IC 35-50-6

Chapter 6. Release From Imprisonment and Credit Time

IC 35-50-6-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 1 of this chapter by P.L.11-1994 apply only to an offender (as defined in IC 5-2-12-4, as added by P.L.11-1994 and before its repeal) convicted after June 30, 1994.

(2) The amendments made to sections 3, 4, and 5 of this chapter by P.L.80-2008 apply only to persons convicted after June 30, 2008.

As added by P.L.220-2011, SEC.639. Amended by P.L.63-2012, SEC.89.

IC 35-50-6-1

Parole; discharge to community transition program or probation; lifetime parole for sexually violent predators and murderers

Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board, unless:

(A) the person is being placed on parole for the first time;

(B) the person is not being placed on parole for a conviction for a crime of violence (as defined in IC 35-50-1-2);

(C) the person is not a sex offender (as defined in IC 11-8-8-4.5); and

(D) in the six (6) months before being placed on parole, the person has not violated a rule of the department of correction or a rule of the penal facility in which the person is imprisoned;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if the sentence included a period of probation.

A person described in subdivision (1) shall be released on parole for not more than twelve (12) months, as determined by the parole board.

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires, unless the person's parole is revoked or the person is discharged from that term by the parole board. In any event, if the person's parole is not revoked, the parole board shall discharge the person after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person's fixed term. However, the person shall again be released on parole when the person completes that remainder, less the credit time the person has earned since the revocation. The parole board may reinstate the person on parole at any time after the revocation.

(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sex offender (as defined in IC 11-8-8-4.5) completes the sex offender's fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who:

(1) is a sexually violent predator under IC 35-38-1-7.5;

(2) has been convicted of murder (IC 35-42-1-1); or

(3) has been convicted of voluntary manslaughter (IC 35-42-1-3).

When a person described in this subsection completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a person described in subsection (e) and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a person described in subsection (e) and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a person described in subsection (e) who was convicted in Indiana, including:

(1) lifetime parole (as described in subsection (e)); and

(2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

(1) supervise the person while the person is being supervised by the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

(i) If a court orders the parole board to place a sexually violent predator whose sentence does not include a commitment to the department of correction on lifetime parole under IC 35-38-1-29, the parole board shall place the sexually violent predator on lifetime parole and supervise the person in the same manner in which the parole board supervises a sexually violent predator on lifetime parole whose sentence includes a commitment to the department of correction.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.132; Acts 1979, P.L.120, SEC.11; Acts 1981, P.L.298, SEC.7; P.L.240-1991(ss2), SEC.100; P.L.11-1994, SEC.18; P.L.273-1999, SEC.215; P.L.90-2000, SEC.20; P.L.238-2001, SEC.22; P.L.116-2002, SEC.26; P.L.139-2006, SEC.6; P.L.140-2006, SEC.38 and P.L.173-2006, SEC.38; P.L.1-2007, SEC.237; P.L.216-2007, SEC.51; P.L.105-2010, SEC.15.

IC 35-50-6-2

Discharge from imprisonment for a misdemeanor

Sec. 2. A person imprisoned for a misdemeanor shall be discharged when he completes his fixed term of imprisonment, less the credit time he has earned with respect to that term.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.133.

IC 35-50-6-3

Credit time classes for a person convicted before July 1, 2014

Sec. 3. (a) This section applies to a person who commits an offense before July 1, 2014.

(b) A person assigned to Class I earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class II earns one (1) day of credit time for every two (2) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

(d) A person assigned to Class III earns no credit time.

(e) A person assigned to Class IV earns one (1) day of credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.134; P.L.80-2008, SEC.2; P.L.158-2013, SEC.667; P.L.168-2014, SEC.120.

IC 35-50-6-3.1

Credit time classes for a person convicted after June 30, 2014

Sec. 3.1. (a) This section applies to a person who commits an offense after June 30, 2014.

(b) A person assigned to Class A earns one (1) day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.

(c) A person assigned to Class B earns one (1) day of credit time for every three (3) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

(d) A person assigned to Class C earns one (1) day of credit time for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.

(e) A person assigned to Class D earns no credit time.

As added by P.L.158-2013, SEC.668. Amended by P.L.168-2014, SEC.121.

IC 35-50-6-3.3

Educational credit time

Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

(1) is in credit Class I, Class A, or Class B;

(2) has demonstrated a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18, if the person has not previously obtained a high school diploma.

(B) Except as provided in subsection (o), a high school diploma, if the person has not previously obtained a general educational development (GED) diploma.

(C) An associate degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) earned during the person's incarceration.

(D) A bachelor degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)) earned during the person's incarceration.

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

(1) is in credit Class I, Class A, or Class B;

(2) demonstrates a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical or vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life

skills program approved by the department of correction.

