

Vermont Department of Corrections
Emergency APA Rule #11-E02
Granting Reintegration Furlough
July 1, 2011

1. AUTHORITY: 28 V.S.A. Chapter 11, § 808c, Reintegration Furlough: Act 63 of 2005, House Bill 792 of 2010, and Act 41 of the 2011 legislative session.

By law, inmates sentenced to incarceration may be furloughed to the community on reintegration furlough in one of the following manners:

A. Any inmate sentenced to incarceration may be furloughed for up to 180 days prior to completion of their minimum sentence. Inmates who are sentenced to a minimum term of fewer than 365 days must serve at least one-half of their minimum term on incarceration.

OR

B. Those inmates sentenced to less than 365 days to an “eligible misdemeanor” as defined in 28 V.S.A. § 808 d, and who pose a low risk to public safety or victim safety, may be furloughed anytime during their sentence. For purposes of 28 V.S.A. §§ 808a-808c, “eligible misdemeanor” means a misdemeanor crime that is not one of the following crimes:

- Cruelty to animals involving death or torture as defined in 13 V.S.A. § 352(1) and (2);
- Simple assault as defined in 13 V.S.A. § 1023(a)(1);
- Simple assault with a deadly weapon as defined in 13 V.S.A. § 1023(a)(2);
- Simple assault of a law enforcement officer, firefighter, emergency medical personnel member, or health care worker while he or she is performing a lawful duty as defined in 13 V.S.A. § 1023(a)(1);
- Reckless endangerment as defined in 13 V.S.A. § 1025;
- Simple assault of a correctional officer as defined in 13 V.S.A. § 1028a(a)(1);
- Simple assault of a correctional officer as defined in 13 V.S.A. § 1028a(b);
- Violation of an abuse prevention order, first offense, as defined in 13 V.S.A. § 1030;
- Stalking as defined in 13 V.S.A. § 1062;
- Domestic assault as defined in 13 V.S.A. § 1042;
- Cruelty to children over 10 years of age by one over 16 years of age as defined in 13 V.S.A. § 1304;
- Cruelty by a person having custody of another as defined in 13 V.S.A. § 1305;
- Abuse, neglect, or exploitation of a vulnerable adult as provided in 13 V.S.A. §§ 1376-1381;
- Hate-motivated crime as defined in 13 V.S.A. § 1455 or burning of a cross or other religious symbol as defined in 13 V.S.A. § 1456;

- Voyeurism as defined in 13 V.S.A. § 2605;
- Prohibited acts as defined in 13 V.S.A. § 2632;
- Obscenity as defined in chapter 63 of Title 13;
- Possession of child pornography as defined in 13 V.S.A. § 2827;
- Possession of a dangerous or deadly weapon in a school bus or school building as defined in 13 V.S.A. § 4004(a);
- Possession of a dangerous or deadly weapon on school property with intent to injure as defined in 13 V.S.A. § 4004(b);
- Possession of a firearm in court as defined in 13 V.S.A. § 4016(b)(1);
- Possession of a dangerous or deadly weapon in court as defined in 13 V.S.A. § 4016(b)(2);
- Failure to comply with the sex offender registry as defined in 13 V.S.A. § 5409;
- Careless or negligent operation of a motor vehicle resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);
- Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c);
- Boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323.

The purpose of this furlough option is to assist in the preparation of inmates for successful re-entry into the community.

The law also indicates that those inmates who meet the eligibility as set forth in Act 63 of the 2005 legislative session, may earn, at the discretion of the Department, an additional five (5) days award per month toward a reintegration furlough for each month that they comply with their case plan and obey all rules and regulations of the facility.

2. PURPOSE: The purpose of this rule is to establish factors that may be considered in granting reintegration furlough and the additional five (5) days per month award toward reintegration furlough for incarcerated inmates.

3. DEFINITIONS

Reintegration Furlough: A furlough prior to the minimum sentence to prepare an incarcerated inmate for re-entry into the community.

Department: The Department of Corrections (DOC).

Commissioner: The Commissioner of the Department of Corrections.

Sentenced/Detained Offender: An inmate who is both serving a sentence and also has a detainer against their release from custody. The detainer may be by another jurisdiction in Vermont or outside of Vermont. The detainer may be for pending charges that are **not yet adjudicated** and need to be resolved, or the detainer may be for charges that **have been adjudicated**, and the inmate needs to serve a sentence in the requesting jurisdiction.

4. REINTEGRATION FURLOUGH PRIOR TO MINIMUM SENTENCE

A. Eligibility:

- i. All inmates sentenced to incarceration are eligible for reintegration furlough for up to 180 days prior to their minimum release date. Inmates sentenced to a minimum term of fewer than 365 days must serve at least one-half of their minimum term on incarceration.
- ii. An inmate sentenced to less than 365 days to an “eligible misdemeanor” as defined in section 1 above and who poses a low risk to public safety or victim safety is eligible for reintegration furlough at any time during their sentence, unless the court indicates on the mittimus that the inmate is not eligible.

B. Granting of Furloughs: Eligible inmates must have met at least the following three (3) conditions in order to be considered for reintegration furlough 180 days prior to their minimum sentence of incarceration:

- 1) Compliance with their case plan as defined in section 6. C. below;

AND

- 2) No convictions for any Major “A” disciplinary infraction or any disciplinary infraction (major or minor) which was the result of violence against persons or destruction of property in the preceding twelve (12) months;

AND

- 3) Must have a minimum sentence to serve. If a court suspends a portion of a sentence of imprisonment, the unsuspended portion of said sentence will not be considered a minimum sentence.

The Department may also consider other factors in the granting of furlough (section 6. below.) All decisions to grant furlough are at the discretion of the Commissioner or his/her designee.

5. AWARDS OF ADDITIONAL FIVE (5) DAYS PER MONTH TOWARD REINTEGRATION FURLOUGH

A. Eligibility: Inmates must meet all of the following conditions to be eligible for consideration of an additional five (5) days per month award toward reintegration furlough. Inmates must:

- Have a minimum sentence of incarceration to serve of five (5) years or less
- Not have a current conviction of a crime(s) as listed in statute 28 V.S.A. § 808c (d)
- Be serving a sentence in a correctional facility

- Be serving more than six (6) months of their minimum sentence
- Not be held as a sentenced/detained offender
- Not be serving sentence in a work camp program.

B. Granting of an Additional Five (5) Days per Month toward Reintegration Furlough

Eligible inmates must have met at least the following conditions in order to be awarded five (5) additional days per month toward reintegration furlough:

- A current (within 12 months) risk assessment that reflects a low or low-moderate probability of re-offense
- Be in full compliance with their case plan, as defined in section 6. C. below, for every month in the six (6) month review period under review
- Show progress in programs, as defined in section 6. E. below, for every month in the six (6) month review period under review
- No disciplinary report convictions for a Major A or B violation for every month in the six (6) month period under review
- No history of violence as defined in section 6. B. below.

In no event will the award be automatic. It must be earned. The award will not be prorated. These awards will be calculated at least every six (6) months.

6. CONSIDERATIONS IN THE GRANTING OF REINTEGRATION FURLOUGH

In addition to the conditions set forth in section 4. B. above, the Department may consider factors including, but not limited to, the following in making a decision to grant reintegration furlough.

A. Inmate Risk to Re-offend: DOC assessment technology will reflect best practice at the time that furlough decisions are being considered. Risk assessments completed within twelve (12) months prior to the consideration of reintegration furlough will be considered current.

B. Inmate History of Violent Behavior: This will include a review of the level of violence involved in the crime(s) for which the inmate is serving sentence. Current convictions of any of the crimes listed at statute 13 V.S.A. §5301 (7) or crimes listed in the departmental directive on listed offenses, will be considered indicative of a history of violence. Additionally, disciplinary reports for violence against persons or property in at least the preceding twelve (12) months may also be considered as indicative of a history of violence.

C. Inmate History of Compliance with Case Plan: Inmates must be actively involved in the development and implementation of their case plan. All elements of the case plan that involve action on the part of the inmate, and that are within the inmate's control, must be progressing. This includes, but is not limited to, attendance and engagement in meetings with their caseworker; attendance and

engagement in any required treatment or program services; and active participation in discussions with their caseworker related to plans for their life after release. The inmate must demonstrate active participation for at least the preceding twelve (12) months.

D. Inmate History of Compliance with Community Supervision: For inmates who have had prior experience with community supervision in Vermont, DOC will review their history for a demonstrated pattern of compliance with supervision prior to making a release determination.

E. Inmate Progress in Treatment or Program Services: Inmates must demonstrate progress in required treatment or programs services. The DOC will assess progress based on documented recommendation of the treatment and/or program services provider.

F. Adherence to Rules in the Facility: Inmates must demonstrate adherence to facility rules as reflected by the presence or absence of disciplinary reports (major and/or minor) or absence of conviction of new crimes while incarcerated.

G. Ability to Provide an Adequate Level of Departmental Supervision: The Probation and Parole Field Manager will review the case to assess the field's ability to supervise the inmate if furlough is granted. Ability to provide adequate supervision may include, but not be limited to, the proposed physical residence of the inmate upon release and the location of any identifiable victim.

H. Risk to Persons or Public: DOC will examine whether there is credible evidence that the release will place a particular citizen at risk of harm, or otherwise compromise public safety.

The Commissioner in his/her sole discretion may consider extraordinary positive contributions to the facility by the inmate in making a decision to grant a reintegration furlough.

7. TRACKING AND TIMING OF RE-INTEGRATION FURLOUGH

A. The final release date for reintegration furlough will be determined by the Commissioner or designee based on a review of the factors and any additional days awarded as outlined in this rule.

B. The Department will develop a system to track eligibility and the granting of reintegration furlough. This will include any award of additional days and reasons for denial of furlough or additional award days for eligible inmates.

8. ADMINISTRATIVE APPEAL PROCESS. The Commissioner's decision will be final.