

HEALTH AND SOCIAL SERVICES

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HSS 302

(8) In determining the projected mandatory release date of a resident serving concurrent sentences imposed at the same time, the greater sentence shall control. Each sentence shall commence on the date imposed, less any credit granted pursuant to s. 973.155, Stats.

(9) In determining the projected mandatory release date of a resident serving concurrent sentences imposed at different times, the sentences shall be treated as commencing on the date each was imposed, less any credit granted pursuant to s. 973.155, Stats.

(10) In determining the projected mandatory release date of a resident serving consecutive sentences imposed at the same time, the sentences shall be treated as one continuous sentence for purposes of good time credit.

(11) In determining the projected mandatory release date of a resident serving consecutive sentences imposed at different times, the sentences shall be treated as separate sentences. Accordingly, state good time shall be credited on the second sentence as though the sentence has just commenced.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.22 Ambiguity in sentence. If a registrar is uncertain as to the terms of a sentence imposed on a resident, the registrar shall notify the court of the uncertainty in writing. The registrar shall also inform the resident in writing of the uncertainty and inform the resident of the legal services available at the institution to assist the resident.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.23 Violation of discretionary parole. When a resident is returned to an institution after the revocation of discretionary parole, the resident shall receive credit toward the satisfaction of the sentence according to the following:

(1) The resident shall receive credit from the beginning date of sentence until the date of the violation of parole. State and extra good time earned from the beginning date of sentence until the date of violation may be subject to forfeiture. The date of violation shall be determined by the hearing examiner, and if the resident waived the revocation hearing it shall be determined by the resident's parole agent.

(2) The resident shall receive credit for all time from the date of placement in custody to the date of return to the institution including state good time for the period during which the resident was in custody. A person is "in custody" under the terms of this section if freedom of movement is limited in whole or in part pursuant to a departmental parole hold or in connection with the course of conduct for which parole is revoked.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.24 Violation of mandatory release. When a resident who has been released on mandatory release or has reached mandatory release while on discretionary parole is returned to an institution after the revocation of release, the resident shall receive credit toward the satisfaction of this sentence according to the following:

(1) The resident shall receive credit from the beginning date of the sentence to the mandatory release date.

(2) The resident shall receive credit for all time from the date placed in custody until returned to the institution. A person is in custody as defined in HSS 302.23 (2).

(3) The resident shall receive credit for good time and street time, i.e. the time from mandatory release until the projected discharge date in accordance with the decision of the hearing examiner.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.245 Revocation of probation. When the probation is revoked, the probationer shall receive credit toward the satisfaction of sentence according to the following:

(1) If the probationer has already been sentenced, the term of the sentence shall begin on the date the probationer enters the prison.

(2) If the probationer has not been sentenced, he or she shall be returned to court for sentencing and unless the sentence is consecutive, the term of the sentence shall begin on the date of sentencing.

(3) All probationers whose probation is revoked shall receive credit toward the satisfaction of the sentence including state good time for all periods during which the probationer was in custody, which in whole or in part was the result of a probation-hold placed upon the person for the course of conduct which resulted in revocation.

HSS 302.25 Effect of escape on sentence. A resident who escapes from custody shall receive no credit toward the service of the sentence during the period the person is unlawfully absent from custody. A resident shall be regarded as unlawfully absent unless he or she is in the custody of law enforcement officials of any state or the United States in connection with the escape, except that the person shall be treated as unlawfully absent while in custody serving a sentence other than a sentence to a Wisconsin correctional institution.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79.

HSS 302.26 Waiver of good time. A resident and a parolee may waive good time pursuant to the following conditions:

(1) Except in an emergency, good time may be waived not less than 30 days before and not more than 90 days before the projected mandatory release date;

(2) Not less than 30 days and not more than 180 days of good time may be waived at one time, except that a parolee or person on mandatory release may waive 360 days of good time at one time;

(3) Good time waived shall not be reinstated, except for good cause;

(4) Waiver of good time must be by the resident or parolee in writing; and

(5) The resident must consult with his or her social worker and the parolee must consult with his or her parole agent before waiving good time.

History: Cr. Register, August, 1979, No. 284, eff. 9-1-79. *may 1981*

HSS 302.27 Extra good time. (1) **CONDITIONS FOR EARNING CREDIT.** In order to provide an incentive to inmates in approved work and study programs to develop and reinforce positive behavior, and to promote institutional order, an inmate shall earn extra good time credit if he or she is:

(a) Assigned to a vocational, job, school, or program assignment under ch. HSS 302 and surpasses the general average in diligence in labor or study for that assignment (see sub. (4));

(b) Involuntarily unassigned and:

1. His or her last assignment was terminated because of medical or psychological problems caused or aggravated by the assignment, which were verified by the clinical staff and which made it difficult or impossible to perform in the assignment, and the appropriate staff member was notified within 2 working days after termination of the last assignment, of the inmate's willingness to work at another assignment consistent with his or her abilities; or

2. Is eligible for an assignment but has not been offered one by the program review committee (PRC) under ch. HSS 302;

(c) In administrative confinement under ch. HSS 308 and was earning extra good time credit in his or her status immediately prior to this confinement;

