

## OLR Backgrounder: Inmate Sentence Reduction Methods

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### Issue

Provide (1) a history of inmate sentence reduction methods including good conduct credits and the risk reduction earned credit (RREC) program and (2) information about current RREC policies.

### Summary

Connecticut law consistently provided prisoners means to reduce their sentences for good behavior from at least 1862 until 1993, when the legislature enacted [PA 93-219](#). The act required prisoners sentenced for crimes committed on or after October 1, 1994 to serve their entire sentence either in prison or under Department of Correction (DOC) community-based supervision. The act did not affect the ability of inmates sentenced for crimes committed before then to earn credits for good behavior.

### *Statistics*

*According to Department of Correction (DOC) [data](#), 50,845 prisoners were discharged from October 2011 through December 2016. Of those prisoners discharged during that period, 41,502 (approximately 83%) were discharged with at least one day of RRECs. The most common controlling offenses for inmates awarded RRECs during that time included violation of probation ([CGS § 53a-32](#)) and certain drug offenses (e.g., [CGS § 21a-277\(a\)](#)). (For inmates imprisoned for multiple offenses, “controlling offenses” are generally the most serious offense or the one with the longest sentence.)*

The law remained in effect until 2011, when the legislature passed a law that allowed certain prisoners to earn a reduced sentence through risk reduction earned credits (RRECs) ([PA 11-51](#), codified as [CGS § 18-98e](#)). The legislature has modified the RREC laws in recent years but these credits remain the current mechanism for sentence reductions for individuals sentenced for crimes committed on or after October 1, 1994. (As discussed below, individuals sentenced for crimes committed prior to that date are eligible to earn credits under a different law.)

## History

At least as far back as 1862, Connecticut law allowed prisoners an opportunity to reduce their prison sentences for good conduct. For example, under an 1862 law, a prisoner could earn a (1) three-day sentence reduction for each month the warden's records indicated that the prisoner adhered to prison rules and required no disciplinary action and (2) five-day reduction for each month the record showed that the prisoner's conduct was "positively good."

This law was revised several times through the nineteenth and twentieth centuries (e.g., provisions were added that adjusted the calculation of credits; required earned reductions to be forfeited for insubordination; and allowed prisoners to earn an additional reduction as a "meritorious time service award"). But the law permitted prisoners to earn sentence reductions in some form until 1993, when the legislature passed [PA 93-219](#).

[PA 93-219](#) limited the ability of certain prisoners to reduce their sentences. The relevant provision (§ 10) stated:

"Notwithstanding any other provision to the general statutes, any person convicted of a crime committed on or after October 1, 1994, shall be subject to supervision by personnel of the department of correction or the board of parole until the expiration of the maximum term or terms for which he was sentenced."

The law did not make any conforming changes to the laws that allowed for prisoners to earn good time credits or credits for outstanding meritorious conduct. In June 1994, the DOC commissioner sought advice from the attorney general's office on how the new law would affect the discharge dates for individuals covered by the act.

On November 23, 1994, the attorney general issued an [opinion](#) in which he stated that the legislature, by mandating DOC supervision until the expiration of the maximum term or terms of the sentence, eliminated the ability for prisoners to earn good time credits for crimes committed on or

after October 1, 1994. He concluded that “the maximum terms of sentences imposed for crimes committed on or after October 1, 1994 are not reducible by good time credits. For such crimes, the entire sentence must be served under the supervision of the Department of Correction or the Board of Parole.”

Fifteen years later, in 2011, the legislature passed a law that allows certain inmates to reduce their sentences by earning RRECs ([PA 11-51](#) (§§ 22-25), codified as [CGS § 18-98e](#)).

## **Risk Reduction Earned Credit**

### ***Statutory Authority***

[PA 11-51](#) (§§ 22-25), effective July 1, 2011, established a system of RRECs and made certain inmates eligible to earn up to five days of RRECs per month for offenses committed on or after October 1, 1994. RRECs reduce an inmate’s maximum sentence and make inmates eligible for parole sooner. They do not reduce a mandatory minimum sentence. The act specified certain ways that an inmate could earn or lose RRECs. (Inmates sentenced prior to October 1, 1994 are not eligible for RRECs, though they are eligible for other credits for good conduct, obedience to prison rules, employment, and outstanding meritorious performance.)

