TO THE HOUSE OF REPRESENTATIVES:

The Committee on Corrections and Institutions to which was referred Senate Bill No. 112 entitled “An act relating to earned good time” respectfully reports that it has considered the same and recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds that:

(1) For nearly 40 years, Vermont had a system of statutory good time that permitted offenders to receive reductions in their sentences for maintaining good behavior and participating in programming while in the custody of the Commissioner of Corrections. This good time system was repealed in 2005.

(2) In 2018, the General Assembly directed the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State’s Attorneys, and the Defender General, to submit a report (the Report) to the Legislature on the advisability and feasibility of reinstituting a system of earned good time for persons under Department of Corrections supervision. The Report was filed on November 15, 2018.

(3) In the Report, the Commissioner found that:
(A) empirical studies show that earned good time is effective at prison population management, has little to no community impact or effect on public safety, and is perceived by correctional administrators as having a positive impact on facility control;

(B) earned good time reduces incarceration costs by an amount ranging from $1,800.00 to $5,500.00 per inmate, depending on the number of days an inmate’s sentence is reduced; and

(C) although research is mixed, studies show that earned good time can result in a crime rate reduction of 1–3.5 percent.

(4) On the basis of the Report’s findings, the Commissioner concluded that the Department should “reinstitute a program of earned good time for sentenced inmates and individuals on furlough.”

(5) In order to reduce the State’s prison population by reintegrating offenders into the community while maintaining public safety, a system of earned good time should be reinstituted in Vermont as soon as possible.

(b) It is the intent of the General Assembly that the earned good time program established pursuant to 28 V.S.A. § 818:

(1) be a simple and straightforward program that as much as possible minimizes complexities in implementation and management;
(2) relies on easily ascertainable and objective standards and criteria for
awarding good time rather than subjectivity and the application of discretion
by the Department of Corrections; and

(3) recognizes that there is a role in the correctional system for providing
inmates with an incentive to reduce their sentences by adhering to Department
of Corrections requirements.

Sec. 2. 28 V.S.A. § 818 is added to read:

§ 818. EARNED GOOD TIME; REDUCTION OF TERM

(a) On or before July 1, 2020, the Department of Corrections shall file a
proposed rule pursuant to chapter 25 of Title 3 implementing an earned good
time program.

(b) The earned good time program implemented pursuant to this section
shall comply with the following standards:

(1) The program shall be available for all sentenced offenders, including
furloughed offenders, provided that the program shall not be available to
offenders on probation or parole, offenders eligible for a reduction of term
pursuant to 28 V.S.A. § 811, or to offenders sentenced to life without parole.

(2) Offenders shall earn a reduction of five days in the minimum and
maximum sentence for each month during which the offender:

(A) is not adjudicated of a major disciplinary rule violation; and
(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision.

(3) An offender who receives post-adjudication treatment in an inpatient setting for a substance use disorder shall earn a reduction of one day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall not be eligible for good time except as provided in this subsection.

(4) The Department shall provide timely notice no less frequently than every 90 days to the offender and to any victim of record any time the offender receives a reduction in his or her term of supervision pursuant to this section, and the Department shall maintain a system that documents and records all such reductions in each offender’s permanent record.

(5) The program shall:

(A) become effective upon the Department’s adoption of final proposed rules pursuant to 3 V.S.A. § 843; and

(B) be available only to offenders sentenced on or after the date the program becomes effective.
Sec. 3. 28 V.S.A. § 819 is added to read:

§ 819. MERITORIOUS GOOD TIME

(a) The Department of Corrections shall implement a program of meritorious good time that permits Notwithstanding any other provision of law, the Commissioner may, in his or her discretion, award a reduction of up to 30 days in an offender’s minimum and maximum sentence if the Commissioner determines that the offender has:

(i) acted to protect the life or safety of another person;

(ii) performed an act that put the inmate in harm’s way in order to protect or preserve the life of another person; or

(iii) performed an act of heroism during an emergency.

(B) An award of meritorious good time under this subdivision may be made to an inmate:

(i) sentenced or committed to the custody of the commissioner as defined in 28 V.S.A. § 701;

(ii) furloughed as defined in 28 V.S.A. § 808.

(iii) on parole as defined in 28 V.S.A. § 402; or

(iv) on supervised community sentence as defined in 28 V.S.A. § 35.

(C) Within 30 days after an award of meritorious good time pursuant to this subdivision, the Department’s Victim Services Unit shall provide notice...
of the award and the newly effective minimum and maximum release dates to
any victim of record.

Sec. 4. 13 V.S.A. § 7031 is amended to read:

§ 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

* * *

(b) The sentence of imprisonment of any person convicted of an offense
shall commence to run from the date on which the person is received at the
correctional facility for service of the sentence. The court shall give the person
credit toward service of his or her sentence for any days spent in custody as
follows:

(1) The period of credit for concurrent and consecutive sentences shall
include all days served from the date of arraignment or the date of the earliest
detention for the offense, whichever occurs first, and end on the date of the
sentencing. Only a single credit shall be awarded in cases of consecutive
sentences, and no credit for one period of time shall be applied to a later
period.

(2) In sentencing a violation of probation, the court shall give the person
credit for any days spent in custody from the time the violation is filed or the
person is detained on the violation, whichever occurs first, until the violation is
sentenced. In a case in which probation is revoked and the person is ordered to
serve the underlying sentence, the person shall receive credit for all time
previously served in connection with the offense.

(3) An offender who has received pre-adjudication or post-adjudication
treatment in an inpatient setting for a substance use disorder shall earn a
 reduction of one day in the offender’s minimum and maximum sentence for
each day that the offender receives the inpatient treatment.

* * *

Sec. 5. PRESumptive parole; report

(a) On or before December 15, 2019, the department of corrections and
the parole board shall report to the house committee on corrections and
institutions and the house and senate committees on judiciary a proposal for
implementing a system presumptive parole for inmates in the custody of the
commissioner of corrections.

(b) The proposal developed pursuant to this section shall:

(1) address who is eligible for presumptive parole;

(2) address how presumptive parole would affect good time;

(3) provide a presumption that an eligible inmate who is serving a
sentence of imprisonment shall be released on parole upon completion of the
inmate’s minimum sentence; and
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(4) describe how the Department of Corrections may rebut the

presumption of parole and what standard the Parole Board would use to decide

whether parole should be granted.

(c) The Department of Corrections shall consult with the Parole Board

Attorney General and the Defender General in developing the proposal

required by this section.

(d) The Department shall provide regular interim reports to the Joint Justice

Oversight Committee on its progress toward developing the proposal required

by this section.

Sec. 6. SUNSET; REPORT

(a) 28 V.S.A. § 819 (meritorious good time) shall be repealed on July 1,

2021.

(b)(1) On or before December 15, 2020, the Department of Corrections

shall provide a report on the meritorious good time program established

pursuant to 28 V.S.A. § 819 to the House Committee on Corrections and

Institutions and the House and Senate Committees on Judiciary.

(2) The report required by this subsection shall include:

(A) the number of offenders who have been awarded a meritorious

good time sentence reduction and the basis for each reduction; and

(B) an evaluation of the program and any recommended changes.
Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: ____________)

_________________________ Representative __________

FOR THE COMMITTEE