

Economic Impact Statement

LSA Document #18-359

[IC 4-22-2.1-5](#) Statement Concerning Rules Affecting Small Businesses**Estimated Number of Small Businesses Subject to this Rule:**

The department of correction (department) estimates that 0 small businesses will be impacted by this rule. The rule provides that a director of a community corrections program, or the director's designee, may deprive an offender enrolled in the program of earned good time credit as a result of conduct violations. Nearly all community corrections programs operate as if they are already authorized to deprive earned good time credit from offenders. This rule simply codifies the current practice.

Estimated Average Annual Administrative Costs That Small Businesses Will Incur:

The department estimates that 0 small businesses will incur additional administrative expenses resulting from the imposition of the rule. The rule affects community corrections programs, offenders enrolled in those programs, and the department. Because this rule codifies current practice, it will have little, if any, effect on small businesses or communities.

Estimated Total Annual Economic Impact on Small Businesses:

The department estimates that there will be approximately \$0 total fiscal impact on small businesses as a result of this rule.

Supporting Data, Studies, and Analyses:

Currently, 89 counties in the state of Indiana have a state-funded community corrections program. All of these counties currently operate as though this proposed rule was already in effect. The proposed rule would create no additional economic burden to local governments, small businesses, or communities.

In October 2017, the Indiana supreme court decided *Shepard v. State of Indiana*, No. 84S01-1704-CR-00190. The court noted that [IC 35-38-2.6-6\(d\)](#) does not expressly give a community corrections director the authority to deprive good time credit from offenders placed in community corrections. [IC 35-38-2.6-6\(d\)](#) reads, "A person who is placed in a community corrections program under this chapter may be deprived of earned good time credit as provided under rule adopted by the department of correction under [IC 4-22-2](#)." The court then found that, until the department adopts a rule authorizing a director of a community corrections program to deprive good time credit, directors are unable to do so.

Although counties have been operating as though a rule was adopted by the department, no such rule currently exists. The proposed rule would provide the explicit authority needed for these programs to deprive credit time.

Deprivation of credit time has been used as a sanction for offenders who violate the terms or requirements of their community corrections program. Without the availability of this sanction, directors may be forced to request that an offender return to the department and be housed in a department facility. This would create an economic burden for the state and its citizens, as the average 2017 per diem for the department's adult facilities was \$53.99, and the average 2017 per diem for the department's juvenile facilities was \$264.97. The marginal cost for medical care, food, and clothing is approximately \$3,424 annually, or \$9.38 daily, per prisoner. These marginal cost estimates are based on contractual agreements with food and medical vendors and projections based on prior years for clothing and hygiene.

On July 1, 2018, the department housed 26,328 offenders in its 18 adult facilities, and 16,894 other offenders were participating in a community corrections program. The proposed rule would continue to provide a means for community corrections programs to alleviate already over-burdened facilities, while simultaneously providing programming for successful reentry into society.

Regulatory Flexibility Analysis of Alternative Methods:

No less intrusive or less costly alternative methods of achieving the purpose of this proposed rule exists, as this rule provides the most cost effective means for enforcing community corrections program rules and requirements, without requiring an offender to return to a department facility to finish a sentence.

Explanation of Preliminary Determination:

The department did not make a determination that the rule was necessary because the promulgation of such rule by the department is authorized under [IC 35-38-2.6-6\(d\)](#).

Conclusion:

The proposed rule will not impose requirements or costs on small businesses under [IC 4-22-2.1-5](#).

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