

1 TO THE HOUSE OF REPRESENTATIVES:

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

7 Sec. 1. FINDINGS; INTENT

8 (a) The General Assembly finds that:

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13 repealed in 2005.

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

21 (3) In the Report, the Commissioner found that:

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

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

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

10 (4) On the basis of the Report's findings, the Commissioner concluded
11 that the Department should "reinstigate a program of earned good time for
12 sentenced inmates and individuals on furlough."

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

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

18 (1) be a simple and straightforward program that as much as possible
19 minimizes complexities in implementation and management;

1 (2) relies on easily ascertainable and objective standards and criteria for
2 awarding good time rather than subjectivity and the application of discretion
3 by the Department of Corrections; and

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

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

8 § 818. EARNED GOOD TIME; REDUCTION OF TERM

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

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

14 (1) The program shall be available for all eligible offenders under the
15 supervision of the Department who have been sentenced and committed to the
16 custody of the Commissioner sentenced offenders, including furloughed
17 offenders, provided that the program shall not be available to offenders on
18 probation or parole, to offenders eligible for a reduction of term pursuant to 28
19 V.S.A. § 811, or to offenders sentenced to life without parole.

20 (2) Offenders with a sentence of 180 days or less shall earn a reduction
21 of five days in the minimum and maximum terms of confinement for each

1 month during which the offender faithfully has observed all the rules and
2 regulations of the institution to which the offender is committed.

3 (3) For offenders with a sentence of greater than 180 days, the program
4 shall be a merit based system designed to incentivize offenders to meet
5 milestones identified by the Department that prepare offenders for reentry.

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

8 (A) is not adjudicated of a major disciplinary rule violation; and

9 (B) is not reincarcerated from the community for a violation of
10 release conditions, provided that an offender who loses a residence for a reason
11 other than fault on the part of the offender shall not be deemed reincarcerated
12 under this subdivision.

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

19 (4) The Department shall provide timely notice ~~each month~~ no less
20 frequently than every 90 days to the offender and to any victim of record any
21 time the offender receives a reduction in his or her term of supervision

1 pursuant to this section, and the Department shall maintain a system that
2 documents and records all such reductions in each offender's permanent
3 record.

4 (5) The program shall become effective upon the Department's adoption
5 of final proposed rules pursuant to 3 V.S.A. § 843.

6 Sec. 3. 28 V.S.A. § 819 is added to read:

7 § 819. MERITORIOUS GOOD TIME

8 (a) Notwithstanding any other provision of law, the Commissioner may, in
9 his or her discretion, award a reduction of up to 30 days in an offender's
10 minimum and maximum sentence if the Commissioner determines that the
11 offender has:

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

13 (2) performed an act that put the inmate in harm's way in order to
14 protect or preserve the life of another person; or

15 (3) performed an act of heroism during an emergency.

16 (b) An award of meritorious good time under this section may be made to
17 an inmate:

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

20 (2) furloughed as defined in 28 V.S.A. § 808;

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

- 1 (4) on supervised community sentence as defined in 28 V.S.A. § 351.
2 (c) Within 30 days after an award of meritorious good time pursuant to this
3 section, the Department's Victim Services Unit shall provide notice of the
4 award and the newly effective minimum and maximum release dates to any
5 victim of record.

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

7 § 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

8 * * *

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

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

20 (2) In sentencing a violation of probation, the court shall give the person
21 credit for any days spent in custody from the time the violation is filed or the

1 person is detained on the violation, whichever occurs first, until the violation is
2 sentenced. In a case in which probation is revoked and the person is ordered to
3 serve the underlying sentence, the person shall receive credit for all time
4 previously served in connection with the offense.

5 (3) A defendant who has received pre-adjudication treatment in a
6 residential setting for a substance use disorder after the charge has been filed
7 shall earn a reduction of one day in the offender's minimum and maximum
8 sentence for each day that the offender receives the inpatient treatment.

9 * * *

10 **Sec. 5. APPLICABILITY OF EARNED GOOD TIME; REPORT**

11 On or before December 15, 2019, the Commissioner of Corrections, in
12 consultation with the Chief Superior Judge, the Attorney General, the
13 Executive Director of the Department of Sheriffs and State's Attorneys, the
14 Defender General, and the Executive Director of the Center for Crime Victim's
15 Services shall report to the Senate and House Committees on Judiciary, the
16 Senate Committee on Institutions, and the House Committee on Corrections
17 and Institutions a proposal for the availability of earned good time. The
18 proposal required by this section shall recommend whether the earned good
19 time program required by 28 V.S.A. § 818 should, in addition to being
20 available to offenders sentenced on or after the date the program becomes

1 effective, also be available to offenders in the custody of the Commissioner of
2 Corrections who were sentenced before the effective date of the program.

3 **Sec. 6. PRESUMPTIVE PAROLE; REPORT**

4 (a) On or before December 15, 2019, the Department of Corrections and
5 the Parole Board shall report to the House Committee on Corrections and
6 Institutions and the House and Senate Committees on Judiciary a proposal for
7 implementing a system of presumptive parole for inmates in the custody of the
8 Commissioner of Corrections.

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

10 (1) address who is eligible for presumptive parole;

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

12 (3) provide a presumption that an eligible inmate who is serving a
13 sentence of imprisonment shall be released on parole upon completion of the
14 inmate's minimum sentence; and

15 (4) describe how the Department of Corrections may rebut the
16 presumption of parole and what standard the Parole Board would use to decide
17 whether parole should be granted.

18 (c) The Department of Corrections and the Parole Board shall consult with
19 the Attorney General and the Defender General in developing the proposal
20 required by this section.

1 (d) The Department of Corrections and the Parole Board shall provide
2 regular interim reports to the Joint Legislative Justice Oversight Committee on
3 its progress toward developing the proposal required by this section.

4 **Sec. 7. SUNSET; MERITORIOUS GOOD TIME; REPORT**

5 (a) 28 V.S.A. § 819 (meritorious good time) shall be repealed on July 1,
6 2021.

7 (b)(1) On or before December 15, 2020, the Department of Corrections
8 shall provide a report on the meritorious good time program established
9 pursuant to 28 V.S.A. § 819 to the House Committee on Corrections and
10 Institutions and the House and Senate Committees on Judiciary.

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

12 (A) the number of offenders who have been awarded a meritorious
13 good time sentence reduction and the basis for each reduction; and

14 (B) an evaluation of the program and any recommended changes.

15 **Sec. 8. EFFECTIVE DATE**

16 This act shall take effect on passage.

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21 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE