



THE ROAD TO REDEMPTION:



Incentivizing Rehabilitation Through Parole,
Earned Time, and Good Time Credits

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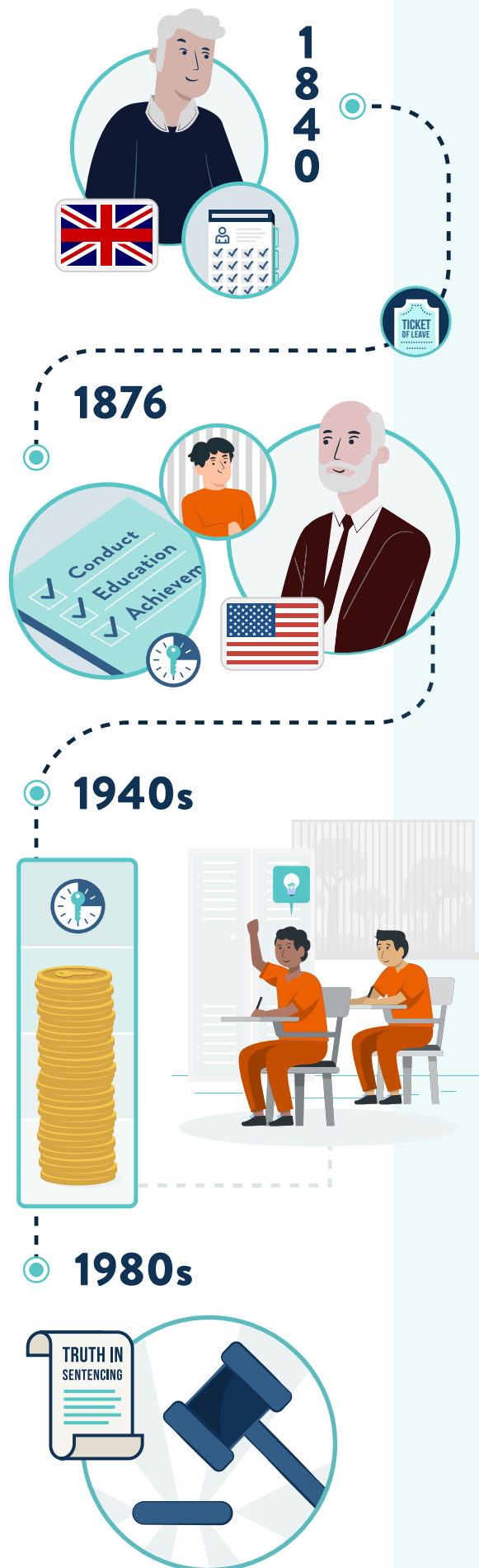
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TIMELINE



Historical Timeline for EARLY RELEASE



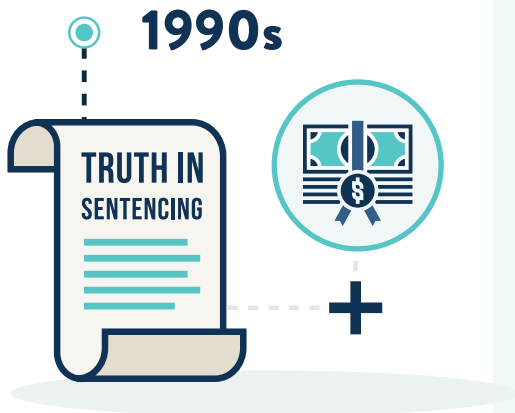
1840s An Englishman, Alexander Maconochie, created a “marks system” for the penal system he was overseeing. Individuals in prison could earn “marks” for their hard work and good behavior to be cashed in for either goods or time off their sentence.

1850s The Irish penal system began to allow individuals to earn “marks” that permitted the individual to return to the community on a “conditional pardon or ticket of leave.”

1870s Based on the English and Irish systems, a penologist from Michigan, Zebulon Brockway, brought the concept to the United States in 1876 and named it “parole.” It was first implemented at a youth facility in New York. The youth were evaluated based on conduct, education, and achievement. However, instead of automatically earning particular time credits based on set criteria, the holistic qualifications were taken into consideration by the volunteer supervisor who would have final say on the parole decision.

1940s By the 1940s, every state had a parole system or release credits in place to help address crowding in prisons. The system stayed this way for a few decades, focused on indeterminate sentences that centered around rehabilitation driving release to supervision.

1980s A push for mandatory minimums and stronger sentencing guidelines arose, and as a result, “truth in sentencing” reforms began. The premise behind these reforms was to ensure certainty in sentencing, particularly for individuals who had committed a violent offense.



1990s As part of the Violent Crime Control and Law Enforcement Act of 1994, a Truth-in-Sentencing Incentive Grant was set up, which awarded states funding for dialing back on the amount of time off an individual could receive. States and the federal government continued to cut back on parole and release credits, with the federal system and nearly a dozen states abolishing their parole systems.



Since the early 2000s, states have begun to shift back toward more release incentives. Reforms focus on expanding eligibility, access, and time off. This is not only meant to help address prison overcrowding, but these reforms are based on decades of research that show the rehabilitative nature of release incentive programs, along with cost-saving effects. Although more data is needed about the specific interplay between release incentive programs and racial disparities, the disproportional representation of incarcerated people of color suggests that continued reform in this area presents opportunities for addressing racial inequalities.



INTRODUCTION

The background features a dark blue upper section and a teal lower section, separated by a wavy, organic boundary. A large, dark blue, teardrop-shaped element is positioned in the upper left, partially overlapping the title. Thin, white, curved lines sweep across the composition, adding a sense of movement and flow.

Introduction

Nationwide, political commentary and platforms have increasingly included mentions of crime and incarceration. With many jurisdictions facing outsized correctional populations, high recidivism rates, and challenging reentry prospects for individuals postrelease, the work of sentencing reform is more vital than ever to a flourishing society.

At the end of 2019, half of all states' prison systems and the Federal Bureau of Prisons (BOP) were operating at or over their operational, design, or rated capacity levels.¹ Prison populations have dramatically increased since the 1980s and 1990s, when the primary philosophy of incarceration shifted heavily to a punitive approach.² The “truth in sentencing” movement focused on increased predictability and transparency in sentencing; the movement resulted in sharp increases in sentences, in part due to broad enactment of mandatory minimums and elimination of parole and release credits.³ Today, nearly half a million people are newly admitted to U.S. prisons each year, with those sentenced to incarceration now serving more time for the same offenses than in previous decades. From 1990 to 2012, the number of individuals released into the community from prison without postrelease community supervision, monitoring, or reentry assistance increased by 119%.⁴

As a result of this growing trend to lengthen terms of incarceration, some prisons have warehoused incarcerated men and women, limiting their ability to commit crime without offering sufficient avenues to rehabilitation. In this environment, safety and health concerns are aggravated as overcrowded prisons lack funding or staffing models to accommodate the needs of their populations. In one particularly egregious example, Alabama prisons are currently operating at over 150% capacity, are underfunded, and are understaffed—all of which have resulted in serious incidents of violence and even prisoner deaths.⁵ Systemic overreliance on incarceration and a lack of focus on rehabilitative goals of corrections clearly have negative effects.

Conversely, robust research has shown that in-prison programming contributes to rehabilitative outcomes among participants, beginning in prison with improved conduct and extending to postrelease

1 E. Ann Carson, *Prisoners in 2019*, Bureau of Justice Statistics (October 2020) <https://www.bjs.gov/content/pub/pdf/p19.pdf>.

2 Katherine Rosich & Kamala Kane, *Truth in Sentencing and State Sentencing Practices*, National Institute of Justice (July 2005), <https://nij.ojp.gov/topics/articles/truth-sentencing-and-state-sentencing-practices>.

3 Paula Ditton & Doris James Wilson, *Truth in Sentencing in State Prisons*, Bureau of Justice Statistics (January 1999), <https://www.bjs.gov/content/pub/pdf/tssp.pdf>.

4 Rosich, *supra* note 2; Pew, *Max Out: The Rise in Prison Inmates Released Without Supervision*, The Pew Charitable Trusts (June 2014), <https://www.pewtrusts.org/en/research-and-analysis/reports/2014/06/04/max-out>. (Research indicates that individuals released to community supervision have better public safety outcomes, such as lower recidivism rates, compared to those who serve their entire sentence in prison and therefore are released without supervision.)

5 Civil Rights Division, *Investigation of Alabama's State Prisons for Men*, U.S. Department of Justice (April 2019), <https://www.justice.gov/crt/case-document/file/1149971/download>.

with positive impacts on recidivism and employment.⁶ Policymakers and correctional leaders have strong grounds to incentivize program participation and their associated rehabilitative outcomes. When structured well, release incentives like parole, earned time credits, and good time credits provide an important avenue to encourage program participation that results in character cultivation and skill development in prison, without sacrificing a just penalty on which victims and the community can rely. Release incentives also provide a more active form of accountability than simply “doing time” by offering incarcerated men and women opportunities to earn back the trust of their community and prepare for a new way to live postrelease, while contributing to safer prison environments.⁷

Parole, earned time credits, and good time credits are the primary release incentives offered by jurisdictions and agencies to encourage the development of good citizenship among incarcerated men and women. Among these, parole offers the broadest and most discretionary recognition of rehabilitation, where the decision of whether to release an eligible person to community supervision is made by members of a board on the basis of various factors.⁸ Earned time credit policies, by contrast, offer the opportunity to accrue time off of an indeterminate sentence for participation in or completion of qualifying programs.⁹ Good time credits are granted to those who follow the prison’s rules, with the goal of cultivating safe prison environments with limited need for disciplinary action.¹⁰

Over the past decade, nearly half of all U.S. states have reformed their parole policies by expanding eligibility standards and revising release determination factors.¹¹ Several more states, along with the BOP, have reformed their policies governing the availability of good time and earned time credits through the expansion of accredited programming and an increase in the amount of time awarded.¹² Just and effective use of these policies can help achieve accountability for the prisoner and restoration for victims, while improving prison culture, curtailing prison overcrowding, and contributing to safer communities on the outside.

6 Grant Duwe, *The Use and Impact of Correctional Programming for Inmates on Pre- and Post-Release Outcomes*, National Institute of Justice (June 2017), <https://www.ncjrs.gov/pdffiles1/nij/250476.pdf>.

