

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

Proposed Rulemaking

Earned Release Credits

Promulgated by: Board of Corrections

12 CAR § 60-116 Earned Release Credits

- (a) Purpose. To ensure a uniform method by which inmates may accrue Earned Release Credits in accordance with Arkansas law.
- (b) Applicability. 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 Arkansas

Division of Correction and which is not ineligible for Earned Release Credits pursuant to A.C.A. § 16-93-1801 et. seq.

(5) "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. This date is intended to demonstrate an inmate's progress towards completion of his or her case plan and good behavior, and is 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 offenders' period of confinement for more than the maximum amount authorized under A.C.A. § 16-93-1803 and 16-93-1804.

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

(A) Maximum rate of potential accrual.

(i) For offenses eligible to earn up to 15% of the period of confinement in earned release credits, an offender may earn earned release credits totaling 7.5% of the period of confinement for that offense based on classification and earned release credits totaling 7.5% of the period of confinement for that offense based on completion of assigned programs.

(ii) For offenses eligible to earn up to 50% of the period of confinement in earned release credits, an offender may earn earned release credits totaling 25% of the period of confinement for that offense based on classification and earned release credits totaling 25% of the period of confinement for that offense based on completion of assigned programs.

(iii) For offenses eligible to earn up to 75% of the period of confinement in earned release credits, an offender may earn earned release credits totaling 25% of the period of confinement for that offense based on classification and earned release credits totaling 50% of the period of confinement for that offense based on completion of assigned programs.

(B) Accrual for classification.

(i) Rate of accrual.

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

(b) Class Two (2) Inmates accrue one (1) day of earned release credit for every three (3) days that he or she is classified as a Class Two (2) Inmate.

(c) Class Three (3) Inmates accrue one (1) day of earned release credit for every seven (7) days that he or she is classified as a Class Three (3) inmate.

(d) Class Four (4) Inmates do not accrue any days of earned release credit for good behavior while he or she is classified as Class Four (4) 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, or 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)(A).

(b) Forfeiture- Earned Release Credits for good behavior and work practices may be forfeited for disciplinary reasons as set out in Divisional policy.

(c) Restoration of Forfeited Credits- Division Directors may restore forfeited Earned Release Credits in accordance with Divisional policy.

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

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

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

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

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

(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 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.

Summary
Earned Release Credits
Board of Corrections

The proposed emergency rule on Earned Release Credits fulfils the requirements set out by the Protect Arkansas Act for the Board of Corrections to adopt a rule that sets guidelines for accrual of earned release credits for work practices, job responsibilities, good behavior, and involvement in rehabilitative activities while in the custody of the Division of Correction.

The proposed rule:

- Sets the maximum percentage of a sentence when can be accrued in earned release credits for (1) classification- which is based on good behavior, work practices, and job responsibilities and (2) involvement in programming- which consists of rehabilitative activities.
- Sets the rate of accrual for classification, which ranges from Class One to Class Four.
- Sets the rate of accrual for participation in programming at a rate determined by weighing the total number of days an inmate can earn for programming with the inmates criminogenic needs.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE _____

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If no, please explain:

(a) how the additional benefits of the more costly rule justify its additional cost;

(b) the reason for adoption of the more costly rule;

(c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:
(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

From: [Trent Rigdon \(DOC\)](#)
To: legalads@arkansasonline.com
Cc: [Tawnie Rowell \(DOC\)](#)
Subject: Public Notice Publication
Date: Friday, March 7, 2025 11:17:00 AM

Hello,

Please run the below this coming, Sunday, Monday, and Tuesday.

PUBLIC NOTICE

The Department of Corrections is proposing to promulgate the following Administrative Rule:

Earned Release Credits

Copies of this proposal are available for public inspection at DOC headquarters, located at 1302 Pike Ave. North Little Rock, AR 72114. The proposal can also be accessed electronically at doc.arkansas.gov/rule-filings/. Written comments can be emailed to Trent.rigdon@doc.arkansas.gov or mailed to 1302 Pike Ave. North Little Rock, AR 72114.

Comments should be received by April 14, 2025.

Thank you,

Trent Rigdon
Deputy General Counsel
Office of the Secretary
479-746-1138
615 S Main St
Jonesboro, AR 72401