



Maryland Diminution Credit System

Annapolis, Maryland
December 2020

Maryland Diminution Credit System

**Department of Legislative Services
Office of Policy Analysis
Annapolis, Maryland**

December 2020

Contributing Staff

Writer

Claire E. Rossmark

Reviewer

Shirleen M. E. Pilgrim

Other Staff Who Contributed to This Report

Michael S. Raup

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: 410-946-5400 • Washington Area: 301-970-5400

Other Areas: 1-800-492-7122, Extension 5400

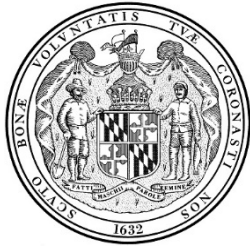
TTY: 410-946-5401 • 301-970-5401

Maryland Relay Service: 1-800-735-2258

E-mail: libr@mlis.state.md.us

Home Page: <http://mlis.state.md.us>

The Department of Legislative Services does not discriminate on the basis of age, ancestry, color, creed, marital status, national origin, race, religion, gender, sexual orientation, or disability in the admission or access to its programs, services, or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at the telephone numbers shown above.



DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF POLICY ANALYSIS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

December 2020

The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates
Members of the Maryland General Assembly

Ladies and Gentlemen:

This report, *Maryland Diminution Credit System*, was prepared by the Department of Legislative Services, Office of Policy Analysis, in response to continuing legislative and public interest in the area of diminution of confinement credits that reduce the length of incarceration for the State's correctional population. The report discusses the overall system of diminution credits in the State and nationwide.

The report was written by Claire E. Rossmark, in consultation with the Department of Public Safety and Correctional Services, and reviewed by Shirleen M. E. Pilgrim.

We trust that this information will be of assistance to you.

Sincerely,

A handwritten signature in black ink that reads "Victoria L. Gruber".

Victoria L. Gruber
Executive Director

A handwritten signature in blue ink that reads "Ryan Bishop".

Ryan Bishop
Director

CER/SMEP/msr

Legislative Services Building · 90 State Circle · Annapolis, Maryland 21401-1991
410-946-5350 · FAX 410-946-5395 · TDD 410-946-5401
301-970-5350 · FAX 301-970-5395 · TDD 301-970-5401
Other areas in Maryland 1-800-492-7122

Contents

Transmittal Letter.....	iii
Generally	1
Term of Confinement.....	1
Types of Diminution Credits	2
Good Conduct Credit	2
Work Tasks	3
Education	3
Special Project	4
Limit on Earning Diminution Credits.....	7
Effect of Justice Reinvestment Act on Diminution Credits.....	7
Revocation of Diminution Credits.....	7
Mandatory Supervision.....	8
Unsupervised Release (Release by Expiration of Schedule)	8
Parole	9
Administrative Release	9
Revocation of Mandatory Supervision	10
Earned Compliance Credit Program	11
Local Correctional Systems	12
Exhibit 1. Diminution Credit Eligibility	14
Process After Sentencing	16
Other States	18
Exhibit 2. Good Time and Earned Time Policies for State Prison Inmates.....	19
Conclusion	29

Maryland Diminution Credit System

Generally

Generally, an inmate sentenced to the custody of the Division of Correction (DOC) is entitled to earn diminution of confinement credits to reduce the inmate's term of incarceration. Diminution credits are days of credit either granted or earned on a monthly basis. Inmates in State correctional facilities and local detention centers are eligible for diminution credits. Credits may be forfeited or restricted due to misbehavior in the institution. (Title 3, Subtitle 7 of the Correctional Services Article)

The following types of inmates may not earn diminution credits:

- an inmate serving a sentence for first- or second-degree rape or the former crimes of first- or second-degree sexual offense against a victim under age 16 (§ 3-702(b) of the Correctional Services Article);
- an inmate serving a sentence for a subsequent conviction of third-degree sexual offense against a victim under age 16 (§ 3-702(c) of the Correctional Services Article); and
- an inmate imprisoned for a lifetime sexual offender supervision violation. (§ 11-724(c) of the Criminal Procedure Article)

An inmate who serves a concurrent Maryland sentence in a foreign jurisdiction may be eligible for diminution credits but only from the date that the inmate is received into the physical custody of DOC. (§3-703 of the Correctional Services Article)

Term of Confinement

Diminution credits reduce the incarceration period, not the length of a sentence or term of confinement. Diminution credits are deducted from an inmate's "term of confinement," which is defined as:

- (1) the length of the sentence, for a single sentence; or
- (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for:
 - (i) concurrent sentences;
 - (ii) partially concurrent sentences;

- (iii) consecutive sentences; or
- (iv) a combination of concurrent and consecutive sentences. (§ 3-701 of the Correctional Services Article)

“Maximum expiration date” is the last day of the sentence ending last.

Types of Diminution Credits

Diminution credits are made for good conduct, work tasks, education, and special projects or programs. With the exception of good conduct credit, the various types of diminution credits are calculated from the first day of participation and on a prorated basis for any portion of a calendar month that applies. (§§ 3-705 through 3-707 of the Correctional Services Article)

Good Conduct Credit

Good conduct credit (sometimes referred to as “good time” credit) is advanced to an inmate at intake, subject to the inmate’s future good behavior. These credits are calculated from the first day of commitment to the custody of the Commissioner of Correction through the maximum expiration date of the inmate’s term of confinement. Good conduct credits are a behavioral incentive and a means of reducing prison overcrowding. *Stouffer v. Staton*, 152 Md.App. 586, 592 (2003). The awarding of diminution credits is automatic, not discretionary.

The rate at which diminution credits are awarded to an inmate is generally dependent on the date at which the sentence for which the inmate is serving was imposed.

