
TRUTH AND DECEPTION IN CRIMINAL SENTENCING

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Public discourse about criminal punishment routinely centers on the sentences judges publicly impose in court. Yet, in most American jurisdictions, the sentence publicly imposed bears little resemblance to the term of imprisonment an offender will actually serve. Through statutory analysis and sentencing and release data, this Article demonstrates that in all but a handful of states, legislatively authorized sentence discounts—often exceeding fifty percent and in many cases reaching seventy-five percent or more—systematically distort the meaning of the announced sentences, even when those sentences are characterized as “minimum” terms. These discounts are also not confined to minor offenses. States routinely apply them to serious violent crimes, including rape, aggravated assault, robbery, and murder. The Article argues that this gap between announced sentences and actual time served is not accidental but institutionalized.

As Part II details, this institutionalized deception allows states to project a strong deterrent threat and to limit the costs of incarceration. Both Republican- and Democratic-controlled states have embraced this practice for financial or ideological reasons.

Part III contends, however, that this system of sentencing deception carries substantial social costs. Because most crimes are committed by repeat offenders, the deterrent effect of inflated sentences is largely illusory. More damaging is the erosion of the criminal justice system’s credibility once the public recognizes that announced sentences do not mean what they appear to mean. As institutional trust declines, so too does the system’s normative authority to secure people’s assistance, cooperation, acquiescence, and compliance, as well as its ability to induce people to internalize its norms.

These concerns help explain the “truth in sentencing” movement examined in Part IV, including the federal Sentencing Reform Act of 1984,

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which requires offenders to serve at least 85% of their imposed sentences—though few states have followed suit.

The Article does not at all argue for longer prison terms but rather for greater transparency. Whatever imprisonment policies states choose, they should accurately disclose at sentencing how offenders will be punished. Greater transparency would mitigate the harms of institutionalized deception and enable more rational and informed criminal justice policy-making.

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I. INTRODUCTION

News accounts routinely report the sentences imposed by judges, and debates over their propriety are common.¹ These conversations can shift public attitudes and have political consequences.² Yet, these publicly imposed sentences often have little meaning. In all but a few states, the sentences imposed in court routinely create a highly distorted picture of what terms of imprisonment offenders are actually serving.³ Half of the states allow a discount of 75% or more off the sentence publicly imposed and two-thirds of the states allow a discount of 50% or more, even if the sentence is publicly represented to be a “minimum sentence.”⁴ Part III details these statutorily-authorized discounts and goes on to show that most states make significant use of this early release authority, even for the most serious violent offenses such as rape, aggravated assault, robbery, and murder. The data suggest that in all but a few states, whenever a person hears of a sentence imposed in court, they should probably assume that the actual time served in prison is likely to be significantly and even dramatically less.⁵

There are good reasons for states to institutionalize such sentencing sleight-of-hand. As Part II details, it allows them to announce a dramatic deterrent threat without having to pay the incarceration costs of the publicly-announced minimum sentence. And it provides useful political optics to state governments who want to avoid being seen as “soft on crime” but who, for ideological or financial reasons, also want to minimize incarceration.⁶ As Part VI documents, institutionalized deception is aggressively pursued by both Republican- and Democratic-controlled states.

As Part IV details, however, there are serious societal costs to such deception. The vast majority of crimes are committed by persons previously convicted who therefore are not fooled by the fake deterrent threat.⁷ Perhaps even more damaging is the hit to the criminal justice system’s reputation with the community when it becomes apparent that the “minimum sentence” publicly imposed is no such thing.⁸ As the system loses credibility, it will also increasingly lose its normative power to gain assistance, cooperation, acquiescence, and compliance, as well as its ability to induce people to internalize its norms.⁹ Jurisdictions would be better off if they openly imposed lower sentences or at least signaled at the

1. See Victor Garcia, *Sister of Murdered California Man Responds to Convicted Killer's Early Release: "Absolutely Devastating,"* FOX NEWS (July 31, 2020), <https://www.foxnews.com/media/terebea-williams-released-california-kevin-john-ruska> [<https://perma.cc/26LH-Z8LP>].

2. See Douglas A. Berman, *Reflecting on Parole's Abolition in the Federal Sentencing System*, 81 FED. PROBATION 18, 19 (2018).

3. See *infra* Part III.

4. See *infra* Section III.A.

5. See *infra* Part III.

6. See *infra* Part II.

7. See *infra* Part IV.

8. See *infra* Part IV.

9. See *infra* Section IV.C.

time of public sentencing who, when, where, and under what criteria the real time-served decision would be made.¹⁰

It is the destructive practice of sentencing deception that has been in large part the motivation for the “truth in sentencing” movement, examined in Part V. In the Sentencing Reform Act of 1984, the federal system moved to reduce the sentences publicly imposed but required an offender to serve at least 85% of that sentence.¹¹ Only a few states have followed the federal lead.¹²

The Article does not argue for longer prison terms but rather for greater transparency. With greater transparency, the public and the politicians can know what is really going on in their criminal justice system, and reforms can be based upon facts rather than mirages.¹³ In other words, “truth in sentencing” is not only more likely to avoid the societal costs of institutionalized deception, but also likely to produce more rational and informed policy-making.¹⁴

II. THE VALUE OF DECEPTION IN CRIMINAL SENTENCING: CHEAP GENERAL DETERRENCE AND USEFUL POLITICAL OPTICS

When politicians create a system in which a long sentence is publicly imposed in court, but the offender typically serves dramatically less time, it is not simply accidental trickery or inadvertent deception. There are real benefits that flow from such a system, benefits for the criminal justice system and benefits for the politicians.

While there are some practical problems in implementing general deterrence,¹⁵ when the necessary pre-conditions exist, general deterrence can be an incredibly powerful and efficient mechanism for preventing crime.¹⁶ At the cost of punishing a single offender—“making an example of them”—the criminal justice system can send a signal to all potential offenders to think twice about committing such an offense, because they too could suffer this punishment if they choose to commit it or any offense.¹⁷ In other words, for the price of punishing one offender, the system might deter hundreds, thousands, or even hundreds of thousands of other potential offenders.¹⁸

On the other hand, prison—the standard mechanism today for sending the general deterrent threat—can be quite expensive. The annual cost of imprisonment for each prisoner can vary from as low as \$22,981 per inmate in Arkansas

10. *See infra* Part V.

11. *See infra* Part V.

12. *See infra* notes 401–07 and accompanying text.

13. *See infra* Part V.

14. *See infra* notes 432–37 and accompanying text.

15. *See* PAUL H. ROBINSON, DISTRIBUTIVE PRINCIPLES OF CRIMINAL LAW: WHO SHOULD BE PUNISHED HOW MUCH? 73 (2008); Paul H. Robinson & John Darley, *The Role of Deterrence in the Formulation of Criminal Law Rules: At Its Worst When Doing Its Best*, 91 GEO. L.J. 949, 989–99 (2003) (describing the limitations of deterrence and the ways to improve its effect in criminal law).

16. ROBINSON, *supra* note 15.

17. *Id.* at 17.

18. *See id.*

to as high as \$307,468 per inmate in Massachusetts.¹⁹ Federally, the cost per inmate is between \$21,006 and \$33,930 for minimum and high security facilities respectively.²⁰ The annual correctional budget for states ranges from \$127 million in North Dakota (\$162 per state resident²¹) to over \$11 billion in California (\$282 per state resident²²).²³ So, the more deterrence that can be sent to the public from each offender, the more cost-effective the system becomes.²⁴

Deception in sentencing can do much to solve the problem of the high cost of sending the deterrent threat. By announcing a high minimum sentence in court, one can signal the threat, yet escape the high costs by releasing the offender much earlier than this minimum when the case is out of public view.²⁵ The greater the disparity between the publicly announced minimum sentence and the actual time served, the greater the savings.²⁶ The problem comes only when the veil of ignorance is breached, and the public comes to understand the deception (more on that in Part IV).²⁷

A similar dynamic occurs in the context of political optics. Some progressive politicians may prefer much less punitive sentences but do not want to risk antagonizing large parts of the community that would be hostile to politicians who are “soft on crime,” especially if there is public concern about crime, which is quite common these days.²⁸ An attractive solution is to appear to be tough on crime while in practice being significantly less tough.²⁹

One might attempt to legitimize the current system of early release on sentencing philosophy grounds. That is, there are arguments to be made for deferring the actual release decision until after the offender has spent some time in prison

19. *How Much Do States Spend on Prisoners?*, USAFACTS (Oct. 31, 2025), <https://usafacts.org/articles/how-much-do-states-spend-on-prisons/> [https://perma.cc/P6C8-EZ66].

20. NANCY LA VIGNE & JULIE SAMUELS, *THE GROWTH & INCREASING COST OF THE FEDERAL PRISON SYSTEM: DRIVERS & POTENTIAL SOLUTIONS*, URB. INST. 2 (2012), <https://www.urban.org/sites/default/files/publication/26191/412693-The-Growth-and-Increasing-Cost-of-the-Federal-Prison-System-Drivers-and-Potential-Solutions.PDF> [https://perma.cc/FYE6-32K3].

21. The population of North Dakota in 2023 was 783,926. *QuickFacts: North Dakota*, U.S. CENSUS, <https://web.archive.org/web/20250404205917/https://www.census.gov/quickfacts/fact/table/ND/PST045223> [https://perma.cc/94N2-ZPTJ] (last visited Feb. 16, 2026).

22. The population of California in 2023 was 38,965,193. *QuickFacts: California*, U.S. CENSUS, <https://web.archive.org/web/20240210103333/https://www.census.gov/quickfacts/fact/table/CA/PST045223> [https://perma.cc/KEW6-R8AT] (last visited Feb. 16, 2026).

23. Veera Korhonen, *State Government Spending on Corrections in the United States in 2022, by State*, STATISTA (June 24, 2025), <https://www.statista.com/statistics/624327/prison-costs-in-the-us-by-state/> [https://perma.cc/P5Z6-Z6SU]. Significant portions of these budgets are earmarked for specific programs, such as over \$762 million for parole review and supervision and \$3.97 billion for prison healthcare in California. Cal. Dept. of Corr. & Rehab., 2022-23 State Budget, CR 2-3 (2022), <https://ebudget.ca.gov/2022-23/pdf/Enacted/Governors-Budget/5210.pdf> [https://perma.cc/33TK-HZRV].

24. See *supra* notes 17–23 and accompanying text.

25. See discussion *infra* Part III.

26. See discussion *infra* Part III.

27. See discussion *infra* Part IV.

28. Some writers are quite open about the value of deception in avoiding being seen as “soft on crime.” See Michael Tonry, *Reconsidering Indeterminate and Structured Sentencing*, SENT’G & CORRS 1 (Exec. Sessions on Sent’g & Corrs, Paper No. 2, 1999), <https://www.ojp.gov/pdffiles1/nij/175722.pdf> [https://perma.cc/2648-6Y6J].

29. See *id.* at 5.

and authorities can, for example, determine whether the offender has been rehabilitated.³⁰ Setting aside issues about whether rehabilitation is possible or whether reliable predictions of dangerousness can be made,³¹ those arguments do not support the current system's use of institutionalized deception.³² Whatever sentencing philosophy one adopts, there is no legitimate reason to *hide from the community* what sentence is effectively being imposed.³³ If the actual sentence is that the offender is immediately eligible for release after serving 10% of the sentence imposed in court depending upon the then-current state of his rehabilitation and dangerousness, then a transparent criminal justice system would say that in open court.³⁴ It would not advertise in court that the offender is being given a "minimum sentence" that he is unlikely to serve.³⁵

Further, if the reality is that the actual release decision is going to be made at a later date, then not only should the community be informed of this, but they should have as much notice and access to that later release decision hearing as they have to the trial court sentencing hearing.³⁶ In other words, if the actual release decision is to be made by a parole board, then those parole hearings should be held in a place as public and convenient for community attendance as public trials, ideally in the same public courthouse where the offender was sentenced. Instead, the publicly imposed deceptive sentence is readily available to anyone

30. See ROBINSON, *supra* note 15, at 79–85.

31. See *id.* at 81–82.

32. If the punishment decision were based upon imposing just punishment—that is, punishment amount that is set to put the offender in his appropriate ordinal rank among all other offenders according to the seriousness of his offense and his blameworthiness for committing it, then all the information needed to determine the sentence is available at the time of the trial court sentencing. See *id.* at 140. The same is generally true were general deterrence once distributive principle: all of the factors relevant to calculating a general deterrence maximizing sentence are available at the time the general deterrent threat is publicly made: public sentencing in the trial court. See *id.* at 66–67. On the other hand, if one sought to distribute liability and punishment so as to maximize incapacitation of the dangerous—*i.e.*, converting the criminal justice system into a preventive detention system—then it would make some sense to leave the release decision until much later in the process, when it can be determined that the offender is no longer dangerous. See *id.* at 91. Of course, no jurisdiction has ever taken such an approach, presumably because the community remains committed to notions of justice and desert. See *id.* at 169. Jurisdictions that provide for early release typically rely upon parole guidelines that commonly focus primarily on factors that were available at the time of sentencing, such as the seriousness of the offense and offender's prior criminal record. Edward E. Rhine, Joan Petersilia & Kevin R. Reitz, *The Future of Parole Release*, 46 CRIME & JUST. 279, 302 (2017). In other words, the real value of making release decisions later on at the prison rather than in the trial court is not because new information is critical to determining release but rather because of the value for political optics. See Tonry, *supra* note 28. Also supporting this conclusion is the fact that if one were really interested in delaying the decision to determine when a defender is no longer dangerous and therefore can be released, one would create a very different system than we currently have. See Rhine et al., *supra*, at 297. First, we would not be releasing obviously dangerous offenders, which is what the current system does regularly, and the parole commission release criteria would explicitly bar early release of an offender likely to recidivate. See *infra* Section III.D. Note the very significant percentage of reincarceration rates within three years of release provided in Appendix C. In the very best performing systems, a quarter of offenders are recommitted within three years. See *infra* Appendix C. But most states have 30%, 40%, 50% or even 60% of offenders quickly recommitted. See *infra* Appendix C. Clearly, the standard practice of significant early release has little or nothing to do with assessing offender dangerousness. See *infra* Appendix C.

33. See *infra* Part V.

34. See discussion *infra* Part V.

35. See discussion *infra* Section IV.B.

36. See Rhine et al., *supra* note 32, at 328.

interested, while the actual release determination is typically made behind the secure walls of prisons.³⁷ Some such prison hearings may technically be open to some persons, such as victims,³⁸ but as a practical matter the decisions are made entirely out of public view.³⁹ It need not be that way. If a legislature really has confidence that their parole decision-making process would be seen by the public as fair and just, they ought to make the parole hearings as open and convenient as attending a sentencing hearing in the local courthouse.⁴⁰

III. CURRENT DECEPTIONS IN SENTENCING

It is common for critics of the current American criminal sentencing system to assume that the sentences imposed by judges are meaningful—that the sentence imposed, especially anything identified as a “minimum sentence,” is the time that will actually be served, or a reasonable approximation of it.⁴¹ The focus is typically on the conduct of judges, when in fact it is parole commissions out of public view that actually determine the time served.⁴² Consider a few examples of writers connecting judicial sentences and time served:

“The clearest role that judges play in incarceration . . . occurs at sentencing. Increased time served in prison and jails is one of the key contributors to the growth in incarceration in the United States.”⁴³

“Judges . . . contribute to mass incarceration every time they decide to impose longer sentences. There are numerous changes individual trial courts could make in their own courtrooms to . . . impose more reasonable sentences.”⁴⁴

“It appears as though some of the judges have this lock-down mentality in which they have become desensitized. The gavel of justice should tap in a very measured manner and not become a bludgeon.”⁴⁵

37. *See id.*

38. *See, e.g.*, 61 PA. CONS. STAT. § 6140 (2025). Some states have even enacted “Open Parole Hearing Acts” which allow the public to attend parole hearings, but these laws typically come with provisions allowing the parole board or correctional facility to restrict access for any number of reasons from physical limitations, confidentiality concerns, or security concerns. *See, e.g.*, 730 ILL. COMP. STAT. 105/15 (2025).

39. And, even if the public is able to participate in the hearing, many parole procedures, including the decision making happens behind closed doors. Procedures for parole are “clouded in secrecy . . . shielding government officials from being held accountable for decisions that affect public safety.” Rhine et al., *supra* note 32, at 303 (quoting the Associated Press and criticizing the reliability and transparency of parole procedures to members of the public, and even government officials).

40. *See id.* at 281.

41. *See* discussion *infra* Section III.A.

42. *See* Rhine et al., *supra* note 32, at 285.

43. Jeffrey Bellen, *Can Judges Help Ease Mass Incarceration?*, 107 JUDICATURE 74, 75 (2024).

44. Carissa Byrne Hessick, *Judges and Mass Incarceration*, 31 WM. & MARY BILL RTS. J. 461, 464, 486 (2022).

45. Marco Poggio, *Study Shines Light on Excessive NY Prison Sentences*, LAW360 (Apr. 5, 2024, at 19:04 ET), <https://www.law360.com/articles/1819323/study-shines-light-on-excessive-ny-prison-sentences> [<https://>

“Judges have great power to shape sentencing. Because courts administer the criminal justice system, they are frontline participants to the problem of mass incarceration and provide a location and an opportunity to redress it.”⁴⁶

But critiques of criminal “sentencing” may make little sense if the actual time served is dramatically less than the sentences imposed and may even reflect a very different distributive pattern than the court-imposed sentences—*i.e.*, different kinds of court-imposed sentences may get quite different kinds of discounts for early release.⁴⁷

The reality is that in most jurisdictions the sentence announced in court is a poor approximation of the time the offender will actually serve.⁴⁸ As Section A below details, when a court publicly imposes a sentence—*e.g.*, imagine a sentence of eight years for a forcible rape with physical injuries—the law in half the states allow the offender to be released after serving only a quarter of the sentence—two years. That is, their statutes authorize the “minimum sentence” imposed in court to be discounted by 75%.⁴⁹ Almost two-thirds of the states allow the offender to serve less than half of that sentence—four years.⁵⁰

It may be no surprise then that, as Section B below documents, the actual time served is typically significantly less than the “minimum sentence” publicly announced in court. In almost a third of the jurisdictions making data available, the actual time served for rape is, on average, actually discounted by 40% from the sentence publicly imposed—*i.e.*, a five year minimum sentence imposed has two or more years chopped off it.⁵¹ For aggravated assault, robbery, and murder, almost a quarter of the states making data available provide this kind of discount.⁵² And even these discounts significantly understate the enormous discounts the system routinely provides because it represents the *overall* average percentage discount, for long and short sentences.⁵³ But, as shown below, short minimum sentences may be fully served—the offender sentenced to one to three years is more likely to serve the one year or something close to it—while the longer sentences are heavily discounted—*e.g.*, the offender sentenced to five to ten years is released after two years.⁵⁴ The lower discounts on the shorter sentences drag down the *overall average* percentage discount, in part because more

perma.cc/AXB7-SAHS] (quoting Michael P. Heiskell, the president of the National Association of Criminal Defense Lawyers).

46. Anne R. Traum, *Mass Incarceration at Sentencing*, 64 HASTINGS L.J. 423, 436 (2013).

47. See *infra* notes 50–56 and accompanying text.

48. See discussion *infra* Section III.A.

49. See *infra* Appendix A, column 5.

50. See *infra* Appendix A, column 5.

51. See *infra* Appendix B, Table 4, column 5. The data from the National Corrections Reporting Program defines “rape” to also include sexual assaults.

52. See *infra* Appendix B, Tables 1, 2 & 3, column 5. The National Corrections Reporting Program defines murder to include non-negligent homicide.

53. See *infra* Appendix B Tables 1, 2, 3 & 4, column 5.

54. See *infra* Section III.A, Table 1.

people in prison have shorter sentences than longer sentences.⁵⁵ As shown below, the average percentage discount for longer sentences can be enormous.⁵⁶

A number of states refuse to make public information on their sentences imposed versus time actually served.⁵⁷ One might speculate about why they withhold such fundamental information about the operation of their criminal justice system. Is there a tendency for poorly-performing systems to report less data? Notice, for example, that in Appendix C two-thirds of the states failing to provide data to the federal government's National Corrections Reporting Program represent a majority of the states that have the worst rates of reincarceration within three years of release (36% or higher three-year reincarceration rate).

To fully appreciate the effect of even modest average discount rates—*e.g.*, routinely chopping a third off the minimum sentence publicly imposed—consider that about 94% of all felony criminal cases are resolved by plea-bargain, which means that many if not most offenders have already gotten a discount off the offense they committed.⁵⁸ Further, if an *average* discount is a third off the minimum sentence imposed, it means that a significant percentage of cases are routinely getting discounts of greater than a third.⁵⁹

To summarize, the vast majority of states have set up their sentencing systems in a way that authorizes them to publicly announce in court a “minimum sentence” dramatically higher than the time that will actually be served.⁶⁰ And most states take advantage of this legal authority to routinely provide very significant, hidden discounts to the minimum sentence announced in court, especially for mid-range and longer sentences.⁶¹

A. *Statutory Authorization for Large Discounts Off the Publicly-Imposed Minimum Sentence*

Appendix A lists the discounts authorized by statute for each state. More than half of the states authorize a total discount of 75% or more, as detailed in Table 1 below. The discount is provided in three ways. First, the statutes may specifically authorize release after serving some fraction of the sentence imposed, or even immediately, as shown in Column 2. In addition, as Column 3 details, most states give a prisoner more than one day credit for each day served, as long as the prisoner is not formally disciplined for violating an institution rule. Such *multiplied credit* schemes may allow as much as a two and a half day credit

55. Sally Yates & Trey Gowdy, *How Long Is Long Enough? Task Force on Long Sentences Final Report*, COUNCIL ON CRIM. JUST., <https://counciloncj.foleon.com/tfls/long-sentences-by-the-numbers/> [<https://perma.cc/66TM-T5N9>] (last visited Feb. 16, 2026). Similarly, it is not uncommon for shorter sentences to serve more than the minimum sentence, resulting in a “negative discount” which further drives down the overall average. *See infra* Section II.B, Table 6.