7 Nancy Gertner, *A Short History of American Sentencing*, 100 J. Crim. L. & Criminology, 691, 700 (2010), <https://scholarly-commons.law.northwestern.edu/cgi/viewcontent.cgi?article=7361&context=jclc>; Alison Lawrence, *Making Sense of Sentencing: State Systems and Policies*, National Conference of State Legislatures (June 2015), <https://www.ncsl.org/documents/cj/sentencing.pdf>.

8 The term used to describe the group of individuals that determine whether an eligible individual will be released to parole supervision can vary from state to state. For the purposes of this report, we will be referring to these groups as “parole boards.” On average, these boards are made up of seven members that serve five-year terms. Board members are generally appointed by the governor.

9 Lawrence, *supra* note 7.

10 *Id.*

11 Pew, *35 States Reform Criminal Justice Policies Through Justice Reinvestment*, The Pew Charitable Trusts (July 2018), https://www.pewtrusts.org/-/media/assets/2018/07/pspp_reform_matrix.pdf.

12 *Id.*

PUNISHMENT AND REHABILITATION



Punishment and Rehabilitation

Crime harms victims and tears at the fabric of society, resulting in a breach of community trust. Victims of crime should receive validation, and the public should be protected by holding persons responsible for crime accountable for their actions. Consideration of the nature of the offense and any aggravating or mitigating circumstances is a task best suited to the sentencing judge or jury, who are equipped with the facts and circumstances of the case and the relevant guidelines for sentencing. Where possible, alternatives to incarceration should be prioritized. Where incarceration is required, the sentence handed down should be proportional to the offense committed and offer means of rehabilitation. An indeterminate sentence uniquely meets these dual goals by setting both a just minimum term of incarceration that must be served and extending eligibility for parole, earned time credits, and good time credits in a complementary manner.¹³

In acknowledging a purpose and place for both incarceration and active rehabilitation, indeterminate sentences can be crafted to reflect what is justly owed to the victim in the minimum required term of incarceration while also leveraging the remaining percentage of the sentence to encourage character cultivation and life change in the incarcerated person. This manner of sentence seeks to fulfill the intended goals of truth in sentencing, providing victims assurance that a minimum term of incarceration set by the sentencing judge or jury will be served before parole or other release incentives become available. Victims should receive clear communication at sentencing regarding an earliest possible release date. And rather than simply warehousing incarcerated men and women, an indeterminate sentence sets an expectation that punishment is an active process of making amends and earning back the public's trust.

Active punishment, taking responsibility for the harm committed and seeking out opportunities to transform one's own life trajectory, is actually more difficult for the incarcerated person and more honoring of a victim than passively "doing the time." This process introduces hope and purpose into punishment and instills an expectation that making amends and earning back community trust are foundational to accountability.¹⁴ Incentivizing this active accountability through parole, earned time credits, and good time credits can provide valuable experience practicing new thinking and behaviors, making it more likely that those who are released come home better prepared to contribute to their communities and less likely to recidivate.

13 We recognize that occasionally there are cases where the sentencing judge may determine that a sentence of life without parole, or application of other release incentives, is the appropriate and proportional penalty.

14 The recommended proportions for parole and time credits here assumes the jurisdiction's sentencing scheme reflects proportional punishments.

WORKING TOWARD REHABILITATION



Working Toward Rehabilitation

Effective release incentive policies are built to address criminogenic thinking, cultivate productive and safe behaviors, and offer a controlled environment to practice new skills. Robust cognitive-behavioral program offerings, educational and vocational programs, and dignifying work are crucial to this process. Participation in programming is a factor weighed in establishing proof of rehabilitation before a parole board, and programming is central to the accrual of earned time credits. Understanding the impact of programming on rehabilitation is the first step in constructing rehabilitation-focused release incentive programs.

By equipping participants to address criminogenic behaviors and providing a controlled environment to practice new habits, prison programs play a valuable role in achieving positive outcomes. Specifically, research shows that prison programs have a positive impact on in-prison conduct, recidivism, and postrelease employment.¹⁵ In fact, Virginia's recidivism rate, the lowest in the nation since 2016, is regularly attributed to a focus on reentry planning¹⁶ and educational programming.¹⁷ The Virginia Department of Corrections prides itself on tailoring programming to address each individual's risk and needs.¹⁸ This year, for the first time since claiming the title of lowest recidivism rate in the nation, Virginia shares that title with South Carolina. Although South Carolina also attributes their low recidivism rate to participation in programming, South Carolina also incentivizes this participation through parole—without sacrificing public safety outcomes.¹⁹ The style and content of in-prison programming have strong implications for outcomes; those with higher program fidelity and that target criminogenic risks net the greatest positive impact on recidivism.²⁰ The main categories of programming that have been continuously researched are educational, employment, cognitive behavioral, and offense-specific programs like drug, sex abuse, and mental health treatment.

15 Duwe, *supra* note 6.

16 Reentry programs are uniquely situated in that they can be in-prison, in community, or both. Very little research has been done on reentry programs, but the studies that have been conducted reveal that the most effective programs begin in prison then continue upon release. Maria Berguis, *Reentry Programs for Adult Male Offender Recidivism and Reintegration: A Systematic Review and Meta-Analysis*, National Institutes of Health (June 2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6139987/>; Mirlinda Ndrecka, *The Impact of Reentry Programs on Recidivism: A Meta-Analysis*, University of Cincinnati (Feb 2014), https://etd.ohiolink.edu/rws_etd/send_file/send?accession=ucin1407406587&disposition=inline.

17 VA DOC, *Virginia's Recidivism Rate Falls Even Lower, Remains the Lowest in Country*, Virginia Department of Corrections (Feb 2020), <https://www.vadoc.virginia.gov/news-press-releases/2020/virginia-s-recidivism-rate-falls-even-lower-remains-the-lowest-in-the-country/>.

18 *Id.*

19 SC DOC, *Recidivism Rates of Inmates Released during FY2011-FY2015*, South Carolina Department of Corrections (2019), <http://www.doc.sc.gov/research/SpecialReports/RecidivismRatesOfInmatesReleasedDuringFY2011-FY2015.pdf>. (Data from South Carolina reveals nearly equal participation in work, education, and reentry programs).

20 Duwe, *supra* note 6.

Cognitive-behavioral programs bear the strongest correlation to safe and successful in-prison conduct and are consistently cited as the most effective in decreasing the number of disciplinary infractions among participants.²¹ Aimed at developing decision-making and problem-solving skills, this type of programming equips an individual with necessary tools both for peaceful living inside a prison and for successful reintegration to their community upon release.²² Notably, cognitive-behavioral programs also yield strong results postrelease, decreasing the risk of recidivism among participants by 20%.²³ Outcomes are particularly strong among participants who are assessed as high-risk, where the content is dosed according to best practices, and where content includes anger management and interpersonal problem-solving skills.²⁴ The Prison Fellowship Academy®, particularly the Tier 2 intensive model where participants develop a renewed mindset and transformed behavior that leads to personal responsibility and hope, is a prime example of cognitive-behavioral programming. Studies of Academy graduates have found a reduction in recidivism and an increase in employability.²⁵ In fact, the Academy consistently ranks as one of the top recidivism-reducing programs among those studied within the Texas Department of Criminal Justice.²⁶

Programs that are more generally assigned based on offense type, such as drug abuse, mental health, and “sex offender” treatment have some benefit, particularly on recidivism.²⁷ The impact of these programs on other outcomes needs further study, and some of the limited research that has been conducted indicated an increase in prison misconduct among participants.²⁸ Research on these programs is typically focused on relapse and recidivism but indicates that effectiveness in other areas can be improved by going beyond treatment of apparent behavioral issues associated with the person’s criminal offense. For example, although over 80% of the individuals who enter prison report use of drugs and 60% meet the criteria for drug dependence, the actual use or dependence on the drug is only a small part of the behavior that warrants accountability or treatment.²⁹ Research has demonstrated that drug treatment programs need

21 *Id.*; Sheila French, *Reducing Prison Misconducts What Works*, Criminal Justice & Behavior (April 2006), https://www.researchgate.net/publication/247744865_Reducing_Prison_MisconductsWhat_Works.

22 *Id.*

23 *Id.*

24 *Id.*

25 Department of Corrections, *An Outcome Evaluation of the Innerchange Freedom Initiative in Minnesota*, Minnesota Department of Corrections (February 2012); Byron R. Johnson & David B. Larson, *The Innerchange Freedom Initiative, A Preliminary Evaluation of a Faith-Based Prison Program*, Baylor University (2008), <https://www.baylor.edu/content/services/document.php/25903.pdf>.

26 Executive Administrative Services, *Evaluation of Offenders Released in Fiscal Year 2013 That Completed Rehabilitation Tier Programs*, Texas Department of Criminal Justice (October 2017).

27 Duwe, *supra* note 6.

28 *Id.*

29 Jennifer Bronson, *Drug Use, Dependence, and Abuse Among State Prisoners and Jail Inmates, 2007-2009*, Bureau of Justice Statistics (June 2017), <https://www.bjs.gov/content/pub/pdf/dudaspi0709.pdf>.

also to address the developmental, behavioral, and social aspects that lead to use and dependence.³⁰ This explains why cognitive-behavioral treatment programs have more benefits than programs that only address drug use.³¹ Additionally, it goes to show that the type of program is not the only factor to be considered but also the effectiveness of the structure and adherence to best practices of dosage.

Prison education programs also are shown to foster constructive prison culture and promote good citizenship during incarceration and upon release, reducing the number of future victims and strengthening families that otherwise would have been impacted by subsequent crime and incarceration. Research on education programs predominantly focuses on recidivism rates and postrelease employment, revealing that those who participate in education programs have a recidivism rate almost 30% lower than individuals who do not.³² Data reveal a need for all levels of education in prisons, and research shows that the higher the level of education obtained, the greater the outcome. For example, all education programs have shown positive impacts on recidivism rates and postrelease employment, but the more education received, the greater those outcomes.³³ Although there is limited information available on the impact of education programs on prison misconduct generally, what is available indicates that postsecondary education has the greatest influence on promoting positive conduct.³⁴ Similarly, parochial college courses offered in prison have shown a significant positive impact on both conduct and recidivism.³⁵

Employment bears a strong relationship to safe and successful reintegration, and successful participation in dignifying work while incarcerated can be an indicator of rehabilitative progress.³⁶ Although individuals with a criminal record typically experience difficulty securing employment, returning citizens with stable employment postrelease experience decreased recidivism.³⁷ Similarly, participation in prison work programs has been found to significantly lower rates of prison misconduct and recidivism,

30 Substance Abuse and Mental Health Services, *Facing Addiction in America: The Surgeon General's Report on Alcohol, Drugs, and Health*, Office of the Surgeon General (2016), <https://www.ncbi.nlm.nih.gov/books/NBK424849/>.

