



Earned Sentence Credits

August 31, 2020



Overview

- Virginia
- Other States
- Recidivism
- Draft Legislation Policy Decisions



Virginia

- Credits are applied to reduce an individual's maximum term of incarceration.
- Earned sentence credits
 - Earned for participating in and cooperating with assigned programs, jobs, or education.
- Good conduct credits
 - Earned for compliance with institutional rules.



Virginia

- Virginia's earned sentence credit system took effect in conjunction with the abolition of parole in 1995 and the enactment of truth-in-sentencing.
- Earned sentence credits (Va. Code § 53.1-202.3)
 - Individuals convicted of a felony offense committed on or after January 1, 1995, who are sentenced to a term of incarceration.
 - Maximum reduction is 15% of sentence.



Virginia

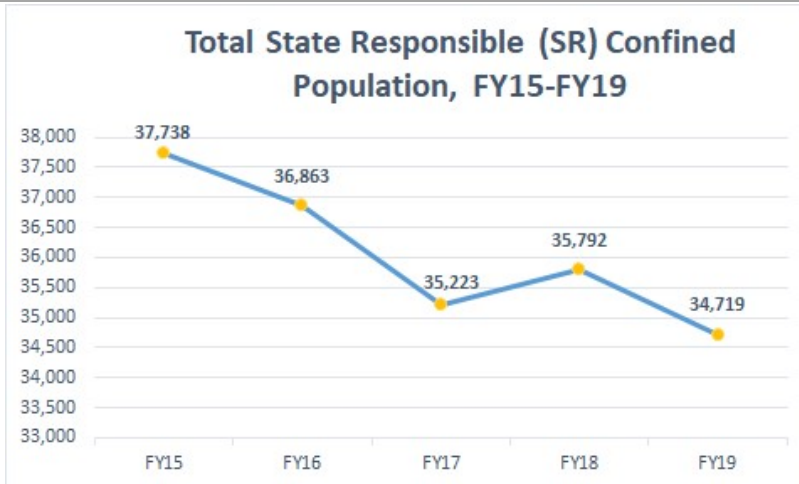
- The Department of Corrections (DOC) currently awards earned sentence credits based on four classification levels:
 - Class Level I - 4.5 days per 30 days served
 - Class Level II - 3 days per 30 days served
 - Class Level III - 1.5 days per 30 days served
 - Class Level IV - 0 days
- 83% of the individuals released in CY2019 were earning the maximum rate.

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Virginia



Source: Virginia Department of Corrections, *State Responsible Offender Population Trends, FY2015-FY2019*.
 Chart prepared by VSCC staff.

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Virginia

- 91% (31,742 of 34,719) of the FY19 SR confined population was serving its term under truth-in-sentencing.
 - The average sentence length of this group is approximately 15 years.
 - The median sentence is 10 years.

Source: Virginia Department of Corrections, *State Responsible Offender Population Trends, FY2015-FY2019*. Length of sentence (in months) calculations exclude those serving single life, multiple life, and death sentences.

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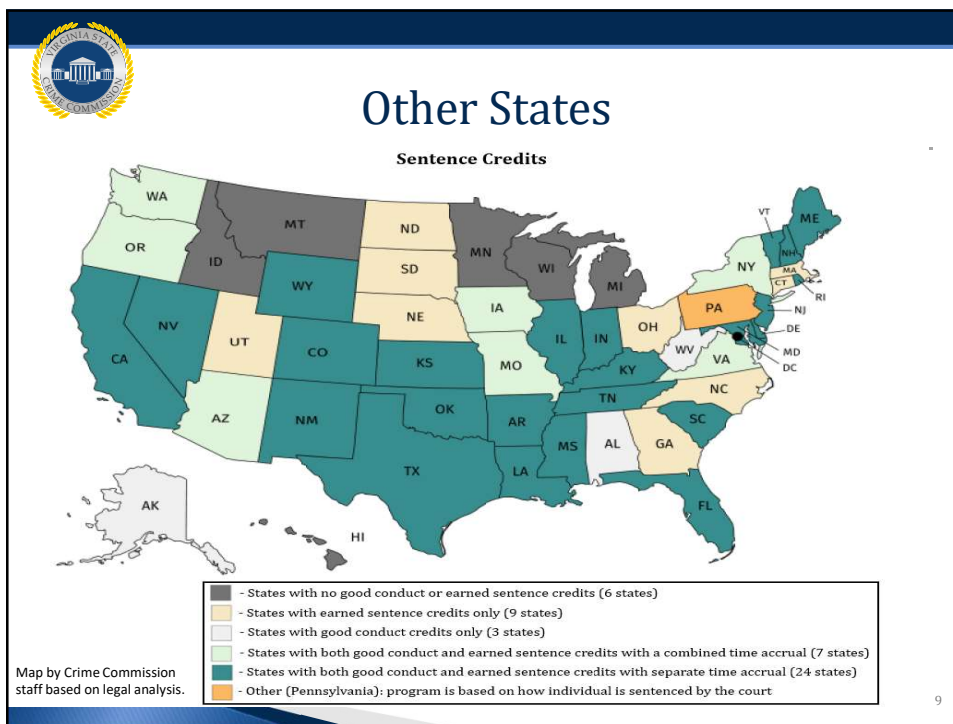
Virginia

