

ARKANSAS REGISTER

Transmittal Sheet

Use only for FINAL and EMERGENCY RULES



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Effective Date _____ Code Number _____

Name of Agency _____

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Contact _____ E-mail _____ Phone _____

Statutory Authority for Promulgating Rules _____

Rule Title: _____

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)

Legal Notice Published _____

☐ 10 Days After Filing (ACA 25-15-204)

Final Date for Public Comment _____

☐ Other _____
(Must be at least 10 days after filing date.)

Reviewed by Legislative Council _____

Adopted by State Agency _____

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (istrative Act. (ACA 25-15-201 et. seq.)



Signature

Phone Number

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Title

Date

Proposed Rulemaking

Earned Release Credits

Promulgated by: Board of Corrections

12 CAR § 60-116. Accrual of Earned Release Credits

- (a) **Purpose.** The purpose of this part is to ensure a uniform method by which inmates may accrue Earned Release Credits in accordance with Arkansas law.
- (b) **Applicability.** This part is applicable to eligible inmates in the custody of the Division of Correction.
- (c) **Policy.** It shall be the policy of the Board of Corrections to authorize accrual of earned release credits to eligible inmates for participation in work practices, job responsibilities, good behavior, and involvement in rehabilitative activities while in the custody of the Division of Correction.
- (d) **Definitions.** As used in this section:
 - (1) "Accrued earned release credits" means days earned as administered by the Director of the Division of Correction through participation in work practices, job responsibilities, good behavior, and involvement in rehabilitative activities towards consideration for transfer to post-release supervision by the Post-Prison Transfer Board.
 - (2) "Awarded earned release credits" means days of accrued earned release credits which have been awarded by the Post-Prison Transfer Board, thereby reducing the time an inmate is required to spend in confinement.
 - (3) "Earned release credits" means days for which an inmate may accrue time towards transfer to post-release supervision upon award by the Post-Prison Transfer Board.
 - (4) "Eligible offense" means an offense committed on or after January 1, 2025, for which an inmate is sentenced by the court to a period of incarceration in the division

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and which is not designated as ineligible for Earned Release Credits pursuant to Arkansas Code § 16-93-1801 et. Seq; and

(5) (A) "Release eligibility date (or R.E.D.)" means the date on which an inmate is projected to be eligible for transfer to post-release supervision if awarded all accrued earned release credits by the Post-Prison Transfer Board.

(B) This date is:

(i) Intended to demonstrate an inmate's progress towards completion of his or her case plan and good behavior; and

(ii) Subject to change based on classification, completion of assigned programs, and forfeited earned release credits.

(e) Procedures

(1) An inmate may accrue earned release credits on an eligible offense for participation in work practices, good behavior, and involvement in rehabilitative activities while in the custody of the division.

(2) Earned release credits shall not reduce an offender's period of confinement for more than the maximum amount authorized under Arkansas Code §§ 16-93-1803 and 16-93-1804.

(3)(A) Earned release credits may be accrued based on classification and completion of assigned programs.

(B) Maximum rate of potential accrual.

(i) For offenses eligible to earn up to fifteen percent (15%) of the period of confinement in earned release credits, an offender may earn earned release credits totaling:

(a) Seven- and one-half percent (7.5%) of the period of confinement for that offense based on classification; and

(b) Seven- and one-half percent (7.5%) of the period of confinement for that offense based on completion of assigned programs.

(ii) For offenses eligible to earn up to fifty percent (50%) of the period of confinement in earned release credits, an offender may earn earned release credits totaling:

(a) Twenty-five percent (25%) of the period of confinement for that offense based on classification; and

(b) Twenty-five percent (25%) of the period of confinement for that offense based on completion of assigned programs.

(iii) For offenses eligible to earn up to seventy-five percent (75%) of the period of confinement in earned release credits, an offender may earn earned release credits totaling:

(a) Twenty-five percent (25%) of the period of confinement for that offense based on classification; and

(b) Fifty percent (50%) of the period of confinement for that offense based on completion of assigned programs.

(C) Accrual for classification.

(i) Rate of accrual.

(a) A Class One (I) inmate accrues one (1) day of earned release credit for every day that he or she is classified as a Class One (I) inmate.

(b) A Class Two (II) inmates accrues one (1) day of earned release credit for every three (3) days that he or she is classified as a Class Two (II) Inmate.

(c) A Class Three (III) inmate accrues one (1) day of earned release credit for every seven (7) days that he or she is classified as a Class Three (III) inmate.

(d) A Class Four (IV) inmate does not accrue any days of earned release credit for good behavior while he or she is classified as Class Four (IV) Inmate.

(e) Regardless of class, an inmate who is housed in restrictive housing does not accrue any days of earned release credit for good behavior unless the Director of the Division of Correction, or his or her designee, certifies that the inmate is held in restrictive housing for his or her protection or due to medical concerns and is not eligible for placement in general population.

(ii) Guidelines.

(a) **Maximum days to be accrued.** At no point shall an inmate accrue more days of earned release credit for good behavior and work practices than authorized by subdivision (e)(3)(B) of this section.

(b) **Forfeiture.** Earned release credits for good behavior and work practices may be forfeited for disciplinary reasons as set out in division policy.

(c) **Restoration of Forfeited Credits.** Division directors may restore forfeited earned release credits in accordance with division policy.

(D) Accrual for completion of assigned programs.

(i) Rate of accrual.

(a) Upon intake to a facility operated by the Department of Corrections, an inmate will be assessed to determine his or her criminogenic needs and a case plan comprised of programs targeted at addressing those needs.

(b)(1) Only those programs authorized by the earned release credits committee are eligible for accrual of earned release credits.

(2) In determining whether a program is authorized to accrue earned release credits, the earned release credit committee shall consider the recommendation of the Director of the Division of Correction and the likelihood that participation in the program will reduce the severity of at least one criminogenic risk factor.

(3) In analyzing the likelihood that participation in the program will reduce the severity of at least one criminogenic risk factor, the committee should consider reviews performed by the Quality Improvement and Program Evaluation Administrator if available.

(c) Each program authorized for accrual of earned release credits will be assigned a number of program units.

(d)(1) The units for each assigned program in an inmate's case plan will be added together to determine a total number of programming units.

(2) The number of units for each program will be divided by the total number of units assigned to determine the ratio at which each program is eligible to accrue earned release credits.

(e) Upon successful completion of a program assigned as part of an inmate's case plan, he or she will accrue earned release credit days as set out in this section.

(ii) Guidelines

(a) Maximum days to be accrued. At no point shall an inmate accrue more days of earned release credit for completion of assigned programs than authorized by subdivision (e)(3)(B) of this section.

(b) Earned release credits accrued for completion of assigned programs may not be forfeited for disciplinary reasons.

(c)(1) As part of their review process, the Post-Prison Transfer Board may recommend additional programs for an inmate.

(2) Earned release credits may be accrued for these programs at a ratio based on the units of programming authorized in an inmate's initial case plan as determined at intake.

(3) However, the total number of days of Earned release credit for programs assigned at intake and programs recommended by the Post-Prison Transfer Board shall not exceed the total number of days authorized by subdivision (e)(3)(B) of this section.

(4) Earned release credits may reduce the length of time an offender spends in confinement, if awarded by the Post-Prison Transfer Board, but shall not reduce the length of sentence.

(5) Earned release credits do not reduce the length of any period of incarceration until awarded by the Post-Prison Transfer Board, but once accrued will reduce an inmate's release eligibility date.

(6) When the number of days of incarceration plus the number of days of earned release credits awarded by the Post-Prison Transfer Board equal or exceed the length of the period of incarceration imposed by the sentencing court, the inmate shall be transferred to post release supervision for the remainder of his or her sentence, unless revoked pursuant to rules promulgated by the Post-Prison Transfer Board.

(7) The Secretary of Corrections, or his or her designee, shall produce a manual which provides examples of the application of this rule as well as a list of offenses and the maximum amount of earned release credit that may be accrued for that offense.

(8) Upon completion of an assessment of an inmate's criminogenic needs and determination of the inmate's case plan, he or she will be provided a one-page document clearly setting forth how to accrue maximum earned release credits against his or her sentence.