.0109 SCOPE

This section establishes the rules and methods for computing sentence reduction credits in the form of Good Time for satisfactory behavior, Gain and Earned Time for participation in work or program assignments, and Meritorious Time for exemplary acts or for working under emergency conditions, and working overtime or for program achievement. These rules apply to offenders sentenced to the custody of the Department of Correction for confinement in its facilities and sentenced jail prisoners. This policy does not establish procedures for parole eligibility.

.0110 DEFINITIONS

The following definitions apply whenever these terms are used in this Chapter:

(a) Good Time – Good time is sentence reduction credit awarded, at the rate of one day deducted for each day served in custody for good behavior and/or without an infraction of inmate conduct rules, to eligible inmates sentenced for crimes committed prior to October 1, 1994. Inmates convicted of Driving While Impaired, regardless of offense date, will be eligible for good time on that sentence only. For inmates sentenced under the Fair Sentencing Act, Good Time reduces the time required to be served for unconditional release from prison.

(b) Gain Time - Gain time is sentence reduction credit that is awarded to eligible inmates sentenced for crimes committed prior to October 1, 1994, for their participation in full time work and/or program activities.

(c) Earned Time - Earned time is sentence reduction credit awarded to eligible inmates, who are sentenced for crimes committed on or after October 1, 1994, or who are sentenced under the Structured Sentencing Act, for their participation in full time work and program activities.

(d) Meritorious Time - Meritorious Time is sentence reduction credit that is awarded to eligible inmates for their exemplary acts or for working under emergency conditions for working overtime, working in inclement weather and for achievements in apprenticeship training, educational or other type programs.

(e) Eligible Inmates - Inmates eligible to earn sentence reduction credits as outlined in sections .0111, .0112, .0113, .0114, .0115, .0116, and .0117 of this policy.

(f) Sentence Reduction Credits - Time credits applied to an inmate's sentence that reduces the amount of time to be served. These credits are called Good Time, Gain Time, Earned Time and Meritorious Time.

(g) Fair Sentencing Act - Also known as presumptive sentencing, this sentencing act applies to felonies committed from July 1, 1981 through September 30, 1994.

(h) Structured Sentencing Act - This sentencing act determines the sentence received for crimes, except impaired driving offenses, committed on or after October 1, 1994.

(i) Inmate Misconduct – violation of inmate conduct rules and/or disobedience to a lawful order of the Department of Correction, its agents or employees.

(j) Parole Eligibility Date - The date, provided to the Division of Prisons by the Parole Commission as the date an inmate becomes eligible for parole.

.0111 GOOD TIME

This section applies to inmates sentenced as felons for crimes they committed prior to October 1, 1994 and inmates convicted of Driving While Impaired, regardless of offense date.

(a) Inmates are awarded Good Time at the rate of one day deducted from their prison or jail term for each day they spends in custody without a violation of inmate conduct rules.

(b) Forfeiture. Good Time shall be subject to forfeiture when the inmate is found guilty of violating inmate conduct rules. The amount of Good Time lost for inmate misconduct shall not exceed the amount of good time the inmate has earned to date.

(c) Restoration of Forfeited Good Time will occur as established in .0115.

(d) The following inmates are not eligible for good time as a sentence reduction credit:

(1) Inmates sentenced under the Structured Sentencing Act;
(2) Inmates committed to custody for contempt of court;
(3) Health law violators;
(4) Inmates sentenced under the Fair Sentencing Act for Class A & B felonies and inmates serving a life sentence for a Class C felony;
(5) Inmates serving an active prison term followed by a period of Special Probation;
(6) Safekeepers; and
(7) Inmates committed for a Presentence Diagnostic Study.

.0112 GAIN TIME

(a) Gain Time. Gain Time is sentence reduction credit awarded to eligible inmates, who are serving sentences for crimes they committed prior to October 1, 1994, for their participation in work and/or program activities. Inmates who work full-time, or

participate in full-time programs which would assist their productive re-entry into the community, shall be allowed sentence reduction credits which shall be regulated as Gain Time I, II, and III or as Meritorious Time, as provided in section .0114 of this policy, with exceptions as noted under (c) below. Gain Time shall be administered and assigned as follows:

(1) Gain Time I. In addition to Good Time credits, inmates who perform work assignments or participate in full time programs that are rated as Gain Time I may receive an additional two days per month, deducted from their sentence. A Gain Time I rating requires the inmate to be engaged in a minimum of four hours of unskilled or low level activity per day, but not to exceed six hours per day and to participate for the number of days per week as required by the assignment.

(2) Gain Time II. In addition to Good Time credits, inmates who perform work assignments or participate in full time programs that are rated as Gain Time II may receive an additional four days per month deducted from their sentence. A Gain Time II rating requires the inmate to be engaged in a minimum of four hours per semi-skilled or moderate level activity per day, but not to exceed eight hours per day, and to participate for the number of days per week as required by the assignment.

(3) Gain Time III. In addition to Good Time credits, inmates who perform work assignments or participate in full time programs that are rated as Gain Time III may receive an additional six days per month deducted from their sentence. A Gain time III rating requires the inmate to be engaged in a minimum of six hours of skilled or high level activity per day, but not to exceed eight hours per day, and to participate for the number of days per week as required by the assignment.

(b) Forfeiture. Under the Fair Sentencing Act, Gain Time shall not be subject to forfeiture for inmate misconduct.

(c) The following inmates are not eligible for gain time as a sentence reduction credit:
(1) Inmates sentenced under the Structured Sentencing Act;
(2) Inmates committed to custody for contempt of court;
(3) Health law violators;
(4) Inmates sentenced under the Fair Sentencing Act for Class A and B felonies and inmates serving a life sentence for a Class C felony;
(5) Inmates serving an active prison term followed by a period of Special Probation;
(6) Safekeepers; and
(7) Inmates committed for a Presentence Diagnostic Study.

.0113 EARNED TIME

(a) Earned Time. Earned Time is a sentence reduction credit for participation in work and/or program activities awarded to eligible inmates sentenced for crimes committed on or after October 1, 1994, except those sentenced under G. S. 20-138.1. Inmates who work full-

time, or participate in full-time programs which would assist their productive re-entry into the community shall be allowed sentence reduction credits which shall be regulated as Earned Time I, II, and III, or as Meritorious Time, as provided in section .0114 of this policy, with exceptions as noted under (e) below.

(b) Total credit awards shall not exceed four days per month for misdemeanants.

(c) Total credit awards shall not exceed six days per month for felons. Total credit awards shall not reduce a felon's incarcerated period below the minimum term imposed. Earned Time sentence reduction credits may be awarded for inmates sentenced for crimes committed on or after October 1, 1994 as follows:

(1) Earned Time I. Inmates who perform work assignments or participate in full time programs that are rated as Earned Time I may receive two days per month deducted from their maximum sentence. An Earned Time I rating requires the inmate to be engaged in a minimum of four hours of unskilled or low level activity per day, but not to exceed six hour per day and to participate for the number of days per week as required by the assignment.

(2) Earned Time II. Inmates who perform work assignments or participate in full time programs that are rated Earned Time II may receive an additional four days per month deducted from their maximum sentence. An Earned Time II rating requires the inmate to be engaged in a minimum of four hours of skilled or moderate level activity per day, but not to exceed eight hours per day, and to participate for the number of days per week as required by the assignment.

(3) Earned Time III. Inmates who perform work assignments or participate in full time programs that are rated Earned Time III may receive an additional six days per month deducted from their maximum sentence. An Earned Time III rating requires the inmate to be engaged in a minimum of six hours of skilled or high level activity per day, but not to exceed eight hours per day, and to participate for the number of days per week as required by the assignment.

(d) Forfeiture of Earned Time. Earned Time is subject to forfeiture through disciplinary action for inmate misconduct for inmates sentenced under the Structured Sentencing Act. The amount of Earned Time lost for inmate misconduct shall not exceed the amount of time the inmate has earned to date.

(e) Restoration of Forfeited Earned time will occur as established in .0115.

(f) The following inmates are not eligible for Earned Time as a sentence reduction credit.