- For sentences imposed before October 1, 1992, good conduct credit is awarded at the rate of 5 days per month regardless of the offense.
- For sentences imposed between October 1, 1992, and October 1, 2017, good conduct credits are awarded at the rate of 5 days per month if the inmate’s term of confinement includes a sentence for a crime of violence (as defined in Criminal Law Article § 14-101¹)

¹ As of December 15, 2020, “crime of violence” includes abduction, first-degree arson, kidnapping, voluntary manslaughter, mayhem, maiming, murder, rape, robbery, robbery with a dangerous weapon, carjacking, armed carjacking, first-degree sexual offense, second-degree sexual offense, use of a firearm in the commission of a felony except possession with intent to distribute a controlled dangerous substance or other crime of violence, first-degree child abuse, sexual abuse of a minor (under certain circumstances), home invasion, felony sex trafficking, forced marriage, attempts to commit the foregoing offenses, continuing course of conduct with a child, first-degree assault, and assault with intent to murder, rape, rob, or commit a first- or second-degree sexual offense.

or distribution of controlled dangerous substances. Good conduct credit is awarded at the rate of 10 days per month for all other inmates (except for those inmates who are statutorily prohibited from earning diminution credits).

- For sentences imposed on October 1, 2017, or later, good conduct credit is awarded at the rate of 5 days per month if the inmate's term of confinement includes a sentence for a crime of violence (as defined in Criminal Law Article § 14-101) or being a volume drug dealer or drug distribution kingpin. Good conduct credits are awarded at the rate of 10 days per month for all other inmates (except for those inmates who are statutorily prohibited from earning diminution credits). (§ 3-704 of the Correctional Services Article)

Work Tasks

An inmate may be allowed a deduction of five days from the inmate's term of confinement for each month during which the inmate manifests satisfactory performance of assigned work tasks. These credits are awarded monthly for the previous month's participation in assigned work tasks. (§ 3-705 of the Correctional Services Article)

Education

An inmate may be allowed a deduction of five days from the inmate's term of confinement for each month during which the inmate manifests satisfactory progress in or completion of:

- vocational courses;
- other educational and training courses;
- workforce development training;
- cognitive-behavioral therapy;
- substance abuse therapy;
- life skills training; or
- antiviolence therapy, including anger management and conflict resolution. (§ 3-706 of the Correctional Services Article)

Special Project

In general, for sentences imposed on October 1, 2017, or later, an inmate may be allowed a deduction of up to 20 days from the inmate's term of confinement for each month during which the inmate manifests satisfactory progress in those special selected work projects or other special programs, including recidivism reduction programming, designated by the Commissioner of Correction and approved by the Secretary of Public Safety and Correctional Services. The maximum applicable deduction is 10 days if an inmate's term of confinement includes a consecutive or concurrent sentence for a crime of violence, a sexual offense requiring registration on the Sexual Offender Registry, or being a volume drug dealer or drug distribution kingpin. (§ 3-707 of the Correctional Services Article). For sentences imposed between October 1, 1992, and October 1, 2017, special project credits may be awarded at the rate of up to 10 days per month for all inmates (except for those inmates who are statutorily prohibited from earning diminution credits).

An inmate must be assigned by case management to receive credits for job or program participation.

The following is a list of approved special projects as of June 1, 2020:

- prison industries assignments, including:
 - assignment to an industrial laundry operation;
 - any Maryland Correctional Enterprises assignment;
 - assignment to a prison industries program coordinated through the Federal Bureau of Prisons while in federal custody; or
 - assignment to a prison industries program for Maryland offenders serving a Maryland sentence in another state pursuant to the Interstate Corrections Compact;
- educational programs, including:
 - assignment as a student to an academic or vocational education program coordinated through the Correctional Education Office;
 - assignment as a student to an academic or vocational education program coordinated by the Federal Bureau of Prisons while in federal custody; or
 - assignment to a registered apprenticeship training program;
- work detail assignments, including:

- institutional barber;
- commissary clerk;
- a position in the maintenance department;
- a work assignment in the institutional dietary department;
- an aide, tutor, or clerk directly supporting an educational program or library service coordinated through the Correctional Education Office;
- a detail that performs work in the institutional infirmary;
- observation aide;
- dog handler;
- beekeeper;
- wheelchair assistant;
- blind escort;
- maintenance emergency response;
- outside maintenance;
- road crew; or
- utility minimum and pre-release;
- work release employment; and
- rehabilitation programs, including the following programs addressing substance abuse and criminal behavior:
 - local re-entry;
 - re-entry CORE transition;
 - addictions treatment protocol;

- Addiction Stabilization Treatment Enhancement Program;
- therapeutic community;
- cognitive therapy:
 - communications;
 - decisions;
 - domestic violence;
 - relationships;
 - seeking safety;
 - Thinking for a Change;
 - Thinking Deciding Changing;
 - Victim Impact: Listen and Learn;
 - parenting – Inside Out Dads;
 - parenting;
 - anger management;
 - conflict resolution;
 - alternatives to violence;
 - Decision Points; and
 - Trauma Education and Support for Survivors.

Special project credits awarded by a local detention center, between the date an inmate is sentenced to the custody of the Commissioner of Correction and the date the inmate is transferred to DOC, qualify as special project credits. (§ 3-707 of the Correctional Services Article)

In addition, for offenses committed from July 1, 1989, to July 1, 2007, five special project credits per month may be awarded for housing (double celling) if offense and housing assignment criteria are met and the statutory limit is not exceeded. (COMAR 12.02.06.04)

Special project credits are available to inmates in addition to work or education credits so that an inmate gets five credits for the work or education project to which the inmate is assigned and an additional five credits for having that particular project designated as a “special project.” Special projects do not exist outside of the context of a work or education assignment.