56. *See infra* Section III.A, Table 1.

57. *See infra* Appendix C.

58. *The Truth About Trials*, THE MARSHALL PROJECT (Nov. 4, 2020), <https://www.themarshallproject.org/2020/11/04/the-truth-about-trials> [<https://perma.cc/JFD8-7ER3>].

59. *See infra* Appendix C.

60. *See infra* notes 424–29 and accompanying text.

61. *See infra* notes 424–29 and accompanying text.

for each day served.⁶² Thus, in a state that allows two days credit for each day served, a sentence of four years announced in court can be fully served in two years, as long as the prisoner avoids disciplinary violations.⁶³ And, in most states, these multiplied-credit rules apply in addition to the early release authorizations indicated in Column 2. Column 4 combines these two sources of authorized discounts and indicates the total percentage of the publicly-imposed minimum sentence that can be avoided under the state's statutes. Most states provide additional discounts where a prisoner participates in a non-required program, as indicated in Column 5.⁶⁴ The total discount authorized in each state is provided in Column 6 of Table 1.

62. *See infra* Appendix A.

63. *See infra* Section III.A., Table 1, column 3.

64. *See infra* Section III.A., Table 1, column 5.

TABLE 1. STATES WITH TOTAL POSSIBLE DISCOUNTS OF 75% OR MORE
(FROM APPENDIX A)⁶⁵

1. State	2. Eligible for release after this % of sentence ⁶⁶	3. Standard extra credit for basic compliance ⁶⁷	4. Total authorized discount ⁶⁸	5. Additional discounts available (for participation in non-required programs) ⁶⁹	6. Total Discount Possible ⁷⁰
UT	0% ⁷¹	1= ⁷²	100% ⁷³	8 months ⁷⁴	100%

65. See *infra* Appendix A.

66. This column displays the percent of the original court-imposed sentence an offender must serve before being eligible for parole. This number represents the minimum possible amount for any offense and, when a sentence is an indeterminant range, this number is based on the minimum of the range. As such, even when a state like Michigan offers release on parole, parole eligibility only occurs after serving the minimum sentence and would thus be represented as a 100%.

67. This column converts the time credits offenders receive for good behavior based on the amount of time they actually serve in a ratio based on amount of time taken off the sentence for each day actually served on average. For instance, a state like Alabama provides twenty days of time served credit for every thirty days the offender serves, meaning that after thirty days, the offender will be “credited” for serving fifty days, which averages to each day serve equaling 1.67 days towards release. KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: ALABAMA 8 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-02/alabama_doi_report_2_13_22.pdf [https://perma.cc/NZ6D-4WUG].

68. The availability of extra credit for each day of a sentence served in many states results in their possibility of parole occurring even before the actual amount of time served reaches the statutory requirement for parole eligibility. The actual amount of time an offender needs to serve before eligibility for parole, when factoring in these extra credits, can be determined by dividing the statutory requirement by the extra credit rate. For instance, inmates in a state like Texas that provides a 1:2 credit can reach parole eligibility in half the amount of time, so eligibility of parole can occur after serving 5% rather than 10% of their sentence. See *infra* Appendix A. This value can be subtracted from 100 to find the “total authorized discount,” which would be 95% for the Texas example. Any state which had a total sentencing discount resulting in a decimal was rounded down to the nearest whole number. Some states like Nevada, however, statutorily prohibit these extra credits from effecting the parole eligibility date. See, e.g., NEV. REV. STAT. § 209.4465 (West 2024). This column does not include any additional credits that offenders may earn based on participation in voluntary programs.

69. This column summarizes the additional time served credits that offenders may earn beyond the standard good behavior credits, that are typically earned through participation in voluntary rehabilitation programs such as educational programs, substance abuse programs, and more.

70. This column presents the total, maximum discount statutorily available for offenders based on all possible discounts including parole, standard time served credits, and any other additional extra credits that can be earned. Due to variety within state codes for certain reductions by different offenses, this column focuses on the maximum reduction for violent offenses, such as murder, rape, and aggravated assault, in order to present a single number. The total possible discount for other offenses may be higher or lower than this number.

71. UTAH CODE ANN. § 77-27-7(1)(b) (WEST 2025); see KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: UTAH 16 (2021), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-03/utah_doi_report_10_12_21.pdf [https://perma.cc/MC7L-SVCQ].

72. It appears that good time credit is available in Utah only for inmates in county jails. Reitz et al., *supra* note 71, at 10.

73. *Id.* at 8.

74. UTAH CODE ANN. § 77-27-5.4 (West 2025). Inmates are eligible for at least four months of credit for completing two approved programs up to a total of eight months of credit. The Board may grant additional credit as they deem appropriate. Those ineligible for this credit are listed in section (3) of the statute. *Id.*

PA	0% ⁷⁵	1=1 ⁷⁶	100%	16% ⁷⁷	100%
ND	Within 90 days ⁷⁸	1=1.16 ⁷⁹	100% ⁸⁰	6.5% ⁸¹	100%
IN	50% ⁸²	1=1 1=1.17 1=1.33 1=2 ⁸³	75% ⁸⁴	33% of sentence or up to 2 years ⁸⁵	100%

75. There is no statutory minimum that needs to be met for a person to be eligible for release but a judge may set one. KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: PENNSYLVANIA 7 (2023) (citing 42 PA. STAT. AND CONS. STAT. ANN. § 9756(a)-(b); 61 PA. STAT. AND CONS. STAT. ANN. § 6137(a)(3)), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-03/pennsylvania_doi_report_3_7_23.pdf [<https://perma.cc/6EYN-AYYB>].

76. REITZ ET AL., *supra* note 75, at 6 (“There are no good-time or earned-time credits as such in Pennsylvania. Instead, there is something called the Recidivism Risk Reduction Incentive Program (‘RRRI’), discussed later. Only about 10 percent of all prisoners are RRRRI-eligible.”).

77. A lightly used status “recidivism risk reduction incentive” program is available on a case-by-case basis and requires the offender to complete a “program plan.” If the offender is given this status at sentencing and completes the program plan, they are given a sentence reduction of 25% on sentences of three years or less and a reduction of 16% is available for longer sentences, PA. STAT. AND CONS. STAT. ANN. § 4505(c)(2) (West 2024).

78. N.D. CENT. CODE ANN. § 12-59-09 (West 2024) (“All inmates sentenced to the legal and physical custody of the department of corrections and rehabilitation are subject to the jurisdiction of the parole board, except when parole for the inmate is prohibited by statute.”); *see also* KEVIN R. REITZ, ALLEGRA LUKAC, BREE CRYE & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: NORTH DAKOTA 7 n.16 (2023) (citing N.D. DEP’T OF CORR. & REHAB., Directive 1A-13(5)(C) (rev. Aug. 2, 2021), at https://www.docr.nd.gov/sites/www/files/documents/parole_pardon/Parole/Parole%20Board%20Policy%20-%202021.pdf), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-08/north_dakota_doi_report_8_1_23.pdf [<https://perma.cc/S74H-LAGU>] (“[U]nless a prisoner is ineligible for parole by statute or has less than 120 days left on their time in custody, they are subject to jurisdiction of the parole board.”); REITZ ET AL., *supra*, at 7 n.16 (citing N.D. DEP’T OF CORR. & REHAB., *supra* (“[S]tating that the parole board may conduct an initial review of each eligible adult within 60 to 90 days of their arrival in custody when they have more than three years to serve and that the clerk shall set parole review dates for prisoners who have less than three years to serve . . . If you qualify for parole review, you will be notified of a future parole review date within 90 days of arrival.”)).

79. N.D. CENT. CODE ANN. § 12-54.1-01 (West 2025).

80. REITZ ET AL., *supra* note 78, at 9 (“Under North Dakota law, prisoners are eligible for discretionary parole release upon admission. Standard processing of a new prisoner’s case, with an initial review generally occurring 30-90 days after admission, make an immediate release extremely unlikely, but it is not legally barred.”).

81. N.D. CENT. CODE ANN. § 12-54.1-03 (West 2025).

82. IND. CODE ANN. § 11-13-3-2(b)(2) (West 2025) (“A person sentenced upon conviction of a felony to a determinate term of imprisonment is eligible for consideration for release on parole upon completion of one-half (½) of his determinate term of imprisonment or at the expiration of twenty (20) years, whichever comes first, less the credit time he has earned with respect to that term.”). Persons sentenced to an indeterminate term of imprisonment are eligible for parole after completing the minimum term of imprisonment minus the credit time he has earned. *Id.* § 11-13-3-2(b)(1).

83. *Id.* §§ 35-50-6-3.1(b)–(d). This statute also provides various standard crediting rates depending on the severity of the offender’s offense, with the most severe crimes being ineligible for any good time discount—staying at a rate of 1 day equaling 1 day—to the least severe offenders earning 2 days for every day served. *Id.*

84. *Id.* §§ 35-50-6-3.3(a), (b), (j); *see also* KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: INDIANA 5 (2021), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-03/indiana_doi_report_5_19_21.pdf [<https://perma.cc/F9LJ-37XZ>] (“A 50-percent reduction from the maximum would be due to good time credits with the additional reduction for educational credits capped at 25 percent.”).

85. A maximum of one day per day served may be earned. This only applies to people assigned to Class A. Those assigned to Class B earn one day per three days, and those assigned to Class C earn 1 day per six days served. IND. CODE ANN. § 35-50-6-3.1 (3.1) (West 2025). *See also id.* § 35-50-6-3.3 (j)(2) (outlining educational time credit and limiting these credits to the lesser of 2 years total or 1/3 of the sentence); NAT’L CONF. OF STATE LEGIS., GOOD TIME AND EARNED TIME POLICIES FOR PEOPLE IN STATE PRISONS (AS ESTABLISHED BY LAW) 3 (2020), https://documents.ncsl.org/wwwncsl/Criminal-Justice/Final-Sentence_Credit_50-State_Chart_2020.pdf [<https://perma.cc/3N5V-H48J>].

ID	0% ⁸⁶	1=1	100%	0% ⁸⁷	100%
IA	0% ⁸⁸	1=1.18 1=2.2 ⁸⁹	100% ⁹⁰	+ 365 Days / "exemplary act" ⁹¹	100%
HI	0% ⁹²	1=1	100%	0% ⁹³	100%
A	20% ⁹⁴	1=2 ⁹⁵	50% ⁹⁶	10 days/year + 4 weeks/year + 180	100%

86. IDAHO CODE ANN. § 20-101D (West 2025); *see also* KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: IDAHO 1 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-05/idaho_doi_report_05_17_23.pdf [<https://perma.cc/AMP9-DAV6>] (“[Idaho] is one of only four states with no formulaic credit-based reductions of prison terms.”).

87. KEVIN R. REITZ ET AL., *supra* note 86, at 8. *See* NAT’L CONF. OF STATE LEGIS., *supra* note 85, at 2.

88. IOWA ADMIN. CODE r. 205-8.4(906)(8.4)(1) (2025) (“The board may review the records of an inmate committed to the custody of the department of corrections and consider the inmate’s prospects for parole or work release at any time.”). *See also* IOWA CODE ANN. § 902.6 (West 2025) (“A person who has been committed to the custody of the director of the Iowa department of corrections shall remain in custody until released by the order of the board of parole . . .”).

89. NAT’L CONF. OF STATE LEGIS., *supra* note 85, at 3. These standard crediting rates depending on the severity of the offender’s offense, with more severe crimes being eligible for a rate of one day equaling 1.18 day to less severe offenders earning 2.2 days for every day served. *Id.*

90. IOWA CODE ANN. § 903A.5(1) (West 2025) (“An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less earned time and other credits earned and not forfeited, unless the inmate is pardoned or otherwise legally released.”).

91. *Id.* § 903A.2(1)(b)(1) (outlining provisions for Category B felonies). Those convicted of Category A felonies (*e.g.*, first degree murder, sexual abuse resulting in serious injury, etc.) may receive 1 and 2/10 day per each day served, but this time does not reduce their sentence or mandatory minimum sentence, so it was excluded from this calculation. *Id.* § 903A.2(1)(a)(1).

92. KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: HAWAII 9 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-05/hawaii_doi_report_05_17_23_0.pdf [<https://perma.cc/9MLM-6FUY>] (“The range of variation is a minimum term set at 10 percent of the maximum sentence up to 100 percent of the maximum, which would extinguish parole-release eligibility altogether. Minimum terms even shorter than recommended in the guidelines are statutorily permissible, but the board must give written reasons for decisions outside the guidelines.”). *See also* HAWAII PAROLING AUTH., GUIDELINES FOR ESTABLISHING MINIMUM TERMS OF IMPRISONMENT 1 (1989), <https://web.archive.org/web/20250204014846/https://dcr.hawaii.gov/wp-content/uploads/2012/09/HPA-Guidelines-for-Establishing-Minimum-Terms-of-Imprisonment.pdf> [<https://perma.cc/J2PH-6VGE>] (“The Hawaii Paroling Authority may deviate from the guidelines, either above or below, but all deviations shall be accompanied by written justification . . .”).

93. REITZ ET AL., *supra* note 92, at 12.

94. Parole is only available for certain offenses and life sentences. In these scenarios, it would require serving twenty years. Assuming a life sentence is ninety-nine years, this results in approximately 20% time served needed. *See* KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: CALIFORNIA 12 (2021), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-02/california_doi_report_10_8_21.pdf [<https://perma.cc/946N-GFL3>]. Parole eligibility in the California system is calculated using the full term for the “primary offense.” To calculate that sentence, all “enhancements, alternative sentences, and consecutive sentences” are excluded. *See* 15 CAL. CODE REGS. tit. 15 § 3490(d) (West 2024). Beyond the removal of enhancements, the sentence will be further reduced by various behavior/program credits. REITZ ET AL., *supra*, at 10 (“While earning rates vary across classes of prisoners, meaningful numbers of prisoners can earn 50-percent reductions in their maximum terms through good time alone, and the highest earning rate (in minimum security facilities) allows for 67[%] reductions. Additional credits for program participation and educational achievements are available to most prisoners.”). Beyond good-time credits, there are “milestone completion credits” capped at eighty-four days per year, “educational merit credits” capped at forty days per year. “Medical Parole” and “Elderly Parole” (age 50 and older) are also granted regularly. REITZ ET AL., *supra*, at 21–22.

95. CAL. CODE REGS. tit. 15, § 3043.2(b)(4)(A) (2025); *see* CAL. PENAL. CODE § 2933.2 (West 2025).

96. *Earned and Good Time Policies: Comparing Maximum Reductions Available*, MI. JUST. ADVOC. (Apr. 12, 2021), <https://mijustice.org/2021/04/12/recidivism-rates-in-america/> [<https://perma.cc/34LR-PJB7>].

AL	0% ⁹⁸	1=1.67 1=2.33 1=3.5 ⁹⁹	100%	days/degree + 365 days ⁹⁷ 0% ¹⁰⁰	100%
NV	No early release on parole	1=2 ¹⁰¹	58% ¹⁰²	30% ¹⁰³ + 5 days/month (governor's decree), 60 days (substance abuse program), 60-120 days (academic program)	98% ¹⁰⁴
TX	10% ¹⁰⁵	1=2 ¹⁰⁶	95%	68% ¹⁰⁷	98.4%

97. These credits include, a one to twelve week milestone credit for the completion of rehabilitative or educational programs to help them find employment every year, ten days of credit per year for completing fifty-two hours of rehabilitation programs, up to 180 days for completing an approved educational degree (including a high school diploma, and associate, bachelor's, or other graduate degree), and then up to twelve months of credit for performing a "heroic act in a life-threatening situation or who have provided exceptional assistance in maintaining the safety and security of a prison." *In-Prison Credit-Earning Opportunities*, CAL. DEP'T OF CORR. & REHAB., <https://www.cdcr.ca.gov/proposition57/> [<https://perma.cc/SK24-VF6W>] (last visited Feb. 16, 2026).

98. ALA. CODE § 15-22-28(e)(1)(a) (2025). Class A felons are only eligible for parole after completing 80% of their sentence. *Id.* § 15-22-27.1. The sentences over five years are only eligible for parole after serving 70% of the minimum sentence, and sentences over ten years are only eligible for parole after serving 75% of the minimum sentence. *Id.* § 15-22-28(e)(1)(b)–(c).

99. *Id.* § 14-9-41(a)(1). Depending on the class of offender, they are eligible for different amounts of standard extra credits. Class I prisoners are defined as those who are "considered to be trustworthy in every respect and who, by virtue of their work habits, conduct, and attitude of cooperation have proven their trustworthiness" and are eligible for a 1=3.5 credit rate, while more serious offenders have either a 1=2.33 or 1=1.67 rate. REITZ ET AL., *supra* note 67, at 8, 18 (citing ALA. CODE § 14-9-41(c)(1) (2025)). For a sub-set of prisoners, the parole board may authorize an earlier release by meeting several requirements. If the offender "shows, by clear and convincing evidence, that [they are] more likely than not to be granted parole," based on: having no infractions, served some minimum portion of their sentence, and participated in selected programs. ALA. CODE § 15-22-28(f)(1)(b), (f)(3) (2025); *id.* § 14-9-41(a)(2), (3).

100. REITZ ET AL., *supra* note 67, at 18. For a sub-set of prisoners, the parole board may authorize an earlier release by meeting several requirements. If the offender "shows by clear and convincing evidence that they are more likely than not to be granted parole," based on: having no infractions, serving some minimum portion of their sentence, and participated in selected programs. § 15-22-28(f)(1)(b), (f)(3).

101. NEV. REV. STAT. § 209.4465(9) (2025).

102. *Id.*

103. Nevada has numerous methods for offenders to obtain earned time credit. First, offenders can earn up to ten days per month for "labor and study" which includes participating in reentry programs and work release, among other programs. Then, another sixty days can be earned for the completion of alcohol or substance abuse treatment, and between 60–120 days can be earned for educational or vocational program completions, depending on the level of program and success. They can also earn up to ninety days per year from "exceptional meritorious service." Finally, at the governor's discretion and through executive order, up to five days a month may be deducted from the sentences of all offenders. *Id.* §§ 209.4465(2)–(5) (2025).

104. KEVIN R. REITZ, BREE CRYE & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE STATE REPORT: NEVADA 11 (2022), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-08/nevada_doi_report_8_4_22_0.pdf [<https://perma.cc/KE2N-4RXL>].

105. TEX. GOV'T. CODE ANN. § 508.145(f) (West 2025). See KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE STATE REPORT: TEXAS 9 (2020), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-08/texas_doi_report_3_3_21.pdf [<https://perma.cc/D5VF-F82G>] (illustrating an example of how the math works and describing that not all prisoners are eligible for this generous sentence reduction).

106. While the inmate is classified as trusty, they are eligible for twenty days of good conduct time per month along with an additional ten extra days per month at the discretion of the department. Inmates classified as Class I inmates are eligible for twenty days of credit per thirty days served, Class II inmates are eligible for ten days for each thirty days served, and Class III inmates are not eligible for credit. TEX. GOV'T. CODE ANN. § 498.003(b)–(c) (West 2025).

107. *Id.* § 498.003(d). An inmate may earn fifteen days of credit for every thirty days for participation in an industrial/work program or for participation in an agricultural, educational, or vocational program. *Id.* § 498.003(a). Inmates classified as "trusties" can accrue a more generous credit total up to the statutory limit of

RI	33% ¹⁰⁸	1=1.49 ¹⁰⁹	88.9%	32.8% + 30 days ¹¹⁰	92.6% + 30 days
MO	15% ¹¹¹	1=1	85%	50% ¹¹²	92.5%
AR	17% ¹¹³	1=1 1=2 ¹¹⁴	91% ¹¹⁵	360 days ¹¹⁶	91% + 360 days
KY	20% ¹¹⁷	1=1.33 ¹¹⁸	85%	38% for work performed and "exceptional" service + 90 day/program ¹¹⁹	90.7%

45 days per month. *Id.* § 498.003(b)(1). Offenders can also earn an additional fifteen hours of credit in the same month. *Id.* § 498.003(d). *See also* REITZ ET AL., *supra* note 105, at 8 n.25.

108. Habitual criminals and prisoners sentenced to life imprisonment are not eligible for parole after serving 33% of their sentence. 13 R.I. GEN. LAWS § 13-8-9(a) (2025). When a person convicted of 1st or 2nd degree murder has not been sentenced to life imprisonment, they are eligible for parole after serving 50% of their sentence. *Id.* § 13-8-9(b).

109. A maximum of ten days per month may be deducted from a prisoner's sentence for good behavior. *Id.* § 42-56-24(c). Those serving sentences for murder, kidnapping a minor, sexual assault, or child molestation are not eligible for the credits. Certain sexual offenses are eligible for credit under subsection (b). *Id.* § 42-56-24(a).

110. Up to five days per month may be earned for participation in institutional industries, five days per month for faithful participation in eligible programs, and an additional thirty days for completion of a program as defined in *id.* §§ 42-56-24 (f), (g).

111. Those convicted of Class C drug and non-violent offenses are eligible for parole after serving 20% of their maximum sentence; Class A and B drug, nonviolent Class A and B, DWI Class A, B, and C felonies are eligible after 25%; Class A-E sex and child abuse and violence felony offenses are eligible after 33% of their sentence. MO. CODE REGS. ANN. tit. 14 § 80-2.010(1)(A) (2025).

112. *See* MO. REV. STAT. § 217.703(3) (2025).

113. ARK. CODE ANN. § 16-93-615(b)(1) (West 2025). For some serious crimes, individuals must serve minimum terms of one-half the judicial maximum term "minus good time." This by itself would result in a shortening of the minimum term by 50 percent. Additional credits are available for educational attainment, program completion, and the like. Among the lower-seriousness prisoners, parole release as early as 16.67 percent of their judicial maximum term. KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE STATE REPORT: ARKANSAS 16 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-03/arkansas_doi_report_2_13_23.pdf [<https://perma.cc/M6UU-BJTF>].

