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AN OVERVIEW OF GOOD TIME PRACTICES  
IN MONTANA

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A Report Prepared for the Criminal Justice  
and Corrections Advisory Council

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By Lois Menzies, Project Director

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"Good time" is a term commonly used to describe credits (usually measured in days) awarded to an inmate for good conduct and/or satisfactory performance of an assignment. In Montana, good time is applied in two ways: (1) to reduce an inmate's sentence and (2) to reduce the amount of time that an inmate must serve before becoming parole-eligible. Good time serves as a disciplinary tool and may encourage rehabilitation and self-improvement.

The purpose of this report is to provide a general overview of good time practices in Montana. The report begins by tracing the statutory history of good time. Then the current statutory and regulatory provisions are reviewed followed by a discussion on calculating good time.

I. STATUTORY HISTORY OF GOOD TIME

Good time at the territorial prison (1877). In Montana, the statutory authorization for the award of good time to prisoners dates back to territorial days. In 1877, the Legislative Assembly enacted a law providing for the award and forfeiture of good time for inmates sentenced to the territorial penitentiary (L. 1877, pp. 398 - 399). To be eligible for good time under this statute, an inmate had to have "no infraction of the rules and

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regulations of the penitentiary or laws of the territory recorded against him" and must have performed "in a faithful manner the duties assigned to him, in an orderly and peaceable manner." If an inmate behaved accordingly, he was entitled to a reduction in his sentence as provided in the following table:<sup>1</sup>

NO. OF YEARS OF SENTENCE.	GOOD TIME GRANTED.	TOTAL GOOD TIME MADE.	TIME TO BE SERVED IF FULL TIME IS MADE.
1st year.....	1 month ...	1 month .....	11 months.....
2d year.....	2 months...	3 months.....	1 year and 9 months...
3d year.....	3 months...	6 months.....	2 years and 6 months...
4th year....	4 months...	10 months.....	3 years and 2 months...
5th year.....	5 months...	1 year and 3 months....	3 years and 9 months...
6th year.....	6 months...	1 year and 9 months...	4 years and 3 months...
7th year....	6 months...	2 years and 3 months...	4 years and 9 months...
8th year.....	6 months...	2 years and 9 months...	5 years and 3 months...
9th year.....	6 months...	3 years and 3 months...	5 years and 9 months...
10th year....	6 months...	3 years and 9 months...	6 years and 3 months...
11th year....	6 months...	4 years and 3 months...	6 years and 9 months...
12th year....	6 months...	4 years and 9 months...	7 years and 3 months...
13th year....	6 months...	5 years and 3 months...	7 years and 9 months...
14th year....	6 months...	5 years and 9 months...	8 years and 3 months...
15th year....	6 months...	6 years and 3 months...	8 years and 9 months...
16th year....	6 months...	6 years and 9 months...	9 years and 3 months...
17th year....	6 months...	7 years and 3 months...	9 years and 9 months...
18th year....	6 months...	7 years and 9 months...	10 years and 3 months...
19th year....	6 months...	8 years and 3 months...	10 years and 9 months...
20th year....	6 months...	8 years and 9 months...	11 years and 3 months...
21st year....	6 months...	9 years and 3 months...	11 years and 9 months...
22d year....	6 months...	9 years and 9 months...	12 years and 3 months...
23d year....	6 months...	10 years and 3 months...	12 years and 9 months...
24th year....	6 months...	10 years and 9 months...	13 years and 3 months...
25th year....	6 months...	11 years and 3 months...	13 years and 9 months...

If an inmate violated a penitentiary rule or territorial law, he forfeited two days of good time for the first offense, four days for the second offense, eight days for the third offense, and 16 days for the fourth offense plus "whatever number of days more than one that he [was] in punishment." For more than four offenses, the Warden could "deprive" the inmate of any or all of his good time earned, but not less than the amount provided for the fourth offense. The law further provided that if an inmate had been committed to the

<sup>1</sup> If an inmate's sentence included a portion of a year, the good time awarded was prorated for that portion.

penitentiary with two or more separate sentences, the sentences would be considered as one continuous sentence for the purpose of granting good time.

State Board of Prison Commissioners to award good time (1895). The 1877 statute was amended in 1895 to require the State Board of Prison Commissioners to grant good time to an inmate "who shall well behave himself and who shall perform regular labor during good health, either within or without the state prison inclosures [sic?]." (Sec. 2969, Pen. C. 1895) Good time was awarded at the same rate as provided in the 1877 statute. In addition, the law provided for the forfeiture of good time for an inmate "who commits an assault upon his keeper, any guard, officer, or convict, or otherwise endangers life, or by any flagrant disregard of the rules of the prison, or any misdemeanor whatever." Only the Board could order the forfeiture of good time after proof of the offense and notice to the offender. The Board was not obligated to require the forfeiture of good time if it determined that a rule was violated "without violence or evil intent."

Accrual of good time for public works employment (1917). In 1917, the Legislature authorized the Board to "adopt rules and regulations applicable solely to convicts employed upon public roads or other public works." (Ch. 60, L. 1917) These inmates would be eligible to accrue good time in addition to the amount awarded for good behavior as originally provided for in 1877, conditioned upon their good behavior and compliance with prison rules and regulations. The law provided that the rules could grant no more than ten days of good time per month for public works employment. It also allowed the Board to punish an inmate for an attempted escape or a rule

violation by requiring the forfeiture of the extra good time earned.

Good time for prison work or activity (1943). Twenty-six years later, the law permitting award of good time for public works employment was expanded to include employment "upon any prison work or activity." (Ch. 107, L. 1943)

Repeal of good time for good behavior/good time extended to probation and parole (1955). In 1955, the Legislature repealed the statutes (80-739 and 80-741, R.C.M. 1947) providing for accrual of good time for good behavior that were enacted in 1877 and amended in 1895 (Chapter 117, L. 1955). In addition, the Legislature amended the statute permitting accrual of good time for employment on any prison work or activity to require the state prison Warden to notify the Board of Pardons of the good time allowances granted each month. The good time provisions also were extended to persons who, as of April 1, 1955 (the effective date of the legislation), were on probation or parole or eligible to be placed on probation or parole.

Good time rate based on security classifications (1963). In 1963, the good time law was revised to provide for different accrual rates based on an inmate's custody assignment (Ch. 266, L. 1963). Those inmates placed under less security were eligible to earn good time at a higher rate than those under greater security. Specifically, an inmate assigned within the walls of the prison could earn up to ten days of good time a month while one assigned outside the prison walls could earn a maximum of 13 days a month. Furthermore, an inmate assigned outside the prison walls for a period of one

year on minimum status could earn up to 15 days a month. The law also provided that the Department of Public Institutions must approve the forfeiture of any or all good time resulting from an attempted escape or rule violation. Repealed was the provision requiring the Warden to monthly notify the Board of Pardons of the good time allowances granted.

Repeal and reenactment of good time provisions (1965).

The good time statutes (80-740 and 80-740.1, R.C.M. 1947) were repealed and reenacted in 1965 (Ch. 199, L. 1965). No substantive changes were made to the law.

Good time provisions expanded (1967).

The 1967 Legislature expanded the types of activities in which an inmate could participate to earn good time (Ch. 219, L. 1967). The Department of Institutions was authorized to adopt rules permitting an inmate enrolled in school inside the prison walls who had successfully completed a course or who while enrolled was discharged or paroled to earn up to 13 days of good time per month. In addition, an inmate could earn a maximum of ten days of good time for each pint of blood donated.

Reduction for habitual offenders (1974). The good time law was amended in 1974 to reduce the amount of good time that could be earned by a habitual offender (Ch. 113, L. 1974). A habitual offender was defined as a person who had been convicted of a felony offense on more than two occasions within a ten-year period. For the purpose of determining the ten-year period, the time during which a person was incarcerated was not counted. The maximum amount of good time allowable for a habitual offender was:

- (1) five days per month for an inmate assigned

within the confines of the prison's walls;

(2) eight days per month for an inmate placed outside the confines of the walls;

(3) ten days per month for an inmate who had been assigned outside the confines of the walls for an uninterrupted period of one year on a minimum status;

(4) eight days per month for an inmate enrolled in school inside the walls who successfully completed the course of study or who while enrolled was released from prison by discharge or parole; and

(5) five days for each pint of blood donated by the inmate.

The amendments applied prospectively to persons convicted and sentenced on or after July 1, 1974.

Repeal of habitual offender provisions/good time provisions extended (1975). In 1975, the Legislature, in an effort to equalize good time allowances for all offenders, removed the separate accrual rate for habitual offenders established the year before (Ch. 312, L. 1975). The Legislature also allowed inmates to earn up to five days of good time each month for participating in self-improvement program activities designated by the Department of Institutions.

Good time provisions restricted (1981). Upon recommendation of a legislative interim study committee on corrections policy and facility needs, the 1981 Legislature updated the good time statutes and made the award of good time more restrictive (Ch. 588, L. 1981). The statutory provisions awarding good time to inmates employed in a prison work or activity were changed to reflect the custody classifications in use at the new prison. An inmate assigned to maximum, close, or medium

I security classifications could earn up to ten days of good time per month, an inmate assigned to medium II or minimum security could earn up to 13 days per month, and an inmate assigned to medium II or minimum security for an uninterrupted period of one year could earn a maximum of 15 days per month. In addition, the amount of good time that could be accrued each month for participating in a self-improvement activity was reduced from five to three days. Accrual of good time for donating blood was eliminated. Also, a person on probation or parole was prohibited from earning good time.

Good time for participating in prison industries (1982).

During the 1982 special session addressing prison problems, the Legislature provided that an inmate participating in the prison industries training program could earn up to 15 days of good time each month for outstanding participation in the program (Ch. 3, Sp. L. 1982).

Restoring forfeited good time (1983). The good time law was most recently amended in 1983 to permit the Warden to request that all or portions of an inmate's previously forfeited good time be restored as a result of subsequent good behavior (Ch. 130, L. 1983). Restorations must be approved by the Department of Institutions.

## II. CURRENT PROVISIONS

Statutes. Section 53-30-105, MCA, sets the statutory limits regarding good time. This section requires the Department of Institutions to adopt rules providing for the granting of good time to inmates employed in any prison work or activity. The good time "operates as a

credit on [an inmate's] sentence as imposed by the court, conditioned upon the inmate's good behavior and compliance with the rules made by the [D]epartment or [W]arden." The Department may not grant good time to exceed:

- (1) ten days a month for inmates assigned to maximum, close, and medium I security classifications;
- (2) thirteen days a month for inmates assigned to medium II and minimum security classifications;
- (3) fifteen days a month for inmates after having been assigned to medium II or minimum security classifications for an uninterrupted period of one year;
- (4) thirteen days a month for inmates enrolled in school who successfully complete a course of study or who while enrolled are released from prison by discharge or parole; and
- (5) three days a month for inmates participating in self-improvement activities designated by the Department.

The law prohibits the accrual of good time while on probation or parole. It further provides that if an inmate attempts to escape or otherwise violates prison rules, the inmate may be punished by the forfeiture of part or all of his good time, subject to the Department's approval. The Department may, upon recommendation of the Warden, restore all or portions of previously forfeited good time as a result of subsequent good behavior.

Section 53-30-132, MCA, permits an inmate to earn up to 15 days of good time each month for outstanding participation in the prison industries training program. The statute directs the Department to adopt rules providing for the award of good time for this



participation.

Under 46-23-201, MCA, good time is applied to an inmate's sentence to determine his parole-eligibility date. This section provides that an offender who is designated nondangerous by a sentencing judge<sup>2</sup> is eligible for parole after serving one-quarter of his full term, less his good time allowance. An offender who does not receive this designation is parole-eligible after serving one-half his term, less his good time allowance. An inmate serving a life sentence may be paroled after serving 30 years, less his good time allowance.

Rules. The good time rules adopted by the Department of Institutions apply to inmates incarcerated at the Montana State Prison and Women's Correctional Center, transferred by the Department to out-of-state prisons or county jails, housed at Swan River Forest Camp and in pre-release facilities, and on supervised release (DOI Policy No. 505). An inmate may earn good time in three ways: (1) according to his custody classification, (2) by enrolling in the prison industries training program or on-the-job training program, and (3) by participating in self-improvement programs.

Under departmental rules, a maximum, close, or medium I

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<sup>2</sup> According to 46-18-404, MCA, a judge must designate an offender as nondangerous if: (1) during the five years preceding the commission of the offense for which the offender is being sentenced, the offender was neither convicted of or incarcerated for an offense committed in this state or any other jurisdiction for which a sentence to a term or imprisonment in excess of one year could have been imposed, and (2) the judge has determined that the offender does not represent a substantial danger to other persons or society.

custody inmate accrues 10 days of good time a month, a medium II or minimum custody inmate accrues 13 days a month, and an inmate classified as medium II or minimum custody for an uninterrupted period of one year accrues 15 days a month.<sup>3</sup> An inmate need not be employed in any particular prison work or activity to receive good time credits based on his custody classification. However, the award of these credits is conditioned on the inmate's good behavior, and the credits may be forfeited for noncompliance with prison rules.

An inmate may earn up to 13 days of good time each month for attending school,<sup>4</sup> participating in the prison industries training program,<sup>5</sup> or participating in an established on-the-job training program. This good time is credited monthly, after the instructor or supervisor has certified that the inmate's performance has been satisfactory during the month for which the

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<sup>3</sup> Criteria used to determine an inmate's custody level include current offense data, criminal history, institutional adjustment, and time remaining to parole or discharge. On December 31, 1987, 65 inmates (7%) were assigned to maximum security, 375 (39%) to close security, 98 (10%) to medium I security, 95 (10%) to medium II security, 132 (14%) to minimum I security, and 192 (20%) to minimum II security.

<sup>4</sup> The 13-day accrual rate applies to an inmate enrolled full-time in elementary or secondary level classes offered through the Montana State Prison Education Department. An inmate enrolled in post-secondary study offered through an approved college or university earns good time depending on the number of college credits taken. For example, an inmate taking three credits earns four days of good time, while an inmate taking 12 or more credits earns 13 days of good time.

<sup>5</sup> Under 15-30-132, MCA, the Department may adopt rules providing up to 15 days of good time for outstanding participation in the prison industries training program.

good time is to be credited. The good time earning rate is reduced for unexcused absences<sup>6</sup> to ten days credit for one unexcused absence, seven days credit for two unexcused absences, four days credit for three unexcused absences, and no credit for four or more unexcused absences.

An inmate may earn three days of good time each month for participating in an approved self-improvement program.<sup>7</sup> Self-help good time is credited quarterly after the program sponsor certifies to the Associate Warden for Treatment that the inmate's participation during the quarter for which the good time is to be credited has been satisfactory.

According to the Department's rules, good time accrual begins on the first day of custody after the inmate is sentenced to confinement in a state correctional facility. An inmate may not earn more than 30 days of good time per month served. Inmates housed at Swan River Forest Camp and pre-release centers earn 29 days each month (i.e., 13 days for being classified as minimum security, 13 days for on-the-job training, and three days for participating in self-help programs.)

An inmate's good time accrual rate may be reduced because of unexcused absences (as mentioned earlier),

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<sup>6</sup> An absence is considered unexcused unless the inmate is hospitalized, confined in the infirmary, must appear in state or federal court or before the Board of Pardons or the Sentence Review Division, has a verified legal visit, or attends a special treatment or therapy session arranged by the treatment department.

<sup>7</sup> Currently, Alcoholics Anonymous is the only self-help program in which an inmate may participate to earn good time.

unsatisfactory performance resulting in the removal from an assignment, or an increase in custody level. If a reduction occurs because of unexcused absences, the inmate may appeal the reduction through the inmate complaint procedure. If a reduction occurs because an inmate is removed from an assignment or reclassified, he is entitled to a due process hearing.

The Department of Institutions, upon recommendation of the Warden, may require forfeiture of any or all earned good time. An inmate is entitled to a due process hearing before the forfeiture is approved. Additionally the Department, upon recommendation of the Warden, may restore any or all previously forfeited good time. For an inmate's good time to be restored, he must have performed a meritorious deed or an act of valor or heroism, demonstrated exceptional progress in an institutional program or job, or led or influenced other inmates in a beneficial way (DOI Policy No. 511).

### III. CALCULATING GOOD TIME

As noted earlier, good time is applied to an inmate's sentence to determine his parole-eligibility date. The formula used to calculate the eligibility date for an inmate designated as a nondangerous offender is:

$$\begin{array}{l} \text{Parole} \\ \text{Eligibility} \end{array} = \frac{1}{4} (\text{Sentence Length}) - \text{Good Time}$$

For an inmate who does not receive this designation, the formula is:

$$\begin{array}{l} \text{Parole} \\ \text{Eligibility} \end{array} = \frac{1}{2} (\text{Sentence Length}) - \text{Good Time}$$

The following chart shows how much time an inmate must serve before becoming parole-eligible if he is earning good time at the maximum rate of 30 days per month:

TIME TO SERVE TO PAROLE  
(if earning good time at maximum rate)

Sentence (in years)	Nondang. Designation (Serve 1/4 Sent.)	No Designation (Serve 1/2 Sent.)
1	45 days	90 days
2	90 days	180 days
3	135 days	270 days
4	182 days	365 days
5	228 days	455 days
6	274 days	548 days
7	318 days	638 days
8	365 days	730 days
9	410 days	820 days
10	455 days	910 days
15	684 days	1365 days
20	912 days	1820 days
25	1140 days	2275 days
30	1368 days	2730 days
35	1596 days	3185 days
40	1824 days	3640 days
45	2052 days	4095 days
50	2280 days	4550 days

While the parole-eligibility formulas are rather simple, calculating the amount of good time due an inmate can be a complicated process because several variables are

involved.<sup>8</sup> An inmate's accrual rate often is in flux because of unexcused absences and changes in custody classification and job assignments.

Moreover, Montana courts have ruled in several cases<sup>9</sup> that statutory changes restricting the award of good time may only apply prospectively to inmates committing crimes after the effective date of the legislation; in other words, restrictive changes in the good time statutes may not be applied retroactively.<sup>10</sup> Therefore, to determine an inmate's good time accrual rate, the current good time statutes must be compared to those statutes in effect at the time the inmate committed the offense. If the current statutes are less advantageous to the inmate, then the earlier statutes must be applied.

For example, effective July 1, 1975, an inmate could earn up to five days of good time each month for participating in a self-help program. This rate was reduced to three days a month effective July 1, 1981. Because the reduction may not be applied retroactively, an inmate committing a crime prior to July 1, 1981 would continue to earn self-help good time at the five-day-

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<sup>8</sup> Currently good time calculations are performed manually by the Montana State Prison Records Department staff. A project is now underway to computerize this process.

<sup>9</sup> See Crist v. Segna, 622 P2d 1028 (1981), Miller v. State of Montana, Mont. Supreme Court, No. 81-565 (April 7, 1982), and State of Montana v. Gray, Mont. Supreme Court, No. 82-164 (July 1, 1982).

<sup>10</sup> However, there is no prohibition against applying a statute that liberalizes good time benefits to all inmates, regardless of the date the crimes were committed.

per-month rate for the duration of his sentence.  
However, an inmate committing a crime after July 1, 1981  
would be subject to the lower rate.

