

1 M TO THE HONORABLE SENATE:

2 The Committee on Judiciary to which was referred Senate Bill No. 18
3 entitled “An act relating to limiting earned good time sentence reductions for
4 offenders convicted of certain crimes” respectfully reports that it has
5 considered the same and recommends that the bill be amended by striking out
6 all after the enacting clause and inserting in lieu thereof the following:

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

8 § 5321. APPEARANCE BY VICTIM

9 * * *

10 (d) At or before the sentencing hearing, the prosecutor’s office shall instruct
11 the victim of a listed crime, in all cases where the court imposes a sentence that
12 includes a period of incarceration, that a sentence of incarceration is to the
13 custody of the Commissioner of Corrections and that the Commissioner of
14 Corrections has the authority to affect the actual time the defendant shall serve
15 in incarceration through good time credit, furlough, work-release, and other
16 early release programs. In addition, the prosecutor’s office shall explain the
17 significance of a minimum and maximum sentence to the victim ~~and shall also~~,
18 explain the function of parole and how it may affect the actual amount of time
19 the defendant may be incarcerated, and inform the victim of the maximum
20 amount of earned time that the defendant could accrue and that earned time

1 only affects when a defendant is eligible for parole consideration but does not
2 necessarily result in the defendant's release.

3 * * *

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

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

6 (a) On or before September 1, 2020, the Department of Corrections shall
7 file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned
8 ~~good~~ time program to become effective on January 1, 2021. The
9 Commissioner shall adopt rules to carry out the provisions of this section as an
10 emergency rule and concurrently propose them as a permanent rule. The
11 emergency rule shall be deemed to meet the standard for the adoption of
12 emergency rules pursuant to 3 V.S.A. § 844(a).

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

15 (1) The program shall be available for all sentenced offenders, including
16 furloughed offenders, provided that the program shall not be available to
17 offenders on probation or parole, to offenders eligible for a reduction of term
18 pursuant to section 811 of this title, offenders sentenced to serve an interrupted
19 sentence, or to offenders sentenced to life without parole. Offenders currently
20 serving a sentence shall be eligible to begin earning a reduction in term when
21 the earned ~~good~~ time program becomes effective. Notwithstanding this

1 subdivision (1), when an offender ~~is~~ **has been** convicted of a disqualifying
2 offense, the offender's ability to participate and earn time in the program shall
3 be determined pursuant to subdivision (5) ~~and (6)~~ of this subsection.

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

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

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

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

17 (4) The Department shall:

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

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

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

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

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

16 (c) As used in this section:

17 (1) “Disqualifying offense” means:

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

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

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

1 (C) lewd and lascivious conduct with a child in violation of 13
2 V.S.A. § 2602, provided that the offense shall not be considered a
3 disqualifying offense if the offender is less than 18 years old, the child is at
4 least 12 years old, and the conduct is consensual;

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

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

7 (F) aggravated sexual assault of a child in violation of 13 V.S.A.
8 § 3253a.

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

12 Sec. 3. 28 V.S.A. § 501 is amended to read:

13 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

14 An inmate who is serving a sentence of imprisonment who is not eligible
15 for presumptive parole pursuant to section 501a of this title shall be eligible for
16 parole consideration as follows:

17 (1) If the inmate’s sentence has no minimum term or a zero minimum
18 term, the inmate shall be eligible for parole consideration within 12 months
19 after commitment to a correctional facility.

1 (2) If the inmate’s sentence has a minimum term, the inmate shall be
2 eligible for parole consideration after the inmate has served the minimum term
3 of the sentence.

4 (3) If the inmate is 65 years of age or older, is not serving a sentence of
5 life without parole, and has served five years but not the minimum term of the
6 sentence, the inmate shall be eligible for parole consideration unless the inmate
7 has programming requirements that have not been fulfilled or has received a
8 major disciplinary rule violation within the previous 12 months.

9 Sec. 4. EFFECTIVE DATE

10 This act shall take effect on passage.

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18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE