

Administrative Procedures – Final Proposed Rule Filing

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative 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.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Earned Time Rule

/s/ Michael K. Smith , on April 28, 2021
(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)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

Final Proposed Coversheet

1. TITLE OF RULE FILING:

Earned Time Rule

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

P-20P022

3. ADOPTING AGENCY:

Agency of Human Services

4. 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>

5. 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: Monica Weeber

Agency: AHS

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

Telephone: 802 598 - 4112 Fax: -

E-Mail: monica.weeber@vermont.gov

6. 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:

7. 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), as amended by 2021,S.18.

8. 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.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. 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 offenders that 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 substance abuse 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

Final Proposed Coversheet

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.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

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

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

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

17. 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 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.

18. 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 (VSU) 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,

Final Proposed Coversheet

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.

19. A HEARING WAS HELD.

20. 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.

Date: 10/26/2020

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:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

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

11/2/2020

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

Earned Time

Reduction

Final Proposed Coversheet
Release
Credit

State of Vermont
Department of Corrections
NOB 2 South, 280 State Drive
Waterbury, VT 05671-2000
www.doc.vermont.gov

[phone] 802-241-2442
[phone] 802-241-0000
[fax] 802-241-0020

Agency of Human Services

MEMORANDUM

TO: Legislative Committee on Administrative Rules

FROM: Department of Corrections- Anne Corbin, Policy Manager

DATE: April 28, 2021

Re: Earned Good Time Rule (20P022) changes.

Please find the following explanation of the changes to the proposed Earned Good Time Rule, submitted to your office October 2, 2020.

Statutory Changes

Modification to the Rule's language based on 2021 Senate Bill 18, in amendment to 28 V.S.A. § 818 has resulted in the following changes.

Change 1. The Rule identifies the following disqualifiers from program eligibility:

- a. murder in violation of 13V.S.A. §2301;
- b. voluntary manslaughter in violation of 13V.S.A. §2304;
- c. kidnapping on violation of 13V.S.A. §2405;
- d. lewd and lascivious conduct with a child in violation of 13V.S.A. §2602, provided that the offense shall not be considered a disqualifying offense if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual;
- e. sexual assault in violation of 13V.S.A. §3252(a) or (b);
- f. aggravated sexual assault in violation of 13V.S.A. §3253; or
- g. aggravated sexual assault of a child in violation of 13V.S.A. §3253a.



Change 2. The Rule's title has changed from "Earned Good Time" to "Earned Time."

Change 3. Eligibility for the Earned Time program has been modified to exclude offenders serving interrupted sentences.

Change 4. The Rule provides that offenders serving a sentence for a disqualifying offense (see Change 1 under Statutory Changes) on January 1, 2021 will not be eligible for earned time.

Department Changes

Change 1. The effective date of the Rule has been changed to June 2, 2021.

Change 2. The Department will apply prorated calculation rubric for Earned Time only to offenders whose sentences *begin* in the middle of the month.

Change 3. The Department will assess earned time awards each month following the prior month served.

Change 4. The Department will not assess earned time for partial months served by offenders whose release dates fall before the end of the month.



Agency of Administration
Delegation of Authority for Signature Authorization



Summary: Authority for signing the documents listed below rests solely with the exempt Agency Secretary; Department Commissioner; Elected Official; Exempt Department Head; and heads of divisions, boards, committees and commissions not reporting to an agency secretary or department commissioner (collectively "Appointing Authority"). This authority may be delegated to the exempt Agency/Department Deputy Secretary or Deputy Commissioner ("exempt designee") by executing and submitting this form to the Agency of Administration, Secretary's Office through VISION Security. Non-exempt directors and managers may not be assigned as designees except in emergency situations and with separate written approval by the Secretary of Administration.

Agency/Dept. Name: Agency of Human Services **Appointing Authority Name (print):** Michael K. Smith

For Calendar Year (YYYY): 2021

Appointing Authority Title: Agency Secretary

By signing below, I certify that I am the exempt Appointing Authority for the Agency/Department listed above, and hereby delegate authority to the following individual(s) for the documents listed below:

Business Unit(s) (BU#)	Employee 5-digit #	Designee Title (print)	Designee Name (print)	Designee Signature
03400	01216	Agency Secretary	Michael K. Smith	
03400	01838	Deputy Secretary	Jenney Samuelson	

If above designee is an emergency non-exempt appointment, during what period is this designation valid?

From:

To:

Documents Requiring Appointing Authority Signature:

- State Land and Building Assets:** Deeds and easements, purchase and sales agreements, options, and leases;
- Grant Applications:** Applications for and acceptance of grants from federal or other external sources;
- Budget/Appropriation Forms:** Revised estimates of anticipated receipts; Request to expend excess receipts; Transfer of funds between appropriations pursuant to 32 VSA 706 (a) and (b); Request to establish or change an imprest (petty cash) fund;
- Contracts and Grants to Others:** All contract approval requests and certification; contracts and grant awards to all individuals and organizations, public and private; all amendments to those contracts or awards; and all sole source and waiver requests; in accordance with Administrative Bulletins 3.5, *Procurement & Contracting Procedures* and 5, *Policy for Grant Issuance & Monitoring*;
- Finance & Management (FIN) and VISION Forms:** VISION System Operator Access Request for Signature Authority; all FIN and year-end reporting forms so noted as requiring signature by department head, agency head, organization head, or appointing authority;
- Travel & Expense:** any items so noted as "by Department Head only or by Appointing Authority" in Administrative Bulletin 3.4, *Employee Travel & Expense Policy*;
- Human Resources (DHR) and VTHR Forms:** All Department of Human Resources and VTHR forms so noted as requiring signature by department head, agency head, organization head, or appointing authority;
- Statutorily Required:** any documents for which statute requires the department head, agency head, organization head, or appointing authority as signatory.

 Appointing Authority Signature

12-24-20

 Date

 Secretary of Administration or Designee Signature

 Date

NOTE: This form must be submitted annually between January 1st and January 15th and as necessary due to staff change of Appointing Authorities or their designees.

Send completed forms to: FIN.VISIONSecurity@vermont.gov

Print Form

Clear Form

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 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 **AN AMENDMENT OF AN EXISTING RULE** .

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

93-084 and December 1, 1993

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: September 14, 2020, Microsoft Teams Virtual Meeting

Members Present: Chair Kristin Clouser, Dirk Anderson, Diane Bothfeld, Jennifer Mojo, John Kessler, Matt Langham, Steve Knudson and Clare O'Shaughnessy

Members Absent: Ashley Berliner

Minutes By: Melissa Mazza-Paquette

- 2:02 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the August 10, 2020 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on page 2 to follow.
 1. 'Earned Good Time Rule' by the Agency of Human Services, Department of Corrections, page 2
- Next scheduled meeting is Friday, October 9, 2020 at 2:00 p.m.
- 2:45 p.m. meeting adjourned.

Proposed Rule: 'Earned Good Time Rule' by the Agency of Human Services, Department of Corrections

Presented by Monica Weeber, Cullen Bullard, Anne Corbin and Emily Carr

Motion made to accept the rule by John Kessler, seconded by Dirk Anderson, and passed unanimously with the following recommendations:

1. Proposed Rule Coversheet, page 4, #12: Clarify the acronym 'VSS' (Victim Services Specialist).
2. The 'Final' filing pages are not needed for ICAR.
3. State the outreach plan for public comment to the prison population.
4. Economic Impact Analysis, page 3, #9: Describe the economic impacts on the government entities as stated in #3 and the adequate method used to arrive at the analysis.
5. Public Input: Complete.
6. The 'Scientific Information' and 'Incorporation by Reference' forms are not required.

Note: Advice was provided that if a decision is made to modify the Sentence Computation Manual in the future, it is recommended to always refer to it as a 'manual' and not simply 'guidance' due to recent legislation.

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 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 &

Economic Impact Analysis

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.

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:

2020 Act 148 outlines the requirements for the rule. The economic impact statement is based on the mandate to develop the program within those requirements. No alternatives were considered.

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

The goals of Justice Reinvestment as outlined in Act 148 are to create savings in the criminal justice system through the use of data-supported analysis to implement policies and evidence-informed practices that can reduce the population of incarcerated Vermonters. The creation of an earned time program is one of several strategies that will contribute to the overall savings. If any savings were to be realized, they are intended to be reinvested in strategies that improve public safety and reduce recidivism. A study by the Council of State Governments suggested that Vermont has the potential to avert between \$11M to \$14M in criminal justice costs over a 5 year period. However, this averted cost estimate assumed that the state would make an initial investment of \$2 million to bolster community services around housing and programming that support successful reentry after incarceration. The funding was included in the original version of the bill and removed prior to passage. The establishment of an earned time program is intended to increase the number of people who can be released to the community through a reduction in their sentence. With the impact of the COVID-19 response to the state budget, the funds were not available to support the \$2 million appropriation and it was removed from the final version of the bill. This could impact the ability to achieve the outcomes of justice reinvestment. As the savings in the Justice Reinvestment proposal are not a certainty, DOC anticipates the increased

Economic Impact Analysis

staff costs to have an impact on its budget. In other words, the Department will incur additional staff costs. These costs will not impact the potential cost aversion for the Justice Reinvestment project overall.