114. *See* ARK. CODE ANN. § 12-29-201(a) (West 2025) ("An inmate may be entitled to meritorious good time reducing his or her transfer eligibility date up to thirty (30) days for each month incarcerated after imposition of sentence . . ."). Some sentences, such as a life sentence, are generally ineligible for any good time credits. *Id.* § 12-29-201(g)(2).

115. KEVIN R. REITZ ET AL., *supra* note 113, at 15 fig. 4.

116. *See* ARK. CODE ANN. § 12-29-202(b)(1) (West 2025) ("An inmate who maintains class through good behavior, good discipline, work practices, job responsibilities, and involvement in rehabilitative activities may earn up to one (1) day for every day served as a reduction toward his or her transfer eligibility date for each day incarcerated after the imposition of sentence."). The total educational and program awards will not exceed 360 days. *Id.* § 12-29-202(d)(1). These additional good time credits, however, are subjected to the same 50% maximum discount for standard credits. REITZ ET AL., *supra* note 113, at 16.

117. 501 KY. ADMIN. REGS. 1:030 § (3)(1)(c) (2025) (utilizing the time served requirement for felonies committed after Dec. 3, 1980, that resulted in sentences between two and thirty-nine years). Crimes such as capital offenses and certain class A felonies must serve 85% of their sentence. *Id.* § (3)(1)(e)(4).

118. KY. REV. STAT. ANN. § 197.045(1)(b)(1) (West 2025).

119. Inmates are eligible for seven days of credit per month of exceptionally meritorious service or acts of exceptional service during times of emergency, which becomes an approximately 38% additional discount. *Id.* § 197.045(1)(b)(2)–(3). Inmates may also earn ninety days of credit per educational diploma earned and ninety days for each drug treatment, evidence-based program, or other approved life skills program. *See id.* § 197.045(1)(a)(2)–(3); *id.* § 197.045(1)(b)(2)–(3); *id.* § 197.047(8).

TN	20% ¹²⁰	1=1.36 ¹²¹	85.3%	26% + 120 days ¹²²	89% + 120 days
MS	25% ¹²³	1=1.15 ¹²⁴	78%	50% ¹²⁵	89%
NM	30% ¹²⁶	1=2 ¹²⁷	85%	1 year/12 months ¹²⁸ rehab program	85% + 1 year/rehab program
AK	25% ¹²⁹	1=1.3 ¹³⁰	83.5%	0%	83.5%
CO	50% ¹³¹	1=1.33 ¹³²	62.4% ¹³³	50% + 120 days for academic, vocational, or substance abuse program completion ¹³⁴	81.5% + 120 days
CT	15% 50% ¹³⁵	1=1.33 1=1.5	67.5% ¹³⁶	Up to 5 days/month ¹³⁷	78.8%
WI	25% ¹³⁸	1=1 ¹³⁹	75%	0%	75%

120. TENN. CODE ANN. § 40-35-109(a)–(b) (West 2025) (allowing an inmate, without an extensive criminal history, a parole eligibility of 20% of the announced sentence, from this various earned credits can further advance the release date).

121. *Id.* § 41-21-236 (2)(A)(ii) (explaining an inmate is eligible for up to eight days of credit per month for good conduct).

122. *Id.* §§ 41-21-236(2)(A)(ii), (2)(B)(i), 2(C)(i) (outlining a maximum of eight days of credit per month may be earned for satisfactory program performance). An additional one-time credit of sixty days may be earned for completing an educational certificate or degree and another sixty days may be earned for inmates completing a substance use disorder treatment program. *Id.* § 41-21-236(2)(B)–(C).

123. 29-3 MISS. CODE R. § 201-3.1(A) (2025). Those sentenced for violent crimes must serve 50% or 60% of their sentence depending on the crime severity. *Id.* § 201-3.1(B).

124. 47-5 MISS. CODE R. § 47-5-138(5) (2025).

125. *Id.* § 47-5-138.1(1) (“In addition to any other administrative reduction of sentence, an offender in trusty status as defined by the classification board of the Department of Corrections may be awarded a trusty-time allowance of thirty (30) days’ reduction of sentence for each thirty (30) days of participation during any calendar month . . .”).

126. KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE STATE REPORT: NEW MEXICO 10 fig. 4 (2023) https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-08/new_mexico_doi_report_8_1_23.pdf [<https://perma.cc/GE2M-S653>]. Parole, however, is only available for life sentences. *See* N.M. STAT. ANN. § 31-21-10(A) (2025).

127. *Id.* § 33-2-34(C)(2).

128. *Id.* § 33-2-34(F)–(G).

129. A 50% or 66% rule applies to felonies listed in part (b)(1)(B) of the statute. ALASKA STAT. ANN. § 33.16.090(b)(1)(B) (2025). All other crimes require a minimum of 25% of time served. *Id.* § 33.16.090(b)(4).

130. ALASKA STAT. ANN. § 33.20.010(a) (2025). Certain offenses, such as a sexual felony or sentences mandating a ninety-nine-year term, are ineligible for standard good time deductions. *Id.* § 33.20.010(a)(3).

131. Inmates in Colorado are eligible for parole once they have served 50% of their sentence, minus any earned credits. COLO. REV. STAT. ANN. § 17-22.5-403(1) (2025); *see* KEVIN R. REITZ, MELANIE GRIFFITH & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: COLORADO 17 (2022), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-07/colorado_doi_report_7_27_22.pdf [<https://perma.cc/H5W7-FJMZ>].

132. COLO. REV. STAT. ANN. § 17-22.5-405(1.5)(a) (2025).

133. General-rules prisoners in Colorado enter prison with a date of first parole-release eligibility set at 50% of their judicial maximum sentences. But the state also limits the total good-time reduction to 25% of the judicial maximum sentence. REITZ ET AL., *supra* note 131, at 17.

134. *Id.* at 8–9 (explaining that earned time for certain programs is capped at 120 days and then are eligible for unlimited one day equals two days credit for working on a disaster site).

135. Eligibility is based on a calculation of the crime committed and the offender’s criminal history and is either eligible after 50% of the sentence or 85% of time sentence, with more serious offenders falling in the latter category. STATE OF CONN., BD. OF PARDONS & PAROLES, PAROLE: AN INFORMATIONAL BROCHURE 2 (2019), https://web.archive.org/web/20240424005648/https://portal.ct.gov/-/media/bopp/parole/parole---a-guide-for-newly-sentenced-inmates_april_2019.pdf [<https://perma.cc/52CE-FGK3>].

136. CONN. GEN. STAT. ANN. § 18-98e(d) (2025).

137. *Id.* § 54-125g; *id.* § 18-98e(a).

138. STATE OF WIS. DEP’T OF CORRS., *Wisconsin Parole Commission*, <https://doc.wi.gov/Pages/AboutDOC/ParoleCommission.aspx> [<https://perma.cc/7AQF-BHT7>] (last visited Feb. 16, 2026); WIS. STAT. ANN. § 304.06(1)(b) (West 2025).

139. *Id.* § 973.01(4).

SD	25% ¹⁴⁰	1=1 ¹⁴¹	75%	0% ¹⁴²	75%
OK	25% ¹⁴³	1=3 ¹⁴⁴	75%	10-200 days / program ¹⁴⁵	75% 66% + 200 days / program
MT	25% ¹⁴⁶	1=1 ¹⁴⁷	75%	0%	75%
MD	25% ¹⁴⁸	1=1.33 ¹⁴⁹	75% ¹⁵⁰	40% 50% ¹⁵¹	75% 87.5% ¹⁵²

B. Sentences Imposed Versus Time Served

Table 1 above (and Appendix A from which it is taken) shows the possibility of substantial discounts off the minimum sentence publicly imposed in court. Some of these discounts, such as the multiplied credit scheme, will automatically apply, but some of the statutorily authorized discounts are within the discretion of the parole board.¹⁵³ Are the large discounts statutorily authorized from Table 1 and Appendix A commonly used? Drawing upon the National Corrections Reporting Program, Appendix B provides a state-by-state breakdown of the average minimum sentence imposed in court versus the time actually served, with a

140. The minimum parole eligibility for a violent offense occurs after 35% of the sentence has been served. S.D. CODIFIED LAWS § 24-15A-32 (2025).

141. *Id.* § 24-15A-38 (2023) (“Each inmate shall be released from incarceration to parole supervision, without a hearing with the board, at the time of the inmate’s initial parole date, if the inmate has substantively met the requirements of the individual program directive established by the department, agreed to the conditions of supervision and has an approved parole release plan.”).

142. *Id.*

143. OKLA. STAT. ANN. tit. 57, § 332.7(C)(1) (West 2025) (“A person eligible for parole under this subsection shall be eligible for administrative parole . . . once the person serves one-fourth (1/4) of the sentence or consecutive sentences imposed . . .”).

144. Class 4 inmates are eligible for up to sixty credits per month. Credits may be awarded for rehab, obtaining job skills, alcohol abuse programs, work assignments, and more. A credit is equivalent to one day of incarceration. In the OK system, good-time credits and achievement credits do not advance eligibility for parole. The credits advance the mandatory release date for inmates who are not paroled. *Id.* § 138(D)(2)(c).

145. Eligible inmates may earn up to ninety credits for a high school diploma, 100 credits for an associate’s degree, 200 credits for a bachelor’s degree, eighty credits for vocational training, seventy credits for alcohol/chemical abuse treatment programs, and 10–30 credits for other educational programs. *Id.* § 138(H).

146. MONT. CODE ANN., § 46-23-201(3) (2025).

147. KEVIN R. REITZ, MELANIE GRIFFITH & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: MONTANA 7 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-08/montana_doi_report_7_30_23.pdf [<https://perma.cc/VU8E-WY3H>].

148. MD. CODE ANN., CORR. SERVS. § 7-301(a)(1)–(2) (West 2025).

149. An inmate (except as included in the exceptions listed in part (b)(2) of the statute) are eligible for a maximum of ten days of good time credit per month. *Id.* § 3-704(a)–(b).

150. Only sentences of life may have parole eligibility date advanced by diminutive credits. *Id.* § 7-301(d)(1).

151. An inmate is eligible for a maximum of thirty days per month of credit for education certificates, work tasks, vocational courses, and similar programs. For crimes related to violence, sex, or drugs, the maximum extra credits is twenty days per month. *Id.* § 3-704–3-708.

152. Additionally, only life sentences may have parole eligibility pushed up, so the bottom number applies only to those sentences. *Id.* § 7-301(d)(1).

153. *See, e.g., id.* § 3-704 (describing multiplied credit scheme as automatic); *see also* STATE OF WIS. DEP’T OF CORR., *supra* note 138 (“Parole consideration is an entitlement, however, parole is not. Each case is measured on an individual basis and parole consideration is based on . . . criteria . . .”).

calculation of the “discount” provided.¹⁵⁴ It reveals that nearly all states do use their statutory discount authority. And many use it extensively.¹⁵⁵

Some minor discount may make sense in order to provide an incentive for prisoners to obey prison rules. For example, under the federal system established by the Sentencing Reform Act of 1984, the Bureau of Prisons may authorize a discount for good behavior that does not exceed 15% of the sentence imposed.¹⁵⁶ But few states limit their discounts to 15% or less: for robbery, only three do,¹⁵⁷ for aggravated assault, only seven states do,¹⁵⁸ for rape, only seven do,¹⁵⁹ and for murder, only twelve do.¹⁶⁰

More common are jurisdictions in which the actual time served is significantly less than the minimum sentence publicly imposed.¹⁶¹ Indeed, many states provide an average discount off the minimum sentence of 40% or more, even for serious, violent offenses. Consider these examples from Appendix B:

154. See U.S. BUREAU OF JUST. STAT., NATIONAL CORRECTIONS REPORTING PROGRAM, 1991-2020: SELECTED VARIABLES (2022), <https://www.icpsr.umich.edu/web/NACJD/studies/38492#> [<https://perma.cc/KNH4-TQHZ>]. This data concerns individuals incarcerated between 1991 and 2020, but is subject to reporting error, and partial or entire withholding of data by some states, among other deficiencies. For instance, when states do provide data to the National Corrections Reporting Program, it is not always publicly available, and it is often provided in a less than granular way that requires some calculations to estimate the values of interest. The actual time served was one area where, rather than providing the total amount of time, the publicly available time served data was assigned categories that gave a range of time served ranging from under one year to more than twenty-five years. As such, the actual time served had to be estimated from an offender’s year admitted to prison and year released from prison, which prevents an exact determination of time served and thus discount provided. Nevertheless, the data was robust enough to provide these meaningful estimates.

155. See *infra* Appendix B.

156. Sentencing Reform Act of 1984, 18 U.S.C. § 3624.

157. These states are Oregon, New Jersey, and Minnesota. See *infra* Appendix B, Table 2, column 5.

158. These states are Ohio, Wisconsin, North Dakota, South Dakota, Michigan, Oklahoma, and Wyoming. See *infra* Appendix B, Table 1, column 5.

159. These states are New York, Nevada, South Carolina, Mississippi, New Jersey, Michigan, and Minnesota. See *infra* Appendix B, Table 4, column 5.

160. These states are Maryland, Indiana Wisconsin, North Carolina, Massachusetts, South Dakota, New Jersey, South Carolina, Nebraska, Louisiana, Mississippi, and Georgia. See *infra* Appendix B, Table 3, column 5.

161. See *infra* Appendix B.

TABLE 2. AGGRAVATED ASSAULT¹⁶²

1. State ¹⁶³	2. Average sentence imposed (years) ¹⁶⁴	Average time actually served (years) ¹⁶⁵	4. Average discount provided (years) ¹⁶⁶	5. Average % discount provided ¹⁶⁷
MT	5.0	1.9	3.1	61.4%
KY	4.4	1.9	2.5	56.1%
PA	6.4	2.8	3.6	56.1%
MO	4.0	2.0	2.0	49.0%
CA	3.8	1.9	1.9	48.6%
TX	4.0	2.3	1.7	41.5%
WA	3.2	1.9	1.3	39.2%
CO	5.1	3.1	2.0	39.1%

TABLE 3. RAPE¹⁶⁸

1. State	2. Average sentence imposed (years)	3. Average time actually served (years)	4. Average discount provided (years)	5. Average % discount provided
WV	18.7	4.4	14.3	76.1%
SD	12.9	4.0	8.9	68.9%
CA	6.7	2.7	4.0	59.5%
KY	8.0	3.8	4.2	52.7%
MT	7.8	3.7	4.1	52.4%
AZ	6.5	3.3	3.2	48.7%
NC	6.7	3.6	3.1	46.4%
GA	2.1	1.1	1.0	45.4%
PA	10.2	5.7	4.5	44.9%
MD	9.5	5.5	4.0	42.1%
AL	6.5	3.9	2.6	40.0%

TABLE 4. ROBBERY¹⁶⁹

1. State	2. Average sentence imposed (years)	3. Average time actually served (years)	4. Average discount provided (years)	5. Average % discount provided
MT	6.0	2.0	4.0	66.7%
GA	2.9	1.1	1.8	64.5%
KY	7.1	2.6	4.5	64.0%
PA	6.7	2.7	4.0	60.1%
CA	4.9	2.2	2.7	55.0%
AZ	4.2	2.3	1.9	44.2%
MO	6.4	3.7	2.7	42.6%
TX	7.6	4.5	3.1	41.0%

162. See *infra* Appendix B, Table 1.

163. These tables include all the states that provided data to the National Corrections Reporting Program, with states that had insufficient data from the program listed as "N/A." States that did not provide data to the Reporting Program and therefore are not the tables include Alaska, Arkansas, Connecticut, Hawaii, Idaho, Vermont, and Virginia. See U.S. BUREAU OF JUST. STAT., NATIONAL CORRECTIONS REPORTING PROGRAM, 1991-2020: SELECTED VARIABLES (2022), <https://www.icpsr.umich.edu/web/NACJD/studies/38492#> [<https://perma.cc/KNH4-TQHZ>].

164. This column represents the average sentence (in years) for each of the defined offenses for state prisoners that were released between 1991 and 2020 as provided by the National Corrections Reporting Program. See *id.*

165. This column represents the average time an individual primarily incarcerated for that offense actually spent in prison (in years) based on their admitted year and release year. This number does not include the time served by prisoners that have yet to be released. See *id.*

166. This figure represents the difference between column 2 and column 3. See *id.*

167. See *infra* Appendix B, Table 3 (explaining the figure that represents the percentage of Column 4 from Appendix B that Column 2 has).

168. See *infra* Appendix B, Table 4.

169. See *infra* Appendix B, Table 2.

TABLE 5. MURDER¹⁷⁰

1. State	2. Average sentence imposed (years)	3. Average time actually served (years)	4. Average discount provided (years)	5. Average % discount provided
MT	22.6	4.7	17.9	79.4%
KY	17.8	7.0	10.8	60.4%
PA	14.7	6.3	8.3	56.8%
CO	27.7	12.8	14.9	53.8%
DE	17.7	9.0	8.7	49.1%
NV	13.0	7.3	5.7	44.1%
TX	20.7	12.4	8.3	40.2%

As Appendix B indicates, more than a third of the states provide average discounts of 40% or more for one or more of these serious violent offenses.¹⁷¹ Three states provide an average discount of 40% or more for *all four* of the offenses.¹⁷²

But even these troublesome numbers dramatically understate the extent of the deception.¹⁷³ The average percentage discounts listed in the tables above include all cases, both the less serious cases for which the minimum sentence imposed is a year or two, as well as the more serious cases for which the minimum sentence imposed is six years or more.¹⁷⁴ What the data reveals is that the average discount for the less serious cases is small, pulling down the overall percentage discount.¹⁷⁵ A one or two-year sentence may get a discount of only a few months, a quite low percentage discount.¹⁷⁶ But the longer sentences, such as those over six years, typically get dramatically larger discounts, as with a ten-year minimum sentence getting a 70% discount to three years.¹⁷⁷ In other words, the apparently low average percentage discounts for some jurisdictions in Appendix B hide the fact that the percentage discounts for the more serious offenses, which will matter most to the community, are dramatically higher than the average percentage discount for all offenses.

Table 6 below gives some examples of the difference in average percentage discount for short sentences versus longer sentences for the same four offenses examined in Tables 2 through 5 above. Table 6 below compares the average percentage discount for a sampling of the jurisdictions that have a low overall average percentage discount.¹⁷⁸ As is obvious from the table, even in jurisdictions with a low overall average percentage discount, the discounts for midrange and

170. See *infra* Appendix B, Table 3.

171. See *infra* Appendix B, Table 1 (representing the average discounts of the following states: Alabama, Arizona, California, Colorado, Delaware, Georgia, Kentucky, Maryland, Missouri, Montana, Nevada, North Carolina, Pennsylvania, South Dakota, Texas, Washington, and West Virginia).

172. Montana, Kentucky, and Pennsylvania. See *supra* notes 162–69 and accompanying tables.

173. See *infra* Appendix C.

174. See sources cited *infra* Appendix B, Tables 1–4.

175. See *infra* Table 6.

176. See *infra* Table 6.

177. See *infra* Table 6.

178. See *infra* Table 6. All data taken from the National Corrections Reporting Program of people incarcerated between 1991 and 2020. See U.S. BUREAU OF JUST. STAT., *supra* note 154.

longer sentences (longer than six years) are high in most states.¹⁷⁹ Compare columns 3 and 4 in each table.¹⁸⁰ The average percentage discount may be low, dragged down by low discounts for short sentences, but the discount for sentences six years and longer may be much higher.¹⁸¹

TABLE 6. AVERAGE PERCENTAGE DISCOUNTS FOR SHORT SENTENCES, LONG SENTENCES, AND OVERALL

1. State	2. Average % discount provided sentences < 3 yrs ¹⁸²	3. Average % discount provided - overall ¹⁸³	4. Average % discount provided sentences > 6 yrs ¹⁸⁴
Aggravated Assault			
SD	-8.9%	9.4%	88.0%
WY	-25.9%	0%	85.3%
ND	9.8%	13.3%	37.9%
MI	-32.1%	7.5%	22.7%
Rape			
MS	0.7%	5.2%	37.3%
SC	2.9%	9.6%	29.4%
MN	-21.5%	0%	23.7%
Robbery			
MS	12.2%	15.1%	37.3%
MN	-3.3%	0.6%	34.1%
OR	14.6%	12.7% ¹⁸⁵	22.0%
Murder			
SC	-16.8%	-10.3%	46.7%
MS	20%	-31.4% ¹⁸⁶	42.9%
LA	-40.4%	-28.7%	38.0%

Note that a negative average percentage discount can be common for short sentences.¹⁸⁷ Where a jurisdiction sentences an offender to a range, such as one to three years or two to four years—the first number being the “minimum sentence” and the second number being the maximum sentence—a release at any time after the minimum sentence will produce a negative percentage discount, which of course will have a quite significant effect on the average.¹⁸⁸ Serving two years upon a sentence of one to three years produces a 100% discount off the

179. See *infra* Table 6.

180. See *infra* Table 6.

181. See *infra* Table 6.

182. This column represents the average discount off an offender’s sentence based on the average sentence and average time served for offenders incarcerated for the respective crime and received a sentence of less than three years. See U.S. BUREAU OF JUST. STAT., *supra* note 154.

183. This column is the same as column 2, but includes all applicable offenders regardless of sentence length. See *id.*

184. This column is the same as column 2, but only for individuals with sentences of six years or more. See *supra* notes 182–83.

185. The negative overall discount, despite short and long sentences having a positive discount, is driven by “medium” length sentences longer than three years but shorter than six years. See *supra* Table 6.

186. The negative overall discount, despite short and long sentences having a positive discount, is driven by “medium” length sentences longer than three years but shorter than six years. See *supra* Table 6.

