

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

21 * * *

1 Sec. 2. 28 V.S.A. § 818 is amended to read:

2 § 818. EARNED ~~GOOD~~ TIME; REDUCTION OF TERM

3 (a) On or before September 1, 2020, the Department of Corrections shall
4 file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned
5 ~~good~~ time program to become effective on January 1, 2021. The
6 Commissioner shall adopt rules to carry out the provisions of this section as an
7 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) The earned ~~good~~ time program implemented pursuant to this section
11 shall comply with the following standards:

12 (1) The program shall be available for all sentenced offenders, including
13 furloughed offenders, provided that the program shall not be available to
14 offenders on probation or parole, to offenders eligible for a reduction of term
15 pursuant to section 811 of this title, offenders sentenced to serve an interrupted
16 sentence, or to offenders sentenced to life without parole. Offenders currently
17 serving a sentence shall be eligible to begin earning a reduction in term when
18 the earned ~~good~~ time program becomes effective. Notwithstanding this
19 subdivision (1), when an offender is convicted of a disqualifying offense, the
20 offender's ability to participate and earn time in the program shall be
21 determined pursuant to subdivisions (5) and (6) of this subsection.

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

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

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

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

14 (4) The Department shall:

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

18 (B) provide timely notice not less frequently than every 90 days to
19 the offender any time the offender receives a reduction in his or her term of
20 supervision pursuant to this section;

1 (C) maintain a system that documents and records all such reductions
2 in each offender’s permanent record; and

3 (D) record any reduction in an offender’s term of supervision
4 pursuant to this section on a monthly basis and ensure that victims who want
5 information regarding changes in scheduled release dates have access to such
6 information.

7 (5) Notwithstanding 1 V.S.A. § 214, an offender who is serving a
8 sentence for a disqualifying offense on the effective date of this subdivision (5)
9 shall not earn any earned time sentence reductions under this section after the
10 effective date of this act. This subdivision (5) shall not be construed to limit or
11 affect earned time that an offender has earned on or before the effective date of
12 this act.

13 (c) As used in this section, “disqualifying offense” means:

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

15 (2) kidnapping in violation of 13 V.S.A. § 2405;

16 (3) lewd and lascivious conduct with a child in violation of 13 V.S.A.
17 § 2602, provided that the offense shall not be considered a disqualifying
18 offense if the offender is less than 18 years old, the child is at least 12 years
19 old, and the conduct is consensual;

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

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

1 (6) aggravated sexual assault of a child in violation of 13 V.S.A.

2 § 3253a.

3 Sec. 3. 28 V.S.A. § 501 is amended to read:

4 § 501. ELIGIBILITY FOR PAROLE CONSIDERATION

5 An inmate who is serving a sentence of imprisonment who is not eligible
6 for presumptive parole pursuant to section 501a of this title shall be eligible for
7 parole consideration as follows:

8 (1) If the inmate’s sentence has no minimum term or a zero minimum
9 term, the inmate shall be eligible for parole consideration within 12 months
10 after commitment to a correctional facility.

11 (2) If the inmate’s sentence has a minimum term, the inmate shall be
12 eligible for parole consideration after the inmate has served the minimum term
13 of the sentence.

14 (3) If the inmate is 65 years of age or older, is not serving a sentence of
15 life without parole, and has served five years but not the minimum term of the
16 sentence, the inmate shall be eligible for parole consideration unless the inmate
17 has programming requirements that have not been fulfilled or has received a
18 major disciplinary rule violation within the previous 12 months.

19 Sec. 4. EFFECTIVE DATE

20 This act shall take effect on passage.

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(Committee vote: _____)

Senator _____

FOR THE COMMITTEE