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 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:

ICAR advised the Department to ensure incarcerated persons had an opportunity to provide comment on the proposed rule.

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

The Department distributed the proposed rule to incarcerated persons for review and gave them instructions for submitting written comments to the Policy Manager.

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

N/A

Commenter	Comment	DOC Response
Julianne Heisler	Why did inmate morale take priority over a victim feeling safe?	The decision to reinstitute earned time was made by the Legislature after testimony and review of written reports. The issue of inmate morale was referenced in a report based on Act 56 of 2019. The DOC provided this information as requested by the Legislature and the Legislature made the decision based on the totality of the information provided.
Cami Callevro	No matter what the crime, they always were able to earn good time which is why those sentences, right, the minimum sentence? So how is this different than all the good time that they already earned? I would hope that the earned good time is based upon the level of the crime. I would hope that would goes without saying, What's really the difference between the already earned good time that is in place and is there any kind of of safety net based on the of level of crime?	The Earned Good Time described in Act 148 is a separate program from the day for day reduction in term that certain offenders can earn when placed in a Work Camp. An offender placed in work camp can acquire a reduction of 30 days in the minimum and maximum term if they meet the standards set by the DOC. To be eligible the offender must: 1. have a minimum custody level; 2. have medical clearance; 3. not be convicted of a listed, violent, or sexually related offense; 4. have no convictions for escape; and 5. have no disciplinary reports for specific set of rule violations. Because work camp credit is significantly more days per month than earned good time, there are more eligibility criteria that must be met for a person to qualify. A person who qualifies for work camp good time cannot also receive Earned Good Time as described in this rule. The Department of Corrections filed a rule that complied with the law.

Commenter	Comment	DOC Response
		<p>The Earned Good Time award is not based on the level of the crime. It applies to all sentenced offenders. As described above, there are differences in the two programs. Work Camp Good Time has limits based on crime and other factors. Earned Good Time will exclude any person who is convicted of life without parole. This exclusion will limit some people who committed egregious crimes from receiving a monthly reduction in their term.</p>
<p>Blaine Kinsey</p>	<p>Although I recognize that the coronavirus pandemic has made incarceration much more difficult for employees of the correctional system and for prison inmates, these proposed guidelines for “earned good time” will exacerbate the deficiencies in our criminal “justice” system. Each day in our local newspaper, there is at least one article about some crime involving domestic abuse (physical battery and/or sexual assault of children), and I refer to these articles as the scumbag news. Invariably, the offender had one or more prior convictions for incidents involving violent assault (and sexual assault IS a violent assault). Also, these incidents of violent assault usually involve an offender who is violating the conditions of his/her release based on a previous incident that either has not been adjudicated yet, or the offender</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>

Commenter	Comment	DOC Response
	<p>is violating the conditions of his/her release from incarceration. I realize that criminals cannot be incarcerated forever, and incarceration is not necessarily a deterrent to additional criminal behavior. However, because criminal sentences (Including sentences for conviction of violent assaults) are very lenient in Vermont, guidelines which further reduce these lenient criminal sentences are very detrimental to the public. At least, when a person is actually incarcerated for a violent crime, he/she is being separated from the public. Because victims of violent crime are all but ignored by our criminal justice system, and because very little is done to protect the general public from inmates who have been released early based on "earned good time", the proposed guidelines for "earned good time" are detrimental to the general public. I would be more amenable to these proposed rules for "earned good time" if the criteria was more specific to state that any inmate, who violates any conditions of release, forfeits ALL "earned good time" (i.e., the "earned good time" is earned conditionally, and the "earned good time" is null and void if the inmate violates the conditions of his/her "early" release). I am not naive enough to think that public</p>	

Commenter	Comment	DOC Response
	<p>officials pay much attention to public comments, but public officials should not pretend that expedient measures substitute for good public policy.</p>	
<p>Julianne Heisler</p>	<p>Is anyone going to be exempt from the rule?</p>	<p>There are a number of factors that would render an individual ineligible to earn Good Time including: life without parole sentence, day-for-day substance use program credit, work camp good time, adjudication of a major disciplinary rule violation as outlined in Department facility rules or the offender is reincarcerated from the community for a violation of release conditions (except for no-fault residence loss).</p>

Commenter	Comment	DOC Response
Julianne Heisler	If someone who is a repeat offender for the same offense and is likely to do it again, you know, is this rule still going to apply to [repeat offenders]?	Yes, but only if the repeat offender is otherwise eligible.
Kathy	If the person didn't have any psychological treatment, or any kind of treatment in while they're incarcerated, if they still are able to get some good behavior, good time release	The Earned Good Time Law does not require eligible offenders to participate in psychological treatment.
Aliana Heisler	How many chances do offenders get if their history shows they will re-offend?	There are a number of behavior-related factors that would render an individual ineligible to earn Good Time including: having been adjudicated of a major disciplinary rule violation as outlined in Department facility rules or the offender is reincarcerated from the community for a violation of release conditions (except for no-fault residence loss). However, the behaviors must be committed in order to render an offender ineligible for earned good time. Anticipated behavior does not disqualify an offender from earning good time.
Mark Kramer	Offenders convicted of sexual assault or murder should not eligible for this program. Regardless of time served, they have not, and never can, "repay their debt to society," or more pointedly, their debt to their victim.	Thank you for your comment. The Department of Corrections filed a rule that complied with the law.

Commenter	Comment	DOC Response
Shana Blanchard	<p>This program should not be made available to violent or sex offenders. PERIOD. People make mistakes and land themselves behind bars all the time. Those offenders should be allowed to earn time off their sentence. As I believe it makes for a potentially more successful release back to the community. Violent offenders and sex offenders haven't made a mistake. Those crimes are exactly who they are despite how they behave behind bars. No amount of programming changes people who offend in such ways. They walk the walk and talk the talk just to get through it. The man who offended against me certainly did not give me a chance when he continued to beat me while I lay unconscious. Why should he be given a chance to reduce his sentence, programming or not? Victims, like myself fight very hard to ensure that the person who offended against you is given a sentence they deserve. I know that the sentence will not last forever and unfortunately they will be released. I know that the man who offended against me is going to kill someone and/or will come looking for me. The longer he stays incarcerated the safer our community is. It is a slap in the face to know, as a victim that the person who offended against</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>

Commenter	Comment	DOC Response
	you, doesn't have to serve his complete sentence.	
Amanda Farley	<p>This ruling should not apply to those that pose a threat to victims being charged with sex abuse or anything resulting in physical harm, if there is no statute of limitations for the crimes then how would it serve the victims, letting violent offenders off early? When some sentences are a slap in the face to victims already with reduced sentences. Also holding prisoners for lack of bail, when you are trying to reduce the numbers, not to mention not releasing prisoners without proof of housing, if a prisoner served his or her time, holding them on a contingency seems unethical when the prison guidelines prevent those inside from being able to obtain housing unless the said landlord etc is on their calling list, if said person has no outside support. Prison should not be full of those who have not been convicted or sentenced, that's what conditions of release are for, they could be sitting in jail just waiting to be heard for months or even years at the rate covid has impacted the court systems, the good time served has no impact on those sitting waiting to be convicted. Just good time served will not create the serious</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law. As such, it only applies to those who are sentenced.</p>

Commenter	Comment	DOC Response
	<p>downsize the prison system is looking for.</p>	
<p>Anonymous, Victim</p>	<p>By and large, I do not have any problems with most folks earning Good Time, incarceration is for rehabilitation in the large majority of cases – to include many people I know personally. It’s terrible when it happens but sometimes it’s the only ‘time out’ kind of thing that works to get focused time to break a cycle and get programming in. With that said, there are some people, very FEW people that this is clearly and absolutely NOT an appropriate option for. Specifically the very few individuals who have committed extremely violent crimes against others such combinations of sexual violence and homicide/attempted homicide and subsequently avoided a ‘life without parole’ sentence by accepting a plea of guilty to a sentence of ‘30 to life’ or ‘20 to life’ and so on. The families of those victims agreed to these sentences with the understanding that while there was not a life sentence, they would forgo trial since the person would have an ‘effective</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law. The Legislature is currently working on a bill that could address the issue raised related to previous plea agreements for certain crimes that involve violent and sexual assaults.</p>

