

INDIANA OFFICE OF COURT SERVICES

PROBLEM-SOLVING COURTS PRACTICE GUIDELINES Credit Time

- I. Definitions - IC 35-50-6-0.5
 - A. “Accrued time” means the amount of time that a person is imprisoned or confined.
 - B. “Credit Time” means the sum of a person’s accrued time, good time credit and educational credit.
 - C. “Good Time Credit” means a reduction in a person’s term of imprisonment of confinement awarded for the person’s good behavior while imprisoned or confined.

- II. Indiana Law
 - A. Credit time classes
 - IC 35-50-6-3 – credit classes for persons who committed an offense before July 1, 2014
 - IC 35-50-6-3.1 – credit classes for persons who committed an offense after June 30, 2014
 - B. Credit time assignments (IC 35-50-6-4)
 - C. Deprivation of credit time (IC 35-50-6-5)
 - D. A person imprisoned for a crime earns good time credit. Except as set forth under IC 35-38-2.5.-5, a person does not earn good time credit while on parole or probation. (IC 35-50-6-6)
 - E. A person serving a term of incarceration (intermittent or consecutive) as a condition of probation is awarded accrued time but does not earn good time credit. (IC 35-38-2-2.3(d))
 - F. A person confined on home detention as a condition of probation is awarded accrued time (one day for each day confined on home detention) and earns good time credit pursuant to IC 35-50-6-3 or IC 35-50-6-3.1. (IC 35-38-2.5-5(e) and (f))
 - G. A person who is confined on home detention as a condition of the direct placement in a community corrections program under IC 35-38-2.6 is awarded accrued time (one day for each day confined on home detention) and earns good time credit pursuant to IC 35-50-6-3 or IC 35-50-6-3.1. (IC 35-38-2.6-6(b) and (c))
 - H. In *Arthur v. State*, 950 N.E.2d 343 (Ind. Ct. App. 2011), the Court held that Arthur was entitled to good time credit for time served on home detention as a condition

of a community corrections program on a suspendible sentence. (IC 35-38-2.6-6)

- I. A person confined on pretrial home detention earns one day of good time credit for every four days served on pretrial home detention awaiting trial. (IC 35-50-6-3.1(f))
- J. A person assigned to a community transition program continues to earn accrued time and good time credit during the person's assignment to the community transition program. (IC 11-10-11.5-10)

III. Summary

- A. State statute establishes a right to accrued time and good time credit for various groups of people in the criminal justice system. If a problem-solving court participant is incarcerated or otherwise confined in conjunction with program participation, then it must be determined if any of these statutes are applicable and if the award of accrued time and/or good time credit is appropriate. Accurate calculation in accordance with these statutes becomes particularly important if a participant is terminated from the program and is thereafter incarcerated with the Department of Correction or in a jail.
- B. A court may choose to incorporate a "waiver" provision in the participation agreement whereby the participant agrees that he/she is not entitled to good time credit during program participation. Such a provision was discussed by the Indiana Court of Appeals in an unpublished opinion, *Stapleton v. State*, 855 N.E.2d 1076 (Ind. Ct. App. 2006) and again in *House v. State*, 2009 Ind. App. LEXIS 285 (Ind. Ct. App. Feb. 24, 2009).

In *Stapleton*, the Court of Appeals appears to accept the State's argument that a participation agreement is a contractual arrangement in which the defendant is permitted to give up certain rights in exchange for a favorable outcome. However, the Court cautions that any such a waiver of rights must be clear and explicit to be enforceable.

The Court in *House* concluded that a participant "imprisoned due to violating the terms and conditions of a drug court is entitled to credit time." However, the participant may waive good time credit for sanctions imposed by the drug court when entering a drug court agreement containing a provision waiving the right to good time credit.

- The following good time credit waiver language is offered as an example of a provision that may be incorporated into a participation agreement:

"I agree to waive my right to earn good time credit for any time spent in jail or otherwise confined to which I would otherwise be entitled pursuant to Indiana law during my participation in this program."