



## **Understanding Sentencing Credits:** **A Guide for Navigating Sentencing Credit in Illinois**

In this guide, we will describe how sentencing credit works in Illinois and explain how to determine whether and by how much someone's prison sentence can be reduced through sentencing credits.

Sentencing credit reduces the amount of time that an incarcerated person spends in prison. Credit changes the date upon which an incarcerated person will be released: for example, one month of sentencing credit would change a March out-date into a February out-date. Rules around sentencing credit are set forth in 730 ILCS 5/3-6-3, which was recently modified in the SAFE-T Act. ***Those changes, which are reflected in the explanations in this guide, go into effect on July 1, 2021.***

To find out if a person's sentence can be reduced through sentencing credit, and if so how much, this document will walk you through the follow steps:

1. Determine if the person's sentence is being served at 100%, 85%, 75%, or 60% of the sentence, or if it is eligible for day-for-day credit (meaning that they can serve 50% of their sentence). This classification system tells you how much statutory sentencing credit the person is entitled to.
2. Understand if the sentence can be reduced through programming credit.
3. Understand if the sentence can be reduced through earned discretionary sentencing credit.

### **Step One: Statutory Sentencing Credit**

730 ILCS 5/3-6-3(a)(2)-(2.6)

**What is Statutory Sentencing Credit?** By law, people serving sentences for everything but murder committed after June 18, 1998 are eligible to earn statutory sentencing credit—sometimes called “good time”—which reduces their prison sentences. Importantly, statutory sentencing credit is automatic. That means that incarcerated people do not need to participate in specific programs to earn it. When an incarcerated person is first admitted into the prison system, their “Projected Parole Date”—what we sometimes just call their “out date” or the date that they can expect to be released from custody—already assumes that they will receive all of their statutory sentencing credit. Credit can be taken away for disciplinary infractions, often called tickets.

Different sentences come with different eligibility to earn statutory sentencing credit, programming credit, and earned discretionary credit. There are four kinds of sentences:

- **100%** — People with sentences in this category must serve their sentence in its entirety. They will not be awarded statutory sentencing credit.
- **85%** — People with 85% sentences will automatically earn 4.5 days of statutory credit per month.
- **75%** — People with 75% sentences will automatically earn 7.5 days of statutory credit per month.
- **Day-for-day** — People serving day for day sentences will automatically earn one day of statutory credit for every day served.

**How do I determine what type of sentence a person is serving?** To determine how much a sentence can be reduced through sentencing credit, you must know two things: 1) *the date of the conduct underlying the conviction, and 2) the formal offense(s) of conviction. Please search for the person's offense of conviction to determine eligibility in the table.*

Offenses that are not listed in the table below are automatically day-for-day sentences. Additionally, offenses listed in the table *but committed **before** the date listed* are automatically day-for-day sentences. (This is because unless and until specifically identified as requiring 100%, 85%, or 75% of the sentence to be served by the state legislature, all offenses are considered day-for-day.)

<b>Offense</b>	<b>Conduct Committed On or After</b>	<b>Percent</b>
Aggravated arson	July 27, 2001	85%
Aggravated battery of a child	June 19, 1998	85%
Aggravated battery of a senior citizen	June 19, 1998	85%
Aggravated battery with a firearm	June 19, 1998	85%
Aggravated battery with a firearm equipped with any device or attachment designed or used for silencing the report of a firearm	July 15, 1999	85%
Aggravated battery with a machine gun	July 15, 1999	85%
Aggravated criminal sexual assault	June 19, 1998	85%
Aggravated delivery of methamphetamine	August 13, 2007	75%
Aggravated discharge of a Firearm	June 23, 2005	85%
Aggravated discharge of a firearm equipped with any device or attachment designed or used for silencing the report of a firearm	July 15, 1999	85%
Aggravated discharge of a firearm with a judicial finding of great bodily harm	June 19, 1998	85%
Aggravated discharge of a machine gun	July 15, 1999	85%