Commenter	Comment	DOC Response
	<p>life' sentence anyway. Meaning if they were 40 years old when sentenced, and took a '30 to life' sentence, they would be 70 years old when they were released – effectively a life sentence – and thus going to trial over a ' life without parole' as opposed to an 'effectively life' sentence was an agreed upon outcome. This rule ... serves to circumvent and retroactively undermine the negotiations and agreements reached for those families, essentially betraying the trust and understanding built during the pretrial and sentencing process while simultaneously shifting the effect intended upon by the Judge presiding in those case. Shifting a case from 5 years to 4 years or similar changes is understandable, however the fundamental change proposed here is so vastly different it cannot be ignored. In considering the 'Eligibility' section of this rule change, mindfulness as it relates to the underlying charge should surely be included. Language such as "Good time is not available retroactively and not available to offenders on probation or parole, offenders eligible for a reduction of term pursuant to 28 VSA § 811 , or offenders sentenced to life without parole... OR who pleaded guilty to a crime punishable by life without parole OR who pleaded</p>	

Commenter	Comment	DOC Response
	<p>guilty to a reduced charge in lieu of a crime punishable by life without parole OR who faced a sentence of life without parole and were sentenced to a lesser term through an arranged plea..." and so forth would be potential means to maintain the intent of the rule change, while maintaining the original structures in place for those very few individual who present the aforementioned challenge based on their near-unique circumstance. Beyond my additional comment, your work in this regard is highly valuable and for the upwards of 90% of the population it will impact, I applaud your efforts.</p>	
Patricia Thibault	<p>The "Earned Good Time Rule" appears to penalize a violent offense more aggressively than an offense for a resulting death from drug dealing. Please explain how a physical altercation, though it may result in bodily harm, is treated more punitively than a resulting death from a drug dealer that sells poison.</p>	<p>The Earned Good Time Rule, as enacted by 2020 Act 148 does not presently distinguish among types of crime, only types of sentences and just for those sentenced to life without parole who are ineligible to earn Good Time.</p>
Laurie Mumley	<p>I am currently retired after 26+ years DOC as a facility caseworker and then as a probation and parole officer. The concept of earned good time isn't a bad one. It's the DOC implementation that's the issue. Many years ago, offenders had</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>

Commenter	Comment	DOC Response
	<p>to actually EARN their 'earned good time.' They had to attend all of their required program and follow ALL rules, regulations, and laws. Their behavior improved when there were actual consequences. If there are no motivators, behavior will NOT change. Either make them EARN time off their sentence or call it a gift for having a pulse.</p>	
<p>Julianne Heisler</p>	<p>There seems to be no consideration to the type of offender, or the number of offenses, which is not logical to keep both victims and the general public safe. Shouldn't that be the main consideration? Notifying victims is not enough. Victims need to be able to have a voice in whether the offender is granted time off.</p>	<p>The Emergency Earned Good Time Rule currently does not distinguish among type of offense for offenders who are otherwise eligible to earn Good Time.</p>
<p>Lina Grover</p>	<p>I would like to know if the new earned good time rule would include violent murderers? If violent murderers are included, would those affected by their violence be kept updated as to any changes in their sentence?</p>	<p>Yes, the Emergency Earned Good Time rule <i>could</i> include a "violent murderer" unless the offender is serving a life without parole sentence, or, is otherwise ineligible. You can always reach out the DOC Victim Services Unit with specific questions about a case. They can be reached at 1-888-810-1847.</p>
<p>Frank Smith</p>	<p>Who will qualify for the Good time term? Who will be in charge of the good time?</p>	<p>All offenders qualify to earn Good Time except for those that are serving life-without-parole sentences, those supervised on probation or parole, an offender earning Work Camp Good Time credit, and those receiving day-for-day substance treatment credit. There are also a number of factors that would render an</p>

Commenter	Comment	DOC Response
		<p>individual <i>ineligible</i> to earn Good Time including that the offender has been adjudicated of a major disciplinary rule violation as outlined in Department facility rules or the offender is reincarcerated from the community for a violation of release conditions (except for no-fault residence loss). The legislature has passed a law requiring the Department of Corrections to implement and administer the Earned Good Time program.</p>
<p>Danielle Godin</p>	<p>I don't feel that people who have committed the act of killing someone should be eligible for any sort of good time. I do not feel the people with crimes such as murder, child rape, or other serious crimes should be entitled to this program</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>
<p>Julianne Heisler</p>	<p>I am the parent of Alaina Heisler, a victim of sexual abuse when she was a child. I would like to add my voice on behalf of my family, including my daughter, regarding the DOC's Good Time Rule. I've read the report and do not find it compelling enough to institute this rule. Please add our concern about shortening sentences of sexual/violent repeat offenders with Governor Scott and decision-makers. I learned through the Victim's Advocate Office there is no offense distinction in applying the good time rule, at it would be bad for inmate morale. Instituting this rule without</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law. The Legislature is currently working on a bill that could address the issue raised related to previous plea agreements for certain crimes that violent and sexual assaults. The decision to reinstitute earned good time was made by the Legislature after testimony and review of written reports. The issue of inmate morale was referenced in a report based on Act 56 of 2019. The DOC provided this information as requested by the Legislature and the Legislature made the decision</p>

Commenter	Comment	DOC Response
	<p>offense distinction would put inmate morale over and above the safety and fear of victims. I reached out to my local representation and did not hear back. If available, would you kindly provide the vote roster for this rule? I would welcome the opportunity to share our family's story if it would help decision-makers look at this from a victim's prospective. Thank you for your time and consideration.</p>	<p>based on the totality of the information provided.</p>
Cathie	<p>How did they determine the time their sentence would be reduced by?</p>	<p>The Legislature heard testimony from numerous witnesses regarding the amount of time to award. This testimony provided an analysis of the impact the earned time program could have on incarceration. The 7- day per month was determined based on that information. The Earned Good Law was passed as part of package of strategies related to Justice Reinvestment. More information about the Justice Reinvestment in Vermont can be found the Council of State Government's website.</p>
Daniel Boyer	<p>In my opinion, in order for an offender to earn time off a sentence they should have to do the following: 1. Admission of guilt. 2. Completion of any court ordered treatment program. 3. Written apology and restitution to the victim, if appropriate. 4. If the crime is victimless (usually referred to as a crime against society) have community service as an option to earn time off sentence.</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>

Commenter	Comment	DOC Response
Kathy	Is this due to overcrowding of the jails?	Thank you for your <u>comment/question</u> . The <u>Earned Good Time Law</u> was passed as part of <u>package of strategies related to Justice Reinvestment</u> . More <u>information about the Justice Reinvestment in Vermont</u> can be found the <u>Council of State Government's website</u> .
Paula Stewart	[The offender] in a phone call not that long ago stating he'd be getting out in October of 21, he doesn't need good time, he hasn't even admitted what he did. I don't agree with the good time policy.	Thank you for your comment/question.
Cami Callevro	I don't appreciate the law and I hope our voices are heard.	Thank you for your comment/question.
Paige	I do still get a lot of anxiety knowing now that this is all coming to the surface again, it kind of gives me some flashbacks and I don't think it's fair that I have to almost relive it all and be careful about where I go and who I give information to. I feel like [this offender is] the type which gets out ...you know, he'll try to locate me and my family and obviously we feel very unsafe about that. So, I just feel like he has like somebody has said before, he has a sentence that has time on it and I kind of have, and my family has a lifetime sentence which is, which feels a little unfair. So I just, don't agree and I know a lot of other people don't agree with this good time rule.	Thank you for your comment/question. Please feel free reach out the DOC Victim Services Unit with specific questions about a case and service they can provide. They can be reached at 1-888-810-1847.

Commenter	Comment	DOC Response
Paula Stewart	That is on your record, but to have no remorse or not even admit to what he did, is wrong. And now, he's gonna be able to get good time? To reduce his sentence even more? Which is already bullcrap because his time that he served for the drug charge in Florida has been added to his time here which it reduces his time for the murder. It makes no sense.	Thank you for your comment/question.
Anonymous	I'm struggling to understand why my sister's abusers get this good time behavior. If he knew what good behavior is, he wouldn't be raping minors, so now as a mother of 4, I have to worry about my children and I have to worry about my sister who has had one hell of a hard time recovering, its not fair to her and it shouldn't be happening.	Thank you for your comment/question. Please feel free reach out the DOC Victim Services Unit with specific questions about a case and service they can provide. They can be reached at 1-888-810-1847.
Pam Fontaine	I truly believe that certain offenders should definitely not be allowed to to get any good time off for anything. Now, or forever. I can understand other incarcerated people for other things that don't, didn't hurt people or kill people. You know, that's a little bit different but I strongly agree that murderers rapists, sexual offenders are not rehabilitatable and letting them out even earlier than when they need to be, when they're allowed to be out, not need to be, I don't think they ever need to be out, but they're allowed to be out, just continues to show that there's a break in the	Thank you for your comment/question. It will be relayed to the appropriate legislative committee.

