
Report to
The Vermont Legislature

Availability of Good Time Report

In accordance with Act 56 of 2019
Section 5

Submitted to: House Committee on Corrections and Institutions; House Judiciary Committee; Senate Committee on Institutions; Senate Judiciary Committee.

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Report Date: December 15, 2019



Introduction

Act 56: An act relating to earned good time reestablished a program of earned good time for eligible offenders. The bill established parameters for the program and instructs the Department of Corrections (DOC) to file a rule by July 1, 2020 to implement the program. Section 5 requires 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, the Defender General, and the Executive Director of the Center for Crime Victim's Services to prepare this proposal for the availability of earned good time. The proposal required by this section recommends whether the earned good time program required by 28 V.S.A. § 818 should, in addition to being available to offenders sentenced on or after the date the program becomes effective, also be available to offenders in the custody of the Commissioner of Corrections who were sentenced before the effective date of the program.

Participants in the preparation of the proposal include:

Kimberlee Bevins, Sentence Computation Supervisor, DOC

Cullen Bullard, Director of Classification, DOC

Chris Fenno, Executive Director, Center for Crime Victim's Services

Brian Grearson, Chief Superior Judge, Vermont Judiciary

James Pepper, Executive Directors Office, Department of Sheriffs and State's Attorneys

David Scherr, Assistant Attorney General, Office of the Attorney General

Emily Tredeau, Prisoners' Rights Office, Office of Defender General

Monica Weeber, Administrative Services Director, DOC

Recommendation

It is the recommendation of the group to allow offenders in the custody of the Commissioner Corrections who were sentenced before the effective date of the program to earn good time.

Discussion

The recommendation was developed after discussion of several administrative, policy, and fairness considerations.

Truth in sentencing. A major concern is the impact of the good time program to victims of crime and their understanding of the sentence imposed by the court. The recommendation to include previously sentenced offenders in the earned good time program had to balance the

impact to victims and the intended outcomes of the program. If this recommendation is adopted, all associated parties should work together to develop a plan to notify victims. The Department of Corrections should have the primary responsibility for this activity related to people currently in its custody. During the time between program development and implementation, Victims' Advocates within State's Attorneys offices should also discuss the impact of good time on the sentences of individuals convicted of crime and what could happen to the sentence length when the program becomes effective. Based on the rule making timeline, the program would become effective in the Spring of 2021.

Program Impact. One rationale for instituting an earned good time program is to create a positive impact on facility control. Good time programs work in facilities when most of the population can participate in the program. Increased participation will have a greater impact on morale and behavior. If many people were left ineligible for the program, the effect on the facility environment is diminished. It will also create disparity and confusion among the incarcerated population. The recommendation takes into consideration the potential for increased lawsuits if the program is not applied to previously sentence persons.

Administrative Impact. Act 56 instructs DOC to create *"a simple and straightforward program that as much as possible minimizes complexities in implementation and management."* Including previously sentenced inmates eliminates the potential for mistake, delay in processing paperwork, and allows for clear communication as to who is eligible to receive good time awards. The DOC Sentence Computation Unit is responsible for this activity. Any additional burden or requirement to track the various populations would lead to unnecessary complexity.

Conclusion

The implementation of a new good time program in Vermont could have many positive impacts. Creating a system that does not apply to currently sentenced inmates will diminish the impact and increase administrative burden. The impact of the program to victims of crime is a primary concern. The recommendation comes with a full understanding that developing an on-going plan to communicate with victims is critical.