Aggravated domestic battery	July 23, 2010	85%
Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds or any combination thereof	January 1, 2011	85%
Aggravated kidnapping	June 1, 1998	85%
Aggravated methamphetamine-related child endangerment	August 13, 2007	75%
Aggravated participation in methamphetamine manufacturing	August 13, 2007	75%
Aggravated possession with intent to deliver methamphetamine	August 13, 2007	75%
Aggravated vehicular hijacking with a judicial finding of great bodily harm	June 19, 1998	85%
Armed habitual criminal	June 19, 1998	85%
Armed robbery with a judicial finding of great bodily harm	June 19, 1998	85%
Armed violence with a category I weapon or category II weapon With a judicial finding of great bodily harm	June 19, 1998	85%
Attempt to commit first degree murder	June 19, 1998	85%
Attempt to commit terrorism	June 19, 1998	85%
Calculated criminal drug conspiracy	August 13, 2007	75%
Controlled substance trafficking	August 13, 2007	75%
Criminal drug conspiracy	August 13, 2007	75%
Criminal sexual assault	June 19, 1998	85%
Delivery of a controlled substance, Class X	August 13, 2007	75%
Delivery of methamphetamine	August 13, 2007	75%
Drug-induced homicide	August 13, 2007	75%
First-degree murder	June 19, 1998	100%
Gunrunning	August 13, 2007	75%
Heinous battery	June 19, 1998	85%

Home invasion with a judicial finding of great bodily harm	June 19, 1998	85%
Intentional homicide of an unborn child	June 19, 1998	85%
Luring a minor second or subsequent offense	June 19, 2008	85%
Methamphetamine conspiracy when the substance containing the controlled substance or methamphetamine is 100 grams or more	August 13, 2007	75%
Methamphetamine trafficking	August 13, 2007	75%
Money laundering	August 13, 2007	75%
Narcotics racketeering	August 13, 2007	75%
Participation in methamphetamine manufacturing	August 13, 2007	75%
Possession of a controlled substance with intent to manufacture or deliver	August 13, 2007	75%
Possession with intent to deliver methamphetamine	August 13, 2007	75%
Predatory criminal sexual assault of a child	June 19, 1998	85%
Solicitation of murder	June 19, 1998	85%
Solicitation of murder for hire	June 19, 1998	85%
Street gang criminal drug conspiracy	August 13, 2007	75%
Terrorism	June 19, 1998	100%

**What if someone is serving on multiple counts or multiple charges?** Often, a person will be serving a sentence for two different counts in the same case, or two sentences on two different cases. The rules around sentencing credit apply to each individual count, not the sentence as a whole. Be sure to determine the category for each individual sentence.

- *Example:* Terry is serving a 10-year sentence for armed robbery and a 10-year sentence for gunrunning for offenses committed in 2008. The sentences were imposed **consecutively**, meaning one must be served after the other. Armed robbery is eligible for day-for-day credit, and gunrunning must be served at 75%. Terry can receive 5 years of statutory sentencing credit for the armed robbery, and 2.5 years of statutory sentencing credit for the gunrunning. Without any additional credit, Terry can expect to serve 12.5 years.
- *Example:* Terry is serving a 10-year sentence for armed robbery and a 10-year sentence for gunrunning for offenses committed in 2008. The sentences were imposed

**concurrently**, meaning they are served together. Armed robbery is eligible for day-for-day credit, and gunrunning must be served at 75%. Terry can receive 5 years of statutory sentencing credit for the armed robbery, and 2.5 years of statutory sentencing credit for the gunrunning. Without any additional credit, Terry can expect to serve 7.5 years.

## **Step 2: Programming Credit**

**What is Programming Credit?** Programming credit is credit that an incarcerated person can earn against their sentence for participating in a variety of programs, including some jobs, educational programs, and treatment programs. Different kinds of programs have different rules and will earn different amounts of sentencing credit.

### **Traditional Programs**

730 ILCS 5/3-6-3(a)(4)

Incarcerated people can earn one day of credit for every day they spend participating in any of the following IDOC programs, if those programs are satisfactorily completed as determined by IDOC:

- full-time substance abuse programs
- correctional industry assignments
- educational programs
- work-release programs or activities
- behavior modification programs
- life skills courses
- IDOC re-entry planning
- adult transitional programs

**What about programs completed in the county jail?** People who successfully complete a full-time, 60-day or longer program provided by the county Department of Corrections or County Jail can also earn sentencing credit. Calculation of this county program credit should be done at sentencing, and should be included in the sentencing order. People can earn sentencing credit for participation in:

- substance abuse programs
- educational programs
- behavior modification programs
- life skills courses
- re-entry planning

**What about traditional programming an incarcerated person has already completed?**

730 ILCS 5/3-6-3(a)(4)(B), (C), and (D)

There have been very few recent changes to the award of traditional programming credit. The biggest change was to include adult transition centers in the kinds of programs that could earn one

day of credit for each day of participation. For all other programs, most incarcerated people should have already received credit.

Some people, however, may have completed programs in the past for which they did not receive credit. For example, the law recently changed to provide that many people convicted of offenses committed before June 19, 1998 are now entitled to either **45 or 90 days of sentencing credit** for programs they successfully completed before January 1, 2020, although they may not have received credit for it at the time. This includes people serving for first-degree murder who were convicted before 1998. Eligible programs are full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning.

To get credit, the incarcerated person must prove that they satisfactorily completed the program. To prove that, the incarcerated person may rely on:

- Documentation from IDOC that the person participated in and satisfactorily completed an eligible program;
- An affidavit or other documentation from the person that they participated in and satisfactorily completed an eligible program; or
- An affidavit or other documentation from a third party that the incarcerated person likely participated in and satisfactorily completed an eligible program.

Sometimes there are disagreements between the incarcerated person and IDOC about how much time had been earned. If IDOC provides documented proof of a lesser amount of days of participation in those programs, that proof controls. If IDOC provides no documentary proof, the incarcerated person's proof (i.e., affidavit or other documents) controls.

*A note about seeking credit for programs completed before 2020:* For those seeking sentencing credit for programs completed before 2020 who are required to register as sex offenders, they must either have completed or be participating in sex offender treatment before applying for credit for a program completed before 2020. If they are waiting to receive treatment, but are unable to do so due solely to the lack of IDOC resources, IDOC may waive this requirement.

### **What if an incarcerated person starts a program but has to stop?**

730 ILCS 5/3-6-3(a)(4)(D)

If an incarcerated person starts an educational, vocational, substance abuse, work-release programs, behavior modification program, life skills course, re-entry planning, or correctional industry programs but cannot complete it because of illness, disability, transfer, lockdown, or another reason outside of their control, they shall receive prorated sentence credits for the days in which they did participate.

### **Degrees and Diplomas**

730 ILCS 5/3-6-3(a)(4.1)

Incarcerated people can earn sentencing credit for earning their G.E.D. and/or a college degree. New changes in the law allow people to receive credit for their degrees whenever they were earned, and to receive credit for an Associates Degree. Credit is available to people who earn their diploma or certificate in custody *or* in pre-trial detention on the current case.

- **GED** — Incarcerated people who earn their G.E.D. or high school equivalency can earn 90 days of sentencing credit, in addition to any other sentencing credit.
- **Associate's Degree** — Incarcerated people who earn their Associates Degree can earn 120 days of sentencing credit, in addition to any other sentencing credit.
- **Bachelor's Degree** — Incarcerated people who earn their Bachelor's Degree can earn 180 days of sentencing credit, in addition to any other sentencing credit.
- **Master's Degree** — Incarcerated people who earn their Masters Degree can earn 180 days of sentencing credit, in addition to any other sentencing credit.
- **Professional Degree** — Incarcerated people who earn their Professional Degree can earn 180 days of sentencing credit, in addition to any other sentencing credit.

### Other Programming

730 ILCS 5/3-6-3(a)(4.2)

Changes to the law now allow incarcerated people to earn .5 days of credit for other work, including:

- self-improvement program
- volunteer work
- work assignments that are not otherwise eligible activities

### Who is eligible for programming credit?

730 ILCS 5/3-6-3(a)(4.7)

An incarcerated person's ability to earn programming credit as described below will depend on the sentence's credit category, as outlined in Step One.

- **Day-for-Day** — People who are eligible for day-for-day credit are able to earn programming credit without restriction.
  - *Example:* Terry has been sentenced to 60 months for an offense that is eligible for day-for-day credit. Terry will receive 30 months of statutory sentencing credit, resulting in 30 remaining months. There are no restrictions on how much additional programming credit Terry can earn.
- **75%** — People in this category are able to earn programming credit as long as they serve 60% of their sentence, unless they have been convicted of gunrunning committed after August 13, 2007. People convicted of gunrunning must serve 75% of their sentence.
  - *Example:* Terry has been sentenced to 60 months for an offense that requires that they serve 75% of their sentence. Terry will receive 15 months of statutory

sentencing credit, resulting in 45 remaining months. Because Terry must serve at least 36 months ( $60 \times .60$ ), Terry may earn up to an additional 9 months of programming credit.

- *Example:* Terry has been sentenced to 60 months for an offense that requires that they serve 75% of their sentence. Terry received 15 months of statutory sentencing credit, but lost 6 months of that credit through good time revocation, resulting in 51 remaining months. Terry must serve at least 36 months ( $60 \times .60$ ), which would mean that Terry can earn up to 9 months of programming credit, but in this case Terry can earn up to an additional 6 months, for a total of up to 15 months of programming credit (because even if they earn 15 months of programming credit, they will still have served 60% of their original sentence).
- *Example:* Terry has been sentenced to 60 months for gunrunning that requires that they serve 75% of their sentence. Terry received 15 months of statutory sentencing credit. Because Terry must serve at least 45 months ( $60 \times .60$ ), Terry is not eligible for programming credit.
- **85%** — People in this category are able to earn programming credit as long as they serve 85% of their sentence
  - *Example:* Terry has been sentenced to 100 months for an offense that requires that they serve 85% of their sentence. Terry will receive 15 months of statutory sentencing credit, resulting in 85 remaining months. Because Terry must serve at least 85 months ( $100 \times .85$ ), Terry is not eligible for programming credit.
  - *Example:* Terry has been sentenced to 100 months for an offense that requires that they serve 85% of their sentence. Terry received 15 months of statutory sentencing credit, but lost 6 months of that credit through good time revocation, resulting in 51 remaining months. Because Terry must serve at least 85 months ( $100 \times .85$ ), Terry may earn up to an additional 6 months of programming credit.
- **100%** — People in this category are not able to earn programming credit.
  - *Example:* Terry has been sentenced to 20 years (240 months) for an offense that requires that they serve 100% of their sentence. Terry is not eligible to earn programming credit.

### **Step 3: Earned Discretionary Sentencing Credit**

730 ILCS 5/3-6-3(a)(3) and 20 Ill. Admin. Code 107.210

Earned Discretionary Sentencing Credit (EDSC) is additional credit that IDOC can award incarcerated people. Whether a person is eligible for EDSC depends on what the person is incarcerated for and for how long they have been incarcerated. EDSC is discretionary; IDOC can consider many factors in deciding whether to award it.

#### **Who is eligible for EDSC?**

Anyone is eligible for EDSC if they:



- Have already served 60 days of incarceration
- Serving a sentence for anything other than murder or terrorism
- Has received an IDOC risk/needs assessment or other relevant evaluation or assessment
- Has met the eligibility criteria established by rule for earned sentence credit.
- Is in compliance with IDOC rules and regulations
- Are determined by IDOC to be of service to IDOC, service to a community, or service to the State.

## **Disqualifying Events**

Incarcerated people are not eligible for EDSC if they have:

- Been found guilty of, or has a pending charge resulting from, a criminal offense committed during his or her current term of incarceration.
- Had a 100-level ticket during the last 12 months
- Been sentenced to a a term of natural life or has been sentenced to death
- Been sentenced for first degree murder or for the offense of terrorism

## **How much EDSC can someone receive?**

People serving sentences less than five years are eligible to receive up to 180 days of EDSC. People serving sentences of five years or longer are eligible to receive up to 365 days of EDSC.

## **Who is eligible for EDSC?**

730 ILCS 5/3-6-3(a)(4.7)

An incarcerated person's ability to earn programming credit as described below will depend on their credit category, as outlined in Step One.

- Day-for-Day — People who are eligible for day for day credit are able to earn up to 180 days of EDSC if they are serving a sentence of less than 5 years, or up to 365 days of EDSC if they are serving a sentence of 5 years or longer.
- 75% — People in this category are able to earn EDSC as long as they serve 60% of their sentence, unless they have been convicted of gunrunning. People convicted of gunrunning must serve 75% of their sentence.
- 85% — People in this category are able to earn EDSC as long as they serve 85% of their sentence (but in practice, that may mean that many people serving at 85% cannot benefit from EDSC).
- 100% — People in this category are not able to earn EDSC.

## ***Step 4: Additional Requirements for Special Situations***

Some incarcerated people will need to participate in and complete specialized treatment before they are eligible to earn programming credit or earned discretionary sentencing credit.

### **Substance Abuse**

If the court's sentencing order recommends substance abuse treatment and the offense was committed on or after September 1, 2003, the incarcerated person must complete substance abuse treatment to be eligible for EDSC. IDOC has waived that requirement if it finds that the incarcerated person is not a good candidate for medical, programming, or operational reasons.

If treatment is not available and the requirement to complete the treatment has not been waived by IDOC, the incarcerated person shall be placed on a waiting list. While on the waiting list, the incarcerated person may be permitted to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program, but that is at IDOC's discretion.

### **Sex Offenses**

To be eligible for EDSC, people convicted of sex offenses must either have successfully completed or be currently participating in sex offender treatment OR receive a waiver from IDOC based on a lack of IDOC resources. Waivers are at the sole discretion of IDOC.