

March 31, 2009

The Honorable Andrew McDonald
The Honorable Michael Lawlor
Co-Chairs Judiciary Committee
Legislative Office Building
Hartford, Connecticut 06106

Dear Senator McDonald and Representative Lawlor:

Pursuant to E-Cert Bill 6602 An Act Concerning Deficit Mitigation Measures for the Fiscal Year Ending June 30, 2009, I am submitting the report required in Section 10(b) concerning the establishment of an earned credit and risk reduction program in this state. Section 10(c) of the Act requires a report concerning the restoration of reentry furloughs which is included at the end of this submission.

The actual report is 11 pages; the links in the report comprise all the background information that demonstrates the comprehensive efforts staff made to compile the study. The report contains various options for consideration and meets the specification required in the Act.

Respectfully submitted,

Theresa C Lantz
Commissioner

Application of retroactive earned credits would result in the immediate release of a large number of individuals without the benefit of adequate discharge planning or community supervision. Communities would experience a sudden influx of individuals who may require significant amounts of support.

The following report discusses risk reduction credits and reentry furloughs from an historical perspective and offers five options for consideration of awarding earned credits for offenders who comply with treatment, program and behavioral expectations.

E-Cert Bill 6602 Report: *Introduction*

Pursuant to E-Cert Bill 6602 *AN ACT CONCERNING DEFICIT MITIGATION MEASURES FOR THE FISCAL YEAR ENDING JUNE 30, 2009, Sec. ten. (Effective from passage) (a) The Commissioner of Correction shall examine earned credit and risk reduction programs in other states that grant sentence reduction credits based on good behavior and participation in work, educational, vocational, therapeutic or other programs while a person is incarcerated or being supervised in the community.*

The Department of Correction surveyed states across the country to determine what policies are guiding the application of earned credit to reduce the sentences of those offenders who act in compliance with designated standards. A state by state summary of New England correctional practices may be viewed by accessing [New England States Good Time Guidelines](#)

Connecticut and New Hampshire are the only New England states that do not utilize an earned credit system as part of a risk reduction program. The other New England states, as well as 38 other states, in addition to the Federal Bureau of Prisons, utilize earned credits using their agency's values concerning inmate accountability, community reintegration, emphasis on treatment and programs for offenders, and, in some states, recognition of the difference between violent and nonviolent offenses. In New England, Rhode Island has the most aggressive earned credit policy, affording offenders up to 15 credits monthly for meeting a variety of program or rehabilitative requirements, in addition to good behavior. The most conservative policy is utilized by Massachusetts, offering offenders the opportunity to earn up to 7.5 days per month for meeting identified requirements to their earned time program. Nationally, protocol for application of earned time credit ranges from complicated formulas to basic straightforward applications to all offenders. A summary may be viewed by accessing [National Good Time Study](#)

Implementation of an earned time incentive program in Connecticut would require statutory change to CGS18-100d, in which credit reductions on offender sentences are based on behavior. *"Notwithstanding any other provisions of the general statutes, any person convicted of a crime committed on or after October 1, 1994, may be subject to supervision by personnel of the Department of Correction until the expiration of the maximum term or terms for which such person was sentenced."* This statute effectively eliminated "statutory good time."

In the event there is discussion to implement one of the following options, or implement a different option involving earned credits, it is important that the legislature enlist the assistance of the Department of Correction and other appropriate criminal justice agencies in drafting language. In all options discussed below, earned credits may be awarded and/or forfeited at the discretion of the Commissioner of Correction. If the actual passage and implementation date were to be within one month's time, there most likely would not be sufficient time to develop, test and implement the new legislation. The earliest implementation of any of the options in this report would begin upon passage of the bill, and would have to include the necessary preparation time as discussed above. Therefore, an October 2009 implementation date would be more realistic. Additionally, earned credits may or may not be applied to the offender's parole eligibility date. In the event earned credits did apply toward parole eligibility, which would

reduce the amount of time an offender would serve to become eligible, all parole statutes would need to be reviewed for change. A discussion regarding matters of implementation by the Department of Correction's Central Records and Management Information Systems Units may be accessed through [Central Records - MIS E-Cert Summary](#)