Limit on Earning Diminution Credits

An inmate whose term of confinement includes a consecutive or concurrent sentence for a crime of violence, a sexual offense, or being a volume drug dealer or drug distribution kingpin may not be allowed a total deduction of more than 20 days per month. For all other inmates, the maximum monthly deduction is 30 days. (§ 3-708 of the Correctional Services Article). For terms imposed between October 1, 1992, and October 1, 2017, the maximum deduction is 20 days per month for all inmates. For terms imposed before October 1, 1992, the maximum deduction is 15 days per month for all inmates.

Effect of Justice Reinvestment Act on Diminution Credits

Chapter 515 of 2016 (The Justice Reinvestment Act) is aimed at reducing Maryland’s prison population and using the savings to provide for more effective treatment to offenders before, during, and after incarceration. It altered provisions relating to sentencing, corrections, parole, and the supervision of offenders. With regard to diminution credits, the Act increased the maximum total deduction from 20 to 30 days per calendar month for all State correctional facility inmates except for inmates serving a sentence for a crime of violence, specified sexual offenders, or being a volume drug dealer or drug kingpin. The Act also increased the maximum deduction for special selected work projects or other special programs from 10 to 20 days per calendar month and expanded the types of programs for which an inmate may earn diminution credits. In addition, the Act increased the maximum deduction for diminution credits for an individual serving a sentence in a local correctional facility for a crime other than a crime of violence or specified volume drug offenses from 5 to 10 days per month. These provisions apply prospectively to inmates who are sentenced on or after October 1, 2017. (The information contained throughout this report reflects the changes made by Chapter 515.)

Revocation of Diminution Credits

If an inmate violates DOC’s rules of discipline, DOC may revoke the inmate’s good conduct or special project credits as the result of an adjustment proceeding. DOC may not revoke educational or work task credits. (§ 3-709 of the Correctional Services Article)

Procedures relating to inmate discipline, including inmate compliance requirements, procedures for investigating and reporting inmate rule violations, informal disposition procedures, hearing procedures, and sanction guidelines are contained in the Code of Maryland Regulations. (COMAR 12.03.01.00-12.03.01.34)

Under specified circumstances, upon the recommendation of case management staff, a warden may restore diminution credit revoked during the current term of incarceration. (COMAR 12.02.06.06)

Mandatory Supervision

Release on mandatory supervision is a conditional release from confinement that results from the application of diminution credits and applies only to an inmate in a State correctional facility sentenced to a term of confinement exceeding 18 months. An inmate in a State correctional facility serving a term of 18 months or less and an inmate in a local detention center may also earn credits, but such inmates are not subject to mandatory supervision on release. There is no discretion involved in release on mandatory supervision.

A person serving a sentence of longer than 18 months is incarcerated in a DOC facility. A person serving a sentence of one year or less in a jurisdiction other than Baltimore City is sentenced to a local detention facility. For a person sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC.

Individuals on mandatory supervision are supervised by the Department of Public Safety and Correctional Services (DPSCS) until the expiration of the term and are subject to the same terms and conditions as inmates released on parole. The individual remains on mandatory supervision until the maximum expiration date of the term of confinement.

Generally, an inmate convicted of a violent crime² committed on October 1, 2009, or later, is not eligible for release on mandatory supervision until after the inmate becomes eligible for parole (under § 7-301(c) or (d) of the Correctional Services Article), until after one-half of the sentence has been served. (§ 7-501(b) of the Correctional Services Article)

Unsupervised Release (Release by Expiration of Sentence)

For a term of confinement of less than 18 months, credits are deducted from the maximum expiration date to establish a release date. The inmate is released from incarceration on the release date and is not subject to any further supervision.

² As defined in CS § 7-101(m), “violent crime” includes the offenses listed in § 14-101 of the Criminal Law Article plus burglary in the first, second, and third degree.

Parole

Diminution credits and parole are two distinct concepts. While diminution credits reduce an inmate's term of confinement, in general, parole is a discretionary and conditional release from confinement determined after a hearing for an inmate who is eligible to be considered for parole. If parole is granted, the inmate is allowed to serve the remainder of the sentence in the community, subject to the terms and conditions specified in a written parole order. The Maryland Parole Commission (MPC) has jurisdiction regarding parole for eligible inmates sentenced to State correctional facilities and local detention centers. Inmates in the Patuxent Institution who are eligible for parole are under the jurisdiction of the Patuxent Board of Review. Eligibility for parole is determined by criteria set forth in § 7-301 of the Correctional Services Article. Parole entitles the parolee:

- to leave the correctional facility in which the parolee was confined; and
- if the parolee satisfactorily complies with all the terms and conditions provided in the parole order, to serve the remainder of the parolee's term of confinement outside the confines of the correctional facility.

If a parolee violates a condition of the parolee's parole, the parole may be revoked, and sanctions may be imposed including reincarceration. (§§ 7-302 through 7-403 of the Correctional Services Article). If an inmate is convicted and sentenced to imprisonment for a crime committed while on parole and the parole is revoked, diminution credits that were awarded before the inmate's release on parole may not be applied toward the inmate's term of confinement on return to DOC. (§ 3-711 of the Correctional Services Article)

An inmate serving a sentence that is by statute nonparolable may still earn diminution credits. Nothing in law prohibits the awarding of diminution credits on a nonparolable sentence.

Administrative Release

Chapter 515 (The Justice Reinvestment Act) established an administrative release procedure under which MPC must authorize the release of an inmate who meets specified eligibility criteria (without a hearing before MPC) when the inmate has served one-fourth of the inmate's sentence, if:

- the inmate has complied with the inmate's case plan;
- the inmate has not committed a category 1 rule violation, as defined in COMAR 12.02.27.04;

- the victim has not requested a hearing; and
- MPC finds a hearing unnecessary considering the inmate's history, progress, and compliance.