187. See *supra* Table 6.

188. See *infra* Appendix A, Table 1, note 438; see *supra* Table 6.

minimum sentence.¹⁸⁹ Serving three years upon a sentence of two to four years produces a 50% discount off the minimum sentence.¹⁹⁰ As noted, these negative percentage discounts have a significant effect in reducing the overall percentage discount, which may obscure the fact that the average discount for midrange and longer sentences is frequently much higher than the overall average discount.¹⁹¹ When reviewing Appendix B and Tables 2, 3, 4, and 5 above, one must realize that the *overall* average percentage discount provided grossly *understates* the average percentage discount that will be routinely given for midrange and long-term sentences. Even in states where the overall average percentage discount is only 25%, when the low and even negative percentage discounts for short sentences are removed, the average percentage discount for midrange and longer sentences may be 40%, 50%, or 60%—dramatically more than the 25% overall average.¹⁹² What this means for one’s routine appreciation of sentencing discounts in the United States is that every time a person hears of a sentence of *six years or higher* imposed by a court, without knowing the applicable statutes and practices of that particular state, *they should probably assume that the sentence advertised will be discounted by 40%, 50%, or 60% or more.*¹⁹³

This is prime evidence of the larger point that the sentences imposed in court may be of limited significance. A two-year sentence discounted by 10% generates actual time served of 1.8 years, while the *three-times higher* six-year sentence discounted by 60% generates actual time served of 2.4 years, which is, in actuality, *only a third higher.*¹⁹⁴ Further, the notion that the imposed sentence can be a useful point of discussion for criminal justice reformers, as many writers seem to assume, including those quoted above,¹⁹⁵ fails to appreciate the significant and often complex differences between sentences imposed and time served.¹⁹⁶ More transparency in the system, then, can lead to more informed policymaking.¹⁹⁷

C. *Special Rules Creating Additional Opportunities for Early Release*

One last source of flagrant sentencing deception is worth noting. Many jurisdictions have special rules that cut through the normal rules governing sentencing discounts. For example, it is well-known that the death penalty has been replaced in many states with a sentence of “life without parole.”¹⁹⁸ At this point in the discussion it may be no surprise to some readers that in some states the death penalty substitute does not mean what it says.

189. See *infra* Appendix A, Table 1 and note 442.

190. See *infra* Appendix A, Table 1 and note 442.

191. See *supra* notes 173–77, 187–88 and accompanying text.

192. See *infra* Appendix B, Tables 1–4.

193. See *supra* Tables 2–6.

194. See *infra* Appendix B, Tables 1–4.

195. See *supra* notes 42–50 and accompanying text.

196. See *supra* Section III.B.

197. See *infra* Part IV.

198. Matt Coker, *The Other Death Penalty*, UNIV. CAL. IRVINE SCH. SOC. ECOLOGY (Apr. 5, 2023), <https://social.ecology.uci.edu/news/other-death-penalty> [<https://perma.cc/L8HR-GHDT>].

Massachusetts, for example, recently began permitting early release on parole even for some persons sentenced to “life without parole.”¹⁹⁹

Massachusetts is not the only state where this occurs. In Vermont, Gregory Fitzgerald was convicted of strangling his wife to death and sentenced to “life in prison without the possibility of parole.”²⁰⁰ He had long denied killing his wife but in a deal with the state he admitted to killing her in exchange for withdrawing a civil lawsuit against the state, and was released, even though the Vermont Parole Board found that his release would be a “detriment” to the public and “potentially harmful” to the victim’s family.²⁰¹

Other states have other kinds of special rules that add on special discount opportunities.²⁰²

Cody Klemp, a serial rapist, attacked victims in broad daylight.²⁰³ When brought to court for multiple rapes of an underaged family member, he was sentenced to 170 years.²⁰⁴ But after serving just 15% of his sentence, he was released simply because of his age.²⁰⁵ California law requires that, after serving twenty years, incarcerated persons are to be released upon reaching age fifty under the Elderly Parole Program, no matter what their “minimum sentence” is.²⁰⁶ Thus, a thirty-year-old can be incarcerated for life for multiple murders and rapes and still be released after twenty years at age fifty.²⁰⁷ Since most offenders commit their offenses before age thirty,²⁰⁸ with few exceptions, the rule has the practical effect of setting twenty years as the maximum sentence most felons can serve in the

199. In 2024, the Supreme Judicial Court of Massachusetts interpreted the state’s constitutional prohibition against cruel and unusual punishment to hold that adults below the age of twenty-one sentenced to life without parole were unconstitutionally sentenced. The Court agreed with expert testimony by the defense which explained that people aged eighteen, nineteen, and twenty “ha[d] the same core neurological characteristics as juveniles” which resulted in lower impulse control and less able to envision future consequences as “adults” despite being legal adults. *Commonwealth v. Mattis*, 493 Mass. 216, 225–27 (2024) (explaining that people of this age were more similar to people sixteen and seventeen years old, rather than older adults, and that Massachusetts law has barred juveniles from a sentence of life without parole, so “emerging adults” aged eighteen to twenty should be treated the same).

200. Tiffany Tan, *Parole Board Declines to Release Man Convicted of Strangling Wife in 1993*, SHELburne NEWS (Sep. 28, 2023), https://www.vtcng.com/shelburnenews/news/police_blotter/parole-board-declines-to-release-man-convicted-of-strangling-wife-in-1993/article_86413326-5e2c-11ee-8792-bf599172c19c.html [<https://perma.cc/YF26-QPES>].

201. Alan J. Keays, *Man Convicted of Killing His Wife in 1993 Released on Furlough Soon After Being Denied Parole*, VTDIGGER (Oct. 26, 2023, at 16:21 CT), <https://vtdigger.org/2023/10/26/man-convicted-of-killing-his-wife-in-1993-released-on-furlough-soon-after-being-denied-parole> [<https://perma.cc/PUV6-ZMCE>].

202. See *infra* Appendix A, Table 1 and note 441.

203. Nicole Comstock, *Victim Pleads with Public as Release Date of Man that Raped Her, Other Women Nears*, CBS NEWS (Mar. 13, 2024, at 18:18 PT), <https://www.cbsnews.com/losangeles/news/victim-pleads-with-public-as-release-date-of-man-that-raped-her-other-women-nears> [<https://perma.cc/CTT5-63KL>].

204. *Id.*

205. See *id.*

206. The Elderly Parole Program is covered in the California Penal Code in section 3055. See CAL. PENAL CODE § 3055 (2024); *Elderly Parole Hearings*, CAL. DEP’T CORR. REHAB., <https://www.cdcr.ca.gov/bph/elderly-parole-hearings-overview> [<https://perma.cc/WM8S-9UE4>] (last visited Feb. 16, 2026).

207. See *supra* note 206 and accompanying text.

208. Dana Goldstein, *Too Old to Commit Crime?*, THE MARSHALL PROJECT (Mar. 20, 2015, at 13:00 ET), <https://www.themarshallproject.org/2015/03/20/too-old-to-commit-crime> [<https://perma.cc/74XY-TMTR>] (“For most of the crimes the F.B.I. tracks, more than half of all offenders will be arrested by the time they are 30.”).

state, no matter what sentence is imposed in court.²⁰⁹ The victim in the Klemp case says, “We will become victimized, again, and again, and again because of it. I’m disgusted by the law.”²¹⁰

Georgia provides that anyone given a sentence of greater than twenty-one years has a right to have the sentence reduced to seven years, a discount of 66% or more.²¹¹ Melvin Barclay got into an argument with the twenty-three-year-old victim, which escalated into a fist fight.²¹² After the victim got into his vehicle and drove off, Barclay chased him and rammed his vehicle, then jumped out and stabbed the victim in the throat, severing his carotid artery and cutting his jugular vein, then fled.²¹³ He was captured the next day and ultimately convicted of murder.²¹⁴ With an extensive prior criminal record of violent offenses, he was sentenced to “30 years in prison without parole” in November 2023.²¹⁵ By February 2024, however, he is being housed at the Georgia Department of Corrections Atlanta Transitional Center, a facility that houses inmates who have four years or less on their sentence.²¹⁶ But, on February 2, he escaped from the Transitional Center.²¹⁷

These are just a few examples of the use of miscellaneous special rules that many jurisdictions provide beyond the standard discounts available to most offenders. For example, Oregon provides a special discount authorization for any custodial parent of a minor child that was convicted for a non-violent drug or property crime.²¹⁸

209. CAL. CODE REGS. tit. 15 § 3499 (2024). The special release of elderly rule does not apply if the individual was sentenced to death, life without parole, sentenced under a second or third strike of California’s strike laws, or were convicted of first-degree murder of a law enforcement officer while on duty. *Id.*

210. Nicole Comstock, *Victim Outraged After Board Approves Release of Convicted Rapist*, CBS NEWS (Nov. 17, 2023, at 21:37 PT), <https://www.cbsnews.com/losangeles/news/victim-outraged-after-parole-board-approves-release-of-convicted-rapist> [<https://perma.cc/ZE5W-3Q7A>]. [ok]

211. Georgia offenders that received a sentence greater than twenty-one years have a statutorily imposed seven-year minimum of actual time served making their maximum reduction 33%. GA. CODE ANN. § 42-9-45(b)(2) (2025) (“Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and paragraphs (3) and (4) of this subsection, an inmate serving a felony sentence or felony sentences shall only be eligible for consideration for parole after the expiration of nine months of his or her sentence or one-third of the time of the sentences, whichever is greater. Except as otherwise provided in Code Sections 17-10-6.1 and 17-10-7 and paragraphs (3) and (4) of this subsection, inmates serving sentences aggregating twenty-one years or more shall become eligible for consideration for parole upon completion of the service of seven years.”); see *Life Sentences*, STATE BD. PARDONS & PAROLES, <https://pap.georgia.gov/parole-consideration/parole-process-georgia/life-sentences> [<https://perma.cc/FEL8-D47Z>] (last visited Feb. 16, 2026) (“Offenders serving life sentences for drug offenses are eligible for parole consideration after seven years.”).

212. Cody Alcorn, *Family of Man Killed by Missing Inmate Fear He Could Return to Carrollton Where 2018 Homicide Happened*, 11ALIVE (Feb. 7, 2024, at 00:07 ET), <https://www.11alive.com/article/news/crime/family-of-man-killed-by-missing-inmate-fear-he-could-return/85-d476c8a6-ced9-4a4d-8107-abafdf60853c> [<https://perma.cc/BG8U-QBYQ>].

213. Samira Barnett, *Barkley Sentenced to 30 Years, 20 Years on Probation*, TIMES-GEORGIAN (Dec. 25, 2023), https://www.times-georgian.com/times_georgian/barkley-sentenced-to-30-years-20-years-on-probation/article_6a078484-950c-5275-ab52-78b320c478df.html [<https://perma.cc/CL9V-45QM>].

214. *Id.*

215. *Id.*

216. See Alcorn, *supra* note 212.

217. *Id.*

218. These individuals must also meet several other eligibility requirements including: “Receiv[ing] a downward departure sentence” and “[a]gree[ing] to participate in the program.” OR. DEP’T HUM. SERVS., FAMILY

D. Early Release Obscured from Public View: Illustrative Cases

The large discounts authorized by the statutes reviewed in Section A allow the use of the diverse array of significant discount schemes examined in Section B. And on top of these standard discounts, a host of special rules allow additional early release opportunities, as illustrated in Section C. The total effect of this broad system of sentence discounts can regularly produce outrageous results that can seriously undermine the criminal justice system's credibility with the community.²¹⁹ Consider some examples of cases in which the system has routinely granted offenders early release with the predictable societal costs of lost deterrence and lost credibility (it is also the case, of course, that early release can dramatically reduce the system's ability to incapacitate dangerous offenders²²⁰).

James Allums already had an extensive criminal record; he was convicted of robbery and sexual assault in his teens before he was convicted in Alabama for an armed robbery during which he beat and sexually assaulted a store clerk.²²¹ One would think that such a serious offense and extensive record would produce some significant period of detention, but Allums was released three years later.²²² He was again convicted of armed robbery, this time in Utah, and again released early.²²³ He continued to collect convictions after serving only fractions of his sentences.²²⁴ In his thirties, Allums drew a sentence of "five years to life" for yet another armed robbery.²²⁵ He was paroled after seven years and then collected additional convictions after he began to rob banks again.²²⁶ He was sentenced to ten years for two bank robberies, but again was paroled early—only to violate his parole again.²²⁷

At the parole violation hearing, the parole board hearing officer concluded: "This is the recommendation I'm gonna make, which is different than corrections and defense counsel. And it's based on the fact that you have three state life

SENTENCING ALTERNATIVE PILOT PROGRAM REPORT TO SENATE AND HOUSE COMMITTEES ON JUDICIARY 3 (2021), https://www.oregonlegislature.gov/citizen_engagement/Reports/Joint%20Family%20Sentencing%20Alternative%20Pilot%20Project%20Report%201_1_2021.pdf [<https://perma.cc/3X59-7LUJ>] ("Determination if the individual meets the eligibility requirements and receives a downward dispositional departure under [Oregon's Criminal Justice Commission] rules, the court may order the individual to sign a release authorizing [Oregon's Department of Human Services] to provide the county community corrections agency with written confirmation of, and consultation concerning, any open or current juvenile dependency proceedings. This includes any prior substantiated allegations of abuse or neglect involving the individual and a minor child.").

219. See *infra* Section IV.B, notes 221–53, and accompanying text.

220. See *infra* Section IV.E; *supra* Section III.C.

221. Wendy Halloran & Daniel Kovach, *Parole Board's Repeated Release of Violent Offender Questioned After Utah Woman Attacked*, 2KUTV (Mar. 1, 2024, at 19:59 CT), <https://kutv.com/news/2news-investigates/parole-boards-repeated-release-of-violent-offender-questioned-after-utah-woman-attacked-james-edward-allums-attacking-severely-beating-robbingattempting-to-kidnap> [<https://perma.cc/7JW7-CRZV>].

222. See *id.*

223. *Id.*

224. *Id.*

225. Geoffrey Fattah, *Convicted Bank Robber Is Arrested After Bank Robbery*, DESERET NEWS (Jan. 21, 2008, at 00:53 MT), <https://www.deseret.com/2008/1/21/20065750/convicted-bank-robber-is-arrested-after-bank-robbery> [<https://perma.cc/DJ37-QBQX>].

226. Halloran & Kovach, *supra* note 221.

227. *Id.*; *United States v. Allums*, 379 F. App'x 711, 712 (10th Cir. 2010).

sentences. This is my recommendation—that the parole date be revoked.”²²⁸ Despite the strong statement, Allums was again given early release on parole.²²⁹ In 2017, he violated his parole again.²³⁰ When he was brought to the parole violation hearing, he escaped from custody.²³¹ He was soon recaptured but again paroled the following year.²³²

While on parole, he continued to commit armed robberies, for which he was again caught and imprisoned.²³³ In August of 2022, he was paroled again, and in November of 2023, he kidnapped a woman, beat her, and then robbed her.²³⁴ In total, Allums managed to be released early on parole at least seven times—despite his growing violent criminal record.²³⁵

Smiley Martin was sentenced to ten years in California for multiple domestic violence offences.²³⁶ After serving three years, the parole board determined that Martin continued to present a “risk of violence or significant criminal activity.”²³⁷ Nevertheless, less than a year later, Martin was released—with more than five years left on his ten-year sentence.²³⁸ Authorities stated that he had earned enough credits for release, but the credit calculations were not made public.²³⁹ Public records indicated, however, that Martin had engaged in “limited” participation in rehabilitative programs and had received other discounts despite allegations of prison violence,²⁴⁰ and the available evidence suggests that his participation should have earned him only a few weeks of discount rather than the years he received.²⁴¹ Less than two months after early release, he was re-arrested for his involvement in a mass shooting.²⁴²

Christopher Hubbart was first convicted and given a nine-year sentence for rape, burglary, and three counts of sodomy.²⁴³ He was released three years

228. Halloran & Kovach, *supra* note 221.

229. *Id.*

230. *Id.*

231. *Id.*

232. *Id.*

233. *Id.*

234. *Id.*

235. *Id.*

236. Julie Watts, “Secret” Prop. 57 Prison Credits: Are Most Felons Really “Earning” Early Release?, CBS NEWS (Oct. 10, 2022, at 18:17 PT), <https://www.cbsnews.com/sacramento/news/investigating-prop-57-credits-how-was-sacramento-shooting-suspect-smiley-martin-out-of-prison-early/> [<https://perma.cc/HE86-JC22>].

237. *Id.*

238. *Id.*

239. *Id.*

240. His participation was: twelve hours of victim awareness training attending, one month of dining room work, a substance abuse program, and four-and-a-half months of technology courses. *Id.*; see *Memo: Positive Programming Credits*, CAL. DEP’T. CORR. & REHAB. (July 9, 2020), <https://www.cdcr.ca.gov/covid19/memo-positive-programming-credits/> [<https://perma.cc/MNS9-RF43>].

241. See *supra* note 236 and accompanying text; *In-Prison Credit-Earning Opportunities*, CAL. DEP’T. CORR. & REHAB., <https://www.cdcr.ca.gov/proposition57/> [<https://perma.cc/SK24-VF6W>] (last visited Feb. 16, 2026).

242. Watts, *supra* note 236.

243. *Serial Rapist with over 50 Victims & History of Sexually Assaulting Women While Paroled Set for Release*, INSIDE EDITION (Sep. 6, 2024, at 09:52 PT), <https://www.insideedition.com/serial-rapist-release-custody-christopher-hubbart-pillowcase> [<https://perma.cc/JY94-5VXU>] [hereinafter INSIDE EDITION]; *Convicted Rapist Christopher Hubbart Granted Conditional Release, LA County to Decide Placement*, WESTSIDETODAY.COM

early.²⁴⁴ During the next two years—when he would have been in prison under his original sentence—he committed a series of violent attacks on twenty-six different victims.²⁴⁵ The new convictions drew a sixteen-year sentence.²⁴⁶ Hubbard, who has become known as the “Pillowcase Rapist” by the press, was paroled after serving less than half of the sentence publicly imposed.²⁴⁷ Within two months of release, he assaulted two new victims and his parole was revoked.²⁴⁸ The new crimes resulted in an additional five-year sentence.²⁴⁹ Again, after serving only half of his sentence, he was released.²⁵⁰ The pattern has continued to the present day.²⁵¹ In October of 2024, California again granted Hubbard parole.²⁵²

These are not unusual cases. The current system routinely grants significantly early release for persons who have committed serious offenses, who then commit more offenses during the period for which they would have still been in prison under their original sentence.²⁵³

IV. THE VALUE OF TRUTH IN SENTENCING AND THE SOCIETAL COSTS OF DECEPTION

While it is easy to understand why the current system of sentencing deception is so attractive to politicians and anti-punishment activists, use of the scheme overlooks the longer-term societal costs of such systematic deception. As signaled in the introduction, the practice of routine early release undermines the deterrent threat of the sentence publicly imposed (examined in Section A below). Perhaps even more problematic is the effect of such institutionalized deception in undermining the criminal law’s credibility with the community (Section C below). All it takes is a few news stories about previously sentenced offenders reoffending during the term of their previously imposed sentence for citizens to understand that something untoward is going on out of public view. The Allums, Martin, and Hubbard cases described above illustrate the point.²⁵⁴ It would be hard for community members hearing about any of these cases to not conclude that the public sentencing system was simply a deceit and that the real

(Sep. 8, 2024), <https://westsidetoday.com/2024/09/08/convicted-rapist-christopher-hubbart-granted-conditional-release-la-county-to-decide-placement/> [<https://perma.cc/NDF6-FBDX>]; *Pillowcase Rapist to Be Freed Under Santa Clara County Judge’s Ruling*, MERCURY NEWS (Oct. 9, 2024, at 11:00 PT), <https://www.mercurynews.com/2024/10/09/pillowcase-rapist-to-be-freed/> [<https://perma.cc/E2F2-BPL3>].

244. INSIDE EDITION, *supra* note 243.

245. *Id.*

246. *Id.*

247. *Id.*

248. *Id.*

249. *Id.*

250. *Id.*

251. *Id.*

252. *Id.*

253. See, e.g., Jessica McBride & Jim Piwowarczyk, *Over 40% of ‘Early Release’ Inmates Re-Offend, Endangering Public Safety, but Evers Expanded Program*, WIS. RIGHT NOW (Sep. 27, 2022), https://www.wisconsinrightnow.com/earned-release/?utm_source [<https://perma.cc/JD6J-4UWQ>] (listing numerous examples of people released early that were quickly rearrested for new, and often violent, crimes).

254. See *supra* notes 233, 242, 245 and accompanying text.

punishment determination is something being made out of public view, and that inevitably produces outrage and cynicism (Section B below). And that outrage and cynicism is likely to have serious consequences and to generate an angry response that can and has provoked draconian legislation, as occurred with the introduction of three strike statutes and mandatory minimum sentences (Section D below). The outrage and distrust is likely to be aggravated by the fact that the early releases will be seen as unnecessarily releasing dangerous offenders on the public rather than incapacitating them (Section E below).

A. *The Loss of Deterrent Effect*

As the public learns of the routine and substantial early release of offenders, the deterrent threat is, of course, undermined. People will simply no longer take seriously the sentences they hear imposed in court, even when they are announced as a “minimum sentence.”²⁵⁵ One might be inclined to take some comfort in the fact that perhaps the revelation of the routine deceptions will not really be fully appreciated by the larger public, thus limiting the harm done to deterrence. But, of course, it is not the public generally that is the most important target of the deterrent threat, but rather those persons who have an inclination to violate the law.²⁵⁶ And those persons and their acquaintances are likely to have the full truth about the institutional deception.²⁵⁷ Previous involvement with the criminal justice system will have keyed them to the fact that the publicly imposed minimum sentences may have little meaning, thus the public deception will have no practical deterrent effect on that primary audience of lawbreakers.²⁵⁸ This is a significant problem because, for example, 72% of crimes in the ten largest urban counties are committed by persons who have a prior arrest and are therefore likely to be familiar with the real workings of the criminal justice system.²⁵⁹ Similarly, note that nine years after release, 83% of state prisoners are rearrested.²⁶⁰ This pattern of recurrent criminal activity illustrates how ineffective the deterrent threat can become under a system of routine early release. Every such release

255. Robinson & Darley, *supra* note 15, at 22.

256. *Id.* at 4.

257. *Id.*

258. *Id.*

259. Shima Baradaran & Frank L. McIntyre, *Predicting Violence*, 90 TEX. L. REV. 497, 534 (2012) (“Twenty-eight percent of defendants had no prior arrests, but about half had a substantial record of four or more prior arrests.”). *See also id.* at 531 (“Another measure of past criminality is the number of prior arrests, which we examine in Figure 2. We see the exact same pattern here that we saw in past convictions: the more prior arrests a defendant had, the more likely it is that the defendant was rearrested for a violent crime. Nonetheless, a person with a given number of convictions does appear to be systematically more dangerous than a person with only that many arrests.”); *id.* at 536 (“A person’s number of previous arrests is a large predictor of future rearrest; however, whether or not that prior arrest turned into a conviction is largely irrelevant as an additional predictor.”).

260. LaToshia Butler & Ebonyque Taylor, *A Second Chance: The Impact of Unsuccessful Reentry and the Need for Reintegration Resources in Communities*, DISPATCH, https://web.archive.org/web/20250222012513/https://cops.usdoj.gov/html/dispatch/04-2022/reintegration_resources.html [https://perma.cc/GWN9-FH7R] (last visited Feb. 16, 2026) (“State prisoner recidivism rates average around 68 percent for rearrests within the first three years post-release. This rate increases to 79% and 83% at five and nine years post-release, respectively.” (citations omitted)).

signals to the offender to not take the system too seriously.²⁶¹ As a practical matter, it may be that the only people being fooled by the institutional deception are noncriminal citizens (which may suggest that the deception may be motivated more by its useful political optics than to provide cheap general deterrence).²⁶²

B. Public Outrage and Distrust from Discovered Sentencing Deceptions

In assessing and structuring a system of criminal sentencing, academics may be inclined to focus strictly on matters of effective deterrence and incapacitation of the dangerous or perhaps the advancement of certain ideological preferences. But for reasons we shall discuss,²⁶³ it may be even more important to consider the effect of the sentencing system's institutionalized deceptions on the community's perception of the fairness, justness, and effectiveness of the system. And on that score, it would be no surprise that the current deception schemes create high levels of community outrage and distrust.²⁶⁴ Consider examples of some sentencing deceptions and the community's reaction to them.

Phillip Garrido kidnapped and raped a series of five young women—including an eleven-year-old girl walking to her school bus stop—and several years later was finally caught, convicted, and sentenced to fifty years to life in federal prison for the kidnapping and five years to life in state prison for the rape.²⁶⁵ Despite the minimum sentences totaling fifty-five years, he was released on parole after serving only 20% of those fifty-five years.²⁶⁶ Within a few weeks of his release, he showed up at the workplace of his last victim, Katie Callaway Hall.²⁶⁷ In a later interview she explained,

I had no idea he was out. I wasn't expecting him to be out . . . I got on the phone on my breaks and started calling. I called Lompoc Penitentiary. They said he had been released to . . . San Francisco City Jail pending parole. I called them. They said he was in an Oakland halfway house. I called them.

They said here's his parole officer's number. So I made an appointment.²⁶⁸ She said she had been living in fear ever since.²⁶⁹

261. Robinson & Darley, *supra* note 15, at 17.

262. See PAUL H. ROBINSON, JEFFERY SEAMAN & MUHAMMAD SARAHNE, CONFRONTING FAILURES OF JUSTICE: GETTING AWAY WITH MURDER AND RAPE 3 (2024) [hereinafter GETTING AWAY WITH MURDER].

263. See *infra* Sections IV.C–D.

264. See *supra* note 219 and accompanying text.

265. *Garrido's Earlier Victims Outlined*, NBC BAY AREA (July 13, 2011), <https://www.nbcbayarea.com/news/local/garridos-earlier-victims-outlined/1896330/> [<https://perma.cc/HX47-GLUK>].

266. This case is before the federal system shifted to requiring offenders to serve 85% of their sentence. Those sentenced before the reform were still eligible for parole even though the Sentencing Reform Act is passed only a few years later. See *infra* Part V.

267. *Transcript of Katherine Callaway Hall's Interview at CNN Larry King Live*, TRANSCRIPTS (Sep. 6, 2009), <https://transcripts.cnn.com/show/lkl/date/2009-09-06/segment/01> [<https://perma.cc/2QMW-37SK>].

268. *Id.*

269. *Id.*

Richard Fischer was employed as a Sheriff's deputy when he was accused by more than a dozen women of sexual assault.²⁷⁰ Fischer pled guilty to assaulting multiple women while on the job and he was sentenced to forty-four months in state prison.²⁷¹ Nevertheless, he was released with an ankle bracelet after serving only 10% of that sentence—a little over four months.²⁷² Victim K.H. reacted to his early release:

I panicked, I totally panicked. I couldn't believe it . . . This is not fair, it's not right, I'm blindsided by this man who changed my life. He's destroyed any concept of justice for me, I mean this whole situation has destroyed my faith in justice, it really has, it truly has."²⁷³

Nathaniel Radimak became an internet sensation when videos of him "driving around in his Tesla and attacking drivers with a pipe on streets and freeways" went viral.²⁷⁴ He was eventually arrested.²⁷⁵ Radimak already had an extensive criminal record spanning multiple decades before pleading guilty to assault, vandalism, elder abuse, and criminal threats in the most recent incident.²⁷⁶ Still, Radimak was sentenced to only five years in prison.²⁷⁷ He was then released after serving only 17% of his sentence (ten months).²⁷⁸ Many of his victims and members of the community were stunned by the early release.²⁷⁹ One victim explained to a reporter: "Parole boards continue to allow perpetrators to walk free after serving just minimal time, putting a lot of innocent people at risk and sending criminals the wrong message."²⁸⁰ Another victim is now afraid of retaliation, "I am worried he will try to find victims whose names have been released. He is a menace to society and I strongly disagree about his early release."²⁸¹

Kimberli Senke was sentenced to two-to-six years in prison after pleading guilty to embezzling more than \$260,000 from a local business.²⁸² The embezzlement was a serious blow to the small business in a rural town and several

270. Kelly Hessedal, *Former San Diego Sheriff's Deputy's Victim Stunned over His Release from Custody*, CBS8 (May 28, 2020, at 17:10 PT), <https://www.cbs8.com/article/news/local/san-diego-sheriffs-deputies-released-richard-fischer/509-35f98af1-74e0-4c91-9759-d97e0092c5c1> [<https://perma.cc/C7TW-NDUV>].

271. *Id.*

272. *Id.*

273. *Id.*

274. Graig Graziosi, *Victims 'Shocked' by Early Release of Serial Tesla Road Rage Driver*, INDEP. (Aug. 29, 2024, at 13:24 ET), <https://www.the-independent.com/news/world/americas/crime/victims-shocked-release-tesla-road-rage-driver-b2604045.html> [<https://perma.cc/9VKM-UWKQ>].

275. *Id.*

276. Richard Pollina, *Serial California Tesla Road Rage Driver Nathaniel Radimak Released from Prison—Less Than a Year into a 5-Year Sentence*, N.Y. POST (Aug. 29, 2024, at 03:52 ET), <https://nypost.com/2024/08/29/us-news/serial-california-tesla-road-rage-driver-nathaniel-radimak-released-from-prison-less-than-a-year-into-5-year-sentence/> [<https://perma.cc/2GSH-G2MY>].

277. *Id.*

278. *Id.*

279. *Id.*

280. *Id.*

281. Grazoiski, *supra* note 274.

282. Jim Kenyon, *Prison System's Early Release Program Under Fire - Should Victims Be Informed of Convict Enrollment?*, CNYCENT. (Aug. 10, 2015, at 16:37 CT), <https://cnycentral.com/news/local/prison-systems-early-release-program-under-fire---should-victims-be-informed-of-convict-enrollment?jwsourc=cl> [<https://perma.cc/CF46-XS3P>].

employees lost their jobs.²⁸³ Despite her two-year minimum sentence, Senke was released after six months, a 75% discount off the minimum.²⁸⁴ The owner of the business was stunned: “How many other cases out there are happening . . . People are getting out and nobody knows?”²⁸⁵

Richard Anthony Sepolio was sentenced to nine years and eight months for killing four and injuring seven in a reckless driving incident.²⁸⁶ He was released early, after serving just over a quarter of his sentence.²⁸⁷ Maryann Contreras, the daughter of two of the victims, upon hearing the news, said, “I feel sick to my stomach. . . . He used his car as a weapon and . . . killed four people. . . . He gets to walk free tomorrow.”²⁸⁸

Terebea Williams was sentenced to eighty-four years-to-life after conviction for first-degree murder, use of a firearm, carjacking, and kidnapping in the killing of twenty-three-year-old Kevin Ruska, Jr.²⁸⁹ The young man’s body was found tied to a chair in the motel where he had been shot.²⁹⁰ But Williams was given a 75% discount off the sentence imposed in court.²⁹¹ Dena Love, sister of the murder victim, struggled to comprehend how Williams was released so early:

It’s absolutely devastating and mind-boggling that this has happened [California authorities] should be ashamed of themselves for allowing this to happen, that the rights of the prisoners are more important than the rights of the victims and the victims’ families. And it’s absolutely shameful that this is being allowed to happen.²⁹²

Kenneth Jackson was sentenced to thirty years for his activities as a serial arsonist lighting fires near Yosemite National Park.²⁹³ Now, having served just over 25% of the sentence imposed in court, Jackson is to be freed.²⁹⁴ To the community he endangered, the fear is still very real.²⁹⁵ Janet Morita, a local resident, told an interviewer: “I remember feeling almost paranoid, time after time, looking out the windows, looking for more smoke. It was a very traumatic time; he

283. *Id.*

284. *Id.*

285. *See id.*

286. David Gotfredson, *‘I Felt Sick to My Stomach’: Victims’ Daughter Reacts to Man Responsible for Parents’ Deaths Getting Early Release*, CBS8 (Nov. 5, 2020, at 20:49 PT), <https://www.cbs8.com/article/news/crime/i-felt-sick-to-my-stomach-victims-daughter-reacts-to-man-responsible-for-parents-deaths-getting-early-release/509-e5dbb6d8-04c3-4b1b-90ac-20e279900a59> [<https://perma.cc/C75S-88T8>].

287. *Id.*

288. CBS8 SAN DIEGO, *Early Prison Release Slated for Navy Man in San Diego-Coronado Bridge Crash*, at 1:08–1:43 (YouTube, Nov. 6, 2020), https://www.youtube.com/watch?v=v_-bk5Z1BkQ [<https://perma.cc/EQF5-GS46>]; *see also* Gotfredson, *supra* note 286.

289. Victor Garcia, *Sister of Murdered California Man Responds to Convicted Killer’s Early Release: “Absolutely Devastating,”* FOX NEWS (July 31, 2020, at 17:09 ET), <https://www.foxnews.com/media/terebea-williams-released-california-kevin-john-ruska> [<https://perma.cc/26LH-Z8LP>].

290. *Id.*

291. *See id.*

292. *Id.*

293. Vanessa Vasconcelos, *Planned Early Release of Convicted Yosemite Lakes Park Serial Arsonist Sparks Outrage*, ABC30 (July 23, 2021), <https://abc30.com/yosemite-lakes-park-fires-arsonist-kenneth-jackson-madera-county-arson/10905934/> [<https://perma.cc/3YT7-YUQS>].

294. *See id.*

295. *See id.*

was setting fires almost every day I'm angry. This is wrong and should not be happening."²⁹⁶

C. *The Criminogenic Effect of Lost Moral Credibility with the Community*

Politicians may be somewhat concerned about the public being upset over discovered deceptive sentencing, but the desire for cheap deterrence and useful political optics, as discussed in Part II, may be enough for them to continue the deceptions (at least up to the point of its discovery, if the resulting upset imperils their re-election chances). And non-politician policymakers may feel entirely indifferent to such public outrage.²⁹⁷ In their view, they know best how criminal sentencing should be done, not the ordinary people on the street.²⁹⁸ But that indifference to public perceptions of the criminal justice system fails to take into account what we now know about the power of normative effects in controlling crime. A criminal justice system's loss of moral credibility with the community can be highly criminogenic.²⁹⁹

Reducing the credibility of the criminal justice system decreases compliance, increases resistance and subversion, sparks vigilantism, and degrades the system's ability to have people internalize its norms.³⁰⁰ Unlike what some advocates seem to assume, people do not simply accept what the law says is fair and just without checking it against their own intuitions of justice.³⁰¹ As a result, a justice system that imposes liability and punishment that conflicts with what a clear majority of the community sees as doing justice undermines the criminal law's reputation as a reliable moral authority that should be obeyed.³⁰² If the criminal law corrupts its "brand," the clarity and influence of what it means to label something as "criminal" is lost.³⁰³ This is common sense, but these dynamics have also been confirmed by a host of controlled laboratory studies, as well as shown in natural experiments.³⁰⁴

This hardly requires debate. In what world would citizens be indifferent to the law's poor performance in doing justice? Do we think that the persons expressing outrage and disgust about the early release cases described above will feel inclined to trust and defer to the criminal justice system as a reliable moral authority?³⁰⁵ The evidence from history shows that when disillusionment with

296. *Id.*

297. *See* discussion *supra* Part II.

298. *See supra* Part II.

299. *See supra* Part II.

300. *See* ROBINSON, *supra* note 15, at 76–78; Paul H. Robinson & Lindsay Holcomb, *The Criminogenic Effects of Damaging Criminal Law's Moral Credibility*, 31 S. CAL. INTERDISC. L.J. 277, 277 (2022).

301. Paul H. Robinson, Robert Kurzban & Owen D. Jones, *The Origins of Shared Intuitions of Justice*, 60 VAND. L. REV. 1633, 1649–56 (2007).

302. *Id.*

303. *See* ROBINSON, *supra* note 15, at 76–78.

304. Robinson & Holcomb, *supra* note 300, at 187–88; *see also* PAUL H. ROBINSON, INTUITIONS OF JUSTICE AND UTILITY OF DESERT 187–88 (2013) (detailing numerous studies in natural experiments).

305. *See supra* Section IV.C.

the criminal law does set in, lawbreaking rises.³⁰⁶ This is because compliance with the law is generated in significant part from the law's reputation as a reliable indicator of what society genuinely condemns.³⁰⁷ If the law is seen as unrepresentative of society's justice judgements, then its ability to harness the powerful forces of social influence are correspondingly reduced.³⁰⁸ As a result, releasing offenders long before the "minimum sentence" announced in court—and generally trying to obscure this fact—is just the sort of thing that is likely to reduce the criminal justice system's ability to gain compliance—a hidden cost that goes far beyond the criminogenic effects of the early releases themselves.³⁰⁹ This disillusionment-noncompliance dynamic can be seen in numerous controlled studies and natural experiments.³¹⁰

Consider just two natural experiments illustrating the criminal law's credibility with the community and its power to gain compliance: Gilded Age New York City and American Prohibition. At the end of the nineteenth century, the New York City legislative process was notoriously corrupt: even valuable and legitimate legislation could not be passed unless the right political players were paid off.³¹¹ The result was a criminal law that failed to punish the full range of conduct that societal mores at the time saw as condemnable, such as pornography, abortion, and gambling.³¹² As the criminal law came to be seen as increasingly out of touch with community norms, and unable to respond to criminally condemnable conduct, crime rates escalated—even for those crimes that were still enforced.³¹³ Street gangs proliferated, and even shoplifting among middle-class women rose, as breaking the law was viewed as less serious.³¹⁴

306. GETTING AWAY WITH MURDER, *supra* note 262, at 53–82; Robinson & Holcomb, *supra* note 300, at 282.

307. Jennifer Arlen & Lewis A. Kornhauser, *Battle for Our Souls: A Psychological Justification for Corporate and Individual Liability for Organizational Misconduct*, 2023 U. ILL. L. REV. 673, 700.

308. Paul H. Robinson, Geoffrey P. Goodwin & Michael D. Reisig, *The Disutility of Injustice*, 85 N.Y.U. L. REV. 1940, 1940 (2010).

309. *Id.* at 2016.

310. For a full discussion, see *supra* Part III.

311. LINCOLN STEFFENS, *THE SHAME OF THE CITIES* 29–63 (1904). His essays on corruption in McClure's Magazine painted a dismal picture of a political system hanging to credibility by a thread. Discussing the rampant rent-seeking practices to get legislation passed, Steffens wrote, "As there was a scale for favorable legislation, so there was one for defeating bills. It made a difference . . . whether the privilege asked was legitimate or not. But nothing was passed free of charge." *Id.* at 34.

312. Charles A. Ellwood, *Has Crime Increased in the United States Since 1880?*, 1 J. AM. INST. CRIM. L. & CRIMINOLOGY 378, 378 (1910).

313. DANIEL CZITROM, *NEW YORK EXPOSED: THE GILDED AGE POLICE SCANDAL THAT LAUNCHED THE PROGRESSIVE ERA* 246–47 (2016); Elizabeth Garner Masarik, *Selling Sex: 19th Century New York City Prostitution and Brothels*, DIG (Sep. 3, 2017), <https://digpodcast.org/2017/09/03/19th-century-new-york-city-brothels/> [<https://perma.cc/AW6V-LYYU>]; Joshua Brown, *Afterword* to *NEW YORK: ART AND CULTURAL CAPITAL OF THE GILDED AGE* 208, 210 (Margaret R. Laster & Chelsea Bruner eds., 2018) (explaining that despite the strenuous efforts of social reformers, "pornography constituted an insistent part of Gilded Age visual culture").

314. See CZITROM, *supra* note 313, at 128.

With some “crimes” being effectively legal, all crimes seemed more permissible.³¹⁵ The criminal law’s perceived failure to do justice destroyed its credibility and people’s willingness to defer to it.³¹⁶

Similarly, in 1920, for a variety of special reasons related to the politics of the moment, Congress criminalized the sale of alcohol despite the fact most Americans did not view alcohol as a matter appropriate for criminalization.³¹⁷ Demand for alcohol remained high, and lax or corrupt enforcement contributed to a sense that the law was illegitimate.³¹⁸ As trust in the law eroded, Americans increasingly violated the law, and not just criminal laws related to alcohol.³¹⁹ The disillusionment tainted and reduced compliance with criminal law generally.³²⁰

Beyond such historical case studies, social science research suggests a clear relationship between the law’s moral credibility with the community and the community’s willingness to defer to and comply with it.³²¹ Even small incremental losses in moral credibility can produce corresponding incremental losses in deference and compliance.³²² Consider a 2010 study using a within-subjects design in which participants were asked questions about their relations with the justice system, such as questions about their willingness to report crimes, assist justice system officials, and view the law as a reliable moral guide.³²³ After baseline responses were collected, subjects were then disillusioned by exposing them to real accounts of the system’s failures of justice and injustices.³²⁴ Retesting revealed the measures of deference, compliance, and internalization of norms had decreased among the disillusioned subjects.³²⁵ A between-subjects design found

315. Dan Herbeck, *Crime Was Rampant and Routine in 19th Century New York City*, BUFF. NEWS (Feb. 10, 1991), https://buffalonews.com/news/crime-was-rampant-and-routine-in-19th-century-new-york-city/article_beelc130-9005-5c8e-9443-a3188c1bb889.html [<https://perma.cc/69VH-CBUL>]; HERBERT ASBURY, *THE GANGS OF NEW YORK* 232 (2008); ELAINE S. ABELSON, *WHEN LADIES GO A-THIEVING: MIDDLE-CLASS SHOPLIFTERS IN THE VICTORIAN DEPARTMENT STORE 4* (1989).

316. See discussion *supra* note 300 and accompanying text.

317. Steven Pinker, *Decivilization in the 1960s*, 2 HUMAN FIGURATIONS 141–42 (July 2013), <https://quod.lib.umich.edu/h/humfig/11217607.0002.206/--decivilization-in-the-1960s?rgn=main;view=fulltext> [<https://perma.cc/C9X8-J23U>].

318. See *id.*

319. PAUL H. ROBINSON & SARAH M. ROBINSON, *PIRATES, PRISONERS, AND LEPERS: LESSONS FROM LIFE OUTSIDE THE LAW* 139–63 (2015).

320. Pinker, *supra* note 317. An analogous dynamic is seen in widespread resistance to the draft during the Vietnam War, which was enforced by criminal statutes requiring service. Starting in 1964, many young men fled the country or feigned injuries or illnesses in order to avoid service. Many who did not resist were nonetheless highly critical in their view of not only this particular crime—failure to report—but the criminal justice system and the government generally. This view was supported by a significant portion of the public. Polls showed a society-wide dramatic drop in trust in government. With this widespread disillusionment, crime rose significantly; crime statistics showed an enormous spike for both crimes of violence and property crimes. The Vietnam War was seen by many as exposing a moral stain on American institutions that had long been widely trusted and revered. In response to this disillusionment, many people felt free to abandon self-regulating behaviors and to commit crimes. See *id.*

321. See ROBINSON, *supra* note 304, at 141–63 (explaining the normative benefits that accrue when a criminal system is aligned with society’s visions of justice and deservedness of punishment).

322. *Id.*; ROBINSON & HOLCOMB, *supra* note 300, at 279–88.

323. See ROBINSON, *supra* note 304, at 177–81.

324. *Id.*

325. *Id.*

the same results.³²⁶ The findings are particularly important because it indicates that no matter the current state of a criminal justice system's moral credibility with an individual or the community, any incremental reduction in credibility (such as by routinely providing early release long before the "minimum sentence" announced in court) can produce an incremental reduction in deference.³²⁷

In addition to making people more likely to engage in general criminal conduct, reducing the moral credibility of the criminal law creates another societal cost by sparking vigilantism.³²⁸ As community members increasingly believe the system is intentionally and deceptively failing to do justice, they will increasingly feel justified in doing it themselves.³²⁹

Raymond Wright crashed head long into a husband and wife while driving drunk.³³⁰ The wife nearly died.³³¹ The husband, Robert Manor, suffered multiple broken bones, was left with a limp, and remains in a great deal of pain.³³² Wright was convicted of felony DUI, sentenced to eighteen months in prison and required to pay restitution.³³³ But Wright was granted early release on parole.³³⁴

After his release, he went back to regular life as a master carpenter, but made little effort to pay the court-ordered restitution.³³⁵ During the period when Wright's sentence would have had him still in jail, Manor happened to see Wright outside his cabinet shop and was overcome by the injustice of Wright's early release.³³⁶ Working with others who were sympathetic to his outrage, Manor arranged to have Wright kidnapped and killed.³³⁷ Manor was convicted of the murder.³³⁸

D. The Problem of Public Outrage Triggering Inappropriate Reforms: Three Strikes Statutes and Mandatory Minimum Sentences

It is not just people concerned about fighting crime and doing justice who ought to worry about the effects of outrage from discovered sentencing deception. It is just such public outrage stoked by discovering such deceptions that has in the

326. *Id.* at 181–84.

327. *Id.* at 184–88.

328. *See infra* notes 329–38 and accompanying text.

329. *See* Daniel Zizumbo-Colunga, *Crime, Corruption and Societal Support for Vigilante Justice: Ten Years of Evidence in Review*, 120 AMERICASBAROMETER INSIGHTS 4 (2015); Rashid Gabbulhakov, *Citizen-Led Justice in Post-Communist Russia: From Comrades' Courts to Dotcomrade Vigilantism*, SURVEILLANCE & SOC'Y, <https://ojs.library.queensu.ca/index.php/surveillance-and-society/article/view/6952/8121> [<https://perma.cc/T5K8-CVVB>] (last visited Feb. 16, 2026); German Lopez, *A Continuing Drop in Murders*, N.Y. TIMES (Dec. 30, 2022), <https://www.nytimes.com/2022/12/30/briefing/crime-murders-us-decline.html> [<https://perma.cc/8GMM-F89N>].

330. Natalie Morales, *Where's Ray Wright? High-Speed Chase Leads to Clues in Sacramento Man's Abduction and "Revenge" Murder*, CBSNEWS (Oct. 13, 2024, at 02:23 ET), <https://www.cbsnews.com/news/ray-wright-abduction-revenge-murder-high-speed-chase-sacramento-48-hours/> [<https://perma.cc/4HZY-F7GC>].

331. *Id.*

332. *Id.*

333. *Id.*

334. *See id.*

335. *Id.*

336. *Id.*

337. *Id.*

338. *Id.*

past triggered the enactment of unhelpful legislation that overreacts. An obvious example is the introduction of “mandatory minimum sentences” as well as the introduction of “three strikes statutes,” both of which regularly produce sentences disproportionate to the seriousness of the offense and the offender’s relative blameworthiness.

Three Strikes Statutes. Richard Allen Davis had already had several run-ins with the law when, at age seventeen, he is given the choice of joining the military or going to the California Youth Authority.³³⁹ In 1972, after thirteen months of service, he was given a general discharge.³⁴⁰ He quickly collects a string of new arrests and is given his first adult sentence, a year of probation, in 1973.³⁴¹

By 1975 he is convicted and sentenced to six months to fifteen years for car theft and burglary.³⁴² He serves one year and within a month of his release Davis kidnaps and attempts to rape a twenty-six-year-old woman.³⁴³ Before his trial he escapes from custody.³⁴⁴ While eluding authorities, he goes on a violent spree during which he breaks into a woman’s home and beats her.³⁴⁵ A week later he abducts another woman at gun point.³⁴⁶ She is able to escape but before he is recaptured Davis breaks into the home of a third woman.³⁴⁷ He is sentenced to twenty-five years but is paroled after serving less than 20%.³⁴⁸ He is in custody again in 1985, for several store robberies, a bank robbery, and another kidnapping.³⁴⁹ In 1993, having served about half of his sixteen year sentence, Davis is again granted parole.³⁵⁰ Thirteen weeks later, Davis breaks into a home and kidnaps twelve-year-old Polly Klaas.³⁵¹ He rapes the child and then kills her.³⁵² When Davis is arrested, his past criminal record becomes known and public outrage pours forth.³⁵³ Why was this dangerous man free?³⁵⁴ Within a year, California voters pass Proposition 184, the Three Strikes initiative, to prevent repeat offenders from returning to the streets so quickly.³⁵⁵

339. *Richard Allen Davis’ Life of Crime*, SFGATE (Aug. 6, 1996), <https://www.sfgate.com/crime/article/richard-allen-davis-life-of-crime-2971897.php> [<https://perma.cc/894E-3NG6>].

340. *Id.*

341. *Id.*

342. *Id.*

343. *Id.*

344. *Id.*

345. *Id.*

346. *Id.*

347. *Id.*

348. *Id.*

349. *Id.*

350. *Id.*

351. *Id.*

352. *Judge to Mull Overturning Polly Klaas Killer Richard Allen Davis’ Death Sentence*, CBS NEWS (May 31, 2024, at 05:19 ET), <https://www.cbsnews.com/news/polly-klaas-killer-richard-allen-davis-seeks-death-sentence-overturned/> [<https://perma.cc/F65W-TWM7>].

353. PAUL H. ROBINSON & SARAH M. ROBINSON, *SHADOW VIGILANTES: HOW DISTRUST IN THE JUSTICE SYSTEM BREEDS A NEW KIND OF LAWLESSNESS* 172 (2018).

354. *See id.*

355. *Id.*

Mandatory Minimum Sentences. The modern age of mandatory minimums can be seen as having its birth in the 1970's when crime was on the rise.³⁵⁶ In an effort to curb the rising crime numbers, several groups began to focus on the fact that a relatively small number of offenders committed the majority of offences.³⁵⁷ During Congressional Hearings for S. 1688 that eventually leads to the Armed Career Criminal Act of 1982, Kenneth Conboy, Deputy Commissioner for legal matters, NYPD, highlighted a case he felt demonstrated the need to establish of mandatory minimums.³⁵⁸ Starting at age fifteen, H.W. has been making a good living off robbing people from "Times Square to the upper reaches of Park Avenue."³⁵⁹ As he ages out of the juvenile system, he begins to collect adult convictions.³⁶⁰ With his long history of arrests, he comes to understand that "while the city feared him, he had very little fear of the city."³⁶¹ The arrests follow a pattern that he freely acknowledges: He would get arrested, appear in court, be given a trial date, and "never come back—till [he] got busted again."³⁶²

During the Congressional Hearings, Newman Flanagan, the district attorney for Suffolk County, Massachusetts, similarly gives an arrest-by-arrest account of a sample offender.³⁶³ After a string of juvenile arrests including several assault charges, the man graduates to adult court a few weeks after his 18th birthday for a robbery charge.³⁶⁴ He serves no time in jail, despite several new charges, until he is nineteen when he is sentenced to five years for assault and battery and armed robbery.³⁶⁵ He serves only 20% of the sentence.³⁶⁶ A few months after his release, he steals some more cars, commits some additional robberies, and a rape.³⁶⁷ At age twenty, he is convicted for armed robbery, kidnapping, assault and battery with a dangerous weapon, unnatural act, and rape.³⁶⁸ His stay in prison is very short because before the year is out, he receives new convictions for an armed house invasion.³⁶⁹

356. *Id.* at 173.

357. *Career Criminal Life Sentence Act of 1981: Hearing on S. 1688, S. 1689, and S. 1690 Before the Subcomm. on Juv. Just. of the S. Comm. on the Judiciary, 97th Cong.* 39 (1981) (statement of Kenneth Conboy, Deputy Comm'r for Legal Matters, N.Y. Police Dep't).

358. *Id.* at 53.

359. *Id.*

360. *See id.*

361. *Id.*

362. *Id.*

363. *See Career Criminal Life Sentence Act of 1981: Hearing on S. 1688, S. 1689, and S. 1690 Before the Subcomm. on Juv. Just. of the S. Comm. on the Judiciary, 97th Cong.* 142 (1981) (statement of Newman Flanagan, Dist. Att'y, Suffolk Cnty., Mass., President-Elect, Nat'l Dist. Att'ys Ass'n).

364. *Id.*

365. *Id.*

366. *Id.*

367. *Id.*

368. *Id.*

369. *Id.*

E. The Failure to Incapacitate Dangerous Offenders as Adding to the Public Outrage Over Systematic Obscured Early Release

Routinely imposing public sentences that are never carried out is likely to undermine deterrence when discovered, as most offenders already have done, as discussed in Section A above. And citizens will feel deceived and become distrustful when they discover the deception, resulting in the criminal law's loss of moral credibility and thereby its normative influence, as discussed in Sections B, C, and D above. But the practice of routine early release is also detrimental to society by undermining incapacitation of dangerous offenders.³⁷⁰ In this instance, however, it is not the system's deception that is doing the damage.³⁷¹ Even a system that is fully transparent might fail to effectively incapacitate dangerous offenders.³⁷² But the reduction of incapacitation of dangerous offenders does have a special role to play in aggravating the effects of the routine institutionalized deception in today's court-imposed sentences.³⁷³ Right or wrong, it would be easy, indeed likely, that the community would blame the system's deceptive early release for offenses committed during the "time not served" due to early release.³⁷⁴

The fact is, of course, early release (deceptive or not) can significantly reduce the incapacitation of dangerous offenders.³⁷⁵ One ought not underestimate the effect this has on criminal victimizations.³⁷⁶ As Appendix C makes clear, the percentage of offenders who are recommitted to prison within three years after release can be staggering. The range runs from 61.6% of Arkansas prisoners, 57.1% of District of Columbia prisoners, and 49.1% of New Mexico prisoners down to 20.3% of Texas prisoners, 20.2% of South Carolina prisoners, and 13.1% of Oregon prisoners.³⁷⁷ Indeed, data suggest that one-sixth of *all* arrests for violent crime are of persons currently on parole or probation.³⁷⁸ And even this probably seriously understates the rate of criminal activity by parolees, since the arrest rates for most violent offenses other than murder are extremely low.³⁷⁹

370. *See infra* Appendix C.

371. *See infra* Appendix C.

372. *See infra* Appendix C.

373. *See supra* Section IV.B.

374. *See supra* Section IV.B.

375. *See infra* Appendix C.

376. *See infra* Appendix C.

377. *See infra* Appendix C. Likewise, from the states that provided data on admission type for offenders in the National Corrections Reporting Program, approximately 6.5 million people admitted to state prison between 1991 and 2020 were admitted for parole violations. That is, approximately 35% of admissions during that time, which may have been prevented had these individuals been incapacitated during their full sentences. This figure is also likely underinclusive as it does not include any individuals that were granted unconditional early release from time credits—*i.e.*, they were not released onto parole or subject to additional provisions of parole—that may have been reincarcerated for new court commitments during their time unserved.

378. JUST. CTR.: THE COUNCIL OF STATE GOV'TS, THE IMPACT OF PROBATION AND PAROLE POPULATIONS ON ARRESTS IN FOUR CALIFORNIA CITIES 2 (2013), <https://saccoprobation.saccounty.gov/Documents/Miscellaneous/Other%20-%20Data/CalChiefsFactSheet.pdf?#page=2> [<https://perma.cc/Y58Y-PUTA>].

379. GETTING AWAY WITH MURDER, *supra* note 262, at 1–7.

In other words, it is common indeed for released offenders to commit new offenses during the “time not served” of their original sentence.³⁸⁰

Unfortunately, most of the standard sentencing discounts operate without regard to whether the offender is currently dangerous or not.³⁸¹ States that give two days credit for each day served, for example, will give even the wildly dangerous rapist or robber this 50% discount.³⁸²

Similarly, the currently dangerous offender can further reduce his sentence by participating in any number of training, educational, or treatment programs, even if those programs have no effect in reducing the offender’s dangerousness.³⁸³ These non-public discounts will put the dangerous offender out in public to further victimize the community during the period of time when they would have still been in prison if they had actually served the “minimum sentence” publicly imposed.³⁸⁴

The argument we make here is not one in favor of longer prison terms than currently given. As one of us has argued elsewhere, control of dangerous persons does not necessarily require imprisonment at all.³⁸⁵ But until alternative measures, such as much greater use of sophisticated surveillance is used as a substitute for prison, early release will routinely mean reduced incapacitation of seriously dangerous offenders.³⁸⁶

V. THE “TRUTH IN SENTENCING” MOVEMENT

In the 1970s, worries about deceptive sentencing and early release policies led to seeking the abolition of early release and the introduction of more truthful sentences.³⁸⁷ This “truth-in-sentencing” movement was aimed at aligning the original publicly-impose sentence with the actual amount of time offenders serve incarcerated.³⁸⁸ The public had come to view the early release system as “unfair, disparate, and ineffective for controlling crime” and as leading to “diminished faith in any rehabilitative programming.”³⁸⁹ These beliefs were likely reinforced

380. *See id.*; JUST. CTR.: THE COUNCIL OF STATE GOV’TS, *supra* note 378.

381. *See supra* Tables 2–6.

382. *Earned Time Credit: Issue Overview*, PRISON FELLOWSHIP, <https://www.prisonfellowship.org/resources/advocacy/release/earned-time-credit/> [https://perma.cc/EGQ8-JZ5P] (last visited Feb. 16, 2026).

383. *Id.*

384. *See supra* Tables 2–6.

385. Paul H. Robinson & Jeffrey Seaman, *Electronic Prison: A Just Path to Decarceration*, 58 UIC L. REV. 307, 307–08 (2024).

386. *See id.*

387. *See* ROBINSON & ROBINSON, *supra* note 353, at 173.

388. Katherine J. Rosich & Kamala Mallik Kane, *Truth in Sentencing and State Sentencing Practices*, NAT’L INST. OF JUST. (July 1, 2005), <https://nij.ojp.gov/topics/articles/truth-sentencing-and-state-sentencing-practices> [https://perma.cc/YS8Y-PUTA].

389. U.S. SENT’G COMM’N, FIFTEEN YEARS OF GUIDELINE SENTENCING EXECUTIVE SUMMARY iv (2004), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-projects-and-surveys/miscellaneous/15-year-study/executive_summary_and_preface.pdf. [https://perma.cc/R8DM-9R3W]; Douglas A. Berman, *Reflecting on Parole’s Abolition in the Federal Sentencing System*, 81 FED. PROBATION 18, 19 (2017).

as many early-released offenders recidivated, with many reoffending during the time they would have been incarcerated under their original sentence.³⁹⁰

The truth-in-sentencing movement culminated in the Sentencing Reform Act of 1984 (“SRA”), which sought to abolish the Federal Parole Commission and to have sentences publicly imposed be a reliable indication of the time actually served (the SRA also created the United States Sentencing Commission to boost sentencing guidelines that would assure consistency in sentencing across judges and provide rational explanations for the guideline sentences provided).³⁹¹ Support for the SRA grew once it became clear that it would be impossible to eliminate unjustified disparity and introduce rational sentencing policy in the Federal system as long as the system continued to rely upon the existing United States Parole Commission.³⁹²

The congressional reports on the SRA concluded that their examinations of current practice “clearly indicate that sentencing in the Federal courts is characterized by unwarranted disparity and by uncertainty about the length of time offenders will serve in prison.”³⁹³ Legislators predicted that the increased certainty from the SRA’s more definitive sentencing guidelines would increase public respect for the law as the sentences announced would now represent the “real sentence” rather than one that is re-done by the Parole Commission.³⁹⁴ Judges would also appreciate the certainty and clarity of the new system because they would no longer need to try to adjust their sentence in anticipation of what the Parole Commission might do with it.³⁹⁵ Likewise, the certainty in sentencing would aid prison officials as they would now be able to adequately plan work programs and realistic rehabilitative goals that could be achieved within the time of the offender’s real sentence, which they would know at the time of the offenders commitment.³⁹⁶ Congress determined that the SRA met “the critical challenge of sentencing reform” and was designed to make criminal sentencing “fairer and more certain.”³⁹⁷

Yet, to some critics, these benefits were thought to be outweighed by the loss of good behavior credits that encouraged prisoners to be well-behaved and

390. See *supra* Section IV.A; *United States Parole Commission*, U.S. DEP’T JUST., <https://www.justice.gov/doj/organization-mission-and-functions-manual-united-states-parole-commission> [https://perma.cc/9AVP-DSV5] (last visited Feb. 16, 2026).

391. Sentencing Reform Act of 1984, Pub. L. 98-473, 98 Stat. 1837. The First Step Act has allowed eligible nonviolent federal inmates to earn 10–15 days of credit for every thirty days of participation in Evidence Based Recidivism Reduction Programs and Productive Activities. This allows offenders to accrue credits faster, but does not increase the maximum amount they could receive. See *First Step Act—Frequently Asked Questions*, FED. BUREAU OF PRISONS, https://www.bop.gov/inmates/fsa/faq.jsp#fsa_good_conduct_time [https://perma.cc/ZHM5-LJYN] (last visited Feb. 16, 2026).

392. S. REP. NO. 98-223, at 45 (1983).

393. *Id.* at 46.

394. *Id.* at 53.

395. *Id.* at 57. This often-meant judges would impose longer sentences to account for the potential early release by a parole board, whereas a truth-in-sentencing regime would no longer need to provide this extension. *Id.* at 110.

396. In addition to these rehabilitative benefits, scholars have also shown that truth-in-sentencing statutes have further benefits, including improved crime control. *Id.* at 54.

397. *Id.* at 62.

helped correctional officers maintain control of the prison.³⁹⁸ To mollify concerns, the SRA maintained the ability to shave off up to 15% of the original sentence for good behavior.³⁹⁹ This small discount was found to be sufficient to incentivize good behavior while keeping actual sentence length close to the sentence imposed in court, thereby maintaining the justice system's credibility.⁴⁰⁰

Following enactment of the SRA and confirmation of its benefits, several states followed suit in adopting similar truth-in-sentencing laws.⁴⁰¹ These enactments were bolstered by federal legislation, such as the Truth-in-Sentencing Incentive grant program in the 1994 Crime Act, which provided financial grants to states that could prove that offenders convicted for certain violent crimes served at least 85% of their sentence.⁴⁰² Overall, the grant programs were found to have "at best, modestly influenced State [truth-in-sentencing] reforms" and that most states "made no further changes" to their truth-in-sentencing laws and only nine states that had no truth-in-sentencing laws before 1994 passed sentencing reforms with truth-in-sentencing provisions.⁴⁰³ Likewise, nearly half the states that received funding received it based on preexisting laws, and the grant eligibility was flexible enough that many states could retain their existing sentencing schemes.⁴⁰⁴

A 1998 report from the federal government indicated that five states had enacted truth-in-sentencing legislation before the 1994 Crime Act,⁴⁰⁵ and that an additional twenty states enacted laws that qualified them for grants under the 1994 Crime Act by 1998.⁴⁰⁶ The report also surveyed the jurisdictions that did not enact truth-in-sentencing laws and found that the majority believed the policy change would require prison construction or administrative costs that would be

398. See, e.g., Chelsea Brasted, *Louisiana Eliminates Parole and Reduces "Good Time" Early Release*, AXIOS NEW ORLEANS (Aug. 1, 2024), <https://www.axios.com/local/new-orleans/2024/08/01/louisiana-parole-criminal-justice-good-time-release> [<https://perma.cc/P53M-DA7U>] ("As for 'good time' eligibility, previously, an imprisoned person could receive a sentence reduction of 13 days for every seven spent in custody. Now, eligibility drops to a maximum of 15% of a person's sentence.").

399. Federal inmates are eligible for up to fifty four days of good time credit for every year they are imprisoned. 18 U.S.C. § 3624(b).

400. See *id.*; see U.S. SENT'G COMM'N, *supra* note 389, at iv.

401. Kelly Lyn Mitchell, *State Sentencing Guidelines: A Garden Full of Variety*, 2017 FED. PROBATION 28, 31.

402. These specific violent crimes included murder, nonnegligent manslaughter, forcible rape, robbery, and aggravated assault and examined data reported to the Federal Bureau of Investigation under the Uniform Crime Reports. Pub. L. No. 103-322, 108 Stat. 1796 (1994); Joanna M. Shepherd, *Police, Prosecutors, Criminals, and Determinate Sentences: The Truth About Truth-in-Sentencing Laws*, 45 J.L. & ECON. 509, 511-12 (2002).

403. Rosich & Kane, *supra* note 388.

404. In fact, less than five states changed their laws to eliminate parole release for violent offenders. *Id.*

405. U.S. GOV'T GEN. ACCT. OFF., TRUTH IN SENTENCING AVAILABILITY OF FEDERAL GRANTS INFLUENCED LAWS IN SOME STATES 6 (1998), <https://www.gao.gov/assets/ggd-98-42.pdf> [<https://perma.cc/JM E6-QD7P>].

406. *Id.* While qualifying for a grant under the truth-in-sentencing initiative might suggest that these jurisdictions enacted truth-in-sentencing legislation, the Crime Act of 1994 allowed the states to qualify through one of two ways. First, states could show laws that required violent offenders to serve 85% of their sentence. 34 U.S.C. § 12104. Second, states could show that their sentencing practices since 1993 were resulting in more time served, *inter alia*, and then the 85% sentence served requirement would only need to apply to people convicted of a violent crime that also had at least one other prior violent crime or "serious drug offense" conviction.

“too high, even with the grant money,” and a minority explained that they did not want to change their current sentencing practice.⁴⁰⁷

As noted above, our interest is not in longer sentences but rather in more truthful sentences.⁴⁰⁸ It is the institutionalized deception rather than the sentence length that is doing the most serious damage.⁴⁰⁹ What that means is that truth-in-sentencing reforms ought to be undertaken even if current prison capacity remains the same. If the court announced sentences significantly lower than previously imposed, but truthful, then so be it. Prison space shortage should never be a reason to continue sentencing deception. If a state believes that its current system of time-served is appropriate, then it ought to stand up for that view and explain and defend it to its citizens. Using lack of prison space as an excuse for continuing institutionalized sentencing deception is simply an admission that the authorities do not believe that they can justify their current time-served practices to their citizens.

VI. THE POLITICS OF SENTENCING DECEPTION

Some might expect sentencing deception to be prevalent in blue states (Democratic) because blue states might be more interested in giving shorter sentences.⁴¹⁰ Other people might expect sentencing deception to also be prevalent in red states (Republican) because officials there would be most interested in hiding the high discounts off the sentences publicly imposed, for fear that their red constituency would object and also because they might be more concerned about fiscal problems if there was increased incarceration.⁴¹¹ Considering these apparent appeals for deceptive sentencing in both types of states, it may not be surprising that there appears to be a limited difference between sentencing deception in red states and blue states.⁴¹²

Table 7 below shows the practices in the six largest states under dominant blue control—California, Colorado, Illinois, New Jersey, New York, and Washington—as compared to the six largest states under dominant red control—Florida, Georgia, Missouri, Ohio, Tennessee, and Texas (excerpted from Appendix B, table 1). Column 5 shows the average percentage discount provided for the offense of aggravated assault (the same lack of red-blue difference holds true for the three other serious offenses examined in Appendix B—robbery, murder, and rape).⁴¹³

407. U.S. GOV'T GEN. ACCT. OFF., *supra* note 405, at 8.

408. See discussion *supra* notes 383–86 and accompanying text.

409. See discussion *supra* Part III.

410. See Paul H. Robinson, Hugh Rennie & Clever Earth, *Red Codes, Blue Codes? Factors Influencing the Formulation of Criminal Law Rules*, 9 U. PENN. J.L. & PUB. AFFS. 346, 349 (2024).

411. See *id.*

412. See *id.* at 383.

413. See U.S. BUREAU OF JUST. STAT., *supra* note 154; see *infra* Appendix B.

TABLE 7. AGGRAVATED ASSAULT COURT-IMPOSED SENTENCES VERSUS ACTUAL TIME SERVED FOR LARGEST DEEP RED AND DEEP BLUE STATES⁴¹⁴
(SORTED BY AVERAGE % DISCOUNT PROVIDED)

1. State and red or blue political control ⁴¹⁵	2. Average sentence imposed (years) ⁴¹⁶	3. Average time actually served (years) ⁴¹⁷	4. Average discount provided (years) ⁴¹⁸	5. Average % discount provided ⁴¹⁹
MO - red	4.0	2.0	2.0	49.0%
CA - blue	3.8	1.9	1.9	48.6%
TX - red	4.0	2.3	1.7	41.5%
WA - blue	3.2	1.9	1.3	39.2%
CO - blue	5.1	3.1	2.0	39.1%
GA - red	1.7	1.1	0.6	37.0%
TN - red	2.9	2.0	0.9	29.8%
IL - blue	2.2	1.7	0.5	24.9%
NY - blue	3.5	2.8	0.7	18.5%
FL - red	2.6	2.1	0.5	18.1%
NJ - blue	2.9	2.4	0.5	17.2%
OH - red	2.2	1.9	0.3	14.7%

As the table makes clear, use of sentencing deception is not based on political orientation.⁴²⁰ Red and blue states seem to be about equally distributed among the range of average discount provided for aggravated assault (column 5). Some very red states like Missouri and Texas, in fact, provide large average discounts off the sentence publicly imposed, 49% and 41.5%, respectively, but other red states provide noticeably lower average percentage discounts.⁴²¹ Similarly, some very blue states like New Jersey and New York provide much lower average percentage discounts off the sentence publicly imposed, 17.2% and 18.5%, respectively, while other states provide noticeably higher average discounts.⁴²²

As column 2 demonstrates, the average sentence imposed in court for aggravated assault does not follow a red-blue pattern. And column 3 shows the average time actually served for aggravated assault is not as different in red and blue states as many people might have expected. The real difference between the twelve states is that the states that give higher sentences in court (column 2) also provide greater percentage discounts in determining time-served (column 5). It is important to note, however, that while red and blue states have similar time-served in column 3, it does not follow that they have similar punishment practices. It might be that the blue states sentence only the most serious cases of

414. All data taken from the National Corrections Reporting Program of people incarcerated between 1991 and 2020. See U.S. BUREAU OF JUST. STAT., *supra* note 154.

415. See Robinson et al., *supra* note 410, at 385.

416. This column represents the average sentence (in years) for each of the defined offenses for state prisoners that were released between 1991 and 2020 as provided by the National Corrections Reporting Program. *Id.*

417. This column represents the average time an individual primarily incarcerated for that offense actually spent in prison (in years) based on their admitted year and release year. This number does not include the time served by prisoners that have yet to be released. *Id.*

418. This figure represents the difference between column 2 and column 3.

419. This figure represents the percentage that column 4 represents of column 2.

420. See *supra* Table 7.

421. See *supra* Table 7.

422. See *supra* Table 7.

aggravated assault to prison, while the red states sentence a greater range of aggravated assault offenders to prison.⁴²³

While the use of sentencing deception in practice may not be driven by politics, the effect of sentencing deception has had an enormous effect on politics. As noted previously in several quotes,⁴²⁴ one widely accepted progressive claim is that U.S. criminal sentencing is dramatically overly punitive leading to an America that is now a “carceral state”⁴²⁵ that has undertaken “mass incarceration.”⁴²⁶ As Appendix B, column 5 of tables 1 through 4 make clear, the sentences imposed in court are simply not representative of time served.

The deception in sentencing documented here is inconsistent with the claims of mass incarceration made by many.⁴²⁷ The sentences publicly announced may seem high, but the terms of imprisonment actually served are significantly lower, sometimes dramatically so.⁴²⁸ Further, those troubled by “mass incarceration” are quick to blame the “tough on crime” reforms such as mandatory minimum sentences and three-strikes statutes.⁴²⁹ Yet, these reforms were brought about primarily as reactions to past public outrages over discovered deception in sentencing.⁴³⁰ When the system seemed to regularly and surreptitiously release serious offenders early, the outraged public not surprisingly called for such (unwise) reforms.⁴³¹

423. TEX. PENAL CODE ANN. § 12.33 (West 2025). Compare this to Massachusetts, for example, which has no mandatory prison time for aggravated assault. MASS. SENT’G COMM’N, FELONY AND MISDEMEANOR MASTER CRIME LIST BY M.G.L. REFERENCE 104 (2018), <https://www.mass.gov/doc/master-crime-list/download> [<https://perma.cc/Z2CX-C32Z>].

424. See *supra* notes 43–46 and accompanying text.

425. Adam Gopnik, *The Caging of America*, NEW YORKER (Jan. 22, 2012), <https://www.newyorker.com/magazine/2012/01/30/the-caging-of-america> [<https://perma.cc/8LGW-X5MV>].

426. *Id.*

427. See discussion *supra* Section III.B.

428. See discussion *supra* Section III.B.

429. RAM SUBRAMANAIAN & RUTH DELANEY, PLAYBOOK FOR CHANGE? STATES RECONSIDER MANDATORY MINIMUM SENTENCES 4 (2014), <https://www.prisonpolicy.org/scans/vera/mandatory-sentences-policy-report-v2b.pdf> [<https://perma.cc/WF28-MV8M>] (“[M]andatory minimum provisions . . . are one of the leading drivers of prison population.”); see also James Cullen, *Sentencing Laws and How They Contribute to Mass Incarceration*, BRENNAN CTR. JUST. (Oct. 5, 2018), <https://www.brennancenter.org/our-work/analysis-opinion/sentencing-laws-and-how-they-contribute-mass-incarceration> [<https://perma.cc/Z4F6-E97T>] (citing mandatory minimums and three-strike laws as ways that lengthy sentencing laws have contributed to mass incarceration). As it happens, and as one of us has argued elsewhere, it seems unlikely that these past sentencing reforms really did contribute to the increase in prison population that the activists complain about. See also Paul H. Robinson & Jeffrey Seaman, “*Mass Incarceration*” *Myths and Facts: Aiming Reform at the Real Problems*, 50 AM. J. CRIM. L. 1, 71 (2024) (“Especially troubling is reliance upon the myth that draconian U.S. sentencing changes are responsible for America’s 200% per capita incarceration rate rise compared to 1960. In fact, non-sentencing factors explain most of that rise, and where punishments have increased the most, such as for murder and rape, the public is likely to see such changes as moving the system closer to just sentencing.”).

430. See *supra* Section IV.D.

431. See *supra* Section IV.D.

VII. CONCLUSION

The conclusion of this Article is not that more offenders should be incarcerated longer. On the contrary, one of us has written expressly arguing for less use of prison and more use of non-incarcerative sanctions that can just as effectively provide the amount of punishment that matches the seriousness of the offense and the offender's relative blameworthiness.⁴³² The argument here is rather for more transparency. Thoughtful criminal justice reform requires an accurate understanding of how the system actually works.⁴³³ Transparency is essential for formulating enlightened reform.⁴³⁴ Unfortunately, perceptions of the current system by the public as well as by many activists and reformers is highly distorted because the system is constructed for constant and routine deception.⁴³⁵ The "minimum sentence" imposed publicly in court is rarely that. Further, the current institutionalized deception undermines general deterrence and, perhaps more importantly, has serious criminogenic effects as the community discovers that the publicly advertised sentence is not to be trusted, and that other forces outside of public view are actually determining the length of an offender's imprisonment.⁴³⁶

The reforms needed to provide greater transparency include, first and foremost, a shift to "truth in sentencing," where the sentence publicly imposed really is the sentence that will be served or, at the very least, public disclosure of when, where, by whom, and under what criteria the actual time-serve decision will be made. Further, transparency also requires that all jurisdictions make publicly available full data showing exactly what their criminal sanctioning system does and does not do. It is only with this full and accurate picture that reformers can intelligently debate the system's performance and how it can be improved.⁴³⁷ Such transparency is the only path to producing a criminal justice system that does justice, avoids injustice, and earns back credibility with the community.

432. Robinson & Seaman, *supra* note 429, at 307.

433. See discussion *supra* Section III.B.

434. See discussion *supra* Section III.B.

435. See discussion *supra* Part III.

436. See discussion *supra* Part III.

437. See discussion *supra* Section III.B.

APPENDIX A: AVAILABLE SENTENCING DISCOUNTS BY STATE

1. State	2. Eligible for release after this % of sentence ⁴³⁸	3. Standard extra credit for basic compliance ⁴³⁹	4. Total authorized discount ⁴⁴⁰	5. Additional discounts available (for participation in non-required programs) ⁴⁴¹	6. Total Discount Possible ⁴⁴²
UT	0% ⁴⁴³	1= ⁴⁴⁴	100% ⁴⁴⁵	8 months ⁴⁴⁶	100%
PA	0% ⁴⁴⁷	1= ⁴⁴⁸	100%	16% ⁴⁴⁹	100%

438. This column displays the percent of the original court-imposed sentence an offender must serve before being eligible for parole. This number represents the minimum possible amount for any offense and, when a sentence is an indeterminate range, this number is based on the minimum of the range. As such, even when a state like Michigan offers release on parole, parole eligibility only occurs after serving the minimum sentence and would thus be represented as a 100%.

439. This column converts the time credits offenders receive for good behavior based on the amount of time they actually serve in a ratio based on amount of time taken off sentence for each day actually served on average. For instance, a state like Alabama provides twenty days of time served credit for every thirty days the offender serves meaning that after thirty days, the offender will be “credited” for serving fifty days, which averages to each day serve equaling 1.67 days towards release.

440. The availability of extra credit for each day of a sentence served in many states results in their possibility of parole occurring even before the actual amount of time served reaches the statutory requirement for parole eligibility. The actual amount of time an offender needs to serve before eligibility for parole, when factoring in these extra credits, can be determined by dividing the statutory requirement by the extra credit rate. For instance, inmates in a state like Texas that provides a 1:2 credit can reach parole eligibility in half the amount of time, so eligibility of parole can occur after serving 5% rather than 10% of their sentence. This value can be subtracted from 100 to find the “total authorized discount,” which would be 95% for the Texas example. Any state which had a total sentencing discount resulting in a decimal was rounded down to the nearest whole number. Some states like Nevada, however, statutorily prohibit these extra credits from affecting the parole eligibility date. This column does not include any additional credits that offenders may earn based on participation in voluntary programs.

441. This column summarizes the additional time served credits that offenders may earn beyond the standard good behavior credits, that are typically earned through participation in voluntary rehabilitation programs such as educational programs, substance abuse programs, and more.

442. This column presents the total, maximum discount statutorily available for offenders based on all possible discounts including parole, standard time served credits, and any other additional extra credits that can be earned. Due to variety within state codes for certain reductions by different offenses, this column focuses on the maximum reduction for violent offenses, such as murder, rape, and aggravated assault, in order to present a single number. The total possible discount for other offenses may be higher or lower than this number.

443. UTAH CODE ANN. § 77-27-7(1)(b) (West 2025); *see also* REITZ ET AL., *supra* note 71, at 16 Table 2.

444. It appears that good time credit is available in Utah only for inmates in county jails. REITZ ET AL., *supra* note 71, at 11.

445. *Id.* at 8.

446. UTAH CODE ANN. § 77-27-5.4 (West 2025). Inmates are eligible for at least 4 months of credit for completing two approved programs up to a total of eight months of credit. The Board may grant additional credit as they deem appropriate. Those ineligible for this credit are listed in section (3) of the statute. *Id.*

447. There is no statutory minimum that needs to be met for a person to be eligible for release but a judge may set one. REITZ ET AL., *supra* note 75, at 7 (citing 42 PA. STAT AND CONS. STAT. ANN. § 9756(a)-(b) (West 2025); 61 PA. STAT AND CONS. STAT. ANN. § 6137(a)(3) (West 2025)).

448. *Id.* at 6 (“There are no good-time or earned-time credits as such in Pennsylvania. Instead, there is something called the Recidivism Risk Reduction Incentive Program (“RRRI”), discussed later. Only about 10 percent of all prisoners are RRRI-eligible.” (citation omitted)).

449. A lightly used status “recidivism risk reduction incentive” program is available on a case-by-case basis and requires the offender to complete a “program plan.” If the offender is given this status at sentencing and completes the program plan, they are given a sentence reduction of 25% on sentences of three years or less and a reduction of 16% is available for longer sentences. 61 PA. STAT AND CONS. STAT. ANN. § 4505(e)(2) (West 2025).

ND	Within 90 days ⁴⁵⁰	1=1.16 ⁴⁵¹	100% ⁴⁵²	6.5% ⁴⁵³	100%
IN	50% ⁴⁵⁴	1=1 1=1.17 1=1.33 1=2 ⁴⁵⁵	75% ⁴⁵⁶	33% of sentence or up to 2 years ⁴⁵⁷	100%
ID	0% ⁴⁵⁸	1=1	100%	0% ⁴⁵⁹	100%
IA	0% ⁴⁶⁰	1=1.18 1=2.2 ⁴⁶¹	100% ⁴⁶²	+365 days/"exemplary"	100%

450. N.D. CENT. CODE ANN. § 12-59-09 (West 2025) ("All inmates sentenced to the legal and physical custody of the department of corrections and rehabilitation are subject to the jurisdiction of the parole board, except when parole for the inmate is prohibited by statute."); *see also* REITZ ET AL., *supra* note 78, at 7 n.16 ("[U]nless a prisoner is ineligible for parole by statute or has less than 120 days left on their time in custody, they are subject to jurisdiction of the parole board."); *id.* (Under North Dakota law, "the parole board may conduct an initial review of each eligible adult within 60 to 90 days of their arrival in custody when they have more than three years to serve and that the clerk shall set parole review dates for prisoners who have less than three years to serve 'If you qualify for parole review, you will be notified of a future parole review date within 90 days of arrival'").

451. N.D. CENT. CODE ANN. § 12-54.1-01 (West 2025).

452. REITZ ET AL., *supra* note 78, at 9 ("Under North Dakota law, prisoners are eligible for discretionary parole release upon admission. Standard processing of a new prisoner's case, with an initial review generally occurring 30-90 days after admission, make an immediate release extremely unlikely, but it is not legally barred.").

453. N.D. CENT. CODE ANN. § 12-54.1-03 (West 2025).

454. IND. CODE ANN. § 11-13-3-2(b)(2) (West 2025) ("A person sentenced upon conviction of a felony to a determinate term of imprisonment is eligible for consideration for release on parole upon completion of one-half (1/2) of his determinate term of imprisonment or at the expiration of twenty (20) years, whichever comes first, less the credit time he has earned with respect to that term."). Persons sentenced to an indeterminate term of imprisonment are eligible for parole after completing the minimum term of imprisonment minus the credit time he has earned. *Id.* § 11-13-3-2(b)(1).

455. *Id.* § 35-50-6-3.1(b)-(d) (West 2025). This statute also provides various standard crediting rates depending on the severity of the offender's offense, with the most severe crimes being ineligible for any good time discount—staying at a rate of one day equaling one day—to the least severe offenders earning two days for every day served. *Id.*

456. *Id.* § 35-50-6-3.3(a),(b),(j) (West 2025); *see also* REITZ ET AL., *supra* note 84, at 5 ("A 50-percent reduction from the maximum would be due to good time credits with the additional reduction for educational credits capped at 25 percent.").

457. A maximum of 1 day per day served may be earned. This only applies to people assigned to Class A. Those assigned to Class B earn one day per three days, and those assigned to Class C earn 1 day per six days served. IND. CODE § 35-50-6-3.1; *see also id.* § 35-50-6-3.3 (j) (outlining educational time credit and limiting these credits to the lesser of two years total or 1/3 of the sentence); NAT'L CONF. OF STATE LEGIS., *supra* note 85, at 3.

458. IDAHO CODE ANN. § 20-101D (West 2025); *see also* REITZ ET AL., *supra* note 86, at 1 ("[Idaho] is one of only four states with no formulaic credit-based reductions of prison terms.").

459. REITZ ET AL., *supra* note 86; *see also* NAT'L CONF. OF STATE LEGIS., *supra* note 85, at 2 (providing "extraordinary act of heroism or for outstanding service to the state of Idaho" as the only earned time credit for incarcerated individuals).

460. IOWA ADMIN. CODE r. 205—8.4(906)(8.4)(1) (2025) ("The board may review the records of an inmate committed to the custody of the department of corrections and consider the inmate's prospects for parole or work release at any time."); *see also* IOWA CODE ANN. § 902.6 (West 2025) ("A person who has been committed to the custody of the director of the Iowa department of corrections shall remain in custody until released by the order of the board of parole").

461. NAT'L CONF. OF STATE LEGIS., *supra* note 85, at 3. These standard crediting rates depending on the severity of the offender's offense, with more severe crimes being eligible for a rate of one day equaling 1.18 day to less severe offenders earning 2.2 days for every day served. *Id.*

462. IOWA CODE ANN. § 903A.5(1) (West 2025) ("An inmate shall not be discharged from the custody of the director of the Iowa department of corrections until the inmate has served the full term for which the inmate was sentenced, less earned time and other credits earned and not forfeited, unless the inmate is pardoned or otherwise legally released.").

				act ⁴⁶³	
HI	0% ⁴⁶⁴	1=1	100%	0% ⁴⁶⁵	100%
CA	20% ⁴⁶⁶	1=2 ⁴⁶⁷	50% ⁴⁶⁸	10 days/year + 4 weeks/year + 180 days/degree + 365 days ⁴⁶⁹	100%
AL	0% ⁴⁷⁰	1=1.67 1=2.33 1=3.5 ⁴⁷¹	100%	0% ⁴⁷²	100%

463. *Id.* § 903A.2 1(a)(3); *id.* § 903A.2 (1)(b)(1) (outlining provisions for Category B felonies). Those convicted of Category A felonies (*e.g.*, first degree murder, sexual abuse resulting in serious injury, etc.) may receive 1 and 2/10 day per each day served, but this time does not reduce their sentence or mandatory minimum sentence, so it was excluded from this calculation. *Id.* § 903A.2(1)(a)(1).

464. REITZ ET AL., *supra* note 92, at 9 (“The range of variation is a minimum term set at 10 percent of the maximum sentence up to 100 percent of the maximum, which would extinguish parole-release eligibility altogether. Minimum terms even shorter than recommended in the guidelines are statutorily permissible, but the board must give written reasons for decisions outside the guidelines.”); *see also* HAWAII PAROLING AUTH., *supra* note 92, at 1 (“The Hawaii Paroling Authority may deviate from the guidelines, either above or below, but all deviations shall be accompanied by written justification” (citation omitted)).

465. REITZ ET AL., *supra* note 92, at 12.

466. Parole is only available for certain offenses and life sentences. In these scenarios, it would require serving twenty years. Assuming a life sentence is ninety-nine years, this results in approximately 20% time served needed. *See* REITZ ET AL., *supra* note 94, at 12. Parole eligibility in the California system is calculated using the full term for the “primary offense.” To calculate that sentence, all “enhancements, alternative sentences, and consecutive sentences” are excluded, *see* CAL. CODE REGS. tit. 15, § 3490(d) (2025). Beyond the removal of enhancements, the sentence will be further reduced by various behavior/program credits. REITZ ET AL., *supra* note 94, at 10 (“While earning rates vary across classes of prisoners, meaningful numbers of prisoners can earn 50-percent reductions in their maximum terms through good time alone, and the highest earning rate (in minimum security facilities) allows for 67-percent reductions. Additional credits for program participation and educational programs are available to most prisoners.”). Beyond Good-time credits, there are “milestone completion credits” capped at 84 days per year, “educational merit credits” capped at forty days per year. “Medical Parole” and “Elderly Parole” (age fifty and older) are also granted regularly. *Id.* at 21–22.

