

Employment-based Earned Time Credits in Adult Supervision

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Background

For years, criminal justice experts and corrections officials alike have sounded the alarm about overcrowded prisons and jails, excessive supervision caseloads, and structural failures that keep generations of Americans in a cycle of crime and incarceration. Policymakers from across the political spectrum cannot ignore the exploding costs of prison and the staggering rates of recidivism—both indicators of a system that is failing our society.

Legislators and corrections administrators should adopt more effective approaches to rehabilitating Americans convicted of crimes. Public safety should be the foremost concern of criminal justice, but upholding public safety takes on new meaning when we consider that **95% of state prisoners are eventually released back into their communities**.¹ Corrections systems need to be reoriented around changing behavior, equipping people with the tools to rebuild their lives, and facilitating re-entry back into communities. Most importantly, Americans leaving prisons need to get back to work.

To that end, policymakers should craft incentive-based policies that encourage justice-involved people to take clear and measurable steps towards law-abiding and productive livelihoods. The most effective policies empower people to take responsibility for their own success and reward them for reaching milestones towards that end.

One policy that falls into this category is earned time credits for probation and parole. Earned time credits offer people incremental reductions to their supervision sentences as rewards for making progress towards successfully re-entering society. Earned time credit systems typically reward individuals for achieving specific goals, such as completing rehabilitation programs, attaining high school or college diplomas, or maintaining employment. Some states offer earned time credits for broad compliance with the conditions of supervision, such as avoiding technical violations. The best earned time credit system would reward the most desirable ultimate outcome for people on probation and parole—stable, lawful employment. Generally, time credit programs provide a powerful incentive for individuals to make meaningful progress towards re-entry into their communities while also reducing burdensome caseloads and allowing probation and parole officers to focus on higher risk individuals.

Community supervision collectively refers to two institutions: probation and parole. In most states, probation functions as a community-centered alternative to institutional incarceration, such as jail or prison.² Depending on the state, people on probation are supervised by county probation departments or probation divisions of the state department of corrections. Parole is separate from probation, but it functions nearly identically. Parole is administered by state agencies, sometimes in concert with probation, and offers people in prison an opportunity to serve a portion of their sentence in the community, subject to the approval of a parole board.

The intentions of both probation and parole are to offer structured, low-cost supervision of criminally involved individuals while they lead law-abiding lives. If someone exhibits signs of criminogenic behavior while on supervision, such as missing or failing a drug test, a probation or parole officer can request a judge to send the individual to jail or prison through what is called a “technical revocation.” Judges will also revoke people on probation and parole if they are arrested or convicted of new crimes.

Some hardline policymakers and administrators insist that technical revocations are a necessary sanction to ensure compliance with basic rules while criminally involved people are out in the community. But conduct that qualifies someone for a technical revocation varies greatly, and violations can be as simple as drinking a sip of beer at a barbecue or missing an appointment.³ Such minor infractions hardly indicate an immediate danger to the public, and yet nearly one in four people admitted to state prisons were sent there because of a technical revocation of probation or parole. And with nearly 4.4 million Americans—or 1 in 55—on either probation or parole, the costs of incarcerating hundreds of thousands of people for breaking rules—not criminal laws—seem incommensurate with the implications these violations have for public safety. States spend more than one-eighth of their total corrections budgets—approximately \$2.8 billion per year—on incarcerating people for technical revocations.⁴ In 22 states, more people were sent to prison from probation and parole for technical revocations than for new crimes.⁵

This is not to say that crime is not a major problem among people on community supervision. Nationwide, over 100,000 people are sent to prison for new crimes committed while on

supervision, accounting for one in five admissions to prison.⁶ Nearly two-thirds of people released from state prison are reincarcerated within three years, the period during which most people released from prison are on parole.⁷ Recidivism is the central problem in probation and parole. To achieve comprehensive reform, new policies must also target the underlying causes of reoffending.

Long supervision terms and high caseloads contribute to both technical and new crime revocation rates by spreading officers' resources thin. Nationally, the average probation term is just under two years. State-specific average probation terms, however, vary widely. For example, New Jersey's and Hawaii's averages are both over four years, whereas Massachusetts' average is only nine months.⁸ There is even more variation among different offense types. In Georgia, drug offenders typically receive probation sentences ranging from five to seven years, compared to an average of only 20 months across all offenses.⁹ Long supervision sentences are not shown to reduce recidivism or have any positive effects on public safety. But long supervision sentences do bloat the caseloads that officers manage.