31 Duwe, *supra* note 6.

32 Robert Bozick, *Does Providing Inmates with Education Improve Postrelease Outcomes? A Meta-Analysis of Correctional Education Programs in the United States*, 14 *Journal of Experimental Criminology* 389 (2018), <https://link.springer.com/article/10.1007/s11292-018-9334-6>.

33 Duwe, *supra* note 6.

34 *Id*; Bozick, *supra* note 30; Gerald Gaes, *The Impact of Prison Education Programs on Post-Release Outcomes*, John Jay College of Criminal Justice (2008), http://johnjay.jjay.cuny.edu/files/TheEffectivenessofPrisonEducationProgramsNov_09.pdf; Amanda Pompoco, et al., *Reducing Inmate Misconduct and Prison Returns with Facility Education Programs*, *Criminology & Public Policy* (May 2017), <https://onlinelibrary.wiley.com/doi/epdf/10.1111/1745-9133.12290>.

35 Duwe, *supra* note 6.

36 *Id*; Grant Duwe, *The Effectiveness of Education and Employment Programming for Prisoners*, American Enterprise Institute (May 2018), https://www.aei.org/research-products/report/the-effectiveness-of-education-and-employment-programming-for-prisoners/?mkt_tok=eyJpIjoiTkZkZek5UzBxPVE5pTTJFMiIsInQiOiJFR205YkZ6RkorMmVhNndXYitSVmo5U29KXC9yVDJLanRha3FIbk1VRE9QWWRFOUdHUHE1ZFUyd3pYRTJQNkF5WldRUGZrU3A1Rm5KQ1lhXC9FTFwvTUxhZ3RyUjhyT-DhvR2NkdWNvazFydVwvekZRbXNcL093WEJwRUN6XC9QdG93NFB1RSJ9.

37 *Id*.

while increasing success in postrelease employment.³⁸ Work release programs, which allow certain incarcerated men and women to leave prison during the day on a work assignment and then return to the facility for nights and weekends, also show positive impacts.³⁹ Although this paid work is typically ineligible for earned time credits, successful work release participation reflects high trust and low threat to the community and can be weighed as part of the parole decision. Work release programs have also demonstrated a positive impact on both postrelease employment and recidivism.⁴⁰ In addition to long-term benefits to public safety, work release programs also have an immediate financial benefit both to the individual and the corrections agency.⁴¹

Participation in effective programming while incarcerated is an important factor in considering progress toward rehabilitative goals. As the body of research continues to develop on the effectiveness of programming and best practices for its implementation, such outcomes should continue to shape criminal justice system stakeholders' understanding of what behaviors should be incentivized by parole and earned time credits. A wide offering of recidivism-reducing programming, community supports, and opportunities to participate in dignifying work are valuable to encouraging an active process of making amends during incarceration, securing justice for victims, and producing safe and ultimately successful reintegration.

38 *Id.*

39 William Bales, et al., *An Assessment of the Effectiveness of Prison Work Release Programs on Post-Release Recidivism and Employment*, U.S. Department of Justice (April 2016), <https://www.ncjrs.gov/pdffiles1/nij/grants/249845.pdf>.

40 *Id.*

41 *Id.*

INCENTIVIZING REHABILITATION



Incentivizing Rehabilitation

a. Release through Parole

Among release incentive programs, parole uniquely offers an eligible person a chance to demonstrate the personal transformation and character development that are perhaps the best evidence of rehabilitation. When designed to work in a complementary way with earned time and good time credits, parole can recognize the benefits of program participation, as well as skill development, and reveal testimonies of less tangible outcomes like increased community trust and healthy interpersonal relationships.

Parole determinations focus on rehabilitative progress beginning on or after the earliest release eligibility date set by the sentencing judge. When a release to parole is granted, conditions are imposed that generally include reporting to a parole officer, staying at the same address, submitting to urinalysis and blood tests, and obeying all state and local laws.⁴² Those who fail to comply with the conditions of release face the consequence of returning to prison to finish their sentence, or in some cases, serving a new sentence.

In addition to parole's role in incentivizing program participation and its related benefits, parole provides the opportunity for a blended sentence of incarceration and community supervision. Studies show that having a period of appropriately tailored parole supervision reduces recidivism rates.⁴³ In one state, research indicated that individuals released to community supervision had a 36% lower likelihood of recidivism than individuals who were released directly into the community without supervision.⁴⁴

The decision to release an individual to parole depends on numerous factors considered by a parole board, which ideally tries to evaluate rehabilitative progress and whether a person is safe to move from imprisonment to community supervision. The most common factors considered in determining release are institutional conduct and program participation. Program participation is significantly associated with the parole board's ultimate release decision, reflecting the extent to which active accountability can positively impact in-prison conduct.⁴⁵

42 Research indicates that conditions should be tailored based on validated risk/needs assessments in order for supervision to be the most effective. Pew, *Policy Reforms Can Strengthen Community Supervision*, The Pew Charitable Trusts (April 2020), <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/04/policy-reforms-can-strengthen-community-supervision>.

43 Pew, *supra* note 4; Pew, *Policy Reforms Can Strengthen Community Supervision*, The Pew Charitable Trusts (April 2020), <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/04/policy-reforms-can-strengthen-community-supervision>.

44 Pew, *supra* note 4.

45 Joel Caplan, *What Factors Affect Parole: A Review of Empirical Research*, 71 Federal Probation 1, (2007), https://www.uscourts.gov/sites/default/files/71_1_3_0.pdf.



Release Considerations

The main considerations that parole boards currently consider are the nature of the offense committed, criminal history, risk/needs assessment, any programming in prison, and release plans, which include residency and employment plans.



A survey of factors considered by parole boards revealed that other considerations include static factors that cannot be impacted by the incarcerated person, such as the nature of offense committed and criminal history. One commonly considered dynamic factor is the existence of release plans, which include residency and employment.⁴⁶ A few states have unique criteria. For example, Mississippi considers any military history.⁴⁷ Kansas alone considers the current capacity of the state's institutions.⁴⁸ Ideally, all factors examined by the parole board would be dynamic and would reflect milestones that incarcerated individuals can actively work toward (e.g. complete assigned programming). This would more clearly separate the sentencing decision, which rightfully accounts for the harm caused and the just term of punishment owed to the victim, from the parole decision, which should be based on one's demonstrated efforts to make amends and earn back public trust.

The parole board typically also gives serious consideration to risk and needs assessments when making a release determination. Implemented at multiple points in the criminal justice system, risk assessments are most often used at admission to prison for determining things like security level, programming assignments, and reentry planning.⁴⁹ Parole boards use assessments to help identify who is at risk of potential rearrest if released to supervision.⁵⁰ Thirty-two states now use risk assessments as a factor when evaluating an individual's case for release.⁵¹ Parole boards in most states are required by statute to include risk/needs assessments in their consideration, while other states, like Utah and South Dakota, make assessments available for consideration.⁵²

Assessment tools have gone through several generations of change, and the instruments most commonly used now are part of the third or fourth generation of technology. These risk/needs assessments have evolved to include criminogenic needs so that the tools measure both static and dynamic factors.⁵³ The assessment tools that are most commonly used by parole boards are the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), the Ohio Risk Assessment System (ORAS), and the Level of Service Inventory-Revised (LSI-R). Interestingly, states that rely on the COMPAS assessment tend to have parole grant rates that are higher than those of other states.

46 *Id.*

47 MDOC, *Community Corrections: Parole*, Mississippi Department of Corrections (2020), <https://www.mdoc.ms.gov/Community-Corrections/Pages/Parole.aspx>.

48 CJ Perez, *The Parole Process*, Kansas Department of Corrections (2020), <https://www.doc.ks.gov/prb/process>.

49 Public Safety Performance Project, *Risk/Needs Assessment 101: Science Reveal New Tools to Manage Offenders*, The Pew Center on the States (2011), https://www.pewtrusts.org/-/media/legacy/uploadedfiles/pes_assets/2011/pewriskassessmentbriefpdf.pdf.

50 *Id.*

51 See Appendix B.

52 *Id.*

53 NPRC, *History of Risk and Needs Assessment Tools*, National Parole Resource Center (2014), <https://nationalparole-resourcecenter.org/action-guide-use-of-valid-actuarial-assessments-of-risks-and-needs/history-of-risk-and-needs-assessment-tools.htm>.

All factors considered in a release decision should attest to the progress of rehabilitation, which includes the testimony of two distinct parties. First is the victim's input. Some polling has found that victims of crime prefer shorter prison sentences and more investment in community supervision measures like parole.⁵⁴ This is fueled by the desire to see more focus on rehabilitation than punishment.⁵⁵

Almost every state allows victims to provide input on the parole board's determination of whether to release an eligible individual to parole supervision, and some even require the victim's input for release in cases that involved violence or a sexual offense.⁵⁶ Mississippi's parole board explicitly states that the victim's input is an important factor in their decision, regardless of offense type.⁵⁷ In fact, a survey of parole boards in 2008 revealed that a victim's input was considered "very influential" in the board's decision in 40% of all jurisdictions.⁵⁸ However, the scope of what a victim can include in their statement varies greatly. Many states allow victims to express how the offense has impacted their lives, while a few states allow the victim to express a recommendation on whether parole should be granted.⁵⁹ Victims of crime must be respected at each stage of a criminal proceeding, and where it is their desire to provide testimony at a parole hearing, they may have the opportunity to do so. However, victim testimony should be limited at this stage to the consideration at hand: evidence of rehabilitation.

Frequently, the sentencing judge or prosecutor of the underlying case is also provided an opportunity to testify at an individual's parole hearing. In Hawaii, for example, a victim is not given the chance to weigh in on a parole decision, but prosecutors are able to give input.⁶⁰ There is no literature explaining how much weight is given to prosecutorial opinion or providing the rationale for their input. Prosecutors and judges play a crucial role in determining the just penalty for a criminal offense. However, a parole decision is a questionable avenue to solicit their testimony.⁶¹ Any input or testimony given from prosecutors or sentencing judges should be limited to proving, or disproving, evidence of rehabilitation during the present term of incarceration.