E-Cert Bill 6602 Report: Options

(b) Not later than April 1, 2009, the commissioner shall submit a report to the chairpersons of the joint standing committee of the General Assembly on judiciary concerning the establishment of an earned credit and risk reduction program in this state. Such report shall:

(1) Set forth different options for the manner in which a person shall earn sentence reduction credits under such program and indicate which options could be implemented by July 1, 2009;

Option 1: Reinstatement of Connecticut General Statutes 18-7a, 18-98a, 18-98b and 18-98d.

The first option would reinstate the application of good time credits identical to previous models used prior to October 1, 1994 ([Good Time Statutes](#)). These statutory good time credits were applied to all offenders who met statutory and DOC criteria while on both pretrial and sentenced status. These credits were awarded solely on good behavior. There were no provisions for treatment or program participation in order to receive these monthly credits. There were provisions, summarized in the above link, which provided offenders with an additional sum of up to 120 days credit for meritorious performance. In addition, offenders who worked seven consecutive days in specified job assignments could earn up to one additional day per week.

If this option were to be considered, the recommendation would be to expand the framework from a good time model to a reentry/risk reduction program that will be discussed in Sec 10 (b) (3) of this report.

Under this option, there are two implementation scenarios with different impacts on the population, assuming that all eligible inmates are awarded such credits.

Option 1: Scenario A: Implementation of Option 1 would be effective July 1, 2009, with the time credits applied retroactively to October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 1: Scenario B: Implementation of Option 1 would be effective July 1, 2009, with the time credits applied, beginning July 1, 2009, for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 2: Offender Management Incentive Plan (OMIP): All Offenders at 10 Days

This option has several goals:

- Reduction of rates of recidivism as defined as the rate of committing new crimes, excluding Violation of Probation.
- Promotion of safety within correctional facilities through a reduction in inmate population and promotion of good behavior.

- Creation of an incentive for offenders to participate in programming and to remain disciplinary-free within correctional facilities and in the community.

Option 2

Establish an incentive plan for all sentenced individuals who meet DOC criteria outlined in Section 10 (b) (2) and 10 (b) (3) of this report. Such individuals may be eligible for a reduction to their sentence at a rate of 10 days per month provided they are in compliance with the program, treatment and behavioral expectations outlined in their Offender Accountability Plan.

Under this option, there are two implementation scenarios with different impacts on the population, assuming that all eligible inmates are awarded such credits.

Option 2: Scenario A: Implementation of Option 2 would be effective July 1, 2009, with the time credits applied retroactively to April 1, 2006 (when the DOC first introduced the Offender Accountability Plan), for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 2: Scenario B: Implementation of Option 2 would be effective July 1, 2009, with the time credits applied, beginning July 1, 2009, for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 3: Offender Management Incentive Plan (OMIP): Nonviolent Offenders at 10 Days

This option has several goals:

- Reduction of rates of recidivism as defined as the rate of committing new crimes, excluding Violation of Probation.
- Promotion of safety within correctional facilities through a reduction in inmate population and promotion of good behavior.
- Creation of an incentive for offenders to participate in programming and to remain disciplinary-free within correctional facilities and in the community.

Option 3

Establish an incentive plan for all sentenced individuals who are identified as **non-violent offenders**. For a full listing of offenses, open DOC Violent and Nonviolent Offenses. Such individuals may be eligible for a reduction to their sentence at a rate of 10 days per month provided they are in compliance with the program, treatment and behavioral expectations outlined in their Offender Accountability Plan.

The Commissioner of the Department of Correction may establish additional exclusionary criteria, including history of violence and certain results of the application of standardized risk and need assessment instruments.

Under this option, there are two implementation scenarios with different impacts on the population, assuming that all eligible inmates are awarded such credits.

Option 3: Scenario A: Implementation of Option 3 would be effective July 1, 2009, with the time credits applied retroactively to April 1, 2006 (when the DOC first introduced the Offender Accountability Plan), for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 3: Scenario B: Implementation of Option 3 would be effective July 1, 2009, with the time credits applied, beginning July 1, 2009, for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 4: Offender Management Incentive Plan (OMIP): All Offenders at 5 Days

This option has several goals:

- Reduction of rates of recidivism as defined as the rate of committing new crimes, excluding Violation of Probation.
- Promotion of safety within correctional facilities through a reduction in inmate population and promotion of good behavior.
- Creation of an incentive for offenders to participate in programming and to remain disciplinary-free within correctional facilities and in the community.

Option 4

Establish an incentive plan for all sentenced individuals who meet DOC criteria outlined in Section 10 (b) (2) and 10 (b) (3) of this report. Such individuals may be eligible for a reduction to their sentence at a rate of 5 days per month provided they are in compliance with the program, services and behavioral expectations outlined in their Offender Accountability Plan.

Under this option, there are two implementation scenarios with different impacts on the population, assuming that all eligible inmates are awarded such credits.

Option 4: Scenario A: Implementation of Option 4 would be effective July 1, 2009, with the time credits applied retroactively to April 1, 2006 (when the DOC first introduced the Offender Accountability Plan), for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 4: Scenario B: Implementation of Option 4 would be effective July 1, 2009, with the time credits applied, beginning July 1, 2009, for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 5: Offender Management Incentive Plan (OMIP): Nonviolent Offenders at 5 Days

This option has several goals:

- Reduction of rates of recidivism as defined as the rate of committing new crimes, excluding Violation of Probation.
- Promotion of safety within correctional facilities through a reduction in inmate population and promotion of good behavior.
- Creation of an incentive for offenders to participate in programming and to remain disciplinary-free within correctional facilities and in the community.

Option 5

Establish an incentive plan for all sentenced individuals who are identified as **non-violent offenders**. For a full listing of offenses, open [DOC Violent and Nonviolent Offenses](#). Such individuals may be eligible for a reduction to their sentence at a rate of 5 days per month provided they are in compliance with the program, services and behavioral expectations outlined in their Offender Accountability Plan.

The Commissioner of the Department of Correction may establish additional exclusionary criteria, including history of violence and the results of the application of standardized risk and need assessment instruments.

Under this option, there are two implementation scenarios with different impacts on the population, assuming that all eligible inmates are awarded such credits.

Option 5: Scenario A: Implementation of Option 5 would be effective July 1, 2009, with the time credits applied retroactively to April 1, 2006 (when the DOC first introduced the Offender Accountability Plan), for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Option 5: Scenario B: Implementation of Option 5 would be effective July 1, 2009, with the time credits applied, beginning July 1, 2009, for all offenders within the Department of Correction whose offense date is on or after October 1, 1994. Implementation timeframes are discussed in the aforementioned hyperlink, "Central Records - MIS E-cert summary."

Offenders who comply with recommendations in the Offender Management Plan and Offender Accountability Plan will receive a credit toward sentence reduction of five days per month.

(2) recommend conditions of eligibility for participation in the program;

Currently, under existing statutes, the Department of Correction applies statutory good time credits to sentences of those offenders whose offenses and sentence date were prior to October 1, 1994. The Connecticut Department of Correction's Administrative Directive 9.4, *Restrictive Status*, Section 5, states, "An inmate shall not earn or receive statutory good time, seven-day work credit, restoration of lost good time or outstanding meritorious performance awards while on Administrative Segregation, Close Custody, Chronic Discipline Status or Special Needs Management." In addition to this directive identifying those offenders who cannot earn good time, offenders may forfeit good time earned through poor disciplinary behavior. In the event that Option 1 were to be adopted, the above eligibility would be utilized. In the event that Options 2-5 were to be adopted, the above eligibility would be utilized; however, the language should be modified from, "statutory good time" to, "earned credits." In addition, all sentenced offenders would be required to acknowledge and sign their Offender

Accountability Plan. All offenders must have an Offender Accountability Plan to be eligible to participate in the Earned Credit Program.

(3) specify current programming of the Department of Correction that could be utilized by participants in the earned credit and risk reduction program and the current level of participation in such programming;

The Commissioner of the Department of Correction (DOC) clearly articulates the strategies for managing offenders based on evidence based practices related to risk and needs assessments and treatment programs assigned to offenders. The goal is to enhance public safety by implementing a system that assesses the risk and needs of each offender, assigns management and supervision requirements of offenders, and targets the needs of offenders through evidence based programs and interventions. This process is imbedded in the DOC Offender Management Plan (OMP) (Offender Management Plan) and the vehicle utilized with the offender is the Offender Accountability Plan (OAP) (Offender Accountability Plan.) The intended result is a reduction in recidivism and engagement of the offender, while incarcerated and in the community, in productive and responsible citizenship.

The current programs can be reviewed in the Department of Correction Program Compendium by accessing Compendium and the Offender Accountability Plan Manual.

(4) include an estimate of the additional programming that would be required to accommodate participants in the earned credit and risk reduction program and the cost to provide such additional programming;

While the Department already provides a wide spectrum of evidence- based and research-based programs to address identified needs, there are long waiting lists for program participation. In order for this model to be effective and to ensure its integrity, steps must be taken to reduce the time that offenders wait to participate in recommended programs. Restoration of program staff complements back to the 2008 level would facilitate a marked decrease in the waitlists. Restoration of staff complements to accommodate programming needs would require filling fifteen Correctional Counselor positions, five Teacher vacancies, five Records Specialist I and two Records Specialist II positions. An additional seven Records Specialist I positions would also be required to accommodate the increased caseload in the presentence and direct intake facilities. The total estimated annual cost for all positions is \$ 1,560,316.

(5) include an estimate of the recidivism rates for program participants with respect to each option set forth under subdivision (1) of this subsection;

The estimated bed day savings presented in this document includes a factor that considers the recidivism rate of inmates based on the United States Department of Justice guidelines. DOJ Recidivism Report. The DOJ estimates a 10.4% recidivism rate for returns to prison with a new sentence within twelve months of release. This figure is not significantly different from the 12-month rate that was recently calculated by the State of Connecticut Office of Policy and Management (OPM), which may be accessed at CT Recidivism Study. Although the estimated savings in bed days includes a factor for recidivism, it does not include (during the first, second or third years) added savings that would accrue from sentenced inmates who were admitted after July 1, 2009.

(6) include an estimate of the savings in bed days, if any, that would be achieved with respect to each option set forth under subdivision (1) of this subsection;

The following estimates assume that all eligible inmates are awarded such credits.

The estimated savings in bed days for Option 1, Scenario A would be:

Year 1= 2004, Year 2= 233, Year 3= 63. [MIS Option 1A.xls](#)

The estimated savings in bed days for Option 1, Scenario B would be approximately:

Year 1= 1135, Year 2= 1894, Year 3= 1622. The estimated savings in bed days for Option 1B would be slightly higher than Option 2B, as three year projections realize additional savings from other forms of credits, consistent with CGS§18-98a, 18-98b and 19-98d.

The estimated savings in bed days for Option 2, Scenario A would be:

Year 1= 1302, Year 2= 659, Year 3= 405. [MIS Option 2A.xls](#)

The estimated savings in bed days for Option 2, Scenario B would be:

Year 1= 1135, Year 2= 1894, Year 3= 1622. [MIS Option 2B.xls](#)

The estimated savings in bed days for Option 3, Scenario A would be:

Year 1= 515, Year 2= 256, Year 3= 132. [MIS Option 3A.xls](#)

The estimated savings in bed days for Option 3, Scenario B would be:

Year 1= 506, Year 2= 714, Year 3= 489. [MIS Option 3B.xls](#)

The estimated savings in bed days for Option 4, Scenario A would be:

Year 1= 597, Year 2= 367, Year 3= 245. [MIS Option 4A.xls](#)

The estimated savings in bed days for Option 4, Scenario B would be:

Year 1= 418, Year 2= 736, Year 3= 706. [MIS Option 4B.xls](#)

The estimated savings in bed days for Option 5, Scenario A would be:

Year 1= 241, Year 2= 142, Year 3=87. [MIS Option 5A.xls](#)

The estimated savings in bed days for Option 5, Scenario B would be:

Year 1= 189, Year 2= 291, Year 3= 239. [MIS Option 5B.xls](#)

(7) specify the level of program participation that would be required to ensure program success;

The Department of Correction requires all offenders to participate in the programs and services outlined in their individual Offender Accountability Plans and requires all offenders to comply with behavioral expectations. The level of participation and eligibility under these options is assumed to be close to 100% of the sentenced population supervised by the Department of Correction (less than 1% of the sentenced population meets criteria for assignment to the exclusionary classifications noted in section (2) of this report).

(8)and include an estimate of the number of persons who would be eligible for release under each option set forth under subdivision (1) of this subsection upon implementation of the program if such implementation was given retroactive effect.

Each of the five options has two scenarios. One scenario retroactively applies earned credits and the other scenario applies credits on or after July 1, 2009. There would be no immediate release of offenders where credits are applied on or after July 1, 2009.

Option 1, Scenario A provides retroactive credits that would release an estimate of 2083 offenders if adopted July 1, 2009.

There would be no persons eligible for immediate release under **Option 1, Scenario B**.

Option 2, Scenario A provides retroactive credits that would release an estimate of 1237 offenders if adopted July 1, 2009, as these credits would be retroactive as of April 1, 2006.

There would be no persons eligible for immediate release under **Option 2 Scenario B**.

Option 3, Scenario A provides retroactive credits that would release an estimate of 552 offenders if adopted July 1, 2009, as these credits would be retroactive as of April 1, 2006.

There would be no persons eligible for immediate release under **Option 3 Scenario B**.

Option 4, Scenario A provides retroactive credits that would release an estimate of 619 offenders if adopted July 1, 2009, as these credits would be retroactive as of April 1, 2006.

There would be no persons eligible for immediate release under **Option 4 Scenario B**.

Option 5, Scenario A provides retroactive credits that would release an estimate of 288 offenders if adopted July 1, 2009, as these credits would be retroactive as of April 1, 2006.

There would be no persons eligible for immediate release under **Option 5 Scenario B**.

(c) Not later than April 1, 2009, the commissioner shall submit a report to the chairpersons of the joint standing committee of the General Assembly on judiciary concerning the estimated number of inmates that would be released and the cost savings that would be achieved if the authority of the commissioner to grant reentry furloughs under Section 18-101a of the Connecticut General Statutes was restored as of July 1, 2009.

Public Act 08-01 eliminated the Commissioner of Correction's authority to place offenders on reentry furloughs.

For purposes of this report, the numbers utilized reflect offenders who were granted furlough in Fiscal Year 2007. In that year, there were 3335 offenders granted a reentry furlough. The reentry furlough length of 30 days x 3335 inmates equates to 100,050 inmate days, or a full year population reduction of 274 inmates. A longer reentry furlough period would move a proportionately greater number of inmates into community supervision prior to discharge, as shown below. The estimated impact of restoring reentry furloughs assumes continued

community supervision for the length of the reentry furlough in addition to reduced incarceration expenses.

Based on 3,335 inmates:

30 days equates to 100,050 inmate days, or 274 inmates for 1 year. Savings: **\$2,649,324**

45 days equates to 150,075 inmate days, or 411 inmates for 1 year. Savings: **\$3,973,986**

60 days equates to 200,100 inmate days, or 548 inmates for 1 year. Savings: **\$5,298,648**

90 days equates to 300,150 inmate days, or 822 inmates for 1 year. Savings: **\$7,947,972**