

T-CAP and R.C. 2929.15 (B)(1)(c) Sentencing

<p><u>T-CAP</u>¹</p> <p>No Felony 5 offender sentenced to a prison term that is 12 months or less shall serve that term in ODRC, unless:</p> <ol style="list-style-type: none"> 1. The felony is: <ol style="list-style-type: none"> a. an offense of violence (R.C. 2901.01) b. a sex offense (Chapter 2907) c. a drug trafficking offense (R.C. 2925.03) d. an offense for which a mandatory prison term is required 2. The person: <ol style="list-style-type: none"> a. has been previously convicted of <ol style="list-style-type: none"> i. any felony offense of violence (R.C. 2901.01) ii. any felony sex offense (Chapter 2907) 3. The sentence: <ol style="list-style-type: none"> a. is required to be served concurrently to any other sentence imposed for a felony to which T-CAP does not apply (a higher degree felony or an offense of violence or other exception in 1. above) b. does not total 12 months or less – as when sentences for multiple F5s are ordered to be served consecutively (and consecutive sentencing factors apply), such that the total sentence is greater than 12 months. <p>NOTE: ODRC interprets this to apply to initial sentencing of F5 offenders AND sanctions/sentencing to F5 CC violators. Therefore, in order to sanction/sentence an F5 CC violator to prison under R.C. 2929.15(B)(1)(c)(i) for up to 90 days, the offender must also fall under one of the exceptions above. Otherwise, the offender must serve any sanction/sentence locally [or the County will be charged on a per diem basis by the State.]</p>	<p><u>R.C. 2929.15 (B)(1)(c)</u>² – applies to F4/F5 CC Violators</p> <p>(B) (1) If the conditions of a community control sanction are violated or if the offender violates a law or leaves the state without the permission of the court or the offender's probation officer, the sentencing court may impose upon the violator one or more of the following penalties:</p> <p>(a) A longer time under the same sanction if the total time under the sanctions does not exceed the five-year limit specified in division (A) of this section;</p> <p>(b) A more restrictive sanction under section 2929.16, 2929.17, or 2929.18 of the Revised Code;</p> <p>(c) A prison term on the offender pursuant to section 2929.14 of the Revised Code and division (B)(3) of this section, provided that a prison term imposed under this division is subject to the following limitations, as applicable:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%; padding: 5px;"> Technical violation³ of CC for F5 – prison max. is 90 days. </td> <td style="padding: 5px;"> <ul style="list-style-type: none"> • (i) If the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a felony of the fifth degree or for any violation of law committed while under a community control sanction imposed for such a felony that consists of a new criminal offense and that is not a felony, the prison term shall not exceed ninety days. </td> </tr> <tr> <td style="padding: 5px;"> Technical violation of CC for F4 – prison max. is 180 days </td> <td style="padding: 5px;"> <ul style="list-style-type: none"> • (ii) If the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a felony of the fourth degree that is not an offense of violence and is not a sexually oriented offense or for any violation of law committed while under a community control sanction imposed for such a felony that consists of a new criminal offense and that is not a felony, the prison term shall not exceed one hundred eighty days. </td> </tr> </table> <p>NOTE: Some judges interpret this as a sanction and may return the CC violator back to probation following serving the sanction.</p>	Technical violation ³ of CC for F5 – prison max. is 90 days.	<ul style="list-style-type: none"> • (i) If the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a felony of the fifth degree or for any violation of law committed while under a community control sanction imposed for such a felony that consists of a new criminal offense and that is not a felony, the prison term shall not exceed ninety days. 	Technical violation of CC for F4 – prison max. is 180 days	<ul style="list-style-type: none"> • (ii) If the prison term is imposed for any technical violation of the conditions of a community control sanction imposed for a felony of the fourth degree that is not an offense of violence and is not a sexually oriented offense or for any violation of law committed while under a community control sanction imposed for such a felony that consists of a new criminal offense and that is not a felony, the prison term shall not exceed one hundred eighty days.
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¹ Effective July 1, 2018, prior to that is voluntary and Summit County has opted in as of October 9, 2017. R.C. 2929.34(B)(3)(d)

² Effective 9/29/17

³ Technical violation is undefined, but ODRC interprets as anything except a new felony (a new misdemeanor is a “technical violation”).