

Administrative Procedures – Emergency Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms requiring a signature shall be original signatures of the appropriate adopting authority or authorized person, and all filings are to be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). The peril requirement of this emergency rule has been deemed met by legislature pursuant to 28 V.S.A. §818 (a) .

I approve the contents of this filing entitled:

Earned Good Time Rule

/s/ Michael K. Smith , on 8/28/2020
(signature) (date)

Printed Name and Title:

Michael K. Smith, Secretary Agency of Human Services

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)

Emergency Rule Coversheet

1. TITLE OF RULE FILING:

Earned Good Time Rule

2. ADOPTING AGENCY:

Agency of Human Services

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Anne Corbin

Agency: AHS

Mailing Address: Department of Corrections, Central Office, NOB South, 280 State Drive, Waterbury, VT 05671-2000

Telephone: 802 760 - 8077 Fax: -

E-Mail: anne.corbin@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://doc.vermont.gov/policies-directives-and-rules>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Cullen Bullard

Agency: AHS

Mailing Address: Department of Corrections, Central Office, NOB South, 280 State Drive, Waterbury, VT 05671-2000

Telephone: 802 241 - 0088 Fax: -

E-Mail: cullen.bullard@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

28 V.S.A. §818(a)

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Agency of Human Services is directed by statute to operate a Department of Corrections which is directed to carry out this rule pursuant to 28 V.S.A. §818.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This Rule reinstates an Earned Good Time (EGT) program for Vermont's Department of Corrections' incarcerated and furloughed offenders. Offenders on probation, parole, earning Work Camp Good Time, and serving life sentences without parole are ineligible. For each month eligible incarcerated or furloughed offenders are "not adjudicated of a major disciplinary rule violation" and are "not reincarcerated from the community for a violation of release conditions" (but for no-fault housing loss), they will be awarded up to seven (7) days of Earned Good Time credit toward their minimum and maximum sentence. Offenders receiving day-for-day inpatient treatment post adjudication are ineligible during their treatment. The Department is obligated to record monthly EGT-related changes to offenders' sentences, notify offenders of these changes at least every ninety days, notify victims of record of the program at its outset, and maintain a system where victims can procure relevant information as necessary.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

28 V.S.A. §818(a) requires the DOC to adopt rules that outline a good time program.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rule is required by 28 V.S.A. §818.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

This rule affects several people, enterprises, and government entities. The eligible offenders, their loved ones, communities, victims, and victims' loved

Emergency Rule Coversheet

ones are affected. Among the enterprises affected are professional legal advocates, local nonprofit organizations such as the American Civil Liberties Union, O.U.R. House of Central Vermont, Center on Crime Victim Services, and Vermont Network Against Domestic & Sexual Violence. Finally, the government entities affected by the rule include: the Agency of Human Services, specifically the Departments of Corrections, Children and Families, Mental Health, Health Access, and Disabilities, Aging, and Independent Living as well as the Departments of Labor and Commerce and Community Development and States Attorneys and Defender General Offices. This rule affects victims who seek accurate offender release date information. Making relevant information available to victims, in support of their empowerment and healing, is of paramount importance to this rule.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

This Rule will impose substantial economic impact on the DOC, especially for the Sentence Computation (SCU) and Victims Services (VSS) units. Both currently operate at, or beyond, capacity in staff hours; both will require the equivalent of 1 full-time staff member (SCU: \$79,890.72) as well as the development and facilitation of training for all relevant staff. The Rule will require significantly more work associated with victim notification and supports to crime victims, yet the Department is not currently in a position to hire new staff. Therefore, current VSS and Probation and Parole staff, both already at- or beyond-capacity, will be required to spend more staff hours managing victims and likely including significant overtime and delays in addressing victim-related issues.

