

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

2 § 818. EARNED TIME; REDUCTION OF TERM

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

10 (b) Earned time program; generally. The earned time program
11 implemented pursuant to this section shall comply with the following
12 standards:

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

20 Notwithstanding this subdivision (1), when an offender has been convicted of a

1 disqualifying offense, the offender's ability to participate and earn time in the
2 program shall be determined pursuant to subdivision (5) of this subsection.

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

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

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

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

16 (4) The Department shall:

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

1 (B) provide timely notice not less frequently than every ~~90~~ 30 days to
2 the offender any time the offender receives a reduction in ~~his or her~~ the
3 offender's term of 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 was serving a
11 sentence for a disqualifying offense on January 1, 2021 shall not earn any
12 earned time sentence reductions under this section after the effective date of
13 this act. This subdivision (5) shall not be construed to limit or affect earned
14 time that an offender has earned on or before the effective date of this act.

15 (c) Earned time; education credits.

16 (1) Notwithstanding the provision of subdivision (b)(1) of this section
17 prohibiting offenders on parole from participating in the earned time program,
18 the earned time program shall be available to offenders on parole to earn a
19 reduction in term for completing an apprenticeship, a trade certification
20 program, or a higher education degree or other credential awarded by an
21 accredited institution of higher education.

1 (2) Offenders shall earn a reduction in term in accordance with the
2 requirements of this subdivision (2).

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

5 (i) attends all classes or appointments required by the offender's
6 course of study;

7 (ii) completes all coursework required by the offender's course of
8 study; and

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

13 (B) In addition to the requirements of, and earned time awarded,
14 pursuant to subdivision (A) of this subdivision (2), offenders shall earn a
15 reduction of term as follows:

16 (i) six months for obtaining a trade certification or other credential
17 that requires completion of at least 30 credit hours for award of the certificate
18 or credential;

19 (ii) one year for obtaining an associate degree or a baccalaureate
20 degree;

21 (iii) 18 months for a master's degree; and

1 (iv) two years for a doctoral degree.

2 (3) The Department shall designate apprenticeships, trade certification
3 programs, or accredited institutions of higher education whose course of study
4 qualifies for the earned time program.

5 (4) The notice and records requirements pursuant to subdivisions (b)(4)
6 shall apply to this subsection (c).

7 (d) Definitions. As used in this section:

8 (1) “Disqualifying offense” means:

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

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

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

12 (D) lewd and lascivious conduct with a child in violation of 13

13 V.S.A. § 2602, provided that the offense shall not be considered a

14 disqualifying offense if the offender is under 18 years of age, the child is at

15 least 12 years of age, and the conduct is consensual;

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

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

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

19 3253a.

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