An individual on administrative release is subject to the jurisdiction of MPC in the same manner as a parolee and all laws and conditions that apply to parolees. (§ 7-301.1 of the Correctional Services Article)

Revocation of Mandatory Supervision

As is the case with parolees, if the individual violates a condition of mandatory supervision, MPC may revoke the release and require the individual to serve the balance of the sentence, subject to the revocation caps created by Chapter 515 the Justice Reinvestment Act, which are applicable to technical violations. The MPC commissioner presiding at an individual's mandatory supervision revocation hearing may revoke diminution credits previously earned by the individual on the individual's term of confinement as follows:

- not more than 15 days for a first technical violation;
- not more than 30 days for a second technical violation;
- not more than 45 days for a third technical violation; and
- up to all remaining days for a fourth or subsequent technical violation or a violation that is not a technical violation.

There is a rebuttable presumption that the revocation caps are applicable. The presumption may be rebutted if an MPC commissioner finds and states on the record, after consideration of specified factors, that adhering to the revocation caps would create a risk to public safety, a victim, or a witness. (§ 7-504 of the Correctional Services Article)

“Technical violation” means a violation of a condition of probation, parole, or mandatory supervision that does not involve (1) an arrest or a summons issued by a commissioner on a statement of charges filed by a law enforcement officer; (2) a violation of a criminal prohibition other than a minor traffic offense; (3) a violation of a no-contact or stay-away order; or (4) absconding. (§ 6-101 of the Correctional Services Article)

If an inmate is convicted of and sentenced to imprisonment for a crime committed while on mandatory supervision and the mandatory supervision is revoked, diminution credits that were awarded before the inmate's release on mandatory supervision may not be applied toward the inmate's term of confinement on return to DOC. (§ 7-502(c) of the Correctional Services Article)

Earned Compliance Credit Program

Under the Earned Compliance Credit Program, MPC or the court is required to reduce the period of a supervised individual's supervision on the recommendation of the Division of Parole and Probation (DPP) for earned compliance credits accrued. A "supervised individual" means an individual placed on probation by a court or serving a period of parole or mandatory release supervision after release from a correctional facility. It does not include a person:

- incarcerated, on probation, or convicted in Maryland for a crime of violence, a sex offense, homicide by motor vehicle or vessel, or a specified drug offense;
- registered or eligible for registration as a sex offender;
- convicted in any other jurisdiction of a crime and the person's supervision was transferred to this State; or
- convicted in Maryland of a crime and the person's supervision was transferred to another state.

"Earned compliance credit" means a 20-day reduction from the period of active supervision of the supervised individual for every month that a supervised individual:

- exhibits full compliance with the conditions, goals, and treatment as part of probation, parole, or mandatory release supervision, as determined by DPSCS;
- has no new arrests;
- has not violated any conditions of no contact requirements;
- is current on court-ordered payments for restitution, fines, and fees relating to the offense for which earned compliance credits are being accrued; and
- is current in completing any community supervision requirements included in the conditions of the supervised individual's probation, parole, or mandatory release supervision.

“Abatement” means an end to active supervision of a supervised individual without effect on the legal expiration date of the case or the supervised individual’s obligation to obey all laws, report as instructed, and obtain written permission from DPP before relocating residence outside the state. A supervised individual whose period of active supervision has been completely reduced as a result of earned compliance credits must remain on abatement until the expiration of the individual’s sentence, unless the individual consents to continued active supervision or violates a condition of probation, parole, or mandatory release supervision, including failure to pay a required payment of restitution. A supervised individual who is placed on abatement may not be required to regularly report to a parole or probation agent or pay a supervision fee. If a supervised individual violates a condition of probation while on abatement, a court may order the person to be returned to active supervision. (§ 6-117 of the Correctional Services Article)

Local Correctional Systems

Comparable to inmates committed to DOC, an inmate who is sentenced to a local correctional facility (including the Baltimore City Detention Center³) may receive good conduct credit at the rate of 5 days per month if the inmate’s term of confinement includes a sentence for a crime of violence or being a volume drug dealer or drug distribution kingpin.⁴ Good conduct credit is awarded at the rate of 10 days per month for all other inmates. (§ 11-504 of the Correctional Services Article). Additionally, an inmate is awarded 5 days credit for each month of presentence confinement as long as the inmate does not violate the disciplinary rules and works when the opportunity to work is available. (§ 11-503 of the Correctional Services Article)

An inmate in a local correctional facility may also be allowed:

- a deduction of five days per calendar month from the inmate’s term of confinement for each calendar month of presentence or postsentence confinement during which the inmate manifests (1) exceptional industry, application, and skill in the performance of any industrial, agricultural, or administrative tasks assigned to the inmate or (2) satisfactory industry, application, and progress in a vocational or other educational or training course; and
- a deduction of not more than five days from the inmate’s term of confinement for each calendar month or portion of a calendar month of presentence or postsentence confinement during which the inmate manifests satisfactory industry, application, and progress in special selected work projects or other special programs. (§§ 11-505 and 11-506 of the Correctional Services Article)

³ Although statute specifically references the Baltimore City Detention Center (BCDC), BCDC was demolished in 2019. Inmates sentenced to a local correctional facility in Baltimore City are currently housed at the Baltimore Pretrial Complex.

⁴ For sentences imposed before October 1, 2017, good conduct credits are awarded at the rate of five days per month regardless of offense.

If an inmate violates a disciplinary rule, diminution credits may be revoked by the managing official of the institution after the inmate is afforded due process of law. (§ 11-507 of the Correctional Services Article)

As in the State system, a local inmate serving a sentence for first- or second-degree rape or sexual offense against a victim under the age of 16 or a second or subsequent conviction of third-degree sexual offense against a victim under the age of 16 may not earn diminution credits. Again, imprisonment for a lifetime sexual offender supervision violation is not subject to diminution credits. (§ 11-502 of the Correctional Services Article)

Diminution credits awarded to an inmate of a local correctional facility who is later transferred to DOC must be applied to the inmate's term of confinement. (COMAR 12.02.06.03)

A tabulation of diminution credit eligibility in Maryland can be found in **Exhibit 1**.

Exhibit 1
Diminution Credit Eligibility
Maryland Law Effective October 1, 2020

<u>Offenses</u>	<u>Diminution Credit Eligibility</u>
State Facilities	
First- or second-degree rape or sex offense against victim under 16	None
Repeat offender – third-degree sex offense against victim under 16	None
Violation of lifetime sexual offender supervision	None
Crime of violence ¹	5 days/month good conduct, 20 days/month total ²
Volume drug dealer or drug distribution kingpin	5 days/month good conduct, 20 days/month total ²
Sex offense requiring registration on Sex Offender Registry	10 days/month good conduct, 20 days/month total ²
All other crimes	10 days/month good conduct, 30 days/month total ³
Local Facilities	
First- or second-degree rape or sex offense against victim under 16	None
Repeat offender – third-degree sex offense against victim under 16	None
Violation of lifetime sexual offender supervision	None
Crime of violence	5 days/month good conduct, 15 days/month total ⁴
Volume drug dealer or drug distribution kingpin	5 days/month good conduct, 15 days/month total ⁴
All other crimes	10 days/month good conduct ⁵ , 20 days/month total ⁴

Note: Per § 7-501 of the Correctional Services Article, an inmate convicted of a violent crime⁶ committed on or after October 1, 2009, is not eligible for conditional release until after the inmate becomes eligible for parole (basically, after having served one-half of the inmate’s sentence).⁷

¹ As defined in Section 14-101 of the Criminal Law Article: abduction, first degree arson, kidnapping, voluntary manslaughter, mayhem, maiming, murder, rape, robbery, robbery with a dangerous weapon, carjacking, armed carjacking, first degree sexual offense, second degree sexual offense, use of a firearm in the commission of a felony except possession with intent to distribute a controlled dangerous substance or other crime of violence, first degree child abuse, sexual abuse of a minor (under certain circumstances), home invasion, felony sex trafficking, forced marriage, attempts to commit the foregoing offenses, continuing course of conduct with a child, first degree assault, and assault with intent to murder, rape, rob, or commit a first or second degree sexual offense.

² Total may include credits for work tasks (5 days maximum), education (5 days maximum), and special projects (10 days maximum) in addition to good conduct.

³ Total may include credits for work tasks (5 days maximum), education (5 days maximum), and special projects (20 days maximum) in addition to good conduct.

⁴ Total may include credits for industrial, agricultural, or administrative tasks or vocational or other educational or training courses (5 days maximum); and special selected work projects or other special programs (5 days maximum) in addition to good conduct.

⁵ The good conduct deduction for presentence confinement is 5 days per month.

⁶ “Violent crime” means a crime of violence as defined in CR § 14-101 or burglary in the first, second, or third degree.

⁷ See Section 7-301(c) and (d) of the Correctional Services Article for further details regarding eligibility for parole after conviction of a violent crime.

Process After Sentencing

Promptly after an inmate is sentenced to the jurisdiction of DOC, DOC must assemble an adequate case record for the inmate that includes:

- a description of the inmate;
- a photograph of the inmate;
- the family history of the inmate;
- any previous record of the inmate;
- a summary of the facts of each case for which the inmate is serving a sentence;
- the results of a specified risk and needs assessment of the inmate; and
- the results of a physical, mental, and educational examination of the inmate.

Based on information assembled in the case record, DOC must classify an inmate and develop a case plan, as specified, to guide an inmate's rehabilitation while under the custody of DOC. In accordance with regulations adopted by DOC, the managing official of each correctional facility shall maintain, as a part of an inmate's case record:

- an adequate record of the conduct, effort, and progress of the inmate during confinement; and
- a record of the character of any offense committed by the inmate and the nature and amount of punishment inflicted. (§ 3-601 of the Correctional Services Article)

The Commissioner of Correction is required to maintain a system for administering the diminution of confinement for each inmate. A diminution of confinement record must:

- be established on the date that an inmate is received into the custody of the commissioner;
- contain entries reflecting all diminution credits awarded, revoked, or restored; and
- reflect a current and accurate record of diminution credit affecting an inmate's term of confinement.

The commissioner must ensure that staff responsible for maintaining the diminution of confinement record are notified within five days of:

- the date of an inmate's assignment to and subsequent removal from a work assignment, an education program, or a special project;
- revocation of an inmate's good conduct or special projects credit, or both; and
- the warden's approval to restore an inmate's revoked diminution credit. (COMAR 12.02.06.07)

The commitment unit within DOC is responsible for calculating the inmate's term of confinement, determining the number and type of diminution credits that may be applied toward that term, and determining the date of the inmate's release. The release date will change as the inmate earns new credits or has credits revoked for violating the rules of discipline.

Since July 1989, various statutory changes and court decisions have increased the complexity of the calculation of inmates' diminution credits and mandatory supervision release dates. In addition, legislative changes that restrict the earning or application of diminution credits may invoke the *ex post facto* doctrine to apply only to inmates whose crimes were committed after the changes took effect.

When a case record is received, the commitment unit performs an initial calculation of the term of confinement, deducting good conduct credit in advance. Thereafter, on the eighth day of each month, an electronic program identifies the work and program credits for each inmate and uses that information to recalculate a new release date.

Good conduct and special project are the only types of diminution credits that are based on offense criteria. Adding to or changing an inmate's sentence could affect eligibility. For example, if an inmate is serving a sentence for theft, and accordingly receiving 10 good conduct credits a month, and then is sentenced for a crime of violence, the person is eligible for only 5 good conduct credits a month for the person's entire term of confinement. The good conduct credits must, therefore, be recalculated at 5 credits per month from the beginning of confinement.

