

**Directive 371.19 Reduction Of Term For Good Behavior**

**STATE OF VERMONT  
AGENCY OF HUMAN SERVICES  
DEPARTMENT OF CORRECTIONS**

**Directive: 371.19**

**Subject:** Reduction Of Term For Good Behavior

**Effective Date:** 12/30/02                      **Review and Re-Issue Date:**

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<b>Recommended for approval by:</b> Richard Turner, Director/Correctional Services		<b>Authorized By:</b> Steven M. Gold, Commissioner	
_____	_____	_____	_____
<b>Signature</b>	<b>Date</b>	<b>Signature</b>	<b>Date</b>

**1. Authority:**

1.1. Pursuant to 28 V.S.A., Chapter 3, Sections 101-102; Chapter 9, Section 601; Chapter 11, Sections 811-813, and Sections 851-855, the Commissioner of the Vermont Department of Corrections shall provide for and administer a program of reduction of term for good behavior for offenders.

**2. Purpose:**

2.1. This directive outlines the system for managing the award of a reduction of incarceration for:

2.1.1. Faithful observation of all the rules and regulations of the institution to which the offender is committed;

2.1.2. Participation in treatment, educational or vocational training, programs, or work identified by the department or;

2.1.3. Participation in a work camp program

**3. Applicability/Accessibility**

3.1. This policy shall apply to individuals committed to the custody of the Commissioner of Corrections. Anyone may have a copy of this policy.

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### 4. Directive

#### 4.1. Exclusionary Criteria (ART & ERT)

##### 4.1.1 Probationers or Parolees

Individuals on probation, parole or supervised community sentence are not eligible for the award or loss of ART or ERT credit.

##### 4.1.2 Civil Contempt

Individuals sentenced to imprisonment on a civil contempt charge are not eligible for the award or loss of ART or ERT credit.

##### 4.1.3 Persons Committed to the Custody of the Commissioner of Mental Health

Individuals committed to the custody of the Commissioner of Mental Health, even if those persons are incarcerated in a correctional facility, are not eligible for the award or loss of ART or ERT credit.

##### 4.1.4 Conditional Reentry

Individuals in Conditional Reentry status are not subject to reduction of term. This applies to all cases that are under the 2001 rules. These are individuals that have been convicted of offense occurring on or after June 16, 2001.

#### 4.2. AUTOMATIC REDUCTION OF TERM (ART)

4.2.1. As of this writing the awarding of Automatic Reduction of Term is governed by four rules:

- ◆ Pre 1994 Rules (Old Rules)
- ◆ 1994 Rules
- ◆ 2000 Rules
- ◆ 2001 Rules

4.2.2. The automatic reduction of term for each of these rules is 10 days for Pre 1994 rules and 5 days for 1994 rules, 2000 rules and 2001 rules.

4.2.3. These reductions apply to the minimum and maximum release dates with the exception of 2000 and 2001 rules. ART does not come off the minimum release dates for 2000 and 2001 rules.

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### 4.3. EARNED REDUCTION OF TERM (ERT)

4.3.1. As of this writing the awarding of Earned Reduction of Term is governed by four rules:

- ◆ Pre 1994 Rules (Old Rules)
- ◆ 1994 Rules
- ◆ 2000 Rules
- ◆ 2001 Rules

4.3.2. Under the Pre 1994 rules an offender may earn up to 5 days of ERT per month off of their minimum and maximum release dates for the following:

- ◆ Satisfactory and consistent work performance; or
- ◆ Satisfactory and consistent program performance as required by the offender's case plan; or
- ◆ A special act or service to others that is not required by the offender's case plan

4.3.3. Under the 1994 rules an offender may earn up to 10 days of ERT per month off their minimum and maximum release dates for the following:

- ◆ Up to 5 of the 10 days may be earned by satisfactory and consistent program performance as required by the offender's case plan
- ◆ Up to 5 of the 10 days may be earned by satisfactory and consistent work performance.

4.3.4. Under the 2000 and 2001 rules an offender may earn up to 10 days of ERT per month off of their maximum release dates for the following:

- ◆ Up to 5 of the 10 days per month may be earned by satisfactory and consistent program performance as required by the offender's case plan
- ◆ Up to 5 of the 10 days per month may be earned by satisfactory and consistent work performance.

4.3.5. Program Refusal

If the offender refuses to participate in such program or work identified by the department to address the offender's needs, but participates in other treatment,

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educational or vocational training programs or work, a reduction of up to five additional days in the minimum and maximum terms of confinement for each month may be made.

### 4.4. First 30 Days of Incarceration – Retrospective Award of ART and ERT

During the first month of incarceration, offenders who participate fully in the case planning process including eligibility determination for programs in sexual behavior, violence, work, vocational training, or education can earn the full amount of ART credit, ERT, and WCERT credit. However, the award is retrospective, requiring the offender to serve the first 30 days of incarceration before being issued any credit.

Individuals serving sentences of thirty days or less are not entitled to any ART, ERT or WCERT credit.

### 4.5. Program Identification and Availability

A non-existent or unavailable program shall not be identified on an offender's case plan to address an identifiable need area.

In the event that an offender is unable to participate in a program due to insufficient program opportunities provided by the department, the offender shall be awarded the maximum number of days' reduction in the minimum and/or maximum terms of confinement allowable for the program opportunity denied the offender.

