



**STATE OF VERMONT**  
OFFICE OF LEGISLATIVE COUNSEL

**MEMORANDUM**

To: Joint Legislative Justice Oversight Committee  
From: Benjamin E. Novogroski, Esq.  
Date: September 18, 2024  
Subject: Earned Time Overview

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**Earned Time Generally**

Pursuant to 28 V.S.A. § 818 and Department of Corrections' (DOC) Rule 371.18, an eligible offender may earn a reduction of seven days from the offender's sentence for each month the offender:

1. is not adjudicated of a major disciplinary rule violation; and
2. is not reincarcerated from the community for a violation of release conditions, provided that an offender who loses a residence for a reason other than faulty on the part of the offender shall not be deemed reincarcerated.

A major disciplinary rule violation constitutes the most serious instance of inmate misconduct. These are divided into two categories: *Major A* and *Major B*. *Major A violations* constitute violent acts or serious threats to institutional security or personal safety. *Major B violations* are serious instances of misconduct of a lesser extent than *Major A violations*. See DOC Administrative Directive #410.01, *Facility Rules and Inmate Discipline* (May 1, 2012).

**Earned Time Eligibility**

Eligible offenders include:

1. Sentenced offenders
2. Furloughed offenders

Ineligible offenders:

1. Offenders on probation
2. Offenders on parole
3. Offenders sentenced to serve an interrupted sentence (a sentence not served continuously, served in intervals, or work crew)
4. Offenders sentenced to life without parole
5. Offenders serving a disqualifying offense. A disqualifying offense includes:
  - a. Murder;
  - b. Voluntary manslaughter;

- c. Kidnapping;
- d. Lewd and lascivious conduct with a child unless the offender is under 18 years of age, the child is at least 12 years of age, and the conduct is consensual;
- e. Sexual assault;
- f. Aggravated sexual assault; and
- g. Aggravated sexual assault of a child.

**Exception for Residential Treatment**

An offender in a post-adjudication residential setting for substance abuse treatment is eligible to earn a reduction of one day off of the offender's sentence for each day the offender receives inpatient treatment. This is the only earned time that such an offender can earn.

**Notifications and Recordkeeping**

DOC must provide the following:

1. Notification to victims of record about the existence of the earned time program and the option to receive notifications from DOC for any changes in an offender scheduled release;
2. Timely notice not less frequently than 90 days to offenders who receive a reduction in term due to the earned time program; and
3. A system that documents and records all earned time reductions in each offender's permanent record.