Under the act, inmates could earn retroactive credits for good conduct that occurred on or after April 1, 2006. The DOC commissioner was charged with adopting policies and procedures for determining credits and had until July 1, 2012 to phase in retroactive credits. Inmates convicted of the following crimes were ineligible for credits under the act: murder ([CGS § 53a-54a](#)), capital felony (later redesignated as murder with special circumstances) ([CGS § 53a-54b](#)), felony murder ([CGS § 53a-54c](#)), arson murder ([CGS § 53a-54d](#)), 1<sup>st</sup> degree aggravated sexual assault ([CGS § 53a-70a](#)), and home invasion ([CGS § 53a-100aa](#)).

In 2013, the legislature amended the law to prohibit inmates convicted of other violent crimes or second degree burglary from using RRECs to become eligible for parole sooner than they otherwise would be by requiring them to continue to serve 85% of their sentences before being eligible for parole, regardless of any credits they received ([PA 13-3](#) (§ 59)).

In 2015, the legislature expanded the list of crimes ineligible for RRECs to include 1<sup>st</sup> degree manslaughter ([CGS § 53a-55](#)), 1<sup>st</sup> degree manslaughter with a firearm ([CGS § 53a-55a](#)), and aggravated sexual assault of a minor ([CGS § 53a-70c](#)). Persistent dangerous felony offenders and persistent dangerous sexual offenders also became ineligible for credits ([PA 15-216](#)). The act also required (1) the warden of a facility to review an inmate’s records for verification of credits prior to his or her release and (2) DOC to issue quarterly reports regarding RRECs to the legislature.

## ***RREC Policies***

The law requires the DOC commissioner to adopt policies and procedures to determine the amount of credit an inmate can earn towards sentence reduction ([CGS § 18-98e\(f\)](#)). The commissioner's initial award policy, implemented in October 2011, allowed all inmates to earn a five-day sentence reduction per month if they were in compliance with their offender accountability plan, participated in eligible programs and activities, and maintained good conduct and obeyed institutional rules. Inmates were not eligible for RRECs for misconduct, insubordination, noncompliance to institutional rules, or other reasons, at the commissioner's or his designee's discretion.

*Current Policy.* The most recent revision to RREC policies took effect on February 1, 2016. The current policies allow inmates to earn these credits according to their overall risk level, which ranges from one (the lowest security risk) to five (the maximum security risk) and is determined based on an inmate's escape profile, history of violence, discipline history, and other factors. Overall risk level one inmates may earn five days per month; levels two and three, four days per month; and level four, three days per month. Level five inmates are ineligible for RRECs.

Inmates earning less than five days per month may receive a lump sum award, not to exceed the maximum allowed under statute (120 days for a two-year period), once every 24 months if they have not been disciplined during that time and they meet other criteria. Under the current policy, inmates may be eligible for a lump sum award effective February 1, 2018.

*Loss of RRECs.* Under [DOC policy](#), inmates lose RRECs for certain conduct requiring disciplinary action or refusal to participate in certain activities. Additionally, inmates are not eligible to earn RRECs if they refuse to (1) submit DNA, (2) comply with sex offender requirements, or (3) sign and comply with their Offender Accountability Plan (a DOC-customized plan to promote accountability and productive behavior).

The number of RRECs an inmate must forfeit are determined according to the class of disciplinary action or violation. Violations range from class A (the most serious) to class C (the least serious). Certain class A violations require a loss of 15 days, but there may be an increased penalty based on a hearing officer's recommendation. The most serious class A violations, such as assault on DOC staff, arson, or rioting, require a minimum loss of 60 days. Class B violations require a loss of 10 days. There is no required RREC forfeiture for class C violations. If the inmate has not yet earned the total credits to be rescinded for a class A or B violation, prospective credits may be forfeited during his or her current incarceration period.

An inmate may also lose RRECs for certain violations while committed to a community-based supervision program such as a halfway house or transitional placement program. Additional information can be found in the DOC [Code of Penal Discipline](#).

## Hyperlinks

DOC Administrative Directive 4.2A, Risk Reduction Earned Credit:

<http://www.ct.gov/doc/lib/doc/PDF/ad/ad0402a.pdf>

DOC Administrative Directive 9.5, Code of Penal Discipline:

<http://www.ct.gov/doc/LIB/doc/PDF/AD/ad0905.pdf>

DOC Offender Accountability Plan Manual:

<http://www.ct.gov/doc/lib/doc/PDF/offenderAccountabilityplan.pdf>

Office of Policy and Management, Risk Reduction Earned Credit Reports:

<http://www.ct.gov/opm/cwp/view.asp?a=2967&Q=577316&PM=1>

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