

1 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
11 instruct the victim of a listed crime, in all cases where the court imposes a
12 sentence that includes a period of incarceration, that a sentence of incarceration
13 is to the custody of the Commissioner of Corrections and that the
14 Commissioner of Corrections has the authority to affect the actual time the
15 defendant shall serve in incarceration through good time credit, furlough,
16 work-release, and other early release programs. In addition, the prosecutor’s
17 office shall explain the significance of a minimum and maximum sentence to
18 the victim ~~and shall also~~, explain the function of parole and how it may affect
19 the actual amount of time the defendant may be incarcerated, and inform the
20 victim of the maximum amount of earned time that the defendant could accrue

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

3 * * *

4 Sec. 2. 28 V.S.A. § 818 is redesignated and 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, to offenders sentenced to serve an
19 interrupted sentence, or to offenders sentenced to life without parole.
20 Offenders currently serving a sentence shall be eligible to begin earning a
21 reduction in term when the earned ~~good~~ time program becomes effective.

1 Notwithstanding this subdivision (1), when an offender has been convicted of a
2 disqualifying offense, the offender's ability to participate and earn time in the
3 program shall be determined pursuant to subdivision (5) 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 (C) kidnapping in violation of 13 V.S.A. § 2405;

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

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

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

7 (G) 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. EFFECTIVE DATE

13 This act shall take effect on passage.

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17 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE