



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Cutting Corrections Costs

Earned Time Policies for State Prisoners



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By
Alison Lawrence



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INTRODUCTION

Under historic budget cuts, state legislatures are looking for ways to trim corrections costs while maintaining public safety. One option is to stabilize or reduce expensive prison populations by accelerating release of lower-risk inmates who complete education, vocational training, treatment and work programs or participate in other productive activities.

At least 31 states provide these incentives—called “earned time”—that reduce the costs of incarceration and help offenders succeed when they return to the community. Inmate prison terms are reduced from the date on which they might have been released had they not completed the specified programs. Earned time is distinguished from, and can be offered in addition to, “good time” credits, which are awarded to offenders who follow prison rules.

Benefits of appropriately tailored earned time policies can include cost savings and reduced recidivism. Even though some earned time laws offer inmates a fairly small reduction in prison terms, those few days can add up to a significant cost savings across hundreds or thousands of inmates. Although any policy that involves shorter lengths of stay for inmates raises concerns about public safety, states with earned time provisions have seen recidivism rates either remain unchanged or actually drop. This decrease in repeat offending can be attributed partially to the benefits of prison-based programming. The reduced recidivism results in a secondary savings

through averted future crime and punishment costs.

TYPES OF EARNED TIME

State laws generally instruct corrections departments to determine the specific programs and activities that will count toward earned time. Programs often include educational, vocational and substance abuse or other rehabilitation classes. In several states, inmates can earn time by participating in work projects and disaster or conservation efforts, or by performing meritorious acts. The appendix illustrates types of earned time by state.

Education and work offer the most common opportunity for earned time. In at least 21 states, inmates earn time off their sentences by participating in or completing educational courses. In Nevada, for example, an inmate can

earn 10 days per month for participation in an education program; and an additional 60, 90 or 120 days for completing a certificate, diploma or degree, respectively.



At least 18 states provide earned time for work. This includes facility work assignments, jobs with prison industries or work crews. California, Colorado and Louisiana laws reward inmates who are trained to work in disaster relief or on conservation projects. Sentence credits for these programs are greater than for ordinary prison work, education or training. In California, an inmate earns two days' credit for every one day of such service.

Inmates can earn time for participating in, as well as credit for completing, vocational programming in at least 16 states. Rehabilitative programs in at least 14 states provide opportunity for earned time, including substance abuse and mental health treatment.

Special projects are eligible for earned time in Kentucky, Maryland and Mississippi. At least 13 states award time for meritorious service, such as preventing escape, helping in emergency situations, and helping to maintain the safety and security of the institution. In North Dakota, meritorious credit is defined as “exceptional quantity or quality of work far beyond the normal expectations for the job assignment, beneficial suggestions resulting in substantial savings to the state, acts of outstanding heroism, or acts which protect the lives of employees or other inmates or the property of the institution.”

QUANTITIES OF EARNED TIME

Lawmakers define how much time offenders can earn and which offenders are eligible. Credits are given as one-time rewards or on a recurring basis, such as monthly. The typical range for a one-time credit is between 30 days and 120 days. In Arkansas, for example, inmates are eligible for one-time credits of 90 days for completion of educational, vocational and substance abuse programs. California, Iowa and New Mexico, however, allow a one-time award of up to 365 days for meritorious service.

For time rewarded regularly, an inmate is generally credited less than one day for each day of participation in a program. In South

Carolina, inmates are eligible for up to one day off their sentence for every two days of participation in an educational, technical or vocational training program. Seven states—California, Colorado, Georgia, Louisiana, Mississippi, Texas and Vermont—have day-for-day credit for participation in certain programs. California and Louisiana also have policies that exceed the day-for-day award. The appendix shows earned time amounts by activity.

Earned time opportunities usually are made available to lower-risk offenders who will be back in the community sooner than inmates who have committed more serious crimes. States generally determine which inmates are eligible based on conviction offense and behavior in prison. In South Carolina, inmates serving a “no parole offense”—including those convicted of serious violent, sexual and drug crimes—are eligible for about nine fewer days per month than inmates who are parole-eligible. Inmates serving a life sentence or a mandatory minimum of at least 30 years are not eligible for earned time. In Indiana’s four-tiered system, only inmates in the least restrictive security classification are eligible for educational, vocational or rehabilitation earned time credits.

A state’s sentencing structure and policies affect and intersect with the amount of earned time available to inmates. Because the time offenders who are serving mandatory minimum sentences cannot be reduced below the statutory minimum, they may not be eligible for some types of earned time. In Tennessee, for example, inmates who are required to serve 85 percent of their sentence can earn time for participation in work, education or vocational training but are

not eligible for a 60-day credit for completing vocational or educational courses.

Inmates who are serving sentences with indeterminate minimums and maximums can have earned time taken off the minimum term, the maximum term or both. In Massachusetts, inmates who participate in rehabilitative programs reduce their length of stay with earned time deductions from both the minimum and maximum terms. In Oklahoma, earned time is deducted only from the maximum term of the sentence; offenders still must serve the entire minimum term ordered by the court. Earned time in Iowa is reduced from the mandatory minimum sentence an inmate is serving.

Most states allow earned time to be lost and be gained back. State laws generally create or instruct the corrections department to create policies and procedures for forfeiture and restoration. Depending on the state, offenders can lose earned time for escapes or attempted escapes, frivolous lawsuits, and other rule violations.

PUBLIC SAFETY AND COST SAVINGS

Studies of earned time have examined the effect on crime rates, recidivism and costs. In New York, for example, the Department of Correctional Services reviewed the state's merit time program from 1997 through 2006. During that time, 24,000 inmates received six-month reductions in their minimum term, resulting in a savings of \$369 million. Another \$15 million in savings during a three-year period can be attributed to the need for less capital construction. The recidivism rate for the early-

release group was lower (31 percent) than that for inmates serving the full term (39 percent) after three years.

In 2003, the Washington Legislature increased the amount of good time from 33 percent of the total sentence to 50 percent of the total sentence for certain nonviolent drug and property offenders. The Washington State Institute of Public Policy analyzed the public safety and cost benefits of the increase in good time. Considering both taxpayer and victim costs and benefits, the study found an overall net benefit of \$7,179 per offender. (See "Expanding Earned Time Pays Off in Washington" on page 5.)

Finally, the National Council on Crime and Delinquency recently published a literature review of studies on state "accelerated release" policies over a 23-year period. Of the 13 research reports reviewed, none found a statistically significant increase in rates of recidivism for those offenders who reduced their length of incarceration. A few studies instead found a decrease in recidivism rates. An evaluation of Wisconsin's earned time policy, for example, found that 17 percent of inmates released early returned to prison after the first year, compared to 28 percent of those freed on their mandatory release date.

RECENT EXPANSION OF EARNED TIME POLICIES

Several states have recently adopted or expanded earned time policies as part of managing prison populations and corrections budgets. Nevada increased the amount of time an inmate who completes educational, vocational or substance

abuse classes could earn. This was estimated to free 51 prison beds in fiscal year 2008. Kansas created a similar policy that awards credit to certain low-risk offenders who complete rehabilitative programs. It is forecasted to save the state \$3.6 million annually. (See “Reducing Recidivism in Kansas” on page 6.)

A Pennsylvania law passed in the fall of 2008 created a program that allows earned time to begin at sentencing. The “recidivism risk reduction incentive program” permits judges to select eligible defendants for the program and set an incentive minimum sentence in addition to the minimum and maximum sentences. The inmate participates in assessments and rehabilitative programs, maintains good conduct and develops a reentry plan in order to be paroled at the incentive minimum date. (See “Incentive Credits in Pennsylvania” on page 7.)

During 2009 legislative sessions, at least two states have expanded earned time policies. Colorado increased the number of good time days an inmate can earn per month and added an earned time provision that allows the Department of Corrections to deduct up to 60 days from the sentence of a nonviolent

inmate who has remained program-compliant and free of major violations. Officials project the policy will save almost \$12 million over the next three years. The legislation allows savings gained from this program to be appropriated to recidivism reduction programs beginning in FY 2012. Mississippi also enacted legislation that removes a 180-day cap on earned time for completing educational or other instructional programs. The commissioner of corrections now has discretion to decide how much earned time an inmate can receive.

CONCLUSION

States are creating and expanding earned time programs that reduce the length of stay for certain offenders while maintaining public safety. Among policies that states use to reserve prison beds for the most dangerous offenders, earned time also creates an incentive for motivated offenders to work, take part in rehabilitation, and otherwise prepare to be successful in the community. Earned time is helping states reduce the corrections budget burden and allows funds saved to be invested in programs that reduce recidivism and help build safe communities.



EXPANDING EARNED TIME PAYS OFF IN WASHINGTON

In 2003, the Washington Legislature increased the amount of earned time¹ available to certain nonviolent drug and property offenders. Subsequently, lawmakers asked the nonpartisan Washington State Institute of Public Policy to analyze the costs and benefits of that move. Steve Aos, an economist who works for the institute, is co-author of the report.



Aos

How has Washington's earned time policy changed and what did your study examine?

The Legislature modified the amount of earned time that could be granted to eligible inmates, increasing it from 33 percent to 50 percent of the total sentence. The law also specified which offenders would not be eligible for credit—offenders who have a current or prior conviction for a violent offense, a sex offense, a crime against a person, a domestic violence offense, a residential burglary, manufacture or delivery of methamphetamine, or delivery of a controlled substance to a minor. In addition to those exclusions, eligibility is further restricted to offenders in the Department of Corrections' two lowest risk categories.

The Legislature asked us to evaluate the effect of the changes. Specifically, we looked at its effect on recidivism rates for offenders granted early release from July 2003 to August 2004, the first year after the law was changed. We then tracked reconviction rates of these offenders over a three-year period.

What did you learn about the effects of the policy change?

We learned that the early release law could affect crime in two opposing ways. First, the three-year felony recidivism rate for offenders under the new 50 percent law was lower—by about 3.5 percent—than it was for offenders under the old law. This finding tells us that the 50 percent law has reduced new felony convictions in Washington. At the same time, the new law shortened the length of prison stay for the eligible offenders by an average of 63 days. This reduced length of stay has caused Washington's incarceration rate to drop, other factors held constant. Given that we expect crime rates to go up when the incarceration rate goes down, with other factors held constant, we estimate that Washington has experienced an increase in property crimes. Because our study revealed two opposing effects, we conducted a cost-benefit analysis to determine a net bottom line.

And what did you find about cost?

On the benefit side, we found that the 63-day reduced length of stay produced about \$5,500 in cost savings per offender. These savings reflect the prison operating and capital costs the state avoids through a shorter prison term. We also estimated that, because of the 3.5 percent reduction in the future recidivism rates of the offenders, additional benefits will accrue to taxpayers who otherwise would have been the victims of those avoided crimes. We estimate the avoided crime benefit at about \$5,100, plus about \$3,000 in taxpayer costs that would have been incurred to process those crimes. We also estimate that some of the offenders released early would have entered the labor force sooner and would have generated some earnings. We put this total at about \$1,800 per released offender, bringing total benefits per offender to about \$15,400.

On the cost side, we believe that an increase in property crimes is due to a decrease in the incarceration rate, which produces about \$8,200 in added costs to victims and taxpayers. Thus, our bottom line estimate is that the 2003 law expanding earned time generates a net savings of about \$7,200 per offender, or about \$1.90 of benefits for each \$1 of costs.

1. The Washington good time policy is called "earned release time." The study analyzed the credits awarded to an inmate for following prison rules and required participation in activities.

REDUCING RECIDIVISM IN KANSAS

Facing projections for a huge and costly jump in the prison population, Kansas in 2007 adopted a package of measures designed to control the growth of incarceration while keeping communities safe. The new strategies included an earned time credit for offenders. Among those advancing reform was Representative Pat Colloton. An attorney, Colloton is chairwoman of the House Committee on Corrections and Juvenile Justice and a member of the Kansas Sentencing Commission.



Colloton

What does earned time look like in Kansas?

We offer a 60-day earned credit for the successful completion of one of four programs: substance abuse treatment; a general education diploma; a technical or vocational training program; or any program our secretary of corrections believes will reduce a given inmate's risk of violating the conditions governing his eventual release. Unlike other states, we offer only this one-time credit, and you can't just show up for the program—you must complete it. Our credit is restricted to low-level offenders, most of whom have committed drug or property crimes because of addiction or mental illness.

What are the benefits of offering earned time credits?

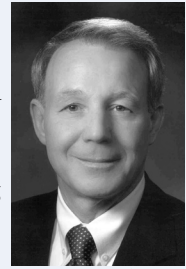
Earned time motivates offenders to behave and engage in useful activities while in prison, making them better prepared to return to our neighborhoods. These are people who typically need substance abuse treatment, job training and other interventions to help them turn their lives around. Otherwise, they are at substantial risk of violating their parole or probation—by testing positive for drugs three times, for example—and land back in an expensive prison bed. If that happens, nobody wins. We want to put our offenders back in their communities prepared to work and pay taxes, child support and victim restitution. Earned time credit is one tool that helps us with that mission. The exciting news is that, since our reforms took effect, we have seen a 35 percent decrease in crime among parolees who participated in our reentry programs. Parole revocations are down too, by 45 percent.

What has the political climate been for advancing earned time in Kansas?