54 ASJ, *Crime Survivors Speak: The First-Ever National Survey of Victims' View on Safety and Justice*, Alliance for Safety & Justice (2019), <https://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>.

55 *Id.*

56 See Appendix B.

57 Mississippi Parole Board, *Policies & Procedures: Rule 3.3 Victim Status*, Mississippi Parole Board (2020), <https://www.sos.ms.gov/ACCode/00000356c.pdf>.

58 Alexis Watts, *Defining Victims in the Context of Parole Release*, Robina Institute of Criminal Law & Criminal Justice (2016), https://robinainstitute.umn.edu/news-views/defining-victims-context-parole-release#footnote9_dlr74qp.

59 See Appendix B.

60 Hawaii Paroling Authority, *Parole Handbook*, Hawaii Paroling Authority (2020) https://dps.hawaii.gov/hpa/files/2020/11/HPA-Parole-Handbook_Revised_09_2020-1.pdf.

61 R. Michael Cassidy, *Undue Influence: A Prosecutor's Role in Parole*, Boston College Law School (2019), <https://lawdigital-commons.bc.edu/lfp/1229/>.

The presence of a prosecutor at a parole hearing also raises the question of legal representation for the eligible person. Although traditional due process rights and the right to counsel do not typically attach at a parole release hearing, the presence of a prosecutor raises concerns of accountability and fairness—concerns that are echoed throughout various aspects of a typical parole hearing. A nationwide survey of parole systems found that fewer than 10 states mandate that the parole board meet in person with the individual being considered for parole for all hearings.⁶² A majority of states require only a few members meet with the individual, or in states like Maryland, a hearing officer is sent to the prison to meet with the individual applying and then report back to the parole board.⁶³ Further, in half of all existing parole systems, no explanation is required to any party if parole is denied—contributing to concerns about whether the fact-finding and decision-making of the respective boards are just.⁶⁴ The increasingly digital world and recent pandemic-related lockdowns have starkly illustrated the need for and availability of methods to creatively bring together the parole board and the eligible party while controlling for security concerns, scheduling needs, and other common barriers to in-person hearings.⁶⁵

Lack of transparency in parole determinations raises questions of accountability. Less than half of the nation's parole boards provide publicly available annual reports, and where provided, the data included is very limited. Some states, like Nebraska, do report a list of common reasons for denials and how many cases were denied for each of those reasons.⁶⁶ In Nebraska's last report available, the top reason for denial of parole was the lack of a release plan, meaning individuals did not have adequate housing or employment plans in place.⁶⁷ A more transparent system would not only have procedures in place to hold hearing officers responsible for the information they relay to a board but also hold the board responsible for the decisions they make. Decisions should be explained, including what evidence was weighed in favor of or against signs of rehabilitation, and eligible individuals should be made aware of any steps that they need to take to better demonstrate rehabilitation at their next hearing.

62 Jorge Renaud, *Grading the Parole Release Systems of All 50 States*, Prison Policy Initiative (2019), https://www.prisonpolicy.org/reports/parole_grades_table.html.

63 MD Parole Commission, *Frequently Asked Questions*, Maryland Parole Commission (2020), <https://www.dpscs.state.md.us/about/FAQmpc.shtml>.

64 Kimberly Thomas & Paul Reingold, *From Grace to Grids: Rethinking Due Process Protections for Parole*, University of Michigan Law School (2017), <https://repository.law.umich.edu/articles/1854/>.

65 Diana D'Abruzzo, *Coronavirus Adds Urgency to Addressing the Nation's Probation and Parole System. Pew Has 50 Ideas to Help*, Arnold Ventures (April 2020), <https://www.arnoldventures.org/stories/coronavirus-adds-urgency-to-addressing-the-nations-probation-and-parole-system-pew-has-50-ideas-to-help/>; KTNV, *Nevada Parole Panel to Conduct Virtual Parole Hearings*, KTNV Las Vegas, May 21, 2020, <https://www.ktnv.com/news/nevada-parole-panel-to-conduct-virtual-parole-hearings>; Tim Scott, *State's Parole Agency Adjust Hearings, Services Amid COVID-19 Pandemic*, ABC Columbia, July 17, 2020, <https://www.abccolumbia.com/2020/07/17/states-parole-agency-adjusts-hearings-services-amid-covid-19-pandemic/>.

66 NE Parole Board, *Parole Hearings: Fiscal Year 2019*, Nebraska Parole Board (2019), <https://parole.nebraska.gov/sites/parole.nebraska.gov/files/Parole%20Hearings%20Datasheet%20FY%202019.pdf>.

67 *Id.*

In addition to concerns about due process and transparency, parole determinations are also susceptible to political influence. Principally, parole board members have been accused of being concerned about backlash from the political party of the governor who appointed them.⁶⁸ As with any government effort, transparency and accountability are valuable safeguards to the outcomes of rehabilitation, safety, and fairness. Thorough data reporting, established factors to guide the release determinations of the parole board, and apolitical oversight of the board are key steps to an effective process.

Before an eligible individual's first parole hearing, a minimum term of incarceration generally must be served. State statutes in each jurisdiction govern the earliest possible date when an individual is eligible for a parole hearing, and each state differs not only in the amount of time to be served but also what considerations influence that amount of time. Among states with active parole systems, the average minimum amount of time that must be served before parole eligibility is 33% or one-third of the sentence to incarceration.⁶⁹ It is important to note that the range of the minimum percentages of time that must be served varies from 15% in Missouri to 50% in six different states.⁷⁰ Fourteen states do not set a specific percentage or ratio that must be served of the sentence.⁷¹ Instead, they leave it to the sentencing court to set a minimum term of incarceration that must be served before a person's parole hearing. The outlier of these norms is Hawaii, where the minimum sentence an individual must serve before parole eligibility is determined within the first six months of incarceration, and that decision is made by the parole board.⁷²

In half of all states, the type of offense committed influences a person's earliest release eligibility date. In Missouri, only those convicted of Class D and E drug and nonviolent offenses become parole-eligible after serving 15% of their term of incarceration, while more significant offenses result in a greater percentage of the sentence that must be served before eligibility is considered.⁷³ In Mississippi, Rhode Island, and Texas, the minimum amount of time that must be served for any offense is increased significantly if the offense has been committed multiple times.⁷⁴ In Texas, this distinction could mean a difference of 20 years of incarceration between one third-degree felony and a record of multiple third-degree felonies. In addition, the type of offense committed does not just impact the time portion of eligibility. In a dozen states, the offense also plays a role in whether a person is eligible for parole at all.

68 Beth Schwartzapfel, *How Parole Boards Keep Prisoners in the Dark and Behind Bars*, Washington Post (July 11, 2015), https://www.washingtonpost.com/national/the-power-and-politics-of-parole-boards/2015/07/10/49c1844e-1f71-11e5-84d5-eb37ee8eaa61_story.html.

69 See Appendix C.

70 See Appendix C.

71 See Appendix C.

72 Hawaii Paroling Authority, *supra* note 65.

73 See Appendix C.

74 See Appendix C.

Nebraska is the only state that sets a percentage of time that must be served and applies it to every parole-eligible person regardless of offense class or type.⁷⁵ With the notable exception of those sentenced to a life term of incarceration, every other individual in Nebraska must serve 50% of their sentence before their earliest date of release to parole.⁷⁶ This method accounts for the role of the judge or jury in setting a proportional sentence, while reserving considerations of rehabilitation as the decision of the parole board. Here, one standard percentage can be set for all offenses and still serve proportionality goals because an individual sentenced to five years for a nonviolent crime will be eligible for parole after two and a half years, but someone sentenced to 30 years must still serve at least 15 years before becoming eligible for parole.

Threshold questions of eligibility are fundamental to a parole system that successfully incentivizes rehabilitation. By cultivating good citizenship and addressing underlying behaviors in a way that leads to community safety, producing active accountability for those who would seek release to supervision, broad parole eligibility best serves successful outcomes. In evaluating the percentage of time that must be served before an earliest release date, there are limited ways to measure impact on desired outcomes. Although parole grant rates are helpful in this regard, only 17 states make such data publicly available, and those grant rates cannot be solely tied to time served.⁷⁷ However, an analysis of the information available does indicate that states that require individuals to serve half of their sentence before becoming eligible for parole tend to grant parole more than 50% of the time.⁷⁸ In states where the minimum time served is set at one-third of a sentence or less, there were various results. Some of those states still grant parole more than 50% of the time, while others grant parole only 30% of the time.

As previously discussed, risk/needs assessments should be used upon admittance to determine the programming an individual receives while in prison. When used effectively, a risk/needs assessment should help an individual achieve rehabilitation regardless of the offense. This process leaves the nature of the offense to drive the sentencing process, while allowing rehabilitation to be the focus of release.

75 Neb. Rev. Stat. Ann. § 83-1,110 (2019).

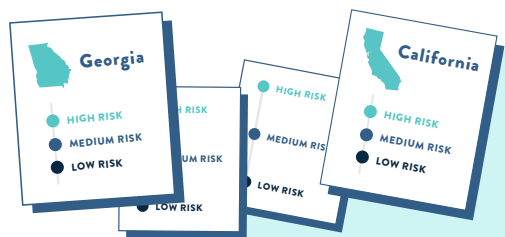
76 *Id.*

77 See Appendix B.

78 See Appendix B.

Risk/Needs Assessments

32 states mandate the use of risk/needs assessments as part of release decisions.



b. Earned Time and Good Time Credits

Encouraging rehabilitative achievements through program participation and the operation of safe and healthy prison environments are the driving forces behind release incentive credits. While both earned time and good time credits allow for an individual to attain release outside of the discretionary decision-making process of the parole board, they incentivize different aspects of rehabilitation. Earned time credits typically offer a set number of credits an incarcerated person can achieve by completing programming or other assignments. Once achieved, these credits are applied to the individual's sentence. The amount of time granted through release incentive credits is determined by legislators and laid out within the state's statutes, then implemented and governed by the Department of Corrections.⁷⁹ Alternatively, good time credits are meant to incentivize compliant and constructive behavior during incarceration and often are awarded at the discretion of agency or facility administrators.⁸⁰ Each of these credits in their own right are valuable tools to achieve safe prison environments and contribute to better outcomes upon release.

Earned time credits incentivize participation in programs that are understood to help participants address criminogenic thinking and behaviors and return to their communities as more productive citizens.⁸¹ A recent survey found that the majority of U.S. adults, and nearly 80% of Christians, favor individuals earning time off their sentences for completion of programs that are proven to develop positive life skills and reduce recidivism.⁸² Over 30 states offer earned time credits, and the amount of time awarded ranges from two days per month to one day per day of participation accrual. In some states, credits are awarded based on the type or category of programming, while others offer a set credit amount for any approved program participation. For example, an Ohio prisoner can earn credits for “productively” participating in several types of programming, but credits assigned for completing educational or vocational programming are dramatically higher than less intensive programs.⁸³

Most states have credits available for multiple types of programs, so that an individual could earn time for completion of a degree and then continue to earn time while working or participating in a rehabilitative program. In 20 states, earned time credit is offered for educational programs, and participation in a vocational program allows individuals to earn credit in 16 states.⁸⁴ Eighteen states provide earned time credits for participation in work programs, and only 14 states accredit participation in a rehabilitative program, such as substance abuse or anger management.⁸⁵

79 Alison Lawrence, *Cutting Corrections Costs: Earned Time Policies for State Prisoners*, National Conference of State Legislatures (July 2009), https://www.ncsl.org/documents/cj/earned_time_report.pdf.

80 *Id.*

81 *Id.*

82 Barna, *Executive Summary: Justice Reform Survey*, Prison Fellowship (2017), https://www.prisonfellowship.org/site/wp-content/uploads/2018/02/BarnaResults_FINAL.pdf.

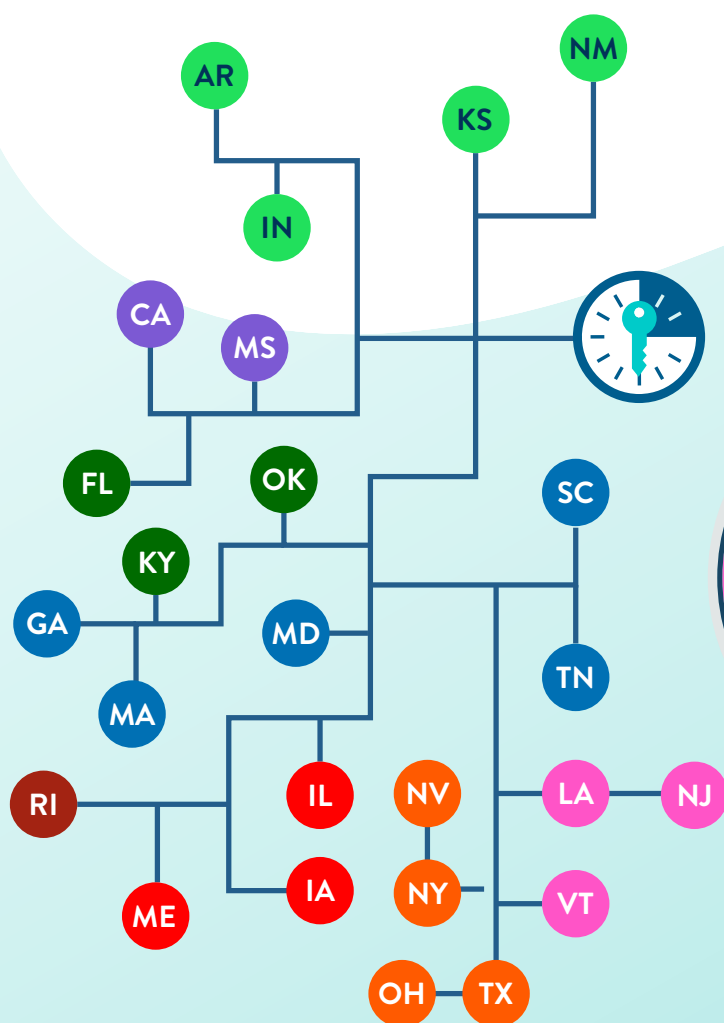
83 Ohio Rev. Code Ann. § 2967.193 (2019).

84 Lawrence, *supra* note 79.

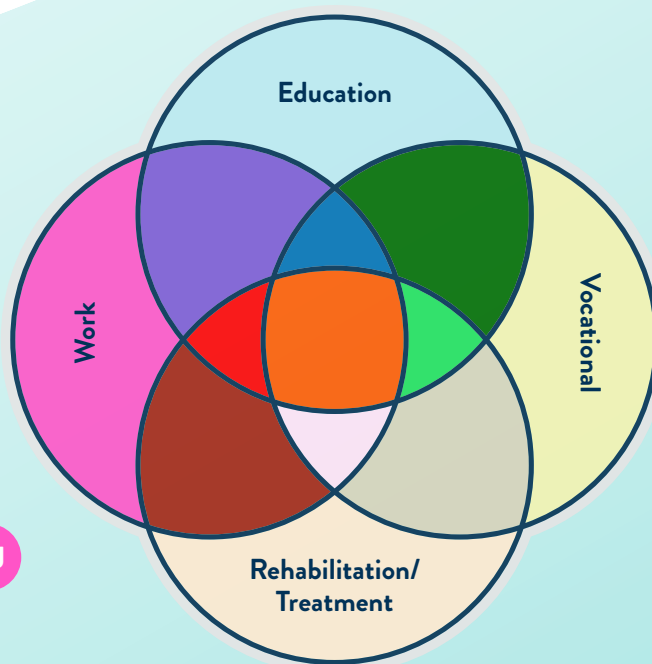
85 *Id.*

Earned Time Credit by State

In 20 states, earned time credit is offered for educational programs, and participation in vocational programs allows individuals to earn credit in 16 states. Participating in a rehabilitative program, such as substance abuse or anger management, results in a reduction of imprisonment in 14 states. Lastly, there are 18 states that allow for an individual to earn time credit through work programs.



EARNED TIME CREDIT PROGRAMS BY STATE



Within the federal BOP, the residential drug abuse program (RDAP) has long been the exclusive method of accruing earned time credits. The RDAP has strict eligibility requirements and notoriously limited availability.⁸⁶ The FIRST STEP Act, signed into law in December 2018, significantly broadened the use of earned time credits in federal prisons by increasing both the number of programs that qualify for earned time credits and the amount of time one could earn to shorten a given sentence. To achieve this, the law focused on the recidivism-reducing qualifications of programs, as approved by an application and review process.⁸⁷ The law also allows for earned time credits to be awarded for “productive activities,” recognizing that low-risk individuals may not require and should not take up critical spots in intensive recidivism-reduction programs.

Even where earned time credits are available, access to programming is frequently limited by considerations of funding, staffing, and even the physical layout of a prison facility. Program access is a variable not only across jurisdictions, but across facilities within an agency; a prison in one part of the state may offer two accredited programs, while another prison in the state offers eight or nine programs.⁸⁸ To account for these differences, states and agencies should prioritize partnerships with private employers, colleges, and universities, alongside churches and nonprofits, to offer robust and effective programming. New construction of prison facilities should also include physical layouts that cater to effective program offerings, reflecting the understanding that appropriately assigned programming has been shown to reduce prison misconduct, lower recidivism, and financially benefit institutions.⁸⁹

While earned time credits are designed to direct participants to certain programming, good time credits are intended to build better interpersonal habits and acknowledge rule-following behaviors. As a result, good time credits are most often awarded for abiding by facility rules, avoiding disciplinary action, and refraining from the commission of new offenses while incarcerated.⁹⁰ By complying with these standards, incarcerated men and women can be rewarded with anywhere from four days to 75 days per every 30 days served.⁹¹ Some states credit time off the entire sentence rather than an accrual by days. For example, Wisconsin offers up to 25% off a person’s sentence for good behavior.⁹² The discretionary nature of good time credits can cut both ways, however. Upon the commission of a new crime (continued on p. 30)

86 Emily Greene, *What is the First Step Act?*, Prison Fellowship (2019), <https://www.prisonfellowship.org/2019/01/what-is-the-first-step-act/>.

87 Federal Bureau of Prisons, *Review of External Programs Submitted-General*, U.S. Department of Justice (2020), https://www.bop.gov/inmates/fsa/docs/external_program_general_info.pdf.

88 KS DOC, *Facilities: Programs*, Kansas Department of Corrections (2019), <https://www.doc.ks.gov/facilities/ecf/programs-1>; VA DOC, *Incoming Offenders: Programs*, Virginia Department of Corrections (2020), <https://vadoc.virginia.gov/offender-resources/incoming-offenders/facility-programs/>.

89 Lawrence, *supra* note 79.

90 Lawrence, *supra* note 7.

91 See Appendix D. Statutory language varies by state regarding whether accrual is based on a calendar month or 30 days. This makes an impact as some months are longer, or shorter, than 30 days and therefore would alter the accrual rate.

92 Wis. Stat. Ann. § 302.43.



Program Access Is Variable

Not only is program access variable across jurisdictions, but across facilities within an agency; a prison in one part of the state may offer two accredited programs, while another prison in the state offers eight or nine programs. Since programming impacts release decisions, the lack of programming at one facility versus another could impact an individual's opportunity for release.



or new disciplinary infraction, good time credits can be revoked. When these credits are revoked, some states provide a path to re-accrue those that are lost, while others consider them permanently lost.⁹³ Good time credits can be offered in addition to earned time credits or incorporated within earned time credit policies. For example, in order to accrue earned time credits in Oregon prisons, a person must both complete the relevant programming and demonstrate good behavior.⁹⁴ Only six states offer good time credits without also extending opportunities for earned time credits.⁹⁵

Similar to parole policies, there are individuals in many state facilities and the BOP who are ineligible for, or limited in, the amount of earned time or good time credits available due to the offense committed.⁹⁶ The amount of time accredited through earned time or good time ranges based on the type of offense in several states. As an example, for earned time credits, an individual serving time for a drug possession offense in Arizona is eligible for accrual up to three days for every seven days served when they complete drug treatment programming. For all other offenses and programming, the accrual is a maximum of one day for every six days served. In Indiana, the range of days for good time credits starts with lower level offenses accrediting at one day per one day served and goes up to one day per six days served for higher level offenses.⁹⁷ Many states completely eliminate the opportunity for credits if the individual committed a serious violent offense or is serving a life sentence.⁹⁸ Kentucky is uniquely situated in that an individual who commits a sexual offense is ineligible for good time credits until they complete a sex treatment program.⁹⁹

Earned time and good time credit programs can each play a valuable role in cultivating safe and healthy environments in correctional facilities and contributing to rehabilitation among participants. Because the comparative aim and value of earned time credit programs bear a stronger relationship to outcomes like safe and successful reintegration to the community postrelease, earned time credits should offer more significant incentives than good time credits. However, good time credits serve as an important goal in safely and effectively running correctional facilities.