The American Probation and Parole Association recommends that caseloads should not exceed 50:1 for officers working with moderate to high-risk individuals and 200:1 for those working with low-risk individuals.¹⁰ Caseloads often exceed twice these recommended levels, making it impossible for officers to allocate their time effectively.¹¹

The challenges posed by high caseloads are further complicated by disparities in the risk levels of the individuals serving them. Routine meetings with low-risk offenders distract officers from the serious task of supporting and supervising those more likely to re-offend. Higher-risk individuals often require substantially more guidance and intervention from officers. Lower-risk individuals, however, are actually more likely to re-offend if officers disrupt employment and other prosocial activities by devoting too much attention to them.¹² Thus, policies that can safely lower caseloads to manageable levels will allow officers to focus efforts and resources on those who need them most, and in turn, drive better outcomes.

Incentivizing Success: Earned Time Credits

Numerous states have experimented with offender-oriented incentive programs to address high revocation and recidivism rates, long supervision terms, and cumbersome caseloads. So-called "earned time credits" are the most promising of these programs because of their goal-oriented nature and potential to reduce supervision population levels safely. Earned time credit systems reward people in prison or on supervision for certain types of behavior or achievements that are associated with a lower likelihood of committing new crimes. Successful individuals are rewarded with credits of time—usually measured in days—towards their prison or supervision sentences, allowing them to terminate their sentences earlier than they were expected to. Earned time credit systems create powerful incentives for individuals to make meaningful progress towards re-entry while reducing excessive supervision sentences and caseloads through merit at the same time.

The research in support of earned time credits is compelling. At a fundamental level, incentive-based programs are widely considered integral to successful supervision. Numerous studies indicate that incentives reinforce positive behaviors that individuals might otherwise struggle with and effectively improve supervision outcomes.¹³⁻¹⁵ The American Probation and Parole Association recommends that officers use incentives in concert with sanctions in order to achieve the best results.¹⁶ These findings align with what people on supervision themselves are saying. In a survey of people on probation conducted by the Utah Criminal Justice Center at the University of Utah, 70 percent of respondents indicated that incentives motivated them to comply with the rules of their supervision and work harder towards re-entering society.¹⁷

Not all incentives are equal though. In a study in *Corrections: Policy, Practice, and Research* found that the quality of the incentive plays an important role in promoting behavioral change.¹⁸ The same study found that earning time off of one's sentence was the highest rated incentive among people on supervision, followed by fee waivers and reduced check-in requirements.¹⁹⁻²⁰ Respondents also viewed time credits as the most favorable incentive.²¹

Of course, allowing people on supervision to earn their way to early release raises concerns about public safety. While these concerns are reasonable, the evidence suggests these negative outcomes are unlikely. Individuals released early from probation and parole in Missouri under that state's earned time credit program had statistically insignificant higher rates of re-offense, at less than 0.1 percent.²² Data on people discharged early from New York City's probation system actually shows that early termination could decrease the likelihood of re-offense.²³ Even a look at the raw numbers from the Bureau of Justice Statistics shows that most individuals re-offend early on in their supervision or after release from prison. In a nine-year follow-up on state prisoners released in 2005, 82 percent of prisoners who were arrested after release were arrested within the first three years.²⁴

Earned time credits can result in desirable outcomes for both supervisees and officers by helping the most successful individuals get off of supervision caseloads in a safe and efficient way. But the key to designing an effective earned time credit system is making sure that rewards are tied to the right ultimate outcomes.

Types of Earned Time Credit Policies

There are 16 states with earned time credit policies, but they do not all reward the same types of outcomes. Earned time credit systems typically reward three types of outcomes: general compliance with the rules of supervision; completion of rehabilitative, behavioral, or substance abuse programs; or completion of educational or vocational training. Rewarding employment outcomes is a relatively new approach, but it holds a lot of promise.