If an offender is awarded credit due to insufficient program opportunities, this shall be considered a security incident, which, according to directive 405.02, shall be documented through the use of an Incident Report. It is the responsibility of the supervising officer to issue an Incident Report to the Superintendent.

### 4.6. Work Camp

Work camps provide offenders with the opportunity to *Return Value to the Community*, while serving an incarcerative sentence. Consequently, work camps are not to be designated or identified as a program to address either employment or work need areas on an offender's case plan.

A reduction of up to 15 additional days (WCERT) in the minimum and maximum terms of confinement a month may be made in accordance with policy established by the director of a work camp in which the offender is confined for each month during which the offender demonstrates, beyond the level normally expected, consistent program and/or work performance.

*Exception:* Offenders confined to work camps may earn a reduction of fifteen days in the minimum and maximum terms of confinement regardless of which Rules they are serving sentence under.

### 4.7. Central Office Interstate Compact Cases

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The Interstate Compact Administrator shall ensure that all out-of-state offenders sentence computations are updated on a semi-annual basis, consistent with reviews.

### **4.8. Unusual or Special Service Award**

Unusual or special awards apply only to offenders serving a controlling sentence for a crime committed prior to July 1, 1994. A reduction of up to five additional days a month in the minimum and maximum term of confinement may be made, at the discretion of the site superintendent wherein the offender is confined, if the offender has rendered an unusual or special service. The five days pertains to ERT and not ART or WCERT.

### **4.9. Denial/Loss of Earned Reduction of Term Credit**

Any or all of an offender's reduction of term credit for good behavior (ART) as outlined above may be denied if the offender commits a Major A or B infraction during the same month for which the ART credit was awarded. Additionally, up to ten days previously awarded reduction of term credit for good behavior (ART) may be denied for each subsequent infraction during the same month, consistent with sanction guidelines described in Directive 410.01.

Program criteria may provide for denial of ERT for infractions of program performance standards.

In disciplinary cases involving the loss of credit, a designated hearing officer shall conduct a fact-finding hearing pursuant to Title 28 V.S.A., Section 852(b).

### **4.10. Restoration of Loss of Earned Reduction of Term Credit**

Superintendents of facilities, community correctional service centers and work camps may restore all or part of an offender's reduction in credit, with the approval of the Commissioner.

### **4.11. Pro-Rated Credit Calculated 30 days Prior to Release**

For offenders confined at a correctional facility or on furlough, the award or loss of ERT credit for the final month of confinement shall be pro-rated based upon the time served that month.

### **4.12. Case Conferencing between Supervising Officer and Offender**

A Correctional Services Specialist shall meet with each offender to review his or her need areas and to outline the Offender Responsibility Plan pursuant to department directive 371.05. As part of this discussion, the supervising officer

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shall explain to the offender what he/she needs to do to get the full amount of credit, and how much credit he/she can earn in each need area.

### **4.13. Priority Program Intervention**

Offenders shall be referred to programs that address life-functions, addictions, cognitions and behaviors associated with criminal behavior. These programs traditionally include, but are not limited to the Vermont sex offender program, cognitive self-change/Pathways, ISAP and IDAP. It is the goal of correctional treatment to apply evidence-based interventions and practices to reduce criminality, particularly violence.

There are differing requirements for offenders designated to Level A, Level B, or Level C. ERT is associated with program participation credits and the process is more fully described in Directive #371.12: Program Participation Requirements for Offenders Convicted of Listed Offenses.

### **4.14. Offenders without Qualifying Need Areas**

Offenders without qualifying need areas may receive up to the full amount of ERT credit by participating in any program, such as education, work, or other programs that are not needs addressing.

### **4.15. Record**

An offender's sentence calculation is public record.

### **4.16. Offender Grievance Process**

Offenders have 30 days, from the date issued, to grieve any award or non-award or loss of ART or ERT. Failure to grieve within the period shall constitute a waiver of any complaint regarding the award. Grievances must be filed in accordance with department policy.

### **4.17. Notice to Offender of Award or Non-Award of Reduction of Term**

At least once monthly each offender committed to the custody of the commissioner shall be entitled to see his or her permanent file, which shall record any reduction in the minimum, where applicable and or maximum term of confinement. Documentation must be made in the offender's case file explaining why the maximum reduction of term did not occur. This means that the offender is entitled to see his newly updated sentence computation or some other document that reflects the newly adjusted minimum and maximum release dates based on the award or denial of ERT.

### **4.18. Case Transfers**

The site wherein an offender is placed on the tenth day of the month must issue the award or loss of credit for a previous month. Partial or transferable credit is not

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permissible. The site completing the award or denial would be responsible to contact the previous site to determine the correct amount for the entire month.

### **5. Training Method**

5.1 Each site manager will ensure all staff have read and understand this directive.

### **6. Quality Assurance Processes**

6.1 Each site manager will develop a local procedure.

### **7. Financial Impact:**

7.1. This directive has no financial impact. It out-lines operational practices based on statute.

### **8. References**

8.1 Title 28 V.S.A.

### **9. Responsible Director and Draft Participants**

Donal Hartman, Deputy Commissioner  
Jacqueline Kotkin, Assistant Director of Correctional Services  
James Spinelli, Director of Quality Assurance  
Dick Smith, Assistant Director of Program Services  
Barre Davis, Information Technology Manager  
Raymond Flum, Superintendent  
Sandra Olberg, Superintendent  
Connie Swaim, Living Unit Supervisor  
Mike Lyon, Living Unit Supervisor