Commenter	Comment	DOC Response
	system of making sure that the public is safe.	
Julianne Heisler	Isn't this legislation undermining the process of sentencing in the first place? Was the judicial system consulted?	Thank you for your comment/question. Members of the Judicial Branch provided testimony during the development of this legislation.
Maggie Buffum	I don't support the good time rule when it comes to sex offenders. I was molested at 10 years old and the man was never charged; that was in 1990. He was charged and convicted of sexually assaulting his own son almost two decades later, and I'm sure there were other victims in between the two of us. He was sentenced to 15 years to life for his recent conviction. Why should he be allowed to get out of jail early? He will only take advantage of that to abuse more children. Nothing has changed with him over the last three decades and it won't change over the next three decades either! These monsters manage to avoid being locked up while they destroy the lives of completely innocent children. I've spent 30 years in counseling because of him, so please tell me why he should get out any earlier just for being good in jail. I understand that the jails are full of people that may deserve a chance to be released early, but sex offenders should be the exception to this new rule.	Thank you for your comment. The Department of Corrections filed a rule that complied with the law. The Legislature is currently working on a bill that could address the issue raised related to people previously sentenced for certain crimes that violent and sexual assaults.

Commenter	Comment	DOC Response
	<p>Please consider how this makes the victims of child sexual abuse feel to hear that these monsters will be out even sooner than we anticipated. Thank you.</p>	
Tina Desmarais	<p>It took months of court appearances to get the lying thief locked up. He got way too little time for all the crimes he committed. Giving him another out is a sucker punch to those who were victimized by him. Criminals in Vermont are rarely held accountable. That's why our prisons have a revolving door. No on early release.</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>
Kimberly Clark	<p>They should keep the inmates in jail. The inmates should not get out of jail for good time. I have been a victim for 11 years. My ex-boyfriend hit me in 2008 when I was pregnant with the baby. My ex-boyfriend's name is Todd Griffin. He has been on the run for 11 years. He left the state of Vermont in 2009. He has been on the run for 11 years now. He should be in jail.</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>
Alicia Marcelino	<p>This new proposed rule is a slap in the face for all of the families who have been victims of a violent crime. During sentencing, the judge was appalled that the murderer of my nephew was going to go to jail for only 10 years. Because the local policeman/sheriff was a friend of the murderer, Stephen Pelletier, he accessed info that</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law. The Legislature is currently working on a bill that could address the issue raised related to people previously sentenced for certain crimes that violent and sexual assaults.</p>

Commenter	Comment	DOC Response
	<p>he shouldn't have and it was thrown out of court. We already went thru years of hell and dread the day he will be let out of prison. He deserves every day of the 10 years he received, good behavior or not.</p>	
Neal Davis	<p>I don't think criminals get half the time they deserve. Most offenses get nothing more than a hand slap. Then they can get out and offend again....The public pays for these minimal sentences. Now you want to let them out sooner? Give me a break!</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>
Kelly Munger	<p>I do NOT support this this program as stated. My particular objection is that I believe a convicted felon should serve his minimum sentence. The inmate could earn credits to reduce his maximum sentence, but not lower than the minimum. Good behavior in prison does not change the crime or bring back a murdered victim. That felon should always serve the minimum sentenced imposed by the judge after conviction by a jury. I also do not support returning inmates currently serving their time out-of-state, back to the State of Vermont. I am not convinced that it would be cost effective and believe they lost their right to remain close to family when they committed their crime. Some victims, such as my brother, will never see their families again.</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law.</p>

Commenter	Comment	DOC Response
Lisa Smith	I am a victim of domestic abuse and I feel the law is not strict enough for abusers as my ex only got 2 to 5 for almost killing me. So to reward them for something is stupid. They need to learn the lesson and do their time. They just do the programs so they can look like they are doing good just so they can hopefully reduce their sentence.	Thank you for your comment. The Department of Corrections filed a rule that complied with the law.
Susan Sweetser	My understanding is that the parole board was required to hear from the victim, not just not just read a statement, but hear testimony from the victim and the victims family if the victim wanted to present that testimony and the family wanted to present that testimony so that they couldn't hide from the faces of victims and their families. Based on this bill that got passed, this new Act 148, they no longer have to hear from the victims at all in person and it appears there's nothing in there to hear from the family either. They they are required to consider the victims feelings about something through written testimony but they are not required to have the victim testify. So, that's also another significant change. I'm sad that this passed. This is just an abomination because it does nothing to help victims and there was so little if any victim involvement.	Thank you for your comment/question. This does not pertain to the Earned Good Time Rule.

Commenter	Comment	DOC Response
Jennifer Poehlmann	<p>My concern is that by the proposed rule eliminating what's in current statute which is that incentivizing provision, under 28 VSA 818 b2c, which is that requirement or expectation that the offender participate in programming in order to earn the good time, that with that stricken, that if there is still some nebulous expectation that the offender would be participating in order to earn good time. I'm very concerned about what the striking of that incentivizing provision would do to that. I would like to know what the impact from the perspective of the proponents of this change would be on people really being expected to follow through and in terms of in terms of good time. You can't just strike something and pretend it never existed. it means that it shouldn't have been there is how I read it, so I'd like some clarification on that.</p>	<p>The Legislature removed the programming requirement referenced in your comment after hearing testimony from numerous witnesses that program participation is considered during release decisions. The Legislature made the decision to remove the programming criteria after considering its impact on the goals of the earned time program. There are a number of behavior-related factors including those that would render an individual ineligible to earn Good Time including: having been adjudicated of a major disciplinary rule violation as outlined in Department facility rules or having been reincarcerated from the community for a violation of release conditions (except for no-fault residence loss).</p>
Jennifer Poehlmann	<p>If this is already law, and victims' voices have not been heard, what is the reality for any feedback to actually be taken into consideration. Also, please explain why one of the criteria that was in existence under previous law regarding good time, specifically the incentivizing provision wherein an offender is expected to comply with DOC's recommended programming, was deleted.</p>	<p>Thank you for your comment/question. Public comment on permanent rules can lead to changes as long as the law is followed. The Legislature removed the programming requirement referenced in your comment after hearing testimony from numerous witnesses that program participation is considered during release decisions. The Legislature made the decision to remove the programming criteria after</p>

Commenter	Comment	DOC Response
		<p>considering its impact on the goals of the earned good time program. There are a number of behavior-related including factors that would render an individual ineligible to earn Good Time including: having been adjudicated of a major disciplinary rule violation as outlined in Department facility rules or having been reincarcerated from the community for a violation of release conditions (except for no-fault residence loss).</p>
<p>Robert Jones</p>	<p>The time off proposed amounts should be differentiated by type of criminal offense. An inmate on a low level drug charge for example should have a different scale than a person who has committed a violent felony. I agree this point about 'eligible' not 'automatic' should be retained; however, there needs to be more clarification on what will determine eligibility. When there is only a general statement, early precedents will be used. Each prisoner's release should be considered individually based on a multitude of factors. I understand you want to avoid adding too much language but you need at least a statement strengthening the point that it is not automatic, but that each case will be viewed independently with multiple considerations such as the nature of the crime, updated victim impact input, etc. Take a</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law. The purpose of the public comment period is to provide individuals with the opportunity to provide their thoughts and questions so that they can be considered for the permanent rule which is not yet in effect. The emergency rule, which goes into effect 1/01/2021, is temporary, expiring after 180 days. Based on public comment, the Legislature is currently working on a bill that could change the earned good time program.</p>

Commenter	Comment	DOC Response
	<p>step back and do some calculations. My mother's killer under this rule could get something close to 25% of his time reduced – for a heinous, cold blooded, and violent action for which the person has shown little remorse. Our understanding is that in the plea bargain the prisoner agreed to a minimum – guaranteed minimum – in exchange for pleading guilty and avoiding the possibility of life without parole. It's not clear to me at all that under this program he might serve less than that minimum. I understand the part of not being automatic, but you need to take more into account the various aspects – deterrence, punishment and not just incentivizing good behavior. At a minimum, a differentiated scale should be included along with stronger language on the conditions for actually applying any potential time reduction. I want to add that while the rule making notes the legal reason, it's not clear why now. Is there no good time rule at all or is this a modification?</p>	

Commenter	Comment	DOC Response
Peggy Ranney	<p>DOC will make certain that any offender/ inmate are back in state and are in the proper facility to receive ordered programming so that programming can be completed with a view on that offender earning 7 days each month for the term of their minimum sentence so as to actually benefit from earned good time and having their programming complete. By doing so the department will be able to have ordered programming complete and the inmate can actually benefit from earned good time. Have stated this in 2 different ways in hopes you can comprehend that a remaining sentence with programming to be completed should be started so the inmate can earn good time and have programming complete to actually reduce incarceration time. This should be a priority for the Department of Corrections and enforced to help reduce sentences. There needs to be a reason for holding an inmate past their earned good time date. DOC should be held accountable to give a reason for keeping an inmate past their earned good time reduction. It cannot be due to the DOC not getting the inmate to ordered programming in a time that allows that inmate to not complete program with a earned good time maximum. The DOC must be held</p>	<p>Thank you for your comment/question. The DOC is closely monitoring the impact of earned time and its relationship to program eligibility dates.</p>