Rewarding General Compliance

Nine states allow people on supervision to earn time credits for generally abiding by the rules of their supervision for certain durations of time.²⁵ Most of these states restrict who can earn credits depending on the type of which they were convicted. Those individuals who are eligible for credits are rewarded with a certain number of time credits for every 30 days of compliance, defined as not breaking any laws or technical rules of supervision. Individuals earn different amounts of credit depending on the reward structure of their state. In Nevada, for example, individuals can earn 10 days of credit for every 30 days of compliance, while in Arizona and South Carolina, they can earn 20 credits for the same period.²⁶⁻²⁸ Other states, like Missouri and Arkansas, reward 30 days of credit for 30 days of compliance.²⁹⁻³⁰ Typically, if individuals subsequently violate the terms of their supervision to a sufficient degree or are revoked to prison, they lose their accrued time credits.

The general compliance model tends to substantially reduce the supervised population and caseloads since credits are earned regularly and frequently and are not constrained by program availability (as with rehabilitation and substance abuse programs) or tradeoffs (as with education and training).

Several states have demonstrated that issuing earned time credits for general compliance can result in a number of desirable outcomes.

- The most expansive earned time credits policy—and the most rigorously studied—was passed in **Missouri** in 2012, alongside another reform that expanded the use of intermediate punishments for violations, known as “swift and certain sanctions.” An extensive study of the earned time credits policy by Pew had a number of promising findings. After a decade of rising supervision populations, Missouri’s earned time credit policy helped reduce the supervised population by 18 percent, or roughly 13,000 people, in only three years.³¹ As a result, the average officer caseload in Missouri dropped 16 percent over the same period. Ninety-three percent of the individuals who earned credits were nonviolent offenders, and they earned an average of 14 months off of their supervision sentences.³² Most importantly, there was no statistically significant difference in the post-termination recidivism rates of the individuals discharged early and those released before the policy went into effect.³³
- The Pew study does not, however, cover the impact of the earned time credit policy on revocation rates. Supervision violation rates actually increased between 2012 and 2018, before declining substantially in 2019.³⁴ Commitments to short-term confinement and long-term drug programs and revocations to prison all rose following the reforms in 2012, particularly in 2014 and 2015 when the largest number of people were terminated early for accruing earned time credits.^{35–37} The increases in violations may have been the result of two different policy changes. The rise in lesser sanctions, like short-term confinement and long-term drug programs, were the probably the result of expanded use of swift and certain sanctions, which occurred simultaneously with the roll out of the earned time credit policy. The rise in full revocations to prison, however, could have been connected indirectly to the earned time credits policy itself, which had an unintended impact on the funding available for rehabilitation programs. Missouri’s Division of Probation and Parole funds rehabilitative programs with fees collected from individuals on supervision, so when thousands of people on probation and parole were terminated early as a result of accruing earned time credits and the total supervision population declined, the Division was left with less funding for rehabilitation.³⁸ Lower funding for rehabilitation programs likely contributed to the increase in revocations. Thus, the indirectly adverse impact of the earned time credits policy on revocation rates could have been mitigated by supplying some amount of funding to recoup the Division’s fiscal losses.
- **South Carolina** overhauled its supervision policies in 2010 based on 24 recommendations from a statewide task force, one of which was to create an earned time credit program. The program saw increasing success over the next eight years as participation expanded. The rate of eligible people earning credits more than doubled in that period and the portion of credits denied for noncompliance declined

12 percent.³⁹ These changes indicate that as more people on supervision had access to incentives, many of those individuals responded with greater willingness to comply with the rules of supervision. This policy seems to have impacted both compliance and new offense revocations, which each dropped by roughly 60 percent between 2010 and 2018, though it is unclear how much of that drop was due to earned time credits specifically, given the 24 other recommendations that impacted supervision simultaneously.⁴⁰

- **Arizona** began issuing earned time credits to its probation population as part of the Safe Communities Act (2008), which established incentive systems for both probationers and probation departments.⁴¹
- Over the next 10 years, revocations to prison dropped by nearly one-third even as officers' caseloads were statutorily increased by eight percent.⁴² Parsing which parts, if any, of the Safe Communities Act contributed most to the successful reductions in revocations is challenging, but the available evidence suggests that earned time credits had a powerful impact on achieving higher levels of compliance and lower revocations.
- The most important context to evaluating the impact of the incentive systems in the Safe Communities Act is that the performance incentive system created for probation departments never received any funding.⁴³⁻⁴⁴ While the expectation of funding likely did contribute to the improvements made in the first year or two after the Safe Communities Act was passed, it is unlikely that departments' improvements were the results of the performance incentive system after those expectations faded. After the performance incentive system's repeal in 2011, no measurable improvements could reasonably be connected to the policy. An unpublished study on the earned time credits system, however, showed that roughly half of the individuals eligible for credits did in fact earn them by complying with the terms of their supervision.⁴⁵ While only eight percent of eligible individuals kept their credits long enough to earn early termination, the same study found that the leading reason that individuals lost their accrued time credits was for being unable to pay fines and fees, a violation that usually results in a lesser sanction than revocation to prison. Thus, earned time credits did appear to encourage better behavior among people on probation, contributing to the successful reduction of supervision revocations.
- The outcomes demonstrated by Missouri, South Carolina, and Arizona make it clear that earned time credit policies require a great deal of care and consideration in their design. Even among programs that reward the same outcome—compliance—the impact of each policy varied considerably. Generally, earned time credits for compliance appear to be effective at safely reducing the supervised population without increases in crime and lowering revocation rates.

Rewarding Rehabilitative Program Completion

A few states, like **Texas**, reward people on supervision with time off of their sentences for completing behavioral rehabilitative programs, but there is very limited research on program-based earned time credit systems for people on probation and parole.⁴⁶ Marginally more attention has been paid to program-based earned time credits systems in prisons, where they are most commonly found.⁴⁷ Notably, the First Step Act (2017) created an earned time credit program for federal prisoners that completed rehabilitation programming. Very few studies have been conducted on the effects of this policy, but the idea is intuitive: more people will participate in programs that are shown to reduce recidivism if they are rewarded for doing so. A preliminary report on earned time credits in federal prisons found that earned time credits did lead to higher participation rates in rehabilitative programs—30.8 percent participation among credit-eligible individuals, versus 18.8 percent of credit-ineligible individuals.⁴⁸ The impact of these higher participation rates on recidivism, however, remains unknown. Far more studies have been conducted on the effectiveness of specific programs, the findings of which indicate that behavioral rehabilitative programs generally reduce recidivism, though quality varies immensely.⁴⁹ The problem with providing earned time credits for completing rehabilitative programs is that there is no guarantee that the programs are actually high quality or, in many cases, even available.

The situation in Federal Bureau of Prisons facilities is instructive of the shortcomings of policies that offer earned time credits for program completion. An independent review of the First Step Act's implementation in the Bureau of Prisons found a number of issues with the newly created earned time credit policy.⁵⁰ Foremost, the regulations governing the federal earned time credits policy require that an inmate participate in 240 hours of programming in order to earn the minimum 10 days of time credit (there are no smaller denominations of earnable credit), but only 14 of the 71 programs that are designated to be "credit-eligible" are long enough for inmates to reach the required 240 hours. Moreover, these 14 programs are only available at a handful of facilities. Meanwhile, the Bureau of Prisons does not evaluate all 71 of the designated programs based on participant outcomes, so the evidence supporting the programs' effectiveness is flimsy. Thus, the Federal earned time credit system's design hinders its own successful implementation.

There are many barriers to creating a successful earned time credit policy that rewards program completion. With robust performance evaluations and accreditations of rehabilitation programs and significantly expanded offerings of and access to programming, such a policy could be implemented effectively. There are not, however, existing successful models to learn from and replicate.

Rewarding Educational and Vocational Completion

Policies that reward educational or vocational program completion with earned time credits are frequently found in prisons, though some states, such as **Kentucky** and **Texas**, offer credits to people on supervision as well.⁵¹⁻⁵³ There are no recent studies on these programs and their effects on participation or recidivism rates. However, the evidence from other types of earned time credits policies suggest that rewarding training completion would increase participation. Studies on the impact of education and vocational training on recidivism would also suggest that earned time credits based on completion of those programs would reduce the likelihood of re-offense. A 2016 report by the RAND corporation found that people who participated in educational programs while in prison were 46 percent less likely to reoffend.⁵⁴ A study on GED and college programs in Ohio's prisons found that the closer that inmates completed their programs to their release date, the less likely they were to return to prison.⁵⁵ While working toward education while on supervision may present additional challenges for individuals trying to get back on their feet, extrapolating the evidence from the Ohio program might suggest that doing so could reduce recidivism.