Both earned time and good time incentive credits can be used in addition to parole, and there does not appear to be any relationship between the availability of parole and the amount of time offered through credits in most jurisdiction. For example, although Maryland offers parole and Maine does not, both

93 Texas and Alabama serve as an example of this. In Alabama, an individual can restore their credits or begin to build them back up again after forfeiture. However, in Texas, once credits are revoked they are gone and unrevivable. AL § 14-9-41; TX Govt. Code § 498.004.

94 Or. Rev. Stat. § 421.121.

95 See Appendix D.

96 Federal Bureau of Prisons, *Disqualifying Offenses*, U.S. Department of Justice (2020), https://www.bop.gov/resources/fsa/time_credits_disqualifying_offenses.jsp.

97 Ind. Code Ann. § 35-50-6.

98 Lawrence, *supra* note 79.


99 Ky. Rev. Stat. Ann. § 197.045.

states offer five days per month of earned time credits for program participation.¹⁰⁰ Generally, where states offer earned time or good time credits and parole, the relevant correctional agency applies credits to an individual's earliest possible release date, often resulting in earlier parole eligibility.¹⁰¹ In states where parole is not available, or in the event that an eligible individual is not granted release to parole supervision, earned time or good time credits apply to the ultimate release date.

100 Me. Rev. Stat. Ann. tit. 17-A, § 1253(8)-(10); Md. Code Ann., Corr. Servs. § 3-706.

101 Lawrence, *supra* note 79; Michael O'Hear, *Let the Good Time Roll: Early Release for Good Behavior in Prison*, Marquette University Law School (2015), <https://scholarship.law.marquette.edu/cgi/viewcontent.cgi?article=1655&context=facpub>.

RECOMMENDATIONS AND CONCLUSION



Recommendations and Conclusion

While the goals of the truth in sentencing movement were, on the whole, good, it failed to deliver on the basic promise of a more reliable justice system that more effectively curbs crime. Longer sentences and fewer release incentives produced, overall, diminishing returns for public safety.¹⁰² Where release incentive programs remained available, limited eligibility and release determination factors linked heavily to offense and criminal history subverted the focus from rehabilitative progress to a utilitarian means of addressing overcrowded corrections facilities.

When weighing release incentives, lawmakers should consider the following recommendations:

- **Expand Release Incentives.**

Release incentives like parole, earned time credits, and good time credits serve the valuable purpose of incentivizing rehabilitative achievement among men and women in prison and should be offered in a coordinated manner that does not subvert proportionality of punishment.

- **Align Eligibility to Rehabilitation.**

The penalty for a crime must address a variety of concerns, primarily the direct harm committed to victims, the breach of community trust, and the safety of the public. Consideration of the nature of the offense and any aggravating or mitigating circumstances is a task best suited to the sentencing judge or jury equipped with the facts and circumstances of the case and the relevant guidelines for sentencing. Since these factors are already justly accounted for upon conviction and sentencing, eligibility for release incentives should not be based on offense class or type. This preserves the distinct purpose of a release incentive's focus on evaluating the incarcerated person's demonstration of active accountability, rehabilitation, and reentry readiness.

- **Provide Robust Programming.**

Parole considerations and earned time credits should include a broad ecosystem of positive programming within prisons, including cognitive-behavioral, education, work, treatment, and other programs that instill good character and citizenship. Every effort should be made to ensure that programming is available for incarcerated men and women who would pursue rehabilitation and, where prudent, should be assigned based on risk and need assessments.

- **Protect Process Integrity.**

Implementation of release incentive programs should strive to be free from bias. Oversight of parole boards should be independent and free from political interference or implications.

¹⁰² Rosich, *supra* note 2; Pew, *supra* note 4.

- **Increase Transparency.**

The process and decisions related to release incentive programs should be transparent, including providing the decision-making rationale from parole board hearings to the incarcerated person being considered, as well as to lawmakers and the public.

- **Prioritize Further Research.**

The relationship between release incentive programs, in-prison programming participation, and successful outcomes postrelease warrants further study. Departments of correction, parole boards, and other relevant bodies should carefully document and evaluate data to this end, including data on racial disparities and impact.

These recommendations are supported by three decades of research and experience, which have uncovered a relationship between productive behavior during incarceration and success upon release. Participation in programming during incarceration can improve prison culture, reduce recidivism, and increase opportunities for postrelease success.¹⁰³ In particular, programming that seeks to engage the participant to problem-solve and create new habits yields significant benefits.¹⁰⁴ Although other factors like housing stability and access to meaningful employment remain important to the story of successful reentry, we have gained a better understanding of the importance of in-prison programming, dignifying work, and opportunities to make amends.

Capitalizing on this knowledge, lawmakers should work to construct release incentives that recognize making amends and rehabilitation as part of a just punishment, not simply a safety valve for overly punitive sentencing structures or an avenue to rehear the facts of the underlying case. When paired with a penalty that fits the crime, release incentives like parole, earned time credits, and good time credits can pave the road to redemption: transforming the concept of punishment from a passive stance of “doing time” to an active participation in making amends.

103 Duwe, *supra* note 6.

104 *Id.*

APPENDICES



Appendix A

Glossary of Terms

Determinate Sentence: A sentence for a fixed period of time that a person must serve, which can be reduced by good time or earned time credits.

Earned Time Credits: Merits of time awarded for participation in prison programming or work.

Indeterminate Sentence: A sentence for a range of time, leaving discretion to a parole board on how much time within the set range is actually served.

Good Time Credits: Merits of time awarded for good behavior in prison.

Mandatory Minimum: Minimum sentence required by law for a particular offense.

Parole: A release incentive that recognizes rehabilitation among prisoners with an indeterminate sentence by their release from incarceration to a period of community supervision. Parole may be mandatory or discretionary; this report discusses discretionary parole where the release decision rests with a parole granting authority (e.g., parole board).

Truth in Sentencing: A movement throughout the 1980s and 1990s, during which criminal penalties were changed to be more punitive, including policies to restrict the use of release incentive credits and parole.

Methodology

The information included in the following appendices reflects publicly available data provided by each jurisdiction's respective parole board, correctional agencies, and statutory code.

Across many jurisdictions, prominent gaps exist in the data, transparency, and accountability surrounding the use of release incentive policies. Release incentives like parole, earned time credits, and good time credits serve to incentivize rehabilitative achievement among individuals in prison. Yet, reliable information regarding their use is necessary to access systems and hold decision-makers accountable to the outcomes of proportionality, rehabilitation, and safety. Over a dozen states currently lack a publicly available report on parole, and only a limited number provide public data on earned time or good time credit awards, leaving many unanswered questions.

The process and decisions related to release incentive programs should be transparent. Prison Fellowship® hopes that these appendices will serve as an informational resource and encourage positive change in this area.

Appendix B

Parole Board Composition and Considerations

State	Full-Time Members	Board Term (in years)	Use of Risk Needs Assessment	Victim Input Allowed	Sentencing Judge/ Prosecutor's Opinion Considered	Public Report Available
Alabama	3	Staggered terms: 2, 4, 6 years	Yes	Yes	Yes	Yes
Alaska	5	5 years	Yes	Yes	Yes	Yes
Arizona		7 years				
Arkansas	7		Yes	Yes	Yes	Yes
California	17	3 years	Unknown	Yes	Unclear	Yes
Colorado	7	3 years	Yes	Yes	Unclear	Unclear
Connecticut	10	Follow governor's term	Yes	Yes	Yes	Yes
Delaware						
Florida						
Georgia	5	7 years	Yes	Yes	Yes	Yes
Hawaii	3	4 years	Yes	Unclear	Yes	Yes
Idaho	7	3 years	Yes	Yes	Yes	Yes
Illinois						
Indiana						
Iowa	5	4 years	Yes	Yes	Unclear	Yes
Kansas	3	Unclear	Yes	Yes	Unclear	Unclear
Kentucky	9	4 years	Yes	Yes	Yes	Yes
Louisiana	7	Follow governor's term	Yes	Yes	Unclear	Yes
Maine						
Maryland	7	6 years	Yes	Yes	Yes	Yes
Massachusetts	7	5 years	Yes	Yes	Unclear	Yes
Michigan	10	4 years	Yes	Yes	Yes	Yes
Minnesota						
Mississippi	5	Term is at will of governor	No	Yes	Unclear	Unclear
Missouri	7	6 years	Yes	Yes	Yes	Yes
Montana	5	4 years	Yes	Yes	Yes	Yes
Nebraska	5	6 years	Yes	Yes	Unclear	Yes

Parole Board Composition and Considerations (continued)

State	Full-Time Members	Board Term (in years)	Use of Risk Needs Assessment	Victim Input Allowed	Sentencing Judge/ Prosecutor's Opinion Considered	Public Report Available
Nevada	7	4 years	Yes	Yes	Unclear	Yes
New Hampshire	9	5 years	No	Yes	Unclear	Yes
New Jersey	18	6 years	Yes	Yes	Yes	Yes
New Mexico	15	6 years	Unknown	Yes	Unclear	Unclear
New York	19	6 years	Yes	Yes	Yes	Unclear
North Carolina						
North Dakota	6	3 years	No	Yes	Unclear	Yes
Ohio						
Oklahoma	5	Follow governor's term	No	Yes	Yes	No
Oregon						
Pennsylvania	9	6 years	Yes	Yes	Yes	Yes
Rhode Island	7	3 years	Yes	Yes	Yes	No
South Carolina	7	6 years	Yes	Yes	Yes	Yes
South Dakota	9	4 years	Yes	Yes	Unclear	Unclear
Tennessee	7	6 years	Yes	Yes	Yes	Unclear
Texas	7	6 years	Yes	Yes	Yes	Yes
Utah	5	5 years	Yes	Yes	Unclear	No
Vermont	5	3 years	Yes	Yes	Unclear	Yes
Virginia						
Washington						
West Virginia	9	6 years	Yes	Yes	Unclear	No
Wisconsin						
Wyoming	7	6 years	Yes	Unclear	Yes	Yes
Federal						