- Of the 34,719 SR confined population in FY19:
 - 92% (31,902) were male.
 - 41% (14,347) were Black.
 - 60% (20,760) were 25 to 44 years of age.
 - 72% (24,870) have a current or historical conviction in their DOC sentence history that is defined as violent per Va. Code § 17.1-805.

Source: Virginia Department of Corrections, *State Responsible Offender Population Trends, FY2015-FY2019*.

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Other States

- The maximum earned sentence credits that an individual can be awarded varies significantly by state.
- Variances can be greater in states that award credits based on separate time accruals for earned sentence and good conduct credits.

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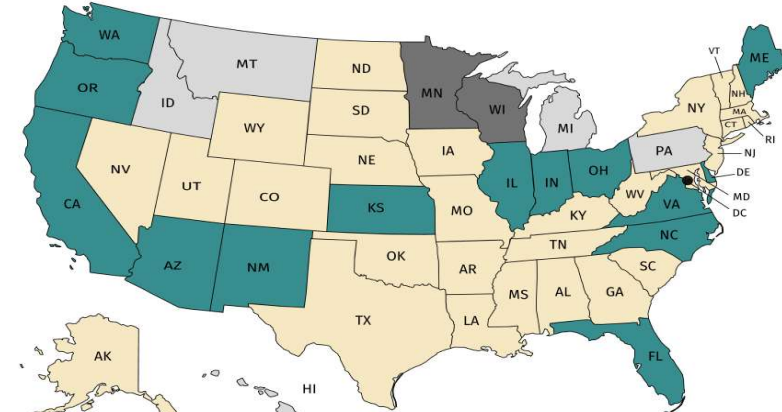
Other States

- Some states exclude certain individuals from being awarded sentence credits:
 - 20 states – individuals sentenced to life or life without parole
 - 20 states – individuals convicted of some violent felonies (injury to a person)
 - 17 states – individuals convicted of a sex offense
- 11 states have no exclusions in Code.



Other States

Parole and Sentence Credits



Map by Crime Commission staff based on legal analysis.



Recidivism

- Since 2010, an average of 12,400 individuals are released from SR incarceration each year.
- During CY2019, 12,549 individuals were released from SR incarceration.
 - On average, these individuals served a total imposed sentence of 58 months.
 - The median sentence was 28 months.

Source: Virginia Department of Corrections, *personal correspondence*, August 6, 2020.



Recidivism

- Virginia's rates of re-arrest, re-conviction, and re-incarceration for SR releases have remained consistent since FY2007:
 - Re-arrest: 53.4% to 57.3%
 - Re-conviction: 42.3% to 48.6%
 - Re-incarceration: 22.4% to 26.1%

Source: Virginia Department of Corrections, see *Recidivism at a Glance: Releases from State Responsible Incarceration* reports, August 2014 thru February 2020. Please note definition for each measure of recidivism.



Recidivism

- Virginia's re-incarceration rate has consistently remained the lowest among the states that report this measure for SR releases:
 - FY13 releases: 22.4%
 - FY14 releases: 23.4%
 - FY15 releases: 23.1%

Source: Virginia Department of Corrections, see *State Recidivism Comparison* reports, December 2016 thru February 2020. Please note definitions, methodology, and limitations discussed within these reports.



Recidivism

- Predictive factors of recidivism for SR releases:
 - Gender;
 - Age;
 - Previous SR incarceration;
 - Crime type of most serious offense;
 - Location of SR incarceration;
 - Evidence of mental impairment;
 - History of positive drug tests for certain substances;
 - General and violent risk assessment scores; and,
 - Substance abuse needs assessment scores.

Source: Virginia Department of Corrections, see *Recidivism Reports*, September 2016 thru August 2020.



Draft Legislation Policy Decisions

- Who is eligible to earn sentence credits at an increased rate;
- Maximum earnings at each level;
- Where an individual is initially classified;
- Maximum earnings while in a local/regional jail and while on a waiting list;
- Frequency of classification reviews; and,
- Whether the increased credits be awarded retroactively or commence on the effective date.



Discussion