(1) Inmates committed to custody for contempt of court;
(2) Health law violators;
(3) Inmates serving an active prison term followed by a period of Special Probation;
(4) Safekeepers;

(5) Inmates committed for a Presentence Diagnostic Study
(6) Inmates whose crimes occurred prior to October 1, 1994; and
(7) DWI's

.0114 MERITORIOUS TIME

(a) All inmates who are eligible for Gain or Earned Time are also eligible for Meritorious Time sentence reduction credit awards. The Facility Head or his/her designee awards Meritorious Time sentence reduction credits to eligible inmates as guided by this policy.

(b) Total credit awards to misdemeanants for crimes occurring on or after October 1, 1994 shall not exceed four days per month for the total number of months of incarceration. Credit awards for felons sentenced for crimes occurring on or after October 1, 1994, shall not exceed 30 days per month for work performed nor 30 days for each act of exemplary conduct and cannot reduce the felon's period of incarceration below the minimum term.

(c) Total Sentence Reduction Credit awards for eligible felons sentenced for crimes occurring prior to October 1, 1994, shall not exceed 30 days per month for work performed or program participation, nor shall it exceed 30 days per month for each act of exemplary conduct.

(d) Eligible inmates may be awarded Meritorious Time credit for working overtime, working in inclement weather, apprenticeship training, and for program and educational achievements. Meritorious Time credit awards for an inmate that exceeds 30 days, either through a single or combination of awards during a calendar month, must be approved by the Director of Prisons or his/her designee.

(e) Consideration for Meritorious Time Awards will be guided by and based upon the following categories:

(1) Exemplary Acts and Emergency Conditions

(A) Meritorious Time Awards for Exemplary Acts. Meritorious Time Awards for exemplary acts may be authorized by the facility head but may not exceed thirty days for each act. Exemplary acts are to be construed as acts that demonstrate going well above or beyond the normal expectations and for acts of heroism. Meritorious Time should not be awarded for routine job performance, or as compensation for hours worked overtime or for educational and program achievements.

(B) Emergency Conditions. Inmates are eligible for Meritorious Time Awards of sentence reduction credit for work performed during emergency conditions. Facility Heads will determine when an emergency condition exists. Such emergency conditions may include, but are not limited to, power failures, forest fires, work stoppages, riots, and statewide

established case management plan. An inmate shall not be penalized if there are not sufficient jobs or programs at the assigned location, but the inmate must be on a waiting list for a job or program to have time restored.

(d) The waiting period for restoration of lost time is as follows:

(1) Class A infractions: Any sentence reduction credit forfeited as a result of an A class disciplinary infraction will not be eligible for restoration.

(2) Class B infractions: An inmate may request restoration after remaining infraction free for one year from the date of the disciplinary hearing. The request must be in writing to the assigned case manager who will establish a behavior agreement specifying the amount of time to be restored each month, as well as the jobs/programs the inmate must either be participating in or awaiting assignment to in order to be restored. Facility staff must enter the restored time in OPUS using the Sentence Credit/Penalty screen (OT61).

(3) Class C or D infractions: Sentence reductions credits forfeited due to C or D class infractions will be automatically restored after six months if the inmate has incurred no additional rule violations. OPUS will restore the credits in increments not to exceed 10 days per month. This automated process will apply to infraction(s) with an applied date on or after August 1, 2007. Restoration of time for infraction(s) occurring before August 1, 2007, must be requested in writing by the inmate and if approved, staff must enter in OPUS using the Sentence Credit/Penalty screen (OT61). Additional credits may be restored if the inmate makes a request in writing to the assigned case manager who will establish a behavior agreement specifying the amount of time to be restored each month, as well as the jobs/programs the inmate must either be participating in or awaiting assignment to in order to be restored.

(e) Restored Time Limits: The rate of restoring forfeited time for classes B, C and D will be at a rate not to exceed 30 days per month. No restorations of sentence reduction credits shall occur to reduce an inmate's release date to less than 30 days from the current date.

.0116 PROCEDURES

(a) Recording Sentence Reduction Credits

(1) Good Time. Good Time awarding is automatically managed through the OPUS system.

(2) Gained or Earned Time. Gain or Earned time is automatically managed through the OPUS system when the responsible staff properly records an inmate's activity assignment in the OPUS system.