For inmates serving a life sentence, diminution credits are tabulated manually. However, no release date is calculated.⁵

An inmate may challenge the calculations prepared by the commitment unit any time in the process. A challenge may be initiated either informally or by formal appeal under the inmate

⁵ Diminution credits are relevant to an inmate serving a life sentence because such an inmate becomes eligible for parole consideration once the inmate has served 15 years or the equivalent of 15 years considering allowances for diminution credits (25 years if the inmate was sentenced to life imprisonment as the result of a death penalty proceeding).

grievance procedures. The challenge is forwarded to the commitment unit for an initial determination, which may be appealed to the Commissioner of Correction for a further investigation and response. The commissioner's decision may be appealed to the Inmate Grievance Office, which may be appealed to the Office of Administrative Hearings. Because these cases involve incarceration periods, all such questions may be additionally appealed to a circuit court as a *habeas corpus* matter. Inmates receive a printout showing their sentence calculation information once a year, but a case manager might share it more often.

In fiscal 2019, 5,531 inmates were sentenced to DOC, 1,944 inmates were returned to DOC from parole and mandatory supervision, 1,893 inmates were continued on parole or mandatory supervision, and 2,525 inmates were released on mandatory supervision. Due to COVID-19 pandemic responses, fiscal 2020 intake and release numbers were atypical and not provided for this report. The fiscal 2020 average daily population of all Maryland local correctional facilities was 8,053, which includes both detainees and sentenced inmates.

Other States

Most states have sentence credit policies applicable to inmates in state prisons. There are two types of credits – earned time and “good time.” Earned time is a credit against an inmate's sentence that the inmate earns for participation in or completion of productive activities. Good time credits are given to inmates for following prison rules and behaving properly.

At least 38 states offer earned time credits. Education, work, and participation in substance use treatment and other rehabilitative programs provide the most common opportunities for earned time. At least 38 states, as well as the federal prison system, give good time credits. In some states, good time credits involve some element of achievement above and beyond mere good behavior. For example, in Florida, an inmate may be granted up to 10 days “incentive gain time” for each month that the inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities. Likewise, in Oklahoma, an inmate may receive up to 60 days sentence credit per month depending on the inmate's classification level. The better an inmate's marks for participation in work, education, or program assignments, personal hygiene, and maintenance of living area, the higher the classification level. Often, as is the case in Maryland, inmates serving sentences for more serious crimes have a reduced ability to earn good time credits or may not be able to earn good time credits at all.

Four states (Hawaii, Michigan, Minnesota, and Montana) do not allow sentence credits.

A tabulation of credits available to state prison inmates in all 50 states and the federal prison system can be found in **Exhibit 2**. It should be noted that, due to the complexities involved in the laws, policies, and procedures of the various states, including determinate versus indeterminate sentencing, the interplay with parole, program availability, and the amount of discretion given to corrections officials, it is impossible to make an exact “apples-to-apples” comparison of diminution credit systems.

Exhibit 2
Good Time and Earned Time Policies for State Prison Inmates
(As Established by Statute)

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

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Alabama § 14-9-40 et eq.; § 14-9-3	Up to 75 days per 30 days served based on inmate classification	Thirty days per 12 months for blood donation. Work practices and job responsibilities affect inmate classification.	71%
Alaska § 33.20.010	33% off prison term		33%
Arizona § 41-1604.06 and .07	3 days for every 7 days served for drug possession; 1 day for every 6 days served for other crimes		30%
Arkansas § 12-29-201 et seq.	Up to 30 days per month served based on inmate classification	Director of the Division of Correction may award an amount of meritorious good time sufficient to reduce incarceration time by up to 90 days, not to exceed a total of 360 days, for each successful completion of a (A) GED program; (B) vocational program; (C) drug or alcohol treatment program; or (D) pre-release and other rehabilitative programs or assignments as approved by the Board of Corrections. Work practices, job responsibilities, and involvement in rehabilitative activities affect inmate classification.	50% plus 360 days

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
California Penal Code § 2933 et seq. and § 2935	Up to six months per six months served based on inmate classification	One to six weeks per 12-month period for completion of rehabilitative programming including academic programs, vocational programs, vocational training, and core programs such as anger management, social life skills, and substance abuse programs. Two days per 1 day for working at a conservation camp or for working as an inmate firefighter. Up to 12 months for heroic acts in life threatening situations or providing exceptional assistance in maintaining the safety and security of a prison.	More than 50%
Colorado § 17-22.5-405	10 or 12 days per month served based on inmate classification	Up to 60 days for completion of milestone or phase of an educational, vocational, or therapeutic program or per act of exceptional conduct. One day per 1 day of working at a disaster site.	29% plus
Connecticut Gen. Stat. §18-98e		Under the Risk Reduction Earned Credit Program, an inmate may earn up to 5 days per month for compliance with accountability plan, participation in eligible programs, good conduct, and obeying institutional rules.	14%
Delaware 11 Del. C. § 4381	2 days per month for first year served and 3 days per month for subsequent years served	Up to 5 days per month for participation in education, work, rehabilitation, or other programs as designated. For offenders sentenced on or after August 8, 2012, up to 60 days of additional good time may be awarded for successful completion of an approved program designed to reduce recidivism.	Capped at 160 days per year = 44%
Florida § 944.275	10 days per month served for participating in training, working diligently, using time constructively, or other positive activities	Ten days per month; one-time award of 60 days for completion of vocational program or GED or performing an outstanding service.	Capped at 15%
Georgia § 42-5-101		The department may award up to one day of work incentive credits for each day during which the inmate has participated in approved educational or other counseling programs, has satisfactorily performed work tasks assigned by the penal institution, and has complied with satisfactory behavior standards established by the department.	50%

