



VERMONT CHILDRENS ALLIANCE

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To: Members of the Senate Judiciary Committee
From: Jennifer Poehlmann, J.D., Director of Public Policy and Outreach
Vermont Children's Alliance
Date: January 15, 2021

RE: S.18/Earned Good Time

I am writing on behalf of the Vermont Children's Alliance (VCA) to express our support for S.18 and its amendments to the Earned Good Time provisions established within 28 V.S.A. sec.818(b). The VCA is the accredited state chapter of the National Children's Alliance, and membership organization for Vermont's 13 Children's Advocacy Centers (CACs) and Special Investigation Units (SIUs). Vermont's CACs are child-focused programs that ensure a multi-disciplinary response to allegations of child abuse - conducting interviews and coordinating team decisions about the investigation, treatment, management, and prosecution of child abuse cases. Additionally, Vermont's SIUs provide the same function with respect to cases of adult sexual assault and, in some counties, domestic violence.

The VCA is mindful of, and applauds, the efforts which continue to be made by members of this Committee and our entire Legislature to consider responsible and sensible reform of the criminal justice system; reform which considers the effective use of limited resources, development of additional evidence-based approaches, and promotion of successful offender reintegration strategies, while recognizing the harm caused to victims and communities.

Toward these ends, we strongly support S.18 and the amendments proposed therein to 28 V.S.A. sec.818, entitled "Earned good time: reduction of term". We respectfully offer the following for your consideration:

- **We strongly endorse the disqualification of the crimes enumerated within S.18 from a convicted offender's ability to earn time off a sentence.**

Our concerns relative to "earned good time" do not extend to those convicted of non-violent offenses. We acknowledge the important role that a well-designed good time program can play in managing an incarcerated population and re-integrating those who do not pose a risk to public safety.

The vast majority of the crimes enumerated in S.18 fall under the purview of Vermont's CACs/SIUs. These crimes are appropriately regarded as the most serious and have a profound impact on victims and communities. Commendably, your Committee has recognized this through its unwavering commitment to the establishment and ongoing support of the SIUs and their ensuing partnership with CACs. This skilled, committed and collaborative approach strengthens Vermont's ability to respond to these cases and mitigates trauma to victims.

It is inconceivable to imagine how the victim of one of the "disqualifying crimes" could be expected to function when they could be notified in any and perhaps every month if there is a change in the offender's sentence and release date. While we consider offender re-integration, we must also do this in the context of considering the impact our systems have on a victim's ability to re-integrate.

- **S.18's proposed "petition provision" to be added to 28 V.S.A. sec818(b) for those convicted of "disqualifying offenses".**

While from our perspective, absolute disqualification would be preferable as it provides greater certainty, reduces potential triggers for victims of these crimes, and is easier to implement. However, we

also understand the desire to account for the individuality of each offender and the capacity for change; a petition process is an option that could potentially strike a balance.

Should the Committee include such a provision, we would ask that specific criteria be employed in order to find that participation “would serve the interests of justice without unreasonably affecting public safety”, as the Bill currently proposes. Delineation of criteria would have the benefit of providing some transparency and clarity for offenders, victims and communities.

We respectfully request inclusion of the following by the court when a request has been submitted:

- **Victim input** should be solicited and shared with the court if the victim chooses. This would allow not just for an opportunity for a victim(s) to express their concerns, but could also provide an avenue for victims to share their thoughts in support of the petition.
- **The offender’s participation in treatment** appropriate to their offense should be considered a factor; or good cause found for the offender not so participating.

We believe that for offenders convicted of serious and violent crimes, the privilege of earning what would amount to a week per month off a sentence should not simply be tied to “doing no harm” by avoiding a major disciplinary violation; it should encompass engaging in activities identified as in fact increasing chances for successful re-entry into the community.

- If the offender is to be allowed to petition at a future point while serving their sentence, **safeguards should be implemented to avoid unnecessary, duplicate, or meritless requests.** If an offender convicted of a disqualifying offense is allowed to make such a request at any point in time while serving out their sentence, this could result in a significant impact on judicial resources as well as cause serious undue trauma to the victim. Perhaps where an offender has already made such a petition and the request has been denied, a showing of a “change of circumstances” must be met in order to trigger consideration of a subsequent request.

The negotiation and utilization of plea agreements is a critical tool relied upon within the criminal justice system, with benefit to all parties involved. While the offender thereby avoids the risk that a trial would pose, the victim also avoids the risk of being re-traumatized through participation in the court process. We cannot stress enough how important this tool is for our multi-disciplinary teams as they strive to support the most vulnerable of Vermont’s victims, our children. From our perspective, plea agreements in these cases, should only be altered, if at all, in extraordinary circumstances.

In conclusion, Vermont’s CACs and SIUs strongly support S.18 and are grateful for the time this Committee continues to take to address a very complex and important issue. We are aware of the difficult work you do to identify outcomes and solutions that balance the multiple considerations and perspectives at play, and thank you for providing us with a voice in this process.