(3) Meritorious Overtime. Meritorious Overtime awarded as compensation for hours worked overtime, is recorded and accumulated on an hour for hour basis and

submitted in whole days defined as eight hours. Overtime records and the meritorious overtime award process will be automatically managed through the automated OPUS system. However, staff are responsible to ensure that inmates do not receive more than two (2) days per week of Meritorious Overtime sentence reduction credits on a consistent and frequently reoccurring basis for work assignments that have been established as a seven (7) day, eight (8) hour a day assignment. It is essential that the staff person, who is responsible for entering the number of hours worked by an inmate, enters the actual number of hours worked by the inmate. Staff should not enter the established hours for the work assignment when the inmate did not work.

(4) Meritorious Acts. Time Credits for Meritorious Acts and Emergency Conditions are processed following recommendations by facility staff. The Facility Head or designee reviews and approves Meritorious Act credit recommendations that do not exceed 30 days or when the award does not cause the total amount of sentence reduction credit the inmate has received during a calendar month to exceed 30 days. Awards that exceed 30 days must be approved by the Director of Prisons or his/her designee. The recommendation, review, and final action are recorded on the OPUS Sentence Reduction Credit Award screens (OT60 and OT61).

(b) Recommendations and Submissions

Recommendations for sentence reduction credit awards will be entered only by the facility where the inmate is housed. Sentence reduction credits may be awarded only to inmates who are currently serving sentences in the Division of Prisons or who are serving prison sentences but are housed in jail facilities or other contractual housing facilities. Recommendations for sentence reduction credit awards for inmates who are being housed temporarily in a prison or other type facility will be forwarded to the facility of permanent or regular housing for the inmate. The prison facility of permanent or regular housing for the inmate will receive, review, approve/disapprove and appropriately process their final actions. Receiving facilities will manage awards earned through the automated OPUS system.

(c) Local Confinement Facilities

When inmates are assigned to local confinement facilities or jails pursuant to Court Commitment, the Sheriff or Administrator of the local confinement facility shall establish procedures for granting, approving, and documenting sentence reduction credit awards. In the case of inmates confined to local confinement facilities or jails pursuant to a contractual agreement with the Department of Correction, the Sheriff or Administrator shall forward recommendations for sentence reduction credit awards to the Chief of Program Services or designee for final review and action as appropriate.

(d) Documentation for authorized sentence reduction credit awards for inmates in the custody of the Division of Prisons shall be recorded, reviewed, and final action recorded through the established OPUS system.

(e) Approving Authorities. Sentence reduction credit awards are subject to review and approval as follows:

(1) Facility heads or designee shall have the authority to approve sentence reduction credit awards, including the restoration of previously lost sentence reduction credits, not to exceed thirty days per month.

(2) All meritorious time recommendations and all recommendations for restoration of previously forfeited good time, earned time or merit time awards which exceed thirty days in a month must be submitted to the Director or Director's Designee for final approval.

.0117 GAIN and EARNED TIME CREDIT FOR MEDICALLY AND PHYSICALLY UNFIT INMATES

(a) When a determination has been made by a Department of Correction medical authority that an inmate is unable to engage in any available work or programs or other assignments due to a medical/mental health condition or a physical disability, the inmate is designated as medically unfit and is granted sentence reduction credits at the rate of four (4) days per month that is awarded as Gain or Earned Time.

(b) For the purposes of this policy, medically unfit shall be defined as inmates designated in Acuity Level 4, PULHEAT Activity Grade 4 or 5, and Mental Health Grade 4. Sentence Reduction credits will continue for identified inmates if transferred to a community hospital for treatment purposes.

(c) Medically unfit status continues until a medical authority determines that the medical/mental health condition or physical disability no longer prevents assignment to work or other activities.

(d) An inmate who is limited for some but not all work or program activities is given an available assignment appropriate to his or her medical/mental health condition and physical disability. The inmate is awarded sentence reduction credits based on his/her assignment, and is not designated as medically unfit.

(e) The following inmates are not designated as medically unfit:

(1) An inmate who refuses to participate in work or other assignments that is ~~are~~ appropriate for his or her medical/mental health condition and physical disability.

(2) An inmate whose medical/mental health condition or physical disability is the result of self-injurious behavior while in prison.

(3) An inmate on a control or segregation status (other than protective control).

(f) This policy applies to eligible inmates as described above who are serving sentences under any sentencing act.

Director of Prisons Date

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