Commenter	Comment	DOC Response
	<p>accountable to get an inmate into programming that has been ordered on time and in time to complete that programming with a view to allow for sentence reduction that can be earned as that inmate moves through his sentenced time. Example if an inmate has to take 6 months of programming and has a sentenced of a year remaining the DOC must be held accountable to get that inmate into that program with a view of a maximum of 84 days of earned good time could reduce that inmates sentence and make certain that that inmate was in the ordered program to benefit from earned good time. The DOC must be held accountable to certain standards and timelines for each inmate. Otherwise what does any of this benefit anyone if the DOC can just keep the inmate from getting into programming with earned good time in view especially when that time is short and was through no fault of the inmate that his/her programming ran past earned good time release date. Bears repeating that the DOC must be held to standards and accountable for not releasing an inmate that has earned good time to their credit. Hopefully you will consider this.</p>	

Commenter	Comment	DOC Response
Meg McCarthy	<p>Related to B. Minimum Release Eligibility - Offenders earning good time credit on their minimum sentences are eligible for release on the new minimum date. They are not automatically released on the new minimum date. Too open ended. What conditions would make it so the person is not released at their new minimum date? The whim of the DOC? An inefficient caseworker?</p>	<p>The DOC reviews all persons approaching their minimum release date to assess their eligibility for release. At that time, each person will also be reviewed by the Parole Board for to determine if they can be released on parole. Each case presents different factors. At a minimum they need to meet the following criteria: a. have served the minimum term of their total effective sentence; b. are ineligible or refuse presumptive parole; c. have no outstanding warrants, detainers, commitments, or pending charges; d. are compliant with risk-related requirements; and e. are not otherwise restricted (i.e., through a case staffing determination).</p>
Annie Manhardt	<p>I'm with the Prisoners' Rights office. People will be awarded earned good time as long as they're not reincarcerated from the community for a violation of release conditions and I was just hoping that there could be some clarity about at what point a person is considered reincarcerated from the community for a violation of release conditions. Under the furlough revocation process a person is physically reincarcerated before their furlough is actually revoked. They're reincarcerated pending their due process hearing and I was just hoping that DOC could clarify at what point for purposes</p>	<p>During the implementation of Justice Reinvestment, the DOC made several changes to the process of returning offenders to incarceration for violations. A significant change is related to the elimination of short-term sanction for technical violations (as defined in DOC directive). Specifics can be found in directive 430.11 Response to Furlough Violations; this directive is available to the public at doc.vermont.gov.</p>

Commenter	Comment	DOC Response
	<p>of the rule a person is considered reincarcerated to possibly account for the fact that there are going to be some people who physically are reincarcerated but then are found not to have actually been in violation of their furlough.</p>	
<p>Joan and Bill Kirby</p>	<p>On behalf of our son, Kristopher Kirby, we would like to weigh in on the Good Time Served Rule. Kris was sentenced before the rule will go into effect and will have served 11 months by January 10. At the time of sentencing the understanding was that he would be eligible for furlough 6 months prior to the end of his full sentence of 18 mo. With the new Good Time Served Rule, we are concerned that the 6 mo. furlough option will go away, leaving Kris in jail for the full 18 mo. , with no recourse. By all accounts, Kris has been an exemplary prisoner. Thank you for considering his situation.</p>	<p>The legal status of Reintegration Furlough was repealed as of January 1, 2021 when earned time became effective. The department no longer has the legal authority to release people using this method.</p>
<p>David Bray</p>	<p>I noticed that this permanent good time rule is supposed to take effect April 1st and that the emergency good time rule is supposed to take effect January 1st. Was the emergency good time rule already passed or does that still have to be acted on?</p>	<p>2020 Act 148 enacts the Emergency Earned Good Time Rule to take effect on 1/01/2021 so at that time, eligible individuals can begin to earn Good Time until the Emergency Rule expires, or the permanent rule takes effect, if passed.</p>

Commenter	Comment	DOC Response
Robin	<p>I feel like this is a, a kind of a no-brainer, it it just feels that there's not a whole lot of incentives besides being thrown in isolation, there's not a lot of incentives that inmates have to feel that they have a reason to kind of comply. So the idea that there's some kind of an incentive to give them extra time to think about the choices that they make and the time that they're spending paying their price that they are. I think, a really good incentive and has nothing but positive benefits for the staff that work there and for the inmates and for us as a state as we try to limit and reduce the numbers of those that are incarcerated. I hope that this is not retroactive. So, I can't imagine every day is not a good day that you're incarcerated, and I know that it's not meant to be, they're there paying a price, but at the same time, I feel like we have to consider the human side, the cost side and so many other factors in this.</p>	<p>Thank you for your comment/question. The Rule allows eligible offenders who were sentenced prior to 1/1/2021 to begin earning time on that date. The good time will not be applied to time served before 1/01/2021, meaning it is not retroactive.</p>
Crystal Lacovara	In favor of passing	Thank you for your comment.

Commenter	Comment	DOC Response
Heidi Henkel	I am fully in support of this rule. It would give an incentive for people to participate in rehabilitation programs while incarcerated, reduce the length of time people are in prison, and reduce overcrowding, hopefully allowing more ... prisoners to stay in VT. I used to teach math in probation and parole. Not currently. I saw that people who participated in rehabilitation and education tended not to reoffend. Anything in that direction is a good thing. I also think that reducing the length of time in prison is a very appropriate reward because they are making themselves safer to be in society sooner by participating in their program.	Thank you for your comments.
Alice Whitney	I believe they should so our out of state guys can come back.	Thank you for your comment.
Nietra Panagoulis	Where in the process leading up to this current point were victims asked to testify in regard to the good time rule.	Several legislative committees took testimony from stakeholders in the victim support community throughout its decision-making process. Act 56 of 2019 is the first bill to reinstate the earned good time program. The Senate Judiciary Committee and House Committee on Corrections and Institutions heard from victim advocacy groups during bill drafting. Act 148 (passed in 2020) modified the earned good time proposal. The same committees took testimony from stakeholders

Commenter	Comment	DOC Response
		including representatives from victim advocacy organizations.
Joann Winterbottom	<p>1. We feel strongly that when the good time rule was being considered, victims and/or survivors should have been consulted and should have participated in the decision making process. They deserve that courtesy and the respect of having their opinions taken into account. 2nd point, learning of this law, after it was adopted along with the impersonal by email and detached method of notifying us added grievous insult to grievous injury. 3rd, while we understand and support the need for nationwide prison reform, we strongly object to it's application to rapists and murderers. The state of Vermont should be ethically and judicially obliged to honor our contract with [the state's attorney's office]. The good time program, as it would apply to Montgomery, is revolting. It sickens us, saddens us, and makes us feel re-victimized.</p>	<p>Thank you for your comment/question. The law, as passed by the Vermont Legislature, applies to sentenced offenders with limited exceptions. The rule as filed complies with the law in this regard. The issue you raise has been brought to the attention of the Legislative Committees responsible for passing the law. The Legislature is currently working on a bill that could modify the earned time program based on feedback from victims. We apologize for the harm caused by our method of notifying you of this comment period related to the Earned Good Time Rule.</p>

Commenter	Comment	DOC Response
<p>Ned Winterbottom</p>	<p>So we reiterate and reaffirm the comments we previously made in regards to the emergency rule. Both at the so-called public comment hearing and the subsequent written comments we submitted on that proposed rule and we incorporate them by reference into our comment on this rule. We strongly object to the adoption of any "emergency rule" in respect to earned good time as it applies to currently incarcerated offenders. It is our position that the proposed rule violates the provisions of the Vermont Administrative Procedures Act, as set forth in 3 VSA, section 840 (unclear) The rule as proposed was not an emergency rule as in any proper sense of the term. 3 VSA Section 844a requires that an emergency rule be based upon an imminent peril to health, public safety or welfare. 3 VSA section 844 D2 requires an emergency rule contain a signed statement explaining the nature of the imminent peril to public health, safety or welfare. As we stated in our previous comments, there was no emergency in this case. The incarcerated offenders to which this rule would be applied were not going anywhere nor was any emergency regarding conditions of their incarceration. We submit that the reason the emergency rule does not contain the required statement of the nature of the imminent peril to</p>	<p>Thank you for your comment. The Department of Corrections filed a rule that complied with the law. The Legislative Committee on Legislative Rules (LCAR) determined that the language in Act 148 of 2020 met the requirements of imminent peril as defined in 3 VSA §844 on Emergency Rules. Thank you for your comment. The Department of Corrections filed a rule that complied with the law. A bill to address this issue is being discussed in the legislature. If the bill passes, certain people will no longer be able to earn time if they were convicted prior to the bill becoming law. The bill contains several disqualifying crimes, including sex offenses. Alternative Response related to S.18: The Legislature recently passed a modification to the earned time law that will disqualify people who commit certain crimes from continuing to earn time if they were convicted of that crime before the law was passed. A sexual offense is on the list of disqualifying crimes.</p>

Commenter	Comment	DOC Response
	<p>public health, safety or welfare is because no such imminent peril in fact exists. The use of an emergency label should not be used to deprive victims of crime of the right to have a meaningful opportunity to express their views on earned good time and that is exactly what was done in this case. It is our position that the entire process involved in considering the application of earned good time to currently incarcerated offenders was in fact undertaken and conducted without consideration of the views of affected victims. The statement about the proposed rule that "making irrelevant, relevant information available to victims in support of their empowerment and hearing is of paramount importance to this rule," is a hollow statement. Nothing in this process has empowered victims and rather than supporting healing it has done precisely the opposite. We feel strongly that earned good time should not be applied to potentially shorten shorten the plea bargained minimum sentence of the violent sexual offender and murderer who brutally raped Laura and took her life. We feel strongly that if a rapist in Vermont is actually sentenced to prison, they deserve to be there and they deserve to serve out the full sentence they received. This is especially true for repeated</p>	

Commenter	Comment	DOC Response
	<p>sexual offenders. We submit that earned good time should not apply to repeated sexual offenders or those who rape children, an especially heinous crime. Such offenders should be required to serve out the full minimum sentence they received, without reduction. Justice for victims and survivorsand the protection of the public demand nothing less. if you look at the legislative history, there was not one bit of input at all, for anybody who is a victim or anybody who represented victims, the best that can be said is that the legislature was focused on the issue of presumptive parole and other issues related to prison reform and they did not focus on this issue and they did not consider the view of victims, that's very clear from the record and we strenuously object to the way, the way that was done and we think it should be reconsidered.</p>	
<p>Susan Sweetser</p>	<p>What concerns me about this rule is that this the absolute wrong move and there really seems to have been no effort to engage the public in a dialogue about this. This is a bad move and victims should have been reached out this does nothing to protect Vermonters, it doesn't even require that these offenders, if you're going to let them out early, that they have to they have complied with things</p>	<p>Thank you for your comment/question. Several legislative committees took testimony from stakeholders in the victim support community throughout its decision-making process. Act 56 of 2019 is the first bill to reinstate the earned good time program. The Senate Judiciary Committee and House Committee on Corrections and Institutions heard from victim advocacy groups during bill</p>

Commenter	Comment	DOC Response
	that will make them less of a danger and I saw that that was part of the original bill as it was as it was introduced and that was taken off. this bill was a huge mistake, huge mistake and it's going to hurt Vermonters, innocent Vermonters who've done nothing wrong	drafting. Act 148 (passed in 2020) modified the earned good time proposal. The same committees took testimony from stakeholders including representatives from victim advocacy organizations.
Kristen	He was sentenced in January of 2020 and just a few months later when he had barely begun his sentence, we were sent a robotic email notifying us that a law had passed and potentially could reduce his sentence by 20%. It's unacceptable the victims were not made aware of this.	Thank you for your comment and valuable feedback regarding communication. We apologize for the harm caused by our method of notifying you of this comment period related to the Earned Good Time Rule.
Jennifer Poehlmann	I'm here representing the Vermont Children's Alliance which is the membership organization for Vermont's Child Advocacy Centers and Special Investigation Units. it is really concerning the lack of outreach and victim input to the law that's already in place and to where we are right now as we're on this call and looking at a law that's going to go into, a rule that's going to go into effect on January 1st. So, I do appreciate that there's finally a venue and I hope that formal processes and the rules committee going forward will provide for an actual meaningful opportunity for victims to share their story.	Thank you for your comment/question. Several legislative committees took testimony from stakeholders in the victim support community throughout its decision-making process. Act 56 of 2019 is the first bill to reinstate the earned good time program. The Senate Judiciary Committee and House Committee on Corrections and Institutions heard from victim advocacy groups during bill drafting. Act 148 (passed in 2020) modified the earned good time proposal. The same committees took testimony from stakeholders including representatives from victim advocacy organizations.

Commenter	Comment	DOC Response
Nietra Panagoulis	What agencies were part of this process that were victim orientated or victim centered?	Thank you for your comment/question. Several legislative committees took testimony from stakeholders in the victim support community throughout its decision-making process. Act 56 of 2019 is the first bill to reinstate the earned good time program. The Senate Judiciary Committee and House Committee on Corrections and Institutions heard from victim advocacy groups during bill drafting. Act 148 (passed in 2020) modified the earned good time proposal. The same committees took testimony from stakeholders including representatives from victim advocacy organizations.
Armina Medic	[I'd like to] mimic Nitra's concerns and also remind everyone that there are many victims out there who have been impacted by this decision who have no ability or no involvement in terms of speaking up against this. So, my concern mainly is lack of involve involvement of the victim and I wish there would be a chance where somebody would be able to go and speak up.	Thank you for your comment/question. Several legislative committees took testimony from stakeholders in the victim support community throughout its decision-making process. Act 56 of 2019 is the first bill to reinstate the earned good time program. The Senate Judiciary Committee and House Committee on Corrections and Institutions heard from victim advocacy groups during bill drafting. Act 148 (passed in 2020) modified the earned good time proposal. The same committees took testimony from stakeholders including representatives from victim advocacy organizations.

Commenter	Comment	DOC Response
Justin Graham	<p>Really frustrating that our voices couldn't be heard before it was already being essentially put into place. The proposed rule removes a portion of the sole remedy that was available to us, which as the victims of violent crime, without any consent on our part, I'm sure we're not alone in feeling ... that the incredibly difficult decisions we struggled over for months and years regarding the offerings of plea arrangements is being [un]done. Our agreement indicated there would be no opportunity for early release, the crime was violent, it was ugly, it was with a baseball bat and it's kind of untenable for us that that those agreements that were already really difficult choices to make can then simply be undone under an amendment. The legislation effectively undoes those agreements and does nothing to protect the victims from being victimized once again. And I think it leaves us all wondering who the law is intended to benefit. Is it intended to benefit violent criminals? Is it intended to benefit the state's finances? It's clearly not intended to protect the public and victims of violent crime.</p>	<p>Thank you for your comment/question. The Department of Corrections filed a rule that complied with the law. A bill to address this issue related to plea agreements is being discussed in the legislature. If the bill passes, certain people will no longer be able to earn time if they were convicted prior to the bill becoming law. The bill contains several disqualifying crimes, including sex offenses.</p>

Commenter	Comment	DOC Response
David Bray	<p>it seems to me that the public in Vermont doesn't really know what's going on. I haven't seen it in Vermont Digger, I haven't seen it in Seven Days, I happened to see a little bit on WCAX today about this meeting and the comments from the victims, but I'm really concerned that the public really doesn't know what's going on and that these violent criminals are going to be released in back into your state and I would think that a lot of them would be interested in what's going on, not after the horse is already out the barn. I think these news organizations should be sent letters to the editors and try to get this out to the public so that they know what's going on.</p>	<p>Thank you for your comment/question. The Department of Corrections filed a rule that complied with the law. A bill to address comments raised during this public comment period is being discussed in the legislature and could change the eligibility for offenders who had already been sentenced.</p>
Nietra Panagoulis	<p>My question/comment was... about victim participation and what victim participation looks like throughout this process - whether it happened or not. My understanding [is] that it didn't and I guess I would like to know why and also along those lines, what other what agencies that are victim centered or should be victim centered were part of this bill in making these decisions and voicing, maybe providing positions of victims that might not actually accurately reflect victims who this is going to ultimately affect.</p>	<p>Thank you for your comment/question. Several legislative committees took testimony from stakeholders in the victim support community throughout its decision-making process. Act 56 of 2019 is the first bill to reinstate the earned good time program. The Senate Judiciary Committee and House Committee on Corrections and Institutions heard from victim advocacy groups during bill drafting. Act 148 (passed in 2020) modified the earned good time proposal. The same committees took testimony from stakeholders including representatives from victim advocacy organizations.</p>

Commenter	Comment	DOC Response
Alaina Heisler	Will victim voices make any impact on if an inmate will be part of this rule?	Thank you for your comment/question. A major purpose of the public comment period is to ensure victim voices are included in legislative decision making regarding the rule. A bill to address comments raised during this public comment period is being discussed in the legislature and could change the eligibility for offenders who had already been sentenced.
Pam Fontaine	We're on that victims service so that we get notifications when we need to know what's going on with the inmate and we weren't notified until late October. What happened to all of the months in between? because I do not believe that murderers, rapists, any sexual offender at all, any person that hurts or harms other people, should be eligible for this rule. Now or ever. I don't know who put this together, whether it was just not thought about well or things were missed, it's still no excuse [for] us people not [to] have been notified way before now to be able to help with making sure the rule is put in place correctly.	The Emergency Earned Good Time Rule was filed 8/30/2020 with the first (of two) public comment periods scheduled for 10/26/2020. The first LCAR hearing was scheduled for 10/19/2020 so there was not a lot of time that passed between when the Rule was filed and the notifications were sent. Victim notification is recognized as a critical, and central, part of this Rule. How victim notification was to take place was given a great deal of thought and care with consideration and input of those who most directly serve victim needs.
Kathy	it sounds like if this new ruling does pass then this inmate will be getting out next year. And, I'm really scared. I don't understand why this is happening. Could anybody give me some clarity? How about if someone is actually in hospice right now?	The Earned Good Time Rule will apply to anyone who is otherwise eligible; hospice is not a factor in eligibility.

