge Restriction: Parole Agreement 20c - I understand that I will be on parole supervision until the actual date of the discharge of the sentence(s) for which I am on supervision and that I will not be discharged early from supervision unless this condition is, otherwise, amended by the Board of Parole.
7. Sex Offense Treatment Program (SOTP) – A program established by the Iowa Department of Corrections for clients who have been convicted of a sex crime or who have demonstrated some sort of sexually- deviant behavior. For purposes of **Iowa Code 903A.2 (1)(a)**, no treatment program shall be considered to be a "sex offense treatment program established by the Director" unless the program is specifically designated as such a program by the Director.

PROCEDURE:

1. The process by which an offender may be discharged early from a special sentence is a five (5) step process:
 - A. The Judicial District Director or designee confirms with the chief records administrator/custodian at the Iowa Medical and Classification Center (IMCC) as to the eligibility for discharge pursuant to **Iowa Code 906.15**.
 - B. The Judicial District Director or designee refers the offender to the Iowa Board of Parole for consideration for the removal of the early discharge restriction that prevents an individual serving such a sentence from being discharged early from parole by the judicial district.
 - C. The Iowa Board of Parole makes a determination as to whether such an individual should have the early discharge restriction removed.
 - D. The Board of Parole removes the early discharge restriction.
 - E. The Judicial District Director or designee makes the determination to discharge the person early from parole. If an offender is currently supervised via Interstate Compact, the same five (5) step process is followed and upon completion the documents are sent to the Interstate Compact Administrator.

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PROCEDURE: (continued)

2. Approval from the Board of Parole (BOP) to defer the decision of discharge to the supervising Judicial District Director.
 - A. A parole officer may request that the Judicial District Director or designee initiate the proceedings to have the Iowa Board of Parole release the early discharge restriction that prevents a judicial district from discharging an offender early. An application supporting the removal of the restriction prohibiting early discharge contains confirmation as to all of the following requirements:
 - 1.) Successful completion of all required sexual offense treatment.
 - 2.) Successful completion of all required interventions (substance abuse treatment, GED, etc.)
 - 3.) Satisfaction of all financial obligations associated with the sexual offense as well as any other offense for which the client is on supervision.
 - 4.) A minimum of two (2) years (consecutive) compliance with the conditions of parole.
 - 5.) Removal from the requirement to register with the Iowa Sexual Offense Registry.
 - 6.) Satisfaction of time on the special sentence supervision per **Iowa code 906.15** (see definitions)
 - B. Once the application is completed and the Judicial District Director or designee is satisfied that the criterion have been satisfied and concludes that the parolee is able and willing to fulfill the obligations as a law-abiding citizen without further supervision, he or she forwards the application and accompanying documentation with the recommendation of the Judicial District Director or designee requesting removal of the early discharge restriction to the Chair of the Iowa Board of Parole for further consideration.
 - C. If the decision is made not to approve early discharge from a special sentence, the decision is final and no further appeal is allowed.
 - D. Applicant may reapply after one (1) year.
3. Judicial District Referral to Iowa Board of Parole to Remove Early Discharge Restriction:

Based on the referral of the Judicial District Director or designee, the Iowa Board of Parole may consider the request to remove the early discharge restriction which prevents an offender serving a special sentence from being discharged early from parole by the judicial district. The Iowa Board of Parole may request further documentation regarding the progress of the offender and may receive comments from victims as to such a decision. Once the Iowa Board of Parole makes a determination as to the request of the Judicial District Director or designee, the Iowa Board of Parole notifies the Judicial District Director of the decision.

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PROCEDURE: (continued)

4. Judicial District Discharge of Special Sentence Parole:

If the Iowa Board of Parole approves the request to remove the restriction against early removal from parole, the Judicial District Director may then have the authority to discharge the special sentence of the parolee pursuant to **Iowa Code Section 906.15.**

BY ORDER OF:

Bruce Vander Sanden, District Director