(D) A certificate of completion of a reformative program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study. The department of correction, in consultation with the department of workforce development, shall approve a program only if the program is likely to lead to an employable occupation.

(d) The amount of credit time a person may earn under this section is the following:

(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18.

(2) One (1) year for graduation from high school.

(3) Not more than one (1) year for completion of an associate degree.

(4) Not more than two (2) years for completion of a bachelor degree.

(5) Not more than a total of one (1) year of credit, as determined by the department of correction, for the completion of one (1) or more career and technical or vocational education programs approved by the department of correction.

(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

(7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

(8) Not more than a total of six (6) months credit time, as determined by the department of correction, for completion of one (1) or more reformative programs approved by the department of correction. However, a person who is serving a sentence for an offense listed under IC 11-8-8-4.5 may not earn credit time under this subdivision.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more career and technical or vocational education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more career and technical or vocational education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned under this section must be directly proportional to the time served and course work completed while

incarcerated. The department of correction shall adopt rules under IC 4-22-2 necessary to implement this subsection.

(f) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person by the sentencing court after subtracting all other credit time earned by the person.

(g) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(h) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(i) Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:

(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or

(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Vicarious sexual gratification (IC 35-42-4-5).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Sexual misconduct with a minor (IC 35-42-4-9) as a:

(i) Class A felony, Class B felony, or Class C felony for a crime committed before July 1, 2014; or

(ii) Level 1, Level 2, or Level 4 felony, for a crime committed after June 30, 2014.

(I) Incest (IC 35-46-1-3).

(J) Sexual battery (IC 35-42-4-8).

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(j) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) two (2) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(k) Credit time earned under this section by an offender serving a sentence for a felony against a person under IC 35-42 or for a crime listed in IC 11-8-8-5 shall be reduced to the extent that application of

the credit time would otherwise result in:

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program;

in less than forty-five (45) days after the person earns the credit time.

(l) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

(m) A person may not earn credit time:

(1) for a general educational development (GED) diploma if the person has previously earned a high school diploma; or

(2) for a high school diploma if the person has previously earned a general educational development (GED) diploma.

(n) A person may not earn credit time under this section if the person:

(1) commits an offense listed in IC 11-8-8-4.5 while the person is required to register as a sex or violent offender under IC 11-8-8-7; and

(2) is committed to the department of correction after being convicted of the offense listed in IC 11-8-8-4.5.

(o) For a person to earn credit time under subsection (a)(3)(B) for successfully completing the requirements for a high school diploma through correspondence courses, each correspondence course must be approved by the department before the person begins the correspondence course. The department may approve a correspondence course only if the entity administering the course is recognized and accredited by the department of education in the state where the entity is located.

As added by P.L.243-1993, SEC.2. Amended by P.L.149-1995, SEC.17; P.L.148-1995, SEC.7; P.L.183-1999, SEC.3; P.L.243-1999, SEC.3; P.L.14-2000, SEC.78; P.L.90-2000, SEC.21; P.L.164-2003, SEC.1; P.L.1-2005, SEC.229; P.L.2-2007, SEC.380; P.L.234-2007, SEC.171; P.L.80-2008, SEC.3; P.L.42-2010, SEC.2; P.L.7-2011, SEC.25; P.L.228-2011, SEC.2; P.L.147-2012, SEC.11; P.L.158-2013, SEC.669; P.L.214-2013, SEC.46; P.L.168-2014, SEC.122.

IC 35-50-6-4

Credit time assignments

Sec. 4. (a) A person:

(1) who is not a credit restricted felon; and

(2) who is imprisoned for a Level 6 felony or a misdemeanor or imprisoned awaiting trial or sentencing for a Level 6 felony or misdemeanor;

is initially assigned to Class A.

(b) A person:

(1) who is not a credit restricted felon; and

(2) who is imprisoned for a crime other than a Level 6 felony or misdemeanor or imprisoned awaiting trial or sentencing for a

crime other than a Level 6 felony or misdemeanor;
is initially assigned to Class B.

(c) A person who is a credit restricted felon and who is imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class C. A credit restricted felon may not be assigned to Class A or Class B.

(d) A person who is not a credit restricted felon may be reassigned to Class C or Class D if the person violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which the person is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

(e) A person who is a credit restricted felon may be reassigned to Class D and a person who is assigned to Class IV may be assigned to Class III if the person violates any of the following:

(1) A rule of the department of correction.

(2) A rule of the penal facility in which the person is imprisoned.

(3) A rule or condition of a community transition program.

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to Class III or Class D, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive the right to the hearing.