Commenter	Comment	DOC Response
Lina Grover	When will this proposed rule change take effect?	The Emergency Earned Good Time Rule is in effect as of 1/01/2021. The proposed (permanent) rule would take effect at a later time after the appropriate legislative committee has reviewed it.
Robert Rodriguez Jr	I am currently incarcerated at Southern State Correctional Facility and I am sentenced to 1y & 10 months Ive been in for 11 months now and have 10 months left and I am pasted my minimum and would like to know if I can get good time my max is September 29th 2021 if I get good time when will I be eligible to get Released? From Jail I can get out on furlough but I don't have a place to get out to at all so I'm just waiting on my max out date Please Anne send me back a letter with some good information please and Thank you.	All offenders qualify to earn Good Time except for those that are serving life-without-parole sentences, those supervised on probation or parole, those earning Work Camp Good Time credit, and those receiving day-for-day substance treatment credit. There are also a number of factors that would render an individual ineligible to earn Good Time including that the offender has been adjudicated of a major disciplinary rule violation as outlined in Department facility rules or the offender is reincarcerated from the community for a violation of release conditions (except for no-fault residence loss). The legislature is close to passing an amendment of the earned time program. This change will disqualify people who were sentenced for the following crimes prior to January 1, 2021: murder in violation of 13 V.S.A § 2301; voluntary manslaughter in violation of 13 V.S.A § 2304; kidnapping on violation of 13 V.S.A § 2405; lewd and lascivious conduct with a child in violation of 113V.S.A. §2602, provided that the offense shall not be considered a disqualifying offense

Commenter	Comment	DOC Response
		<p>if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual; sexual assault in violation of 13 V.S.A. §3252(a) or (b); aggravated sexual assault in violation of 13 V.S.A. §3253; or aggravated sexual assault of a child in violation of 13 V.S.A. 7§3253a. If you are currently earning time, you will be able to keep the time you earned. Once the law is passed, if you have been sentenced for committing a disqualifying crime, you will not be eligible.</p>
<p>Fernando Siana Milian</p>	<p>My name is Fernando Siana Milian and my sentence of 13 months ends on March 24th of 2021. I would like to know if I am eligible for the 7 days of goodtime per month starting January of 2021? Thank you for taking the time to read my letter. I look forward to hearing back from you. Again, thank you very much.</p>	<p>All offenders qualify to earn Good Time except for those that are serving life-without-parole sentences, those supervised on probation or parole, those earning Work Camp Good Time credit, and those receiving day-for-day substance treatment credit. There are also a number of factors that would render an individual ineligible to earn Good Time including that the offender has been adjudicated of a major disciplinary rule violation as outlined in Department facility rules or the offender is reincarcerated from the community for a violation of release conditions (except for no-fault residence loss). The legislature is close to passing an amendment of the earned time program. This change will disqualify people who were sentenced for the following</p>

Commenter	Comment	DOC Response
		<p>crimes prior to January 1, 2021: murder in violation of 13 V.S.A § 2301; voluntary manslaughter in violation of 13 V.S.A § 2304; kidnapping on violation of 13 V.S.A § 2405; lewd and lascivious conduct with a child in violation of 113V.S.A. §2602, provided that the offense shall not be considered a disqualifying offense if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual; sexual assault in violation of 13 V.S.A. §3252(a) or (b); aggravated sexual assault in violation of 13 V.S.A. §3253; or aggravated sexual assault of a child in violation of 13 V.S.A. 7§3253a. If you are currently earning time, you will be able to keep the time you earned. Once the law is passed, if you have been sentenced for committing a disqualifying crime, you will not be eligible.</p>
<p>Doug Dugan</p>	<p>Mrs. Corbin I am an inmate at the St. Johnsbury Facility, I was arrested Feb. 20, 2018, I plead guilty to an armed robbery, I could to tell you a story about that but it has no bearing on this. I received a 3 ½ to 8 yr sentence at Bennington witch I accepted. Because I had already served 2 years. I was told by my attorney William Cobb I would have to do a 9mo. Program and then be released. 3 mo. later I started the program in Newport Facility. My case manager at Newport had gotten in touch with my</p>	<p>The legal status of Reintegration Furlough was repealed as of January 1, 2021 when earned time became effective. The department no longer has the legal authority to release people using this method.</p>

Commenter	Comment	DOC Response
	<p>probation officer in Benning ton who agreed I was eligible for the 180 day early release, 2 ½ mo. later my case manager tells me l;; going to loose my 180 day early release maybe. He told me it wasn't set in stone yet. Just now I received a message on my tablet that the law is still being worked on. So I got the idea to write to you and tell show you how unfair this law is to me and hope and pray that I am still eligible for the 180 day early release. Thank you. Doug Dugan #154485</p>	
Gary Blair	<p>My name is Gary Blair and Im at Rutland Jail doing the Rest of my time by the looks 15 years to max out. Anyways Ive been in for over 13 years without seeing the streets but that's ok as when my time is done Ill be a free man and not have to deal with DOC or P&P telling me I cant go fishing or to a foot ball game with my brother. I think its about time us guys like my self will get 7 days a month Good Time. And its long over due as DOC likes to ware house men like my self but that's ok as al Ill have to do is the Sex Registry once a year for lie when my Times up. Anyways wanted to let you know how I feel Anne And you have a nice day. Sincerely Mr Gary Blair</p>	Thank you for your comment.

Commenter	Comment	DOC Response
Joan and Bill Kirby	<p>Dear Anne On behalf of our son, Kristopher Kirby, we would like to weigh in on the Good Time Served Rule. Kris was sentenced before the rule will go into effect and will have served 11 months by January 10. At the time of sentencing the understanding was that he would be eligible for furlough 6 months prior to the end of his full sentence of 18 mo. With the new Good Time Served Rule, we are concerned that the 6 mo. furlough option will go away, leaving Kris in jail for the full 18 mo. , with no recourse. We are hoping the law will allow his original agreement to be grandfathered in, so he will still be eligible for furlough at the end of the 12 months. By all accounts, Kris has been an exemplary prisoner. Thank you for considering his situation.</p>	<p>The legal status of Reintegration Furlough was repealed as of January 1, 2021 when earned time became effective. The department no longer has the legal authority to release people using this method.</p>

**Vermont Department of Corrections
Earned ~~Good~~ Time Rule**

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. Proration is applied only for offenders who begin their sentences part way through the month.

B. Eligibility

1. 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 detainees, offenders on probation or parole, offenders eligible for a reduction of term pursuant to 28 V.S.A. § 811, to offenders sentenced to serve an interrupted sentence, or offenders sentenced to life without parole.
2. Offenders serving a sentence for a disqualifying offense (see IV.B.2. below) on January 1, 2021 will not be eligible for earned time.

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

1. 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.
2. An offender serving a sentence for a disqualifying offense on the effective date of this rule, shall not earn any earned time reductions after the effective date.

Disqualifying offenses are:

- a. murder in violation of 13V.S.A. §2301;*
- b. voluntary manslaughter in violation of 13V.S.A. §2304;*
- c. kidnapping on violation of 13V.S.A. §2405;*
- d. lewd and lascivious conduct with a child in violation of 113V.S.A. §2602, provided that the offense shall not be considered a disqualifying offense if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual;*
- e. sexual assault in violation of 13V.S.A. §3252(a) or (b);*
- f. aggravated sexual assault in violation of 13V.S.A. §3253; or*
- g. aggravated sexual assault of a child in violation of 13V.S.A. §3253a.*

C. Calculation

1. 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 assess earned time awards each month following the prior month served. The Department will not assess earned time for partial months served by offenders whose minimum or maximum release dates fall on or before the last day of the month.
2. 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 whose sentences begin in the middle of the month. ~~who are incarcerated for less than the whole month (i.e., fewer than 28 days).~~ This proration does not apply to offenders whose minimum or maximum release dates fall on or before the last day of the month. 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. Minimum Release Eligibility

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

**Vermont Department of Corrections
Earned Time Rule**

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 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 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 time for eligible offenders who are incarcerated for a portion of the month. Proration is applied only for offenders who begin their sentences part way through the month.