13. A HEARING IS SCHEDULED .

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 10/26/2020

Emergency Rule Coversheet

Time: 11:00 AM

Street Address: Teams - Online (2 hours)

Zip Code:

Date: 10/26/2020

Time: 04:00 PM

Street Address: Teams - Online (2 hours)

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

11/02/2020

16. EMERGENCY RULE EFFECTIVE: 01/01/2021

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

06/29/2021

18. NOTICE OF THIS EMERGENCY RULE SHOULD BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Good Time

Reduction

Release

Administrative Procedures – Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Earned Good Time Rule

2. ADOPTING AGENCY:

Agency of Human Services

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-3320

Susanne R. Young, Secretary

MEMORANDUM

TO: Jim Condos, Secretary of State
FROM: Susanne R. Young, Secretary of Administration
DATE: August 31, 2020
RE: Emergency Rule Titled 'Earned Good Time Rule' by the Agency of Human Services,
Department of Corrections

Kristin Clouser Digitally signed
by Kristin Clouser
Date: 2020.09.01
20:25:28 -04'00'

Section 14 of Act 148, signed into law on July 13, 2020, directs the Agency of Human Services, Department of Corrections, to file a proposed rule by September 1, 2020, implementing an earned good time program to become effective on January 1, 2021. The legislation further directs the Department of Corrections to file an emergency rule and concurrently propose them as a permanent rule. The legislature deemed the emergency rule to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

I have reviewed the proposed emergency rule provided and, pursuant to Section 14 of Act 148, agree that the Act has deemed the emergency rule to meet the standard for the adoption of the emergency rules pursuant to 3 V.S.A. § 844(a).

Administrative Procedures – Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Earned Good Time Rule

2. ADOPTING AGENCY:

Agency of Human Services

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

This rule affects several people, enterprises, and government entities. The eligible offenders, their loved ones, communities, victims, and victims' loved ones are affected. Among the enterprises affected are professional legal advocates, local nonprofit organizations such as the American Civil Liberties Union, O.U.R. House of Central Vermont, Center on Crime Victim Services, and Vermont Network Against Domestic & Sexual Violence. Finally, the government entities

Economic Impact Analysis

affected by the rule include: the Agency of Human Services, specifically the Departments of Corrections, Children and Families, Mental Health, Health Access, and Disabilities, Aging, and Independent Living as well as the Departments of Labor and Commerce and Community Development and States Attorneys and Defender General Offices.

The majority of estimated costs of this bill would be incurred by various departments within the Agency of Human Services, particularly the Department of Corrections. Nonpecuniary costs would be incurred by offenders' victims who may experience trauma and concern due to an earlier release date for offenders.

The benefits would primarily be born by the offenders and their loved ones in the form of an earlier release date. These offenders' communities may also incur benefits from the added human capital offenders' presence may provide.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

N/A

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

N/A

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

N/A

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

N/A

8. COMPARISON:

Economic Impact Analysis

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

N/A

9. SUFFICIENCY: *EXPLAIN THE SUFFICIENCY OF THIS ECONOMIC IMPACT ANALYSIS.*

N/A

Administrative Procedures – Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Earned Good Time Rule

2. ADOPTING AGENCY:

Agency of Human Services

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

N/A

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

N/A

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

N/A

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

N/A

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

N/A

Environmental Impact Analysis

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

N/A

9. **SUFFICIENCY:** *EXPLAIN THE SUFFICIENCY OF THIS ENVIRONMENTAL IMPACT ANALYSIS.*

N/A

Administrative Procedures – Public Input

Instructions:

In completing the public input statement, an agency describes the strategy prescribed by ICAR to maximize public input, what it did do, or will do to comply with that plan to maximize the involvement of the public in the development of the rule.

This form must accompany each filing made during the rulemaking process:

1. **TITLE OF RULE FILING:**

Earned Good Time Rule

2. **ADOPTING AGENCY:**

Agency of Human Services

3. **PLEASE DESCRIBE THE STRATEGY PRESCRIBED BY ICAR TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE:**

4. **PLEASE LIST THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:**

5. **BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

Administrative Procedures – Scientific Information

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the Scientific Information Statement, an agency shall provide a brief summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

1. TITLE OF RULE FILING:

Earned Good Time Rule

2. ADOPTING AGENCY:

Agency of Human Services

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

N/A

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

N/A

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:

N/A

Administrative Procedures – Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g. federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

.....

1. TITLE OF RULE FILING:

Earned Good Time Rule

2. ADOPTING AGENCY:

Agency of Human Services

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

N/A

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

N/A

5. OBTAINING COPIES: *EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

N/A

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

N/A

.....

