

when, in judgment of the governor, a condition of the pardon has been violated. In re Paquette (1942) 112 Vt. 441, 27 A.2d 129.

6. **Recommitment—Procedure.** Prisoner who accepted conditional pardon voluntarily submitted to conditions stated in it, and prisoner's recommitment to prison without hearing for breach of conditions of his conditional pardon was not a violation of his constitutional rights. In re Lorette (1967) 126 Vt. 286, 228 A.2d 790.

A conditional pardon is an act of grace or favor upon the part of the state by its governor, and may be revoked without notice to the convict and without giving him an opportunity to be heard. In re Saucier (1961) 122 Vt. 208, 167 A.2d 368; In re St. Amour (1969) 127 Vt. 576, 255 A.2d 667.

A prisoner who has been conditionally pardoned under the provisions of this section is not entitled to notice and hearing as to his recommitment for breach of the conditions of his pardon. In re Paquette (1942) 112 Vt. 441, 27 A.2d 129; In re Charizio, 120 Vt. 208, 138 A.2d 430, cert. denied, 356 U.S. 962, 78 S. Ct. 1001, 2 L. Ed. 2d 1069 (1958).

7.—**Warrant.** Warrant issued under this section need not specify any particular condition adjudged by governor to have been broken. In re Charizio (1958) 120 Vt. 208, 138 A.2d 430, cert. denied, 356 U.S. 962, 78 S. Ct. 1001, 2 L. Ed. 2d 1069 1958; In re Saucier (1961) 122 Vt. 208, 167 A.2d 368.

After release under a conditional pardon, neither the commissioner of public welfare nor the superintendent of the house of correction could recommit prisoner to prison or jail, in the absence of a warrant issued by the governor for breach of conditions of the pardon. Reilly v. Dale (1942) 113 Vt. 1, 28 A.2d 637.

8.—**Effect.** Revocation of a conditional pardon does not create a new offense and penalty. In re St. Amour (1969) 127 Vt. 576, 255 A.2d 667.

Time spent by prisoner in custody of governor under conditional pardon was not time during which prisoner was serving his sentence, and upon prisoner's commitment to prison for violation of terms of conditional pardon he was liable to confinement for whatever part of original sentence remained unserved. In re Lorette (1967) 126 Vt. 286, 228 A.2d 790.

§ 811. Reduction of term for good behavior

(a) Each inmate sentenced to imprisonment and committed to the custody of the commissioner for a fixed term or terms shall earn a reduction of five days in the minimum and maximum terms of confinement for each month during which the inmate has faithfully observed all the rules and regulations of the institution to which the inmate is committed.

(b) A reduction of up to ten additional days in the minimum and maximum terms of confinement for each month may be made if the inmate participates in treatment, educational or vocational training programs or work identified by the department to address the inmate's needs. If the inmate refuses to participate in such programs or work identified by the department to address the inmate's needs, but participates in other treatment, educational or vocational training programs or work, a reduction of up to five additional days in the minimum and maximum terms of confinement for each month may be made.

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(c) Any inmate who agrees to participate in a treatment, educational or vocational program or work identified by the department to address the inmate's needs, but is unable to participate due to insufficient program opportunities provided by the department of corrections shall be awarded the maximum number of days' reduction in the minimum and maximum terms of confinement allowable for the program opportunity denied the inmate.

(d) Work camps. A reduction of up to 15 additional days a month may be made in accordance with a policy established by the director of a work camp in which the inmate is confined for each month during which the inmate demonstrates, beyond the level normally expected, consistent program performance or meritorious work performance.

(e) This section applies only while the inmate is committed to the custody of the commissioner and in no case while the inmate is on probation, parole or supervised community service.

(f) Each and every inmate committed to the custody of the commissioner of corrections shall receive timely written notice each month of any reduction in the minimum and maximum terms of confinement, and a notation of such award shall be entered each month on a cumulative record of such actions in the inmate's permanent file. If the inmate is not awarded the maximum allowable reduction in the minimum and maximum terms of confinement in any given month, the inmate shall receive a written explanation for the denial of such reduction from the administrative officer of the facility wherein the inmate is confined.—Added 1971, No. 199 (Adj. Sess.), § 20; amended 1971, No. 258 (Adj. Sess.), § 18; 1973, No. 48, § 7; 1993, No. 54, § 4; 1993, No. 173 (Adj. Sess.), § 1.

#### HISTORY

**Amendments—1993 (Adj. Sess.).** Substituted "five" for "ten" preceding "days" and "minimum and maximum terms" for "term" preceding "of confinement" in subsec. (a), amended subsec. (b) generally, added a new subsec. (c), redesignated former subsecs. (c) and (d) as subsecs. (d) and (e), respectively, and added subsec. (f).

—1993. Subsection (a): Deleted "his" preceding "confinement" and substituted "the inmate" for "he" preceding "has faithfully" and following "institution to which".

Subsection (c): Amended generally.

Subsection (d): Substituted "the inmate" for "he" preceding "is on probation", deleted "or" preceding "parole", added "or supervised community service" thereafter and made a minor change in punctuation.

—1973. Subsection (a): Amended generally.

—1971 (Adj. Sess.). Subsection (a): Substituted "term of his sentence" for "minimum term, if any, of his confinement" following "ten days in the".

Prior law. 28 V.S.A. § 252.