The Importance of Employment

It is important to note that educational programs and vocational training are associated with reduced recidivism primarily because of their effects on employment, job stability, and income. Education and vocational training allow individuals to compete for better jobs, which in turn makes crime less attractive. Evidence from other studies regarding the elasticity of crime with respect to wage rates suggests that a significant part of the measured effect of education on crime can be attributed to the increase in wages associated with schooling. Higher wage employment, not schooling itself, raises the opportunity cost of crime and thus reduces criminal activity.⁵⁶ This is in line with other studies that suggest that employment is associated with lower chances of recidivism.⁵⁷⁻⁵⁸ The anti-criminogenic effects of higher wages attained through education and vocational training are amplified by increased job stability as well. Studies into the impact of certain characteristics of employment on recidivism found that job stability in particular decreased the likelihood of reoffending.⁵⁹⁻⁶⁰

Higher wages and stable employment seem to be driving the successful outcomes associated with education and vocational training. Therefore, rewarding individuals for staying employed for consistent intervals may incentivize the right behaviors more directly than education or vocational training and have the added benefit of being rewarded on a regular basis, like general compliance credits. This hybrid approach would combine the benefits of the two best performing types of earned time credits. In 2020, Kentucky passed an earned time credits policy that includes “work for time credit.”⁶¹ While the policy is too recent to evaluate, this hybrid design is very promising.



Policy Proposal: Earned Time Credits For Employment

States should focus their earned time credit programs on rewarding stable employment outcomes. Rewarding individuals for stable employment combined the regularity and breadth of access of general compliance time credits with the goal-based orientation of program-completion time credits. Incentivizing positive employment goals will help push obstinate offenders to take meaningful steps towards re-entry while helping successful offenders move off of supervision more quickly. This policy will align individual incentives towards long-term goals shown to reduce recidivism, while also effectively lowering caseloads and supervised populations.

Setting a sensible ratio of credits per period of time employed is key to successful implementation. Important considerations include minimizing the administrative work of probation and parole officers, setting achievable goals, and issuing credits at regular intervals. Setting a higher reward threshold for earning credits (i.e. X amount of credits for six months of employment) would likely lead to unnecessary setbacks in accumulating credits, limit economic mobility, and be burdensome for officers to verify. A lower reward threshold, such as X credits per week or per month, is more sensible and flexible. Kentucky's earned time credit system rewards individuals with one day of sentence credit per 40-hour work week. With an average probation term of 34 months, a typical Kentuckian on probation who has stayed employed for their whole sentence could get off about four months earlier than his peers. A weekly threshold seems workable but given that many earned time credit programs

for general compliance work on a monthly schedule, another option would be to reward four to five days of credit per 30-day period. The best model will vary among state systems, depending primarily on any existing reporting schedule and the preferences of the probation and parole officers.

It is challenging to quantify the impact of this reform on a state's supervision system, given the inconsistencies in how much earned time credits have improved supervision systems in the past, and that only one state has recently adopted the most similar system to the one that is proposed. It seems reasonable to estimate that this policy could reduce revocations and recidivism each by five to 10 percent and reduce caseloads by at least 10 percent. Other reforms that make it easier for individuals on supervision to secure employment and incentivize supervision officers to help individuals find employment would make this policy even more effective.⁶²

Conclusion

States across the country have demonstrated success with earned time credit policies. Time credits are powerful incentives for individuals to make meaningful progress towards re-entry into their communities. At the same time, by rewarding individuals with time off of their sentences, time credits also reduce burdensome caseloads and allow probation and parole officers to focus on higher risk individuals. The best earned time credit systems will combine the advantages of the most successful systems and tie incentives to desirable ultimate outcomes. An earned time credit policy that regularly rewards individuals for maintaining stable employment and offers bonus rewards for education and vocation training would reduce caseloads and supervision populations without increasing crime, help more individuals get back on their feet and into their communities, and reward the right ultimate outcomes for individuals on supervision.

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