Appendix C

Parole Eligibility Time Frames

State	Statutory Language on Eligibility (Refer to statute for full details.)	Maximum Percentage of Time Off	Source
Alabama	An individual becomes eligible after serving $\frac{1}{3}$ of sentence or 10 years, whichever is less. Certain Class A felonies, must serve 85% or 15 years, whichever is less.	67%	Ala. Code § 15-22-28(e) (2019).
Alaska	If sentenced for first- or second-degree murder, individual must serve mandatory minimum and at least $\frac{2}{3}$ of term of imprisonment imposed before parole. For other felonies under Alaska Stat. § 12.55.125(a)-(b) (felony sentencing statute), individuals must serve mandatory minimum and at least $\frac{1}{2}$ of term of imprisonment.	50%	Alaska Stat. § 33.16.090 (2019).
Arizona	Before parole was abolished in January 1994, individuals were eligible after serving $\frac{1}{2}$ of sentence imposed, unless sentenced otherwise.	Abolished	Ariz. Rev. Stat. § 41-1604.09 (2019).
Arkansas	An individual is eligible after serving $\frac{1}{3}$ or $\frac{1}{2}$ (with good time credit) of sentence, depending on the seriousness determination made by the Arkansas Sentencing Commission, or $\frac{1}{2}$ (with good time credit) of the time to which sentence is commuted by executive clemency, with exclusions.	67%	Ark. Code Ann. §§ 16-93-607, 16-93-614 (2019).
California	An individual imprisoned in state prison pursuant to Section 1168 (substitution of determinate sentences for prior indeterminate sentences) or 1170 (determinate sentencing) shall receive a period of parole supervision or postrelease community supervision unless waived or as otherwise provided.	0% (determinate sentences); determined by Board of Parole (indeterminate sentences).	Cal. Penal Code §§ 1170, 3000, 3000.08 (2019).
Colorado	An individual is eligible after serving 50% of sentence (less earned time), except for individuals convicted of violent felonies, who are eligible after serving 75% of sentence (less earned time).	50%	Colo. Rev. Stat. § 17-22.5-403 (2019).

Parole Eligibility Time Frames (continued)

State	Statutory Language on Eligibility (Refer to statute for full details.)	Maximum Percentage of Time Off	Source
Connecticut	An individual is eligible after serving ½ of total effective sentence (less risk reduction credit) or ½ of the most recent sentence imposed by the court (less risk reduction credit). Some violent crimes require the individual to serve 85% of sentence before becoming eligible, with exceptions.	50%	Conn. Gen. Stat. § 54-125a (2019).
Delaware	Before parole was abolished in June 1990, individuals were eligible for parole after serving ½ of the term imposed by the court (less merit and good behavior credits) or 120 days, whichever is greater.	Abolished	Del. Code Ann., tit. 11, § 4346 (2019).
Florida	Before parole was abolished in October 1983, an individual's eligibility was based on sentence length. Individuals sentenced for an indeterminate term, or a term of 3 years or less, had an initial interview within 8 months after the initial date of confinement.	Abolished	Fla. Stat. § 947.16 (2019).
Georgia	An individual serving a sentence for a misdemeanor or nonviolent, nonrepeat felony shall only be eligible for consideration for parole after six months of sentence or ½ of sentence, whichever is greater. Individuals serving sentences aggregating 21 years or more become eligible after seven years.	67%	Ga. Code Ann. § 42-9-45 (2019).
Hawaii	An individual sentenced to indeterminate or extended prison term shall have a hearing by the Hawaii paroling authority within six months of commitment to fix the minimum term of imprisonment to be served before eligible.	Determined by the court and the Hawaii Paroling Authority.	Hawaii Rev. Stat. §§ 706-659 to 661, 706-669 to 670 (2019).
Idaho	An individual is eligible for parole after serving the required statutory sentence of a unified sentence.	Determined by the court.	Idaho Code §§ 19-2513, 20-223 (2019).
Illinois	Before parole was abolished in February 1978, an individual was eligible for parole after serving the minimum term of an indeterminate sentence (less good time) or 20 years or ½ of a determinate sentence, whichever is less (less good time).	Abolished	730 Ill. Comp. Stat. 5/3-3-3 (2019).

Parole Eligibility Time Frames (continued)

State	Statutory Language on Eligibility (Refer to statute for full details.)	Maximum Percentage of Time Off	Source
Indiana	Before parole was abolished in October 1977, an individual was eligible after serving the minimum term of imprisonment (less credit time) or upon completion of ½ of determinate term of imprisonment or at the expiration of 20 years, whichever comes first (less credit time).	Abolished	Ind. Code Ann. §§ 11-13-3-2, 35-50-6-1 (2019).
Iowa	An individual's eligibility is considered at least once per year, with exceptions, and can start as early as one year after incarceration.	Determined by the parole board.	Iowa Code §§ 902.11-902.12, 906.5 (2019).
Kansas	Before parole was abolished for most offenses in July 1993, an individual became eligible after serving the entire minimum term (less good time), with exceptions.	Abolished	Kan. Stat. Ann. § 22-3717 (2019).
Kentucky	An individual serving two to 39 years is eligible after serving 20% of sentence, with exceptions.	80%	501 Ky. Admin. Regs. 1:030 (2019).
Louisiana	An individual becomes eligible after serving 25% of the sentence imposed, with exceptions.	75%+	La. Rev. Stat. § 15:574.4 (2019).
Maine	Before parole was abolished in May 1976, an individual was eligible prior to the expiration of ½ of the term imposed by the court (less good behavior) when convicted of certain offenses.	Abolished	Me. Rev. Stat. Ann. tit. 34-A, § 5803 (2019).
Maryland	An individual becomes eligible after serving ¼ of sentence, with exceptions.	75%	Md. Code Ann., Correctional Services § 7-301 (2020).
Massachusetts	House of Correction Sentences: Individuals are eligible after serving ½ of the total aggregate term of incarceration or two years, whichever is shorter. State Prison Sentences: Individuals are eligible for parole after serving the minimum term of sentence (less deductions for earned good time), with exceptions.	50%	120 Mass. Code Regs. 200.02 (2019).
Michigan	An individual becomes eligible after serving minimum term, minus good time and disciplinary credits, with exceptions.	Determined by trial court.	Mich. Comp. Laws Serv. §§ 791.233-791.233b, 791.235 (2019).
Minnesota	Before parole was abolished in May 1980, the commissioner of corrections could grant parole to any individual, with exception.	Abolished	Minn. Stat. §§ 243.05, 244.08 (2019).
Mississippi	An individual becomes eligible after serving ¼ of sentence, with exceptions.	75%	Miss. Code Ann. § 47-7-3 (2019).
Missouri	An individual becomes eligible after serving 15% of maximum sentence, with exceptions.	85%	Mo. Code Regs. Ann. tit. 14, § 80-2.010 (2019).
Montana	An individual becomes eligible after serving at least ¼ of full term, with exceptions.	75%	Mont. Code Ann. § 46-23-201 (2019).

Parole Eligibility Time Frames (continued)

State	Statutory Language on Eligibility (Refer to statute for full details.)	Maximum Percentage of Time Off	Source
Nebraska	Every individual in prison becomes eligible for release after serving $\frac{1}{2}$ the minimum term of sentence.	50%	Neb. Rev. Stat. Ann. § 83-1,110 (2019).
Nevada	An individual becomes eligible after serving the minimum term or minimum aggregate term of imprisonment imposed by the court.	Determined by the court	Nev. Rev. Stat. Ann. § 213.120 (2019).
New Hampshire	An individual becomes eligible after serving the minimum term of sentence (minus credits, plus disciplinary period), with exceptions.	Determined by the court	N.H. Rev. Stat. Ann. §§ 651-A:6-A:8 (2019).
New Jersey	An individual becomes eligible after serving any judicial or statutory mandatory minimum term or $\frac{1}{3}$ of the sentence imposed with no mandatory minimum (less commutation for good behavior and credit for institutional assignments), with exception for life sentences.	67%	N.J. Stat. §§ 30:4-123.10, 30:4-123.51 (2019).
New Mexico	Before parole was abolished in July 1979, an individual was eligible after serving required term by court.	Abolished	N.M. Stat. § 31-21-10 (2019).
New York	Indeterminate sentences : An individual is eligible for release at the discretion of board of parole after serving minimum term of the sentence. Determinate sentences: An individual is not eligible for parole.	Determined by court (indeterminate sentence); 0% (determinate sentence).	N.Y. Penal Law §§ 70.00, 70.40, 70.45 (2019).
North Carolina	Before parole was abolished in October 1994, an individual was eligible after serving minimum term, or $\frac{1}{3}$ of the maximum penalty allowed by law, whichever is less (less credits).	Abolished	N.C. Gen. Stat. §§ 15A-1340.13, 15A-1371 (2019).
North Dakota	An individual's eligibility is determined by the parole board. If the board is convinced the individual will conform to the terms and conditions of parole the board or the Department of Corrections and Rehabilitation may establish, then an individual may be released by the board at any time, with exception.	Determined by the parole board.	N.D. Cent. Code, §§ 12-59-01, 12.1-32-09.1 (2019).
Ohio	Before parole was abolished for most offenses in July 1996, an individual had to serve minimum term before eligible for parole.	Abolished	Ohio Rev. Code Ann. § 2967.13 (2019); Ohio Admin. Code 5120:1-1-03 (2019).