Run Spell Check

Vermont Department of Corrections
Earned Good Time Rule 371.18
(draft 8/10/2020)

I. Authority

This rule is adopted pursuant to 28 V.S.A. § 818 which states that the Department of Corrections shall implement a program of earned good time, and the Vermont Administrative Procedures Act, 3 V.S.A. §§ 800 *et seq.*

II. Purpose

The purpose of this rule is to ensure the earned good time program implemented by the Department complies with the standards identified in 28 V.S.A. § 818(b).

III. Program

A. Definitions

1. Month: is defined as a calendar unit of 28-31 days, proration of which will be determined through the Department of Corrections' Sentence Computation Unit.
2. Proration: is the method used to determine earned good time for eligible offenders who are incarcerated for a portion of the month.

B. Eligibility

Sentenced offenders, including those on furlough, are eligible for earned good time beginning January 1, 2021. Earned good time is not available retroactively, and is not available to offenders on probation or parole, offenders eligible for a reduction of term pursuant to 28 V.S.A. § 811, or offenders sentenced to life without parole.

C. Criteria

Offenders will be awarded earned good time for each month they meet both of the following criteria:

1. The offender has not been adjudicated of a major disciplinary rule violation as outlined in Department facility rules. "Adjudicated" rule violations do not include pending violations, or violations that remain subject to appeal rights.
2. The offender is not reincarcerated from the community for a violation of release conditions. Offenders who lose their residences through no fault of their own, however, shall not be deemed reincarcerated under this provision and shall remain eligible for earned good time.

IV. Term Reductions

A. Amount

Offenders who meet the eligibility criteria shall earn a reduction of seven (7) days on the minimum and maximum sentence for each month during which the offender adheres to such criteria.

B. Exception

An offender receiving post-adjudication treatment for a substance abuse disorder in a residential setting is not eligible to earn a reduction of seven (7) days each month, but shall earn a reduction of one day on the minimum and maximum sentence for each day the offender receives the inpatient treatment.

C. Calculation

The Department will calculate and award earned good time to offenders, as provided in 28 V.S.A. § 818(b)(2), for each month they meet the criteria listed in Sections III and IV, above. The Department will apply a calculation rubric of proration (see Earned Good Time Prorate Chart, below) that equitably awards earned good time in whole days based on the number of incarcerated whole days for offenders who are incarcerated for less than the whole month (i.e., fewer than 28 days). This rubric applies the 7-day/month formula established by 28 V.S.A. § 818.

Earned Good Time Prorate Chart				
Eligible offenders can earn up to 7 days of Earned Good Time each month on their minimum and maximum sentence. Prorated Earned Good Time will be determined by the number of days per month earned.				
<i># days incarcerated (includes furloughs) per month...</i>	1-9 days	10-18 days	19-27 days	28-31 days
<i># days on minimum & maximum sentence</i>	2	4	6	7

D. Notification

1. Offender Notification

No less frequently than every 90 days, the Department will provide notice to the offender of any earned good time reduction to the offender’s term of supervision.

The Department will document and record all such reductions in each offender's permanent record monthly.

2. Victim Notification

The Department will maintain a victim-accessible system of information on earned good time sentence reductions. The Department will ensure that all victims of record are notified of the earned good time program and of their right to access information on earned-good-time-related changes to offenders' sentences. Victims may choose to decline access to such information.

V. Considerations

A. Out-of-State Offenders

Offenders serving Vermont sentences in out-of-state facilities can earn good time under the same process as if they were housed in a Vermont facility, as long as they are otherwise eligible pursuant to the requirements set out in 28 V.S.A. § 818(b).

B. Programming and Services

Offenders engaged in programming and/or services—mandated or otherwise—will remain in their programming and/or services regardless of changes to their eligible minimum release date due to earned good time. Programming and services designed to prepare the offender for reentry must be completed for the offender to be eligible for release from Department supervision. If the Department deems an offender is not prepared for reentry as a result of the failure to complete programming and/or services and the eligible minimum release date has passed, the Department may retain supervision over the offender.