We compromised on which offenders would be eligible. One helpful tool was a University of Kansas survey asking residents whether they wanted state money spent on prisons or on reentry programming. Eighty percent wanted the programming, so this allayed the fears of some legislators about appearing “soft on crime.” Finally, in passing this legislation our emphasis was on changing overall trends, and we clearly acknowledged that individual incidents would occur when prisoners were released. We knew, of course, that such incidents would occur anyway, even without these programs. So, given our results, we think we're being smart on crime and smart about how we use taxpayers' money. We've already significantly reduced the rate of re-offending by parolees. Instead of a backlash, we've actually seen editorials expressing concern that, if budget cuts lead to the demise of these programs and policies, crime will go up again in Kansas.

INCENTIVE CREDITS IN PENNSYLVANIA

Hoping to reduce recidivism and control the state prison population, Pennsylvania in 2008 adopted legislation allowing some offenders to trim their minimum sentence by as much as one-fourth for completing targeted programs. Corrections Secretary Jeffrey A. Beard, who runs the state's 50,000-inmate prison system, says the new approach makes prisons more manageable by improving inmate behavior and increases the odds offenders will lead crime-free lives upon release.



Beard

As a corrections professional, what do you value about earned time? And how does Pennsylvania's program work?

A major part of our public safety mission is to reduce the risk that an offender will commit new crimes after being released. Earned time provides an incentive for offenders to not only enroll in specified programs but also to complete those programs, easing their reentry problems and giving them a better chance to succeed in the community. Also, because good behavior is a core requirement of the earned-time credit, its use makes our institutions safer for staff and inmates.

Here in Pennsylvania, we have a Recidivism Risk Reduction Incentive (RRRI) for offenders who have not committed a personal injury crime, a sex crime, a crime with a firearm, or crimes establishing them as drug kingpins. The *incentive* is the opportunity to receive 25 percent off their sentence (for offenders sentenced to a minimum sentence of up to three years) or 15 percent off (for those with minimum sentences longer than three years). We believe in transparency, so at sentencing the court prescribes two minimum terms—the regular minimum and the RRRI minimum. For example, for an offender who is eligible for the credit and receives a typical two- to four-year sentence, the regular minimum would be 24 months, and the RRRI minimum would be 18 months. Offenders get the shorter RRRI term only if they complete prescribed programs while maintaining good conduct and a satisfactory work record.

How does Pennsylvania develop and assign eligible offenders to programs?

We have a fairly sophisticated risk assessment process. When an offender comes in, we measure everything from drug and alcohol dependency to hostility and anger management issues and mental health concerns. We also evaluate their background and social history. Based on all that, we put together a program to address each person's specific needs right when they enter the system.

How is the state expected to benefit from this approach?

First and most important, more eligible offenders will complete programming. This will have a direct impact on reducing crime and victimization. Earned time also allows eligible offenders who fulfill our requirements to be released before their regular minimum date. This, coupled with the expected drop in recidivism, will free valuable prison space. The end result will be a less costly but more effective prison system for taxpayers.

The fact is that we are locking up too many lower level offenders, and for too long. From 1940 to 1980, the prison population in Pennsylvania was flat with no real growth. It was not until our "war on drugs" and "get tough on crime" agendas took hold in the 1980s that prison populations began to grow here and around the country. Unfortunately, our obsession with confinement has been a costly one and not very effective. Instead, we need to get offenders into sound, evidence-based programs that will reduce the likelihood they will claim new victims once they walk out our gate.

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Appendix. Earned Time Policies in State Prisons: Amounts Established by Law								
State	Earned Time							Notes
	Education	Vocation	Rehabilitation	Work	Disaster / Conservation	Meritorious	Other	
Alabama								
Alaska								
Arizona								
Arkansas	90 days per completion	90 days per completion	90 days per completion					Not to exceed 270 days
California	3 to 6 months per each 6 months of participation; 4 months for each 8 months in 2 to 4 year college			3 to 6 months per each 6 months working	2 days per 1 day working	Up to 12 months for service		
Colorado					1 day per 1 day of working		30 to 60 days at agency discretion	
Connecticut						Up to 120 days for service		
Delaware								
Florida	6 days per 150 hours of participation; 60 days for completion	60 days for completion				Up to 60 days for service		
Georgia	1 day per 1 day of participation	1 day per 1 day of participation		1 day per 1 day working				Statute recommends, not mandate
Hawaii								
Idaho						15 days per month for service		