(d) In observation under ch. HSS 311 and was earning extra good time credit in his or her status immediately prior to this confinement;

(e) In temporary lockup (TLU) under ch. HSS 303 and was earning extra good time credit in his or her prior status; or in TLU immediately after being in program adjustment, or control segregation under ch. HSS 303, and he or she was earning extra good time credit in the prior non-segregation status. If the inmate's status in TLU is a result of a disciplinary charge, he or she may earn extra good time credit until the time of the disposition of the charge. If found innocent, the inmate may continue to earn extra good time credit. If found guilty, the inmate shall not thereafter be eligible to earn extra good time credit until he or she leaves segregation;

(f) Participating in a correspondence course approved for study assignment by the PRC;

(g) Out of the institution for a court appearance or dental or medical appointment and he or she was earning extra good time credit in the status immediately prior to leaving the institution for such matters;

(h) In sick cell status and he or she was earning extra good time credit in the status immediately prior to this status; or

(i) In a hospital placement (including those inmates transferred to mental health or medical facilities) and was earning extra good time credit in the status immediately prior to this status.

(2) CONDITIONS UNDER WHICH EXTRA GOOD TIME CREDIT SHALL NOT BE EARNED. An inmate shall not earn extra good time credit if the conditions under sub. (1) are not satisfied or if he or she:

- (a) Is voluntarily unassigned;
 - (b) Is involuntarily unassigned for reasons other than those stated under sub. (1) (b), for instance, to simply avoid work or study;
 - (c) Is in adjustment segregation;
 - (d) Is in program segregation;
 - (e) Is in control segregation;
 - (f) Refuses to accept a work or study assignment offered by the PRC;
- or
- (g) Is in voluntary confinement—unless the inmate requested placement in this status upon the recommendation of, or with approval of the security director for the purpose of ensuring the inmate's safety and the inmate was earning extra good time prior to such placement.

(3) CRITERIA FOR AWARDING EXTRA GOOD TIME CREDIT. The division shall establish reasonably uniform written criteria that shall be used for the awarding of extra good time credit for all vocational, job, school, and program assignments with similar necessary skills and responsibilities within all adult correctional facilities.

(a) To the extent that is necessary because of the unique requirements of a vocational, job, school or programming assignment each supervisor shall establish additional reasonable criteria consistent with the necessary skills and responsibilities of that assignment that shall be used to evaluate an inmate's diligence in that assignment for the purpose of awarding extra good time credit.

(b) The criteria under sub. (3) or (4) shall be the only criteria used in the determination of whether to award credit and shall state what is meant by "the general average in diligence in labor or study" for that assignment.

(c) If a inmate is not capable of performing in his or her assignment at the level of "the general average in diligence," for instance, because of poor dexterity skills or mental, developmental, or physical disabilities that have been confirmed through clinical testing, the supervisor shall develop new reasonable criteria for evaluation consistent with the skills and responsibilities of that assignment and the special disabilities of the inmate, if the inmate, his or her social worker, and supervisor agree that a change of assignment is unnecessary or undesirable.

(d) The criteria for evaluating inmate diligence in performance for each assignment and any special criteria developed pursuant to par. (c) shall be available to inmates prior to commencement of the assignment and to the staff upon request.

(4) MONTHLY PERFORMANCE EVALUATION. Each supervisor shall make a monthly written evaluation of the inmate's performance. Such an evaluation shall indicate whether or not extra good time credit is recom-

mended for an inmate. If extra good time credit is not recommended, the reasons for this decision shall be noted on the evaluation.

(a) If extra good time credit is not recommended for an inmate for a particular month, he or she shall receive written notice of the decision from the supervisor, including the reasons for it, within 5 working days of the decision.

(b) An inmate may appeal a decision under sub. (4) to his or her supervisor within 5 days of receipt of notice. The supervisor shall have the authority to amend his or her earlier decision in favor of the inmate within 5 working days of the appeal. If amended, the registrar and the inmate shall receive written notification of the change and the reasons for it. Failure by the supervisor to render a decision within the allowed time shall signify an affirmation of the earlier decision, and the inmate shall be notified of this.

(c) If the supervisor fails to amend his or her earlier decision within the time allowed, the inmate may appeal to the superintendent within 5 working days after that time. If the superintendent fails to render a decision within 5 working days after the appeal, the decision of the supervisor under sub. (10) is affirmed, and the inmate shall be notified of this.

(d) Any question regarding an inmate's eligibility for credit under sub. (1) or (2) shall be referred to the superintendent for resolution.

(5) SCHEDULE OF GOOD TIME CREDIT. An inmate shall earn extra good time credit as follows:

Extra good time credit earned for a calendar month (in days)	Cumulative number of days in a calendar month in a status eligible for credit	Cumulative number of days in a calendar month in a status not entitling inmate to credit
0	0	30
1	6	24
2	12	18
3	18	12
4	24	6
5	30	0

(a) If an inmate is entitled to extra good time for any fraction of a calendar day, that whole day shall be credited.

(b) An inmate shall earn fractions of one day of extra good time for each day in a status entitling the inmate to credit.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81.