C. Minimum Release Eligibility

Offenders earning good time credit on their minimum sentences are *eligible* for release on the new minimum date. They are not presumptively released on the new minimum date.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 28 : Public Institutions And Corrections

Chapter 011 : Supervision Of Adult Inmates At The Correctional Facilities

Subchapter 003 : Care Of Inmates

(Cite as: 28 V.S.A. § 818)

§ 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 3 V.S.A. chapter 25 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, to offenders eligible for a reduction of term pursuant to section 811 of this title, 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;

(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; and

(C) complies with a merit-based system designed to incentivize offenders to meet milestones identified by the Department that prepare offenders for reentry, if the offender has received a sentence of greater than one year.

(3) An offender who receives post-adjudication treatment in a residential 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 become effective upon the Department's adoption of final proposed rules pursuant to 3 V.S.A. § 843. (Added 2019, No. 56, § 2, eff. June 10, 2019.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	20-E15
Title:	Earned Good Time Rule.
Type:	Emergency
Status:	Adopted
Agency:	Department of Corrections, Agency of Human Services
Legal Authority:	28 V.S.A. § 818(a)
Summary:	This Rule reinstates an Earned Good Time (EGT) program for Vermont's Department of Corrections' incarcerated and furloughed offenders. Offenders on probation, parole,

earning Work Camp Good Time, and serving life sentences without parole are ineligible. For each month eligible incarcerated or furloughed offenders are “not adjudicated of a major disciplinary rule violation” and are “not reincarcerated from the community for a violation of release conditions” (but for no-fault housing loss), they will be awarded up to seven (7) days of Earned Good Time credit toward their minimum and maximum sentence.

Offenders receiving day- for-day inpatient treatment post adjudication are ineligible during their treatment. The Department is obligated to record monthly EGT-related changes to offenders’ sentences, notify offenders of these changes at least every ninety days, notify victims of record of the program at its outset, and maintain a system where victims can procure relevant information as necessary.

This rule affects several people, enterprises, and government entities. The eligible offenders, their loved ones, communities, victims, and victims’ loved ones are affected. Among the enterprises affected are professional legal advocates, local nonprofit organizations such as the American Civil Liberties Union, O.U.R. House of Central Vermont, Center on Crime Victim Services, and Vermont Network Against Domestic & Sexual Violence. Finally, the government entities affected by the rule include: the Agency of Human Services, specifically the Departments of Corrections, Children and Families, Mental Health, Health Access, and Disabilities, Aging, and Independent Living as well as the Departments of Labor and Commerce and Community Development and States Attorneys and Defender General Offices. This rule affects victims who seek accurate offender release date information. Making relevant information available to victims, in support of their empowerment and healing, is of paramount importance to this rule.

Persons Affected:

This Rule will impose substantial economic impact on the DOC, especially for the Sentence Computation (SCU) and Victims Services (VSS) units. Both currently operate at, or beyond, capacity in staff hours; both will require the equivalent of 1 full-time staff member

Economic Impact:

(SCU: \$79,890.72) as well as the development and facilitation of training for all relevant staff. The Rule will require significantly more work associated with victim notification and supports to crime victims, yet the Department is not currently in a position to hire new staff. Therefore, current VSS and Probation and Parole staff, both already at- or beyond-capacity, will be required to spend more staff hours managing victims and likely including significant overtime and delays in addressing victim-related issues.

Posting date: Sep 01,2020

Hearing Information

Information for Hearing # 1

Hearing date: 10-26-2020 11:00 AM
Location: Meeting to be held remotely via MS Teams
Address: Hyperlink available from Corrections Website
City: Waterbury
State: VT
Zip: 05671
Hearing Notes:

Information for Hearing # 2


Hearing date: 10-26-2020 4:00 PM
Location: Meeting to be held remotely via MS Teams
Address: Hyperlink available from Corrections Website
City: Waterbury
State: VT
Zip: 05671
Hearing Notes:


Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.


Level: Primary

Name: Anne Corbin
Agency: Department of Corrections, Agency of Human Services
Address: Central Office, NOB South, 280 State Drive
City: Waterbury
State: VT
Zip: 05671-2000
Telephone: 802-760-8077
Fax:
Email: anne.corbin@vermont.gov


Website <https://doc.vermont.gov/policies-directives-and-rules>
Address: 

Information for Secondary Contact

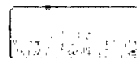
SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
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Keyword Information

Keywords:

Good Time
Reduction
Release



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