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Hawaii			No credit
Idaho § 20-101D		Up to 15 days per month for an extraordinary act.	Cannot be reliably calculated.
Illinois 730 ILCS 5/3-6-3	1 day per 1 day or 4.5 days per month served for good conduct	Good time multiplied by 1.5 for participation in educational, substance abuse, behavior modification, life skills, or reentry planning program or correctional industry assignment. Additional 90 days for completion of GED	50% plus
Indiana § 35-50-6-3 et seq.	1 day per 1, 3, or 6 days served based on offense	Up to 6 months for completion of literacy and basic life skills program, 6 months for GED, 1 year for high school diploma, up to 1 year for associate's degree, up to 2 years for bachelor's degree, up to 1 year for career/technical/vocational program, up to 6 months for substance abuse program, 6 months for reformatory program.	Total credit not to exceed 2 years or 33% of sentence, whichever is lesser
Iowa § 903A.2	17.65% of a day per day for good conduct	120% of a day per 1 day of participation in an educational program, a treatment program, or an employment program.	Inmates are either eligible for 17.65% good time or 120% earned time depending on type of sentence, not both 12/10 = 55%
Kansas § 21-6821	15% or 20% of prison term	Up to 120 days of sentence for completion of a GED, technical, or vocational training program, substance abuse program, or any other program that has been shown to reduce an offender's risk after release.	20% plus 120 days
Kentucky § 197.045 and § 197.047	Up to 10 days per month served	Ninety days for completion of GED, high school diploma, college degree, or vocational or technical education program. Up to 90 days for completion of a drug treatment program, evidence-based program, or other promising practice or life skills program. Up to 7 days per month for outstanding performance related to institutional operations and programs. Up to 7 days per month for exceptional acts of service during an emergency. 20% of a day per 8 hours of participation in state or local government work projects or work related to maintenance and operation of a correctional facility.	25% plus

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Louisiana RS 15: § 571.3, RS 15: § 833.1, and RS 15:§ 828	30 days per 30 days, 3 days per 17 days, 13 days per 7 days, or 1 day per 3 days in custody for good behavior and performance of work or self-improvement activities	Up to 360 days for participation in certified treatment and rehabilitation programs. Up to 180 days for participation in work release program. Thirty days per 30 days working on disaster remediation.	50% plus
Maine 17-A MRSA §§ 2307, 2308	Up to 4 or 5 days per month served based on conduct	Up to 3 days per month for complying with transition plan for work, education, or rehab. Up to 2 days per month for community-based work, education, or rehab.	14% plus
Maryland Correctional Services § 3-701 et seq.	5 or 10 days per month served	Five days per month for participation in educational, vocational, or other training courses. Five days per month for satisfactory performance in assigned work tasks. Twenty days per month for participation in special selected work projects or other special programs.	Total credits not to exceed 30 days per month = 50%
Massachusetts 127:§ 29C and § 129D	Up to 2.5 days per month	Up to 7.5 days per month for participation in a GED educational course or other educational course, vocational program, working at a state hospital or state school, work release or prison industry, or participation in any other program deemed valuable to an inmate's rehabilitation. Total credits may not exceed 15 days per month. One-time credit of up to 90 days for program completion, capped at 17.5% of original maximum sentence.	Total credits may not reduce maximum prison term by more than 35%
Michigan § 800.34			No credit Disciplinary time for major misconduct to be submitted for consideration by parole board. A prisoner's minimum sentence, plus disciplinary time, shall not exceed maximum sentence.

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Minnesota §§ 244.035, 244.04, 244.05			No credit. Time added to prison term for misconduct, frivolous litigation, or non-participation in rehabilitative programming.
Mississippi §47-5-138, §47-5-138.1, and §47-5-142	4.5 days per 30 days served for compliance with good conduct and performance requirements	30 days per month or more may be awarded for participation in educational or instructional programs, work projects, or special incentive programs.	13% plus
Missouri § 558.041 and 14 CSR 10-5.010	1 or 2 months per year for acceptable behavior and appropriate program involvement		17%
Montana			No credit
Nebraska § 83-1,107	6 months per year, plus 3 days per month following a 12-month period of incarceration with no disciplinary infractions		42%

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Nevada § 209.4465, § 209.448, and § 209.449	20 days per month served with no serious infractions and performing duties assigned	<p>Up to 10 days per month for diligence in labor and studies.</p> <p>Sixty days for GED, 90 days for high school diploma, 120 days for first associate's degree, and up to 90 days for additional degrees.</p> <p>Sixty days for completion of a vocational education and training program. Additional maximum 60 days for meritorious or exceptional achievement in completing the program.</p> <p>Sixty days for completion of alcohol or drug treatment program.</p> <p>Up to 10 days per month for participating in a conservation camp, restitution center, reentry program, work release, or other program outside prison.</p>	Capped at 58% from minimum term of imprisonment
New Hampshire § 651:2(II-e), § 651-A:22, and § 651-A:22-a	150 days "disciplinary time" added for each year of term, reduced by commissioner at the rate of 12.5 days per month for good conduct	<p>Ninety days for GED, 120 days for high school diploma, 180 days for associate's degree, and 180 days for bachelor's degree.</p> <p>Sixty days for successful completion of vocational programming.</p> <p>One-time 60 day reduction for meaningfully participating in mental health and/or substance abuse treatment.</p> <p>One-time reduction of 60 days for participating in Family Connections Center programming.</p>	Earned time not to exceed 13 months off sentence
New Jersey § 30:4-92; § 30:4-92a and § 30:4-140	7 days per month up to 16 days per month served, time awarded increases with number of years served for orderly conduct	<p>Compensation for inmates of correctional institutions may be in the form of cash at established inmate wage rates or remission of time from sentence or both. Remission from the time of sentence shall not exceed one day for each five days of productive occupation.</p> <p>Three days per month for the first year employed, and 5 days per month for subsequent years working in honor camps, farms, or details.</p> <p>Commissioner may award time for achievements in education and workforce training on top of other time.</p>	35% plus

