



DEPARTMENT OF PUBLIC SAFETY
REPORT TO THE 2009 LEGISLATURE

SENATE CONCURRENT RESOLUTION 125 REPORT

January 2009

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In an effort to respond to Senate Concurrent Resolution (SCR) 125 with a comprehensive report, the Department of Public Safety (PSD) investigated five other state corrections departments' practices regarding good time or credit time practices in order to respond to this measure. PSD found that of the five states, three states had a determinative sentencing system, where the inmate serves the entire sentence that was imposed. The remaining two states have parole systems similar to Hawaii's system. The states that have determinative sentencing have some sort of good time credit system in place, which is an incentive for inmates to follow institutional rules, and not become disciplinary problems. In these states, an inmate who remains free from disciplinary charges will accrue a number of days to be deducted from the maximum term release date, ranging up to 16 days a month. A spreadsheet of the data collected from all five states is attached as part of this report.

In states with a parole system, only New Jersey deducts good time credit from the minimum term release date, while all of the remaining four states deduct good time credit from the maximum term release date. Deducting the good time credit from the maximum term release date would not achieve the desired effect sought in SCR 125, as it calls for a way to shorten the parole minimum term date. The most significant difference in the Hawaii system and the other states we contacted that had parole systems, is that the Hawaii Paroling Authority (HPA) sets a discretionary minimum term date, while most other states use a set formula, such as the first parole hearing after 1/3 of the sentence has been served, as New Jersey does. This permits New Jersey to practically deduct good time from the set minimum term. It would be less practical for Hawaii to do this since its minimum term date is a discretionary date. This system does permit HPA to use its discretion to individually review and evaluate the needs in every case, which includes any system of good time credit that may be proposed. Practically, this would result in good time being deducted from the maximum term release date in Hawaii, but probably not having much effect on shorter minimum term dates.

There are several factors that were consistently reported by the states we contacted, starting with the fact that any type of good time credit system requires many more calculations to perform the sentence computation time. This is because, by the nature of the program, extra time off the sentence is earned if the inmate does not violate any disciplinary rules. However, if the inmate is found to be responsible for a disciplinary violation, the good time that would be deducted from his sentence as a disciplinary sanction has to be added back to his sentence. All the states have some sort of appeal process for lost good time, as well as a partial reinstatement process for the lost good time based upon continued good behavior after the disciplinary violation. Therefore, whenever an inmate loses good time as a result of a disciplinary sanction, a new sentence

computation has to be done, and conversely a computation also has to be done when any good time is earned. These results in many more man-hours required for sentence computation, as well as the possibility for more mistakes, often resulting in costly litigation over disputed release dates.

The increased demand for staff is demonstrated by a review of the attached spreadsheet, which indicates the number of staff the different departments have to perform this function. Delaware, for example, has a similar number of inmates, approximately 7,500, in custody, and has over 40 staff assigned to records and sentence computations alone. Most of the states we contacted had many more staff assigned to records and sentence computations, for example, Connecticut has over 120 staff assigned, but is also a much larger department, with approximately 23,651 inmates. PSD currently has a total of 6 staff assigned to sentence computations, including the administrator and support staff. The average annual salary for a staff position performing sentence computations in PSD is around \$35,000. The staff assigned to perform sentence computations must be able to complete complex computations, have a thorough understanding of the state statutes and the principles of law regarding the service of sentences, such as concurrent and consecutive sentences. The position also requires an understanding of other jurisdictions laws and policies, and how Hawaii laws interact with dual jurisdiction cases.

Given the already difficult task for the limited number of staff assigned to perform sentence computations for all the inmates currently in PSD custody, it would be impossible for these staff to add to their responsibilities the increased number of calculations brought about by implementing a good time credit process. The initial cost of implementing a good time credit program in Hawaii would be the addition of at least 20 more staff at an average of \$35,000 per year (\$700,000), which does not include the additional costs for the benefits afforded full time state employees (i.e., 41% fringe). In addition, initial costs for required equipment and furnishings cost is estimated to be approximately \$70,000 (\$3,500 per new employee). This would require an additional \$ 770,000 to be budgeted for PSD per year and do not include the 41% fringe nor negotiated pay raises.

In addition to the most obvious cost factor of additional staff and required equipment, other costs would be required that would need to be considered such as improvements to PSD's computer information system to keep track of all the changes in each computation, as well as the disciplinary violations, and the grievance system. Both the current inmate disciplinary process and the inmate grievance system would require extensive changes in order for any type of good time system to be implemented. These updated systems would require many man-hours to complete, and the cost of an improved computer system would be in the hundreds of thousands of dollar. In addition to the aforementioned costs, training would have to be developed and conducted for both the redesigned inmate disciplinary system and the inmate grievance systems. The costs for

developing and implementing these two systems would be at least two hundred thousand dollars for the costs of overtime to cover the staff positions while the training is taking place. Therefore, based on the above referenced reasons, the additional cost of implementing a good time credit system would be in excess of \$500,000 as a start up cost, (which includes the cost of development of the new systems, the training, and the new equipment required for the new staff and new systems), with ongoing costs of a minimum of \$770,000 per year for the staff salaries. This does not include annual litigation nor maintenance costs on the new computer system.

Finally, a new good time system would not allow for the consideration of victim impact, as our current system does, and it would provide the inmates with a new liberty interest that would lead to drastic increases in litigation with the PSD and the State. The current system is functioning well, and to repeat an old adage, "if it isn't broken, don't fix it."