B. Eligibility

1. Sentenced offenders, including those on furlough, are eligible for earned time beginning January 1, 2021. Earned time is not available retroactively, and is not available to detainees, offenders on probation or parole, offenders eligible for a reduction of term pursuant to 28 V.S.A. § 811, to offenders sentenced to serve an interrupted sentence, or offenders sentenced to life without parole.
2. Offenders serving a sentence for a disqualifying offense (see IV.B.2. below) on January 1, 2021 will not be eligible for earned time.

C. Criteria

Offenders will be awarded earned 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 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

1. 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.
2. An offender serving a sentence for a disqualifying offense on the effective date of this rule, shall not earn any earned time reductions after the effective date.

Disqualifying offenses are:

- a. murder in violation of 13V.S.A. §2301;*
- b. voluntary manslaughter in violation of 13V.S.A. §2304;*
- c. kidnapping on violation of 13V.S.A. §2405;*
- d. lewd and lascivious conduct with a child in violation of 113V.S.A. §2602, provided that the offense shall not be considered a disqualifying offense if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual;*
- e. sexual assault in violation of 13V.S.A. §3252(a) or (b);*
- f. aggravated sexual assault in violation of 13V.S.A. §3253; or*
- g. aggravated sexual assault of a child in violation of 13V.S.A. 7§3253a.*

C. Calculation

1. The Department will calculate and award earned 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 assess earned time awards each month following the prior month served. The Department will not assess earned time for partial months served by offenders whose minimum or maximum release dates fall on or before the last day of the month.
2. The Department will apply a calculation rubric of proration (*see Earned Time Prorate Chart, below*) that equitably awards earned time in whole days based on the number of incarcerated whole days for offenders whose sentences begin in the middle of the month. This proration does not apply to offenders whose minimum or maximum release dates fall on or before the last day of the month. This rubric applies the 7-day/month formula established by 28 V.S.A. § 818.



Earned Time Prorate Chart

Eligible offenders can earn up to 7 days of Earned Time each month on their minimum and maximum sentence. Prorated Earned

Time will be determined by the number of days per month earned.

# days incarcerated (includes furloughs) per month...	1-9 days	10-18 days	19-27 days	28-31 days
# days on minimum & maximum sentence	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 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 time sentence reductions. The Department will ensure that all victims of record are notified of the earned time program and of their right to access information on earned-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 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. Minimum Release Eligibility

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



No. 12. An act relating to limiting earned good time sentence reductions for offenders convicted of certain crimes.

(S.18)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 13 V.S.A. § 5321 is amended to read:

§ 5321. APPEARANCE BY VICTIM

* * *

(d) At or before the sentencing hearing, the prosecutor's office shall instruct the victim of a listed crime, in all cases where the court imposes a sentence that includes a period of incarceration, that a sentence of incarceration is to the custody of the Commissioner of Corrections and that the Commissioner of Corrections has the authority to affect the actual time the defendant shall serve in incarceration through ~~good~~ earned time credit, furlough, work-release, and other early release programs. In addition, the prosecutor's office shall explain the significance of a minimum and maximum sentence to the victim ~~and shall also~~, explain the function of parole and how it may affect the actual amount of time the defendant may be incarcerated, and inform the victim of the maximum amount of earned time that the defendant could accrue and that earned time only affects when a defendant is eligible for parole consideration but does not necessarily result in the defendant's release.

* * *

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

§ 818. EARNED ~~GOOD~~ TIME; REDUCTION OF TERM

(a) On or before September 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 to become effective on January 1, 2021. The Commissioner shall adopt rules to carry out the provisions of this section as an emergency rule and concurrently propose them as a permanent rule. The emergency rule shall be deemed to meet the standard for the adoption of emergency rules pursuant to 3 V.S.A. § 844(a).

(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, to offenders sentenced to serve an interrupted sentence, or to offenders sentenced to life without parole.

Offenders currently serving a sentence shall be eligible to begin earning a reduction in term when the earned ~~good~~ time program becomes effective.

Notwithstanding this subdivision (1), when an offender has been convicted of a disqualifying offense, the offender's ability to participate and earn time in the program shall be determined pursuant to subdivision (5) of this subsection.

(2) Offenders shall earn a reduction of seven 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 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~~ earned time except as provided in this subsection.

(4) The Department shall:

(A) ensure that all victims of record are notified of the earned ~~good~~ time program at its outset and made aware of the option to receive notifications from the Department pursuant to this subdivision;

(B) provide timely notice not less frequently than every 90 days to the offender any time the offender receives a reduction in his or her term of supervision pursuant to this section;

(C) maintain a system that documents and records all such reductions in each offender's permanent record; and

(D) record any reduction in an offender's term of supervision pursuant to this section on a monthly basis and ensure that victims who want information regarding changes in scheduled release dates have access to such information.

(5) Notwithstanding 1 V.S.A. § 214, an offender who was serving a sentence for a disqualifying offense on January 1, 2021 shall not earn any earned time sentence reductions under this section after the effective date of this act. This subdivision (5) shall not be construed to limit or affect earned time that an offender has earned on or before the effective date of this act.

(c) As used in this section:

(1) "Disqualifying offense" means:

(A) murder in violation of 13 V.S.A. § 2301;

(B) voluntary manslaughter in violation of 13 V.S.A. § 2304;

(C) kidnapping in violation of 13 V.S.A. § 2405;

(D) lewd and lascivious conduct with a child in violation of 13 V.S.A. § 2602, provided that the offense shall not be considered a disqualifying offense if the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual;

(E) sexual assault in violation of 13 V.S.A. § 3252(a) or (b);

(F) aggravated sexual assault in violation of 13 V.S.A. § 3253; or

(G) aggravated sexual assault of a child in violation of 13 V.S.A. § 3253a.

(2) “Interrupted sentence” means a sentence that is not served continuously, including a sentence to be served in intervals or a sentence to the work crew.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: April 26, 2021



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Nov 27, 2020

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	20P022
Title:	Earned Good Time Rule
Type:	Standard
Status:	Final Proposed
Agency:	Department of Corrections, Agency of Human Services
Legal Authority:	Act No. 148 of 2020 § 14 and 28 V.S.A. § 818(a) 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 offenders that are
Summary:	

“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 substance abuse 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.

Persons Affected:

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.

Economic Impact:

This Rule will impose substantial economic impact on the DOC, especially for the Sentence Computation (SCU) and Victims Services (VSU) 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 VSU 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: Oct 07,2020

Hearing Information

Information for Hearing # 1

Hearing date: 11-20-2020 11:00 AM

Location: Microsoft Teams Online

Address: 802-552-8456

City: Conference ID: 887 216 493#

State: VT

Zip: 05671

Hearing Notes: <https://teams.microsoft.com/l/meetup-join>

Information for Hearing # 2

Hearing date: 11-20-2020 4:00 PM

Location: Microsoft Teams Online

Address: 802-552-8456

City: Conference ID: 887 216 493#

State: VT

Zip: 05671

Hearing Notes: <https://teams.microsoft.com/l/meetup-join>

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

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Fax:

Email: anne.corbin@vermont.gov

Website <https://doc.vermont.gov/policies-directives-and-rules>
Address: [\[Link\]](#)

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
Name: Cullen Bullard
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Keyword Information

Keywords:

Good Time
Reduction
Release
Credit



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	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: Louise Corliss, APA Clerk

Date of Fax: May 3, 2021

RE: The "Proposed State Rules " ad copy to run on

October 15, 2020

PAGES INCLUDING THIS COVER MEMO:

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***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact Louise Corliss at 802-828-2863, or E-Mail louise.corliss@vermont.gov, Thanks.

PROPOSED STATE RULES

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Earned Good Time Rule.

Vermont Proposed Rule: 20P022

AGENCY: Agency of Human Services, Department of Corrections

CONCISE 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 offenders that 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 substance abuse 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.

FOR FURTHER INFORMATION, CONTACT: Anne Corbin, Agency of Human Services, Department of Corrections, Central Office, NOB South, 280 State Drive, Waterbury, VT 05671-2000 Tel: 802-760-8077 Email: anne.corbin@vermont.gov URL: <https://doc.vermont.gov/policies-and-rules>.

FOR COPIES: Cullen Bullard, Agency of Human Services, Department of Corrections, Central Office, NOB South, 280 State Drive, Waterbury, VT 05671-2000 Tel: 802-241-0088
