

**Vermont Department of Corrections**  
**Earned Good Time Rule 371.18**  
(draft 8/10/2020)

**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.

**B. Eligibility**

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 offenders on probation or parole, offenders eligible for a reduction of term pursuant to 28 V.S.A. § 811, or offenders sentenced to life without parole.

**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**

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.

**C. Calculation**

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 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 who are incarcerated for less than the whole month (i.e., fewer than 28 days). This rubric applies the 7-day/month formula established by 28 V.S.A. § 818.

<b>Earned Good Time Prorate Chart</b>				
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>	<b>1-9 days</b>	<b>10-18 days</b>	<b>19-27 days</b>	<b>28-31 days</b>
<i># days on minimum &amp; 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. Programming and Services**

Offenders engaged in programming and/or services—mandated or otherwise—will remain in their programming and/or services regardless of changes to their eligible minimum release date due to earned good time. Programming and services designed to prepare the offender for reentry must be completed for the offender to be eligible for release from Department supervision. If the Department deems an offender is not prepared for reentry as a result of the failure to complete programming and/or services and the eligible minimum release date has passed, the Department may retain supervision over the offender.

### **C. Minimum Release Eligibility**

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