Appendix. Earned Time Policies in State Prisons: Amounts Established by Law (continued)								
State	Earned Time							
	Education	Vocation	Rehabilitation	Work	Disaster / Conservation	Meritorious	Other	Notes
Illinois	Previously earned good time multiplied by 1.5 for participation; 60 days for completion of GED		Previously earned good time multiplied by 1.5 for participation	Previously earned good time multiplied by 1.5 for working		Up to 180 days for service		
Indiana	6 months to 2 years per completion	6 months per completion	6 months per completion					Not to exceed 4 years or 1/3 of sentence, which ever is lesser
Iowa	15/85 of a day or 12/10 of a day per 1 day of participation		15/85 of a day or 12/10 of a day per 1 day of participation	15/85 of a day or 12/10 of a day per 1 day working		Up to 365 days for service		
Kansas	60 days for completion	60 days for completion	60 days for completion					
Kentucky	60 days for completion	60 days for completion				5 days per month for service	½ day per 8 hours of participation	
Louisiana				35 days per month working in lieu of incentive wages	30 days per month working			
Maine	3 days per month of participation		3 days per month of participation	3 days per month working; agency discretion for hours worked in excess of 8 hours daily				

Appendix. Earned Time Policies in State Prisons: Amounts Established by Law (continued)								
State	Earned Time							
	Education	Vocation	Rehabilitation	Work	Disaster / Conservation	Meritorious	Other	Notes
Maryland	5 days per month of participation	5 days per month of participation		5 days per month of working			10 days per month of participation	Not to exceed 20 days per month
Massachusetts	2.5 to 7.5 days per month of participation	2.5 to 7.5 days per month of participation		2.5 to 7.5 days per month of working			2.5 – 7.5 days per month of participation	
Michigan								
Minnesota								
Mississippi	30 days per month of participation; agency discretion for completion			30 days per month working; agency discretion for completion			30 days per month of participation; agency discretion for completion	
Missouri								
Montana								
Nebraska								
Nevada	10 days per month participation; 60 to 120 days for completion	60 days for completion	60 days for completion	10 days per month working		Up to 90 days for service		
New Hampshire								
New Jersey				3 to 5 days per month working				
New Mexico	3 to 5 months for completion	1 month for completion	1 month for completion			Up to 1 year per award and 1 year total in a 12-month period for service		

Appendix. Earned Time Policies in State Prisons: Amounts Established by Law (continued)								
State	Earned Time							
	Education	Vocation	Rehabilitation	Work	Disaster / Conservation	Meritorious	Other	Notes
New York	Total of 1/7, 1/6, or 1/3 of the minimum sentence for participation and completion	Total of 1/7, 1/6, or 1/3 of the minimum sentence for participation and completion	Total of 1/7, 1/6, or 1/3 of the minimum sentence for participation and completion	Total of 1/7, 1/6, or 1/3 of the minimum sentence for working				
North Carolina								
North Dakota						2 days per month or more at agency discretion for service		
Ohio	1 day per month of participation	1 day per month of participation	1 day per month of participation	1 day per month working				
Oklahoma	10 to 90 days for completion	80 days for completion	70 days for minimum 4 months' participation			Up to 100 days for service		
Oregon								
Pennsylvania			3/4 or 5/6 of minimum sentence for participation and completion				3/4 or 5/6 of minimum sentence for participation and completion	
Rhode Island			5 days per month of participation; 30 days for completion	2 days per month working		3 days per month for service		
South Carolina	6 to 15 days per month of participation	6 to 15 days per month of participation		6 to 15 days per month working				

Appendix. Earned Time Policies in State Prisons: Amounts Established by Law (continued)								
State	Earned Time							
	Education	Vocation	Rehabilitation	Work	Disaster / Conservation	Meritorious	Other	Notes
South Dakota								
Tennessee	1 to 16 days per month of participation; 60 days for completion	1 to 16 days per month of participation; 60 days for completion		1 to 16 days per month working				
Texas	10 to 30 days per month of participation	10 to 30 days per month of participation	10 to 30 days per month of participation	10 to 30 days per month working				
Utah								
Vermont				30 days per month working				
Virginia								
Washington								
West Virginia						Agency discretion for service		
Wisconsin								
Wyoming								

This chart highlights earned time policies applicable to state prison inmates listed in statute. Earned time is defined as a credit against an inmate's sentence or period of incarceration that he or she earns for participation in or completion of productive activities. Earned time is distinguished from, and can be offered in addition to, "good time" credits given to offenders for following prison rules and required participation in activities. This chart only includes earned time.

Source: National Conference of State Legislatures, 2009.

ABOUT THE AUTHOR

Alison Lawrence is a policy specialist in NCSL's Criminal Justice Program. She is NCSL's lead staff liaison to the Public Safety Performance Project of the Pew Center on the States, working on sentencing and corrections issues. She is the author of several publications related to sentencing and corrections issues and is also a contributor to NCSL's *State Legislatures* magazine. Before working at NCSL, she worked in community corrections in Denver, Colo., and in probation in Boulder, Colo. Ms. Lawrence received her Master's of Public Administration from the University of Colorado.

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