Parole Eligibility Time Frames (continued)

State	Statutory Language on Eligibility (Refer to statute for full details.)	Maximum Percentage of Time Off	Source
Oklahoma	Before October 30, 2018: An individual was eligible after serving $\frac{1}{3}$ of sentence, with exception. As of November 1, 2018: An individual becomes eligible after serving $\frac{1}{4}$ of sentence imposed, with exceptions	67% (crime committed before Nov. 1, 2018); 75% (crime committed on or after Nov. 1, 2018).	Okla. Stat. tit. 21, § 13.1 (2019); Okla. Stat. tit. 57, § 332.7 (2019).
Oregon	Before parole was abolished for most offenses in November 1989, an individual was eligible after serving one's minimum term, which the court may impose at up to $\frac{1}{2}$ the maximum.	Abolished	Ore. Rev. Stat. §§ 144.050, 144.110 (2019); Ore. Admin. R. 213-004-0001, 255-005-0005 (2020).
Pennsylvania	An individual is eligible after serving the minimum term of imprisonment set by the court.	Determined by court.	61 Pa. Cons. Stat. § 6137 (2019).
Rhode Island	An individual is eligible after serving not less than $\frac{1}{3}$ of sentence, with exceptions.	67%	R.I. Gen. Laws § 13-8-9 (2019).
South Carolina	An individual becomes eligible after serving $\frac{1}{4}$ of sentence, with exceptions.	75%	S.C. Code Ann. §§ 24-13-100, 24-13-150, 24-21-610 (2019).
South Dakota	An individual becomes eligible after serving $\frac{1}{4}$ of sentence, with exceptions	75%	S.D. Codified Laws § 24-15-5 (2019).
Tennessee	Indeterminate sentences: An individual becomes eligible after serving minimum term, and serves no less than one year. Determinate sentences: An individual becomes eligible after serving $\frac{1}{2}$ the sentence imposed by the court and no less than one year.	Determined by the court (indeterminate); 50% (determinate).	Tenn. Code Ann. § 40-28-115 (2019).
Texas	An individual becomes eligible after serving $\frac{1}{4}$ of sentence (less good time) or 15 years, whichever is less, with exceptions.	75%	Tex. Govt Code § 508.145 (2019).
Utah	The parole board may parole any individual, except those who must serve mandatory minimum sentences and those sentenced to death or life without parole.	Determined by the parole board or court.	Utah Code Ann. § 77-27-9 (2019).
Vermont	An individual becomes eligible for parole within 12 months with no minimum sentence or after serving minimum sentence if there is one.	Determined by parole board or court.	Vt. Stat. Ann. tit. 28, § 501 (2019).
Virginia	Before parole was abolished January 1995, an individual was eligible after serving $\frac{1}{4}$ of sentence or 12 years, whichever is less, with exception.	Abolished	Va. Code Ann. §§ 53.1-151, 53.1-159, 53.1-165.1 (2019).

Parole Eligibility Time Frames (continued)

State	Statutory Language on Eligibility (Refer to statute for full details.)	Maximum Percentage of Time Off	Source
Washington	Before parole was abolished July 1984, an individual was eligible after serving the minimum term fixed by the court under the indeterminate sentencing system.	Abolished	Rev. Code Wash. §§ 9.94A.505, 9.95.011, 72.04A.900 (2019); Wash. Admin. Code § 381-30-060 (2019).
West Virginia	An individual becomes eligible after serving the minimum term of an indeterminate sentence or ¼ of a definite term sentence, with exceptions.	75% (definite term sentence); determined by court (indeterminate sentence)	W. Va. Code § 62-12-13 (2019); W. Va. Code R. § 92-1-2 (2019).
Wisconsin	Before parole was abolished December 1999, an individual was eligible after serving 25% of sentence or six months, whichever was greater, with exception.	Abolished	Wis. Stat. §§ 302.11, 304.06, 973.01, 973.014 (2019).
Wyoming	An individual becomes eligible after serving the minimum sentence set by the trial court (less good time), with exception.	Determined by the court.	Wyo. Stat. § 7-13-402 (2019).
Federal	Before parole was abolished in November 1987, an individual was eligible after serving ⅓ of sentence, or after serving 10 years of a life sentence or of a sentence of over 30 years, with exception.	Abolished	18 U.S. Code §§ 3581, 3583, 4201-4218 (2019).

Appendix D

Accrual of Earned Time and Good Time

The data below reflect the exact statutory language for each state. The accrual period varies by state and, in some cases, by program and offense.

State	Good Time	Earned Time	Total Time	Statute
Alabama	75 days for every 30 days			Ala. Code §14-9-41.
Alaska	⅓ of sentence			Alaska Stat. §33.20.010.
Arizona		One for every six days		Ariz. Rev. Stat. § 41-1604.07.
Arkansas	30 days per month	Cannot exceed 360 days on top of good time		Ark. Code Ann. §§ 12-29-201, 202.
California	67%	12 weeks per year for milestone program completion, 40 days per year for rehabilitation credits, 180-day one-time credit for education		Cal. Code Regs. tit. 15, §§ 3043.2 - 3043.5.
Colorado		12 days for each month		Colo. Rev. Stat. § 17-22.5-405.
Connecticut		Five days per month		Conn. Gen. Stat. § 18-98e
Delaware	36 days per year	Five days per month for education, work, or rehabilitation program	No more than 160 days in 1 year	Del. Code Ann. tit. 11, § 4381
Florida	10 days per month	10 days per month; one-time award of 60 days for completion of vocational or high school equivalent diploma or performing an outstanding service	Cannot be more than 15%	Fla. Stat. Ann. § 944.275.
Georgia		One day per day of participation in education or vocational education		Ga. Code Ann. § 42-5-101.
Hawaii				
Idaho		15 days for outstanding act		Idaho Code § 20- 101D.
Illinois	Four and a half days per month or one day per day	90 days in addition to good time for high school equivalency test; good time x one and a half. for drug abuse programs or working		730 Ill. Comp. Stat. Ann. 5/3-6-3.

Accrual of Earned Time and Good Time (continued)

State	Good Time	Earned Time	Total Time	Statute
Indiana	One day per one, three, or six days based on offense	Max of two years for bachelor's degree, other degrees and educational credits are lower times	Lesser of two and a half years or $\frac{1}{3}$ of total time	Ind. Code Ann. 35-50-6.
Iowa	15/85 of a day	15% for Category B offenses	One and $\frac{2}{10}$ th of a day per day if Category A, otherwise 15%	IA Code § 903A.2.
Kansas	20%	120 days		Kan. Stat. Ann. § 21-6821.
Kentucky	10 days per month	90 days per diploma, or program completed		Ky. Rev. Stat. Ann. § 197.045.
Louisiana	30 days for every 30 days	30 days for community resource center; 360 days total for education, treatment, and rehabilitation programs	No more than 360 days (cap on earned time)	La. Stat. Ann. § 15:828, 833.1.
Maine	Four days per month	Five days per month		Me. Rev. Stat. Ann. tit. 17-A, § 1253(8)-(10).
Maryland	10 days per month	Five days per month for program; five days for work	20 days per month	Md. Code Ann., Corr. Servs § 3-704, 705, 706.
Massachusetts		Seven and a half days per program per month	Deduction cannot exceed 35%	Mass Ann. Laws ch. 127, § 129D.
Michigan				
Minnesota				
Mississippi	Four and a half days per 30 days	The number of days shall be determined by the commissioner on the basis of each particular program or project	Up to 15%	Miss. Code Ann. § 47-5-138.
Missouri		Two months per year for acceptable behavior and appropriate program		Mo. Code Regs. Ann. tit. 14, § 10-5.010.
Montana				
Nebraska	Six months per year			Neb. Rev. Stat. Ann. § 83-1,107
Nevada	20 days per month	Max of 120 days for associate degree, 90 days for high school diploma, 60 days for GED, 10 days per month for working		Nev. Rev. Stat. Ann. § 209.4465.
New Hampshire	12.5 days per month	180 days for college degree; 120 days for high school diploma dipolma; 60 days for vocational or mental health program		N.H. Rev. Stat. Ann. §§ 651-A:22

Accrual of Earned Time and Good Time (continued)

State	Good Time	Earned Time	Total Time	Statute
New Jersey	Seven days per month, increasing with each year served	One day for every five days		N.J. Stat. Ann. § 30:4-92; § 30:4-140.
New Mexico	30 days per month nonviolent offenses, four days per month for serious violent offense	Three months for high school diploma, five months for bachelor's degree	One year per 12 months	NMSA § 33-2-34.
New York		1/7 off of sentence		N.Y. Correct. Law § 803.
North Carolina		Nine days per month		N.C. Policy & Procedure B.0113.
North Dakota	Five days per month			N.D. Cent. Code § 12-54.1-01.
Ohio		Up to five days for completed month of program; 90 days for completion of educational or vocational program	Outside of completion of an educational program, the maximum amount of credit cannot exceed 8% of total number of days on term	Ohio Rev. Code Ann. § 2967.193
Oklahoma		60 days per month; 200 days for bachelor's degree; 90 days for HS diploma; 80 days for vocational training		Okla. Stat. Ann. tit. 57, §§ 57-138, 65.
Oregon	One day for every two days	Up to 20%	Up to 20% or 30% with obtaining degree of total	Ore. Admin. R. 291-097-0231; 0270.
Pennsylvania				61 Pa. Cons. Stat. § 4505.
Rhode Island	10 days per month	Two days per month for working; five days per month for programs; 30 days for completion of behavioral program		42 R.I. Gen. Laws § 42-56-24.
South Carolina	20 days per month, three days per month if it was a no-parole offense	Maximum of 180 days for work and education credit, no parole offense max is limited to 72 days		S.C. Code Ann. §§ 24-13-210, 230.

Accrual of Earned Time and Good Time (continued)

State	Good Time	Earned Time	Total Time	Statute
South Dakota				S.D. Codified Laws § 24-5-1.
Tennessee	Eight days per month	Eight days per month, one-time credit of 60 days for completion of educational or evidence-based program	16 days per month	Tenn. Code Ann. § 41-21-236.
Texas	20 days per 30 days	15 days for 30 days of participation in work, educational, agricultural, or vocational program	No more than 30 days per month	Tex. Govt Code Ann. §§ 498.002, 003.
Utah			Rather than a maximum, Utah states that earned time shall not be less than four months for the completion of two programs	Utah Code Ann. § 77-27-5.4.
Vermont		30 days for work camp		Vt. Stat. Ann. tit. 28, § 811.
Virginia		Four and a half days per 30 days		Va. Code Ann. § 53.1-202.3 /
Washington			Up to 50%, but only 10% if serious violent offense or sex offense	Wash. Rev. Code § 9.94A.729.
West Virginia	One day per day			W. Va. Code § 15A-4-17.
Wisconsin				Wis. Stat. Ann. §302.43.
Wyoming	15 days per month			Wyo. DOC Policy & Procedure #1.500.
Federal	54 days per year	15 days for every 30 days of programming		18 U.S.C. § 3624(b).