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
New Mexico § 33-2-34	Up to 4, 8 or 30 days per month served depending on crime and quality of participation	Three months for a GED, 4 months for an associate’s degree, 5 months for a bachelor’s degree or graduate qualification completion. One month for completion of a vocational, substance use, or mental health program. For a heroic act of saving life or property or extraordinary conduct that demonstrates commitment to rehabilitation – amount earned at discretion of DOC.	Earned time awarded may not exceed 1 year in a 12-month period = 50%
New York Correction §§ 803 - 805	Up to 33% of the maximum term for an indeterminate sentence. Up to 14.3% of a determinate sentence	Total of 14.3%, 16.7%, or 33% of the sentence for completion of a GED, vocational trade certificate, alcohol, and substance use treatment. Six months for participation in work and treatment and completion of “significant programmatic accomplishment.”	Cannot be reliably calculated
North Carolina Policy and Procedure Chapter B, § 100		Up to 9 days per month “earned time” for participation in full-time work and program activities. Additional “meritorious time” credits may be granted for exemplary acts or for working under emergency conditions, working overtime, working in inclement weather, for achievements in apprenticeship training, educational or other type programs, and/or for remaining infraction-free for a specified period of time.	23% plus
North Dakota § 12-54.1	5 days per month	Inmates may receive a lump sum or monthly rate of meritorious conduct sentence reduction for outstanding performance or heroic acts or as a special control and security measure.	14% plus
Ohio § 2967.193		One or 5 days per month of participation in an educational, vocational training, substance use treatment, prison industries work, or other constructive program. Ninety days for completion of specified educational or vocational program or 10% of sentence, whichever is less.	Outside of completion of a specified educational or vocational program, an inmate may earn time for up to 2 programs but total credit cannot exceed 8% of total days of sentence = 18%

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Oklahoma § 57-138, § 57-138.1, and § 57-65	22, 33, 44, 45, or 60 days per month based on classification level	Ten to 30 days for educational accomplishments; 90 days for completion of GED, 200 days for a bachelor's degree; 100 days for an associate's degree; 80 days for vocational certificate; 70 days for completion of a minimum 4-month alcohol/chemical abuse treatment; ten to 30 days for other programs. Up to 100 days for meritorious act. Three days for each pint of blood donated in first 30 days, up to 5 days for each pint donated during any 60-day period thereafter. Participation in work, education, and program assignments, and personal hygiene and maintenance of living area affect classification level.	50% plus
Oregon § 421.121	Up to 20% of prison term for appropriate institutional behavior and participation in adult basic skills development program		20%
Pennsylvania 61 Pa CSA §§ 4501 – 4512		Under recidivism risk reduction incentive program, eligible inmates (as determined by sentencing court) may receive 25% or 16.7% reduction of minimum sentence for participation in and completion of evidence-based program plan as determined by risk assessments.	25% reduction
Rhode Island § 42-56-24	Up to 10 days per month	Up to 2 days per month for working, up to 5 days per month for programs, up to 30 days for completion of program.	25% plus
South Carolina §§ 24-13-210 to 235	3 or 20 days per month	Up to 1 day for every 2 or 6 days per month for productive duty assignment or participating in academic, vocational, or technical training.	Maximum annual credit for earned time capped at 180 or 72 days

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
South Dakota § 24-5-1	4 months for the first 10 years served and 6 months per year for subsequent years		25% plus
Tennessee § 41-21-236	Up to 8 days per month	Up to 8 days per month of participation in work, educational, or vocational programs. Sixty days for completion of GED, high school diploma, 2 or 4-year college degree or applied sciences program on top of all other credit.	Inmates can earn up to 16 days per month and one 60-day educational completion credit = 35% plus
Texas Gov. Code §§ 498.002 – 498.003		Up to 30 days per 30 days served if the department finds that the inmate is actively engaged in an agricultural, vocational, or educational endeavor, in an industrial program or other work program, or in a treatment program, unless the department finds that the inmate is not capable of participating in such a program or endeavor.	50%
Utah § 77-27-5.4		Minimum 4 months for completion of one program identified in case action plan. An inmate may earn credit for up to 2 programs. Parole board has discretion to award additional time.	8 months plus
Vermont 28 VSA §§ 811 and 818	5 days per month	Up to 30 days per month for working in a work camp beyond the level normally expected. An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment.	14% plus
Virginia § 53.1-191, § 53.1-202 et seq.		Up to 4.5 days per 30 days served for participation and cooperation in programs based on a risk assessment related to successful reentry. Additional time may be awarded at agency discretion for assistance in preventing an escape, blood donation to another prisoner, extraordinary service, or sustaining an injury.	13% plus
Washington § 9.94A.729	Up to 33% of total sentence for good behavior and performance		33%
West Virginia § 28-5-27	1 day for 1 day served	Additional time can be awarded at agency discretion, with approval of governor, for exceptional work or service.	50% plus

State	Good Time	Earned Time	Maximum Deduction Available (approximate)
Wisconsin § 302.43	Local inmates may earn good time in the amount of 25% of term for good behavior		25% of term – local inmates only
Wyoming § 7-13-420 and P&P #1.500	Up to 15 days per month based on inmate attitude, conduct, and behavior	If an inmate has demonstrated an especially proper and helpful attitude, exemplary conduct and behavior, the board may award up to one month of special good time off the minimum sentence for every year in length of the minimum sentence, up to a maximum of one year, in addition to the monthly good time allowance.	33% plus
Federal 18 U.S.C. §§3624(b), 3621	Up to 54 days per year	In awarding sentence credit, the Bureau of Prisons shall consider whether the inmate has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree. An eligible offender may be granted additional credit of up to one year for completion of a substance abuse program.	12.9% plus

Conclusion

Maryland's diminution credit system has evolved over time to become a unique and complicated scheme. The system is administered by the Commitment Unit within DOC. The State is in accord with most other states in allowing good conduct credits as well as earned time credits to reduce the length of an inmate's incarceration. Chapter 515, the Justice Reinvestment Act, expanded diminution credit availability such that many State correctional facility inmates may reduce their incarceration time by as much as 50% through good behavior and program participation.