(f) In connection with the hearing granted under subsection (d) or (e), the person is entitled to:

(1) have not less than twenty-four (24) hours advance written notice of the date, time, and place of the hearing, and of the alleged misconduct and the rule the misconduct is alleged to have violated;

(2) have reasonable time to prepare for the hearing;

(3) have an impartial decisionmaker;

(4) appear and speak in the person's own behalf;

(5) call witnesses and present evidence;

(6) confront and cross-examine each witness, unless the hearing authority finds that to do so would subject a witness to a substantial risk of harm;

(7) have the assistance of a lay advocate (the department may require that the advocate be an employee of, or a fellow prisoner in, the same facility or program);

(8) have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;

(9) have immunity if the person's testimony or any evidence

derived from the person's testimony is used in any criminal proceedings; and

(10) have the person's record expunged of any reference to the charge if the person is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing.

(g) Except for a credit restricted felon, a person may be reassigned from:

(1) Class III to Class I, Class II or Class IV;

(2) Class II to Class I;

(3) Class D to Class A, Class B, or Class C;

(4) Class C to Class A or Class B.

A person's assignment to Class III, Class II, Class C, or Class D shall be reviewed at least once every six (6) months to determine if the person should be reassigned to a higher credit time class. A credit restricted felon may not be reassigned to Class I or Class II or to Class A, Class B, or Class C.

(h) This subsection applies only to a person imprisoned awaiting trial. A person imprisoned awaiting trial is initially assigned to a credit class based on the most serious offense with which the person is charged. If all the offenses of which a person is convicted have a higher credit time class than the most serious offense with which the person is charged, the person earns credit time for the time imprisoned awaiting trial at the credit time class of the most serious offense of which the person was convicted. However, this section does not apply to any period during which the person is reassigned to a lower credit time class for a disciplinary violation.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.135; Acts 1979, P.L.120, SEC.12; P.L.90-2000, SEC.22; P.L.80-2008, SEC.4; P.L.158-2013, SEC.670; P.L.168-2014, SEC.123.

IC 35-50-6-5

Deprivation of credit time

Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a:

(A) community transition program; or

(B) community corrections program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-5)

and refuses to register before being released from the department as required under IC 11-8-8-7.

(6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, the person may also be reassigned to Class II (if the person is not a credit restricted felon) or Class III, Class C, or Class D.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive the person's right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.136; Acts 1979, P.L.120, SEC.13; P.L.146-1995, SEC.6; P.L.90-2000, SEC.23; P.L.140-2006, SEC.39 and P.L.173-2006, SEC.39; P.L.80-2008, SEC.5; P.L.105-2010, SEC.16; P.L.158-2013, SEC.671; P.L.168-2014, SEC.124.

IC 35-50-6-5.5

Credit time appeals

Sec. 5.5. A person who has been reassigned to a lower credit time class or has been deprived of earned credit time may appeal the decision to the commissioner of the department of correction or the sheriff.

As added by Acts 1979, P.L.120, SEC.14. Amended by P.L.204-1986, SEC.3.

IC 35-50-6-6

Degree of security, parole, or probation; imprisonment upon revocation of parole; days spent on parole outside institution

Sec. 6. (a) A person imprisoned for a crime earns credit time irrespective of the degree of security to which he is assigned. Except as set forth under IC 35-38-2.5.-5, a person does not earn credit time while on parole or probation.

(b) A person imprisoned upon revocation of parole is initially assigned to the same credit time class to which he was assigned at the time he was released on parole.

(c) A person who, upon revocation of parole, is imprisoned on an intermittent basis does not earn credit time for the days he spends on parole outside the institution.

As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.137; Acts 1979, P.L.120, SEC.15; P.L.166-2001,

SEC.4.

IC 35-50-6-7
Charge of new crime or violation of rule while confined; effect on credit time; assignment to Class III

Sec. 7. (a) A person under the control of a county detention facility or the department of correction who:

(1) has been charged with a new crime while confined; or

(2) has allegedly violated a rule of the department or county facility;

may be immediately assigned to Class III and may have all earned credit time suspended pending disposition of the allegation.

(b) A person assigned to Class III under subsection (a) shall be denied release on parole or discharge until:

(1) he is in the actual custody of the department or the county detention facility to which he was sentenced; and

(2) he is granted a hearing concerning the allegations.

The department or sheriff may waive the hearing if the person is restored to his former credit time class and receives all previously earned credit time and any credit time that he would have earned if he had not been assigned to Class III.

(c) A person who is assigned to Class III under subsection (a) and later found not guilty of the alleged misconduct shall have all earned credit time restored and shall be reassigned to the same credit time class that he was in before his assignment to Class III. In addition, the person shall be credited with any credit time that he would have earned if he had not been assigned to Class III.

As added by P.L.338-1983, SEC.1.

IC 35-50-6-8
Person serving sentence of life imprisonment without parole does not earn credit time

Sec. 8. A person serving a sentence of life imprisonment without parole does not earn credit time under this chapter.

As added by P.L.53-2005, SEC.3.