467. CAL. CODE REGS. tit. 15 § 3043.2(b)(4); CAL. PENAL CODE. § 2933.2 (West 2025).

468. *Earned and Good Time Policies: Comparing Maximum Reductions Available*, MI. JUST. ADVOC. (Apr. 12, 2021), <https://mijustice.org/2021/04/12/recidivism-rates-in-america/> [<https://perma.cc/34LR-PJB7>].

469. These credits include, a one to twelve week milestone credit for the completion of rehabilitative or educational programs to help them find employment every year, ten days of credit per year for completing fifty-two hours of rehabilitation programs, up to 180 days for completing an approved educational degree (including a high school diploma, and associate, bachelor’s, or other graduate degree), and then up to twelve months of credit for performing a “heroic act in a life-threatening situation or who have provided exceptional assistance in maintaining the safety and security of a prison.” *In-Prison Credit-Earning Opportunities*, CAL. DEP’T OF CORR. AND REHAB., <https://www.cdcr.ca.gov/proposition57/> [<https://perma.cc/3M6J-3JDZ>] (last visited Feb. 16, 2026).

470. ALA. CODE § 15-22-28(e)(1)(a) (2025). Class A felons are only eligible for parole after completing 80% of their sentence. *Id.* § 15-22-27.1. The sentences over five years are only eligible for parole after serving 70% of the minimum sentence, and sentences over ten years are only eligible for parole after serving 75% of the minimum sentence. *Id.* § 15-22-28(e)(1)(b)–(c).

471. *Id.* § 14-9-41(a). Depending on the class of offender, they are eligible for different amounts of standard extra credits. Class I prisoners are defined as those who are “considered to be trustworthy in every respect and who, by virtue of their work habits, conduct, and attitude of cooperation have proven their trustworthiness” and are eligible for a 1=3.5 credit rate, while more serious offenders have either a 1=2.33 or 1=1.67 rate. *Id.* § 14-9-41(c)(1); REITZ ET AL., *supra* note 99, at 18. For a sub-set of prisoners, the parole board may authorize an earlier release by meeting several requirements. If the offender “shows, by clear and convincing evidence, that he or she is more likely than not to be granted parole,” based on: having no infractions, served some minimum portion of their sentence, and participated in selected programs. ALA. CODE § 15-22-28(f) (2025); *id.* § 14-9-41(a)(2); *id.* § 14-9-41(a)(3).

472. REITZ ET AL., *supra* note 99, at 18. For a sub-set of prisoners, the parole board may authorize an earlier release by meeting several requirements. If the offender “shows by clear and convincing evidence that they are

NV	No early release on parole	1=2 ⁴⁷³	58% ⁴⁷⁴	30% ⁴⁷⁵ + 5 days/month/governor's decree, 60 days/substance abuse program, 60-120 days/academic program	98% ⁴⁷⁶
TX	10% ⁴⁷⁷	1=2 ⁴⁷⁸	95%	68% ⁴⁷⁹	98.4%
RI	33% ⁴⁸⁰	1=1.49 ⁴⁸¹	88.9%	32.8% + 30 days ⁴⁸²	92.6% + 30 days
MO	15% ⁴⁸³	1=1	85%	50% ⁴⁸⁴	92.5%

more likely than not to be granted parole,” based on: having no infractions, served some minimum portion of their sentence, and participated in selected programs. ALA. CODE § 15-22-28(f) (2025).

473. NEV. REV. STAT. ANN. § 209.4465(9) (West 2025).

474. *Id.*

475. Nevada has numerous methods for offenders to obtain earned time credit. First, offenders can earn up to 10 days per month for “labor and study” which includes participating in reentry programs and work release, among other programs. Then, another sixty days can be earned for the completion of a alcohol or substance abuse treatment, and between 60–120 days can be earned for educational or vocational program completions, depending on the level of program and success. They can also earn up to ninety days per year from “exceptional meritorious service.” Finally, at the governor’s discretion and through executive order, up to five days a month may be deducted from the sentences of all offenders. *Id.* § 209.4465(2)–(5).

476. REITZ ET AL., *supra* note 104, at 11.

477. TEX. GOV’T CODE ANN. § 508.145(f) (West 2025); *see* REITZ ET AL., *supra* note 105, at 9 (illustrating an example of how the math works and describing that not all prisoners are eligible for this generous sentence reduction).

478. While the inmate is classified as trusty, they are eligible for twenty days of good conduct time per month along with an additional ten extra days per month at the discretion of the department. Inmates classified as Class I inmates are eligible for twenty days of credit per thirty days served, Class II inmates are eligible for ten days for each thirty days served, and Class III inmates are not eligible for credit. TEX. GOV’T. CODE ANN. § 498.002(b)(1) (West 2025).

479. *Id.* § 498.002(d); An inmate may earn fifteen days of credit for every thirty days for participation in an industrial/work program or for participation in an agricultural, educational, or vocational program. Inmates classified as “trusties” can accrue a more generous credit total up to the statutory limit of forty-five days per month. *Id.* § 498.003(b)(1). Offenders can also earn an additional fifteen hours of credit in the same month. *Id.* § 498.003(d). *See also* KEVIN R. REITZ ET AL., *supra* note 105, at 8 n. 25.

480. Habitual criminals and prisoners sentenced to life imprisonment are not eligible for parole after serving 33% of their sentence. When a person convicted of 1st or 2nd degree murder has not been sentenced to life imprisonment, they are eligible for parole after serving 50% of their sentence. 13 R.I. GEN. LAWS ANN. § 13-8-9(a) (West 2025).

481. A maximum of ten days per month may be deducted from a prisoner’s sentence for good behavior. Those serving sentences for murder, kidnapping a minor, sexual assault, or child molestation are not eligible for the credits. Certain sexual offenses are eligible for credit under subsection (b). *Id.* § 42-56-24(c).

482. Up to five days per month may be earned for participation in institutional industries, five days per month for faithful participation in eligible programs, and an additional thirty days for completion of a program as defined in *Id.* § 42-56-24(f)–(g).

483. Those convicted of Class C drug and non-violent offenses are eligible for parole after serving 20% of their maximum sentence; Class A and B drug, nonviolent Class A and B, DWI Class A, B, and C felonies are eligible after 25%; Class A-E sex and child abuse and violence felony offenses are eligible after 33% of their sentence. MO. CODE REGS. ANN. tit. 14, § 80-2.010(1)(A) (2025).

484. *See* MO. ANN. STAT. § 217.703(3) (West 2025).

AR	17% ⁴⁸⁵	1=1 1=2 ⁴⁸⁶	91% ⁴⁸⁷	360 days ⁴⁸⁸	91% + 360 days
KY	20% ⁴⁸⁹	1=1.33 ⁴⁹⁰	85%	38% for work performed and "exceptional" service + 90d/program ⁴⁹¹	90.7%
TN	20% ⁴⁹²	1=1.36 ⁴⁹³	85.3%	26% + 120 days ⁴⁹⁴	89% + 120 days
MS	25% ⁴⁹⁵	1=1.15 ⁴⁹⁶	78%	50% ⁴⁹⁷	89%
NM	30% ⁴⁹⁸	1=2 ⁴⁹⁹	85%	1 y/12 months ⁵⁰⁰ rehab program	85% + 1y/rehab program

485. ARK. CODE ANN. § 16-93-615(b)(1) (West 2025). For some serious crimes, individuals must serve minimum terms of one-half the judicial maximum term "minus good time." This by itself would result in a foreshortening of the minimum term by 50%. Additional credits are available for educational attainment, program completion, and the like. Among the lower-seriousness prisoners, parole release as early as 16.67% of their judicial maximum term. REITZ ET AL., *supra* note 113, at 16.

486. ARK. CODE ANN. § 12-29-201(a) (West 2025) ("An inmate may be entitled to meritorious good time reducing his or her transfer eligibility date up to thirty (30) days for each month incarcerated after imposition of sentence."). Some sentences, such as a life sentence, are generally ineligible for any good time credits. *Id.* § 12-29-201(g)(2).

487. REITZ ET AL., *supra* note 113, at 15.

488. ARK. CODE ANN. § 1229-202(b)(1) (West 2025) ("An inmate who maintains class through good behavior, good discipline, work practices, job responsibilities, and involvement in rehabilitative activities may earn up to one (1) day for every day served as a reduction toward his or her transfer eligibility date for each day incarcerated after the imposition of sentence."). The total educational and program awards will not exceed 360 days. *Id.* § 12-29-202(d)(1). These additional good time credits, however, are subjected to the same 50% maximum discount for standard credits. REITZ ET AL., *supra* note 113, at 16.

489. 501 KY. ADMIN. REGS. 1:030 § 3(1)(c) (utilizing the time served requirement for felonies committed after Dec 3, 1980 that resulted in sentences between two and thirty-nine years). Crimes such as capital offenses and certain class A felonies must serve 85% of their sentence. *Id.* § 3(3)(e)(4).

490. KY. REV. STAT ANN. § 197.045(1)(b)(1) (West 2025).

491. Inmates are eligible for seven days of credit per month of exceptionally meritorious service or acts of exceptional service during times of emergency, which becomes an approximately 38% additional discount. Inmates may also earn ninety days of credit per educational diploma earned and ninety days for each drug treatment, evidence-based program, or other approved life skills program. *See* KY. REV. STAT ANN. § 197.045 (1)(a) (West 2025); *id.* § 197.045(1)(b)(2)–(3); *id.* § 197.047(8) (West 2025).

492. TENN. CODE ANN. § 40-35-109(b) (West 2025) (allowing an inmate, without an extensive criminal history, a parole eligibility of 20% of the announced sentence, from this various earned credits can further advance the release date).

493. *Id.* § 41-21-236(2)(A)(ii) (explaining an inmate is eligible for up to 8 days of credit per month for good conduct).

494. *Id.* § 41-21-236(a)(2)(A)(ii), (a)(2)(B), (a)(2)(C) (outlining a maximum of 8 days of credit per month may be earned for satisfactory program performance). An additional one-time credit of 60 days may be earned for completing an educational certificate or degree and another 60 days may be earned for inmates completing a substance use disorder treatment program. *Id.*

495. 29-3 MISS. CODE R. § 201-3.1(A) (LexisNexis 2025). Those sentenced for violent crimes must serve 50% or 60% of their sentence depending on the crime severity. *Id.* § 201-3.1(B).

496. MISS. CODE ANN. § 47-5-138(5) (West 2025).

497. *Id.* § 47-5-138.1(1) ("In addition to any other administrative reduction of sentence, an offender in trusty status as defined by the classification board of the Department of Corrections may be awarded a trusty-time allowance of thirty (30) days' reduction of sentence for each thirty (30) days of participation during any calendar month . . .").

498. REITZ ET AL., *supra* note 126, at 10. Parole, however, is only available for life sentences. *See* N.M. STAT. ANN. § 31-21-10 (2025).

499. *Id.*

500. *Id.*

AK	25% ⁵⁰¹	1=1.3 ⁵⁰²	83.5%	0%	83.5%
CO	50% ⁵⁰³	1=1.33 ⁵⁰⁴	62.4% ⁵⁰⁵	50% + 120 days for academic, vocational, or substance abuse program completion ⁵⁰⁶	81.5% + 120 days
CT	15% 50% ⁵⁰⁷	1=1.33 1=1.5	67.5% ⁵⁰⁸	Up to 5 days/month ⁵⁰⁹	78.8%
WI	25% ⁵¹⁰	1=1 ⁵¹¹	75%	0%	75%
SD	25% ⁵¹²	1=1 ⁵¹³	75%	0% ⁵¹⁴	75%
OK	25% ⁵¹⁵	1=3 ⁵¹⁶	75%	10-200 days/program ⁵¹⁷	75% 66% + 200 days/ program
MT	25% ⁵¹⁸	1=1 ⁵¹⁹	75%	0%	75%

501. A 50% or 66% rule applies to felonies listed in part (b)(1)(B) of the statute. ALASKA STAT. ANN. § 33.16.090(b)(1) (West 2025). All other crimes require a minimum of 25% of time served. *Id.* § 33.16.090(b)(4).

502. ALASKA STAT. ANN. § 33.20.010(a)(1)–(4) (West 2025). Certain offenses, such as a sexual felony or sentences mandating a ninety-nine-year term, are ineligible for standard good time deductions. *Id.*

503. Inmates in Colorado are eligible for parole once they have served 50% of their sentence, minus any earned credits. COLO. REV. STAT. § 17-22.5-403(1) (2025); see REITZ ET AL., *supra* note 131, at 7.

504. COLO. REV. STAT. ANN. § 17-22.5-405(1.5)(a) (2025).

505. General-rules prisoners in Colorado enter prison with a date of first parole-release eligibility set at 50 percent of their judicial maximum sentences. But the state also limits the total good-time reduction to 25 percent of the judicial maximum sentence. REITZ ET AL., *supra* note 131, at 17.

506. *Id.* at 19 (explaining that earned time for certain programs is capped at 120 days and then are eligible for unlimited one day equals two days credit for working on a disaster site).

507. ZACCAGNINI, *supra* note 135.

508. CONN. GEN. STAT. ANN. § 18-98e(d) (West 2025).

509. *Id.* § 54-125g; *id.* § 18-98e(a).

510. *Wisconsin Parole Commission*, STATE OF WIS. DEP'T OF CORR., <https://doc.wi.gov/Pages/AboutDOC/ParoleCommission.aspx> [<https://perma.cc/7AQF-BHT7>] (last visited Feb. 16, 2026).

511. WIS. STAT. ANN. § 973.01(4) (2025).

512. The minimum parole eligibility for a violent offense occurs after 35% of the sentence has been served. S.D. CODIFIED LAWS § 24-15A-32 (2025)

513. *Id.* § 24-15A-38 (“Each inmate shall be released from incarceration to parole supervision, without a hearing with the board, at the time of the inmate’s initial parole date, if the inmate has substantively met the requirements of the individual program directive established by the department, agreed to the conditions of supervision and has an approved parole release plan.”).

514. See *id.* § 24-15A-38.

515. OKLA. STAT. tit. 57, § 332.7(C)(1) (2025) (“A person eligible for parole under this subsection shall be eligible for administrative parole . . . once the person serves one-fourth (1/4) of the sentence or consecutive sentences imposed . . .”).

516. Class 4 inmates are eligible for up to sixty credits per month. Credits may be awarded for rehab, obtaining job skills, alcohol abuse programs, work assignments, and more. A credit is equivalent to one day of incarceration. In the OK system, good-time credits and program credits do not advance eligibility for parole. The credits advance the mandatory release date for inmates who are not paroled. OKLA. STAT. ANN. tit. 57, § 138(D)(2)(c) (2025).

517. Eligible inmates may earn up to ninety credits for a high school diploma, 100 credits for an associate’s degree, 200 credits for a bachelor’s degree, eighty credits for vocational training, seventy credits for alcohol/chemical abuse treatment programs, and 10–30 credits for other educational programs. OKLA. STAT. ANN. tit. 57, § 138(H) (2025).

518. MONT. CODE ANN. § 46-23-201(3) (West 2025).

519. REITZ ET AL., *supra* note 147, at 7.

MD	25% ⁵²⁰	1=1.33 ⁵²¹	75% ⁵²²	40% 50% ⁵²³	75% 87.5% ⁵²⁴
MA	50% ⁵²⁵	1=1 ⁵²⁶	50%	35% ⁵²⁷	67.5%
AZ	86% ⁵²⁸	1=1.43 ⁵²⁹	60.5%	0%	62%
VT	No early release on parole ⁵³⁰	1=1.3 ⁵³¹	23%	50% ⁵³²	61.5%
IL	No early release on parole ⁵³³	1=2 ⁵³⁴	50%	0.5 days per day served + 90-180 d/academic program ⁵³⁵	60% + 450 days ⁵³⁶

520. MD. CODE ANN., CORR. SERVS. § 7-301(a)(1)–(2) (West 2025).

521. An inmate (except as included in the exceptions listed in part (b)(2) of the statute) are eligible for a maximum of ten days of good time credit per month. *Id.* § 3-704.

522. Only sentences of life may have parole eligibility date advanced by diminutive credits. *Id.* § 7-301(d) (2023).

523. An inmate is eligible for a maximum of thirty days per month of credit for education certificates, work tasks, vocational courses, and similar programs. For crimes related to violence, sex, or drugs, the maximum extra credits is twenty days per month. *Id.* §§ 3-704–08.

524. Additionally, only life sentences may have parole eligibility pushed up, so the bottom number applies only to those sentences. *Id.* § 7-301(d).

525. 120 MASS. CODE REGS. 200.02 (2025); *see* MASS. SENT'G COMM'N, SURVEY OF SUPERIOR COURT SENTENCING PRACTICES FY 2018 13 (2019), <https://www.mass.gov/doc/survey-of-superior-court-sentencing-practices-fy-2018/download> [<https://perma.cc/8DRB-K369>].

526. KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, ROBINAINST. OF CRIM. L. & CRIM. JUST., UNIV. OF MINN., PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE: STATE REPORT: MASSACHUSETTS 9 (2022), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-07/massachusetts_doi_report_7_7_22.pdf [<https://perma.cc/BRX2-6WDM>] (“‘Good conduct credits,’ . . . are awarded for participation in or completion of programs. They are not awarded merely for good behavior and the avoidance of disciplinary infractions.”).

527. An inmate’s maximum good and earned time credits cannot reduce the minimum term imposed by more than 35%. MASS. GEN. LAWS ch. 127, § 129D(d) (2025).

528. REITZ ET AL., *supra* note 113, at 8; *see* ARIZ. REV. STAT. ANN. § 41-1604.07(B)(1) (2019).

529. Those convicted for a crime listed under VT. STAT. ANN. tit. 33, § 5204(a) (2025), including arson causing death, assault and robbery with a dangerous weapon, assault and robbery causing bodily injury, aggravated assault, and other crimes as defined in the statute are ineligible for parole. VT. STAT. ANN. tit. 28, § 501a (2025).

530. A maximum of seven days of credit per month are possible. Those convicted of murder, voluntary manslaughter, kidnapping, lewd and lascivious conduct with a child, sexual assault, aggravated sexual assault, or aggravated sexual assault of a child are not eligible for this credit. VT. STAT. ANN. tit. 28, § 818(b)(2) (2025).

531. Treatment program credits, outlined in VT. STAT. ANN. tit. 28, § 818(b)(3) (2025), and work performance, outlined in VT. STAT. ANN. tit. 28, § 811 (2025), credits are available including one extra day for each day in a substance abuse program.

532. 730 ILL. COMP. STAT. 5/3-6-3(a)(4)(A) (2025); 730 ILL. COMP. STAT. 5/3-6-3(a)(4.2)(A); 730 ILL. COMP. STAT. 5/3-6-3(a)(3) (2025); *see also* KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE: STATE REPORT: ILLINOIS 7 (2022), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-06/illinois_doi_report_6_29_22.pdf [<https://perma.cc/Q7XG-R8B5>] (“In 1977, the Illinois legislature abolished discretionary parole release.”).

533. REITZ ET AL., *supra* note 532, at 9. Eligible inmates may earn a maximum of one day of credit per day served. Other inmates may be restricted to 4.5 days per month served or 7.5 days per month served. *See* 730 ILL. COMP. STAT. 5/3-6-3 (2025).

534. Eligible inmates may earn an additional 0.5 days of credit per day served in addition to good time credit. They may also earn ninety days for completing a GED, 180 days for a bachelor’s degree, and 180 days for a master’s degree. 730 ILL. COMP. STAT. 5/3-6-3 (2025).

535. *Id.* The additional 450 days credit assumes completion of all academic programs listed in note 534.

536. NEB. REV. STAT. ANN. § 83-1,110 (West 2025).

NE	50% ⁵³⁷	1=1.52 ⁵³⁸	50% ⁵³⁹	33%	55.9% ⁵⁴⁰
NJ	33% ⁵⁴¹	1=1.1 ⁵⁴²	33% ⁵⁴³	31% ⁵⁴⁴	53.8%
WV	No early release on parole ⁵⁴⁵	1=2 ⁵⁴⁶	50%	90 days/academic program ⁵⁴⁷	50% + 90 days/program

537. Reduction of twenty days per month in custody. NEV. REV. STAT. § 209.4465 (2025). *Id.* § 83-1,107(2)(a) (2025).

538. KEVIN R. REITZ, ALLEGRA LUKAC, AND EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE: STATE REPORT: NEBRASKA 10 n.27 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-08/nebraska_doi_report_7_30_23.pdf [<https://perma.cc/8SRA-54YS>] (“[T]he plain, direct, and unambiguous language of § 83-1,107 makes it clear that good time reductions earned under this section apply to an inmate’s maximum sentence, not to an inmate’s minimum sentence, and thus, not to an inmate’s PED [parole eligibility date].” (quoting *Heist v. Neb. Dep’t of Corr. Servs.*, 979 N.W.2d 772, 787 (Neb. 2022))).

539. *See supra* note 537; *see infra* note 540. Because parole eligibility is not influenced by credits, the maximum discount ignores the 50% discount from parole and instead combines the credits from columns 2 and 5.

540. *Division of Release*, N.J. STATE PAROLE BD. (Jan. 25, 2022), <https://www.nj.gov/parole/functions/release-division/> [<https://perma.cc/DUL3-LBLL>].

541. Sixteen days per month for sentences of thirty years. N.J. REV. STAT. ANN. § 30:4-140 (West 2025). Fewer credits are listed in the table than are included in the statute.

542. A full schedule of release date, as impacted by credits, was produced by the New Jersey Parole Board is available at, KEVIN R. REITZ, MELANIE GRIFFITH & EDWARD E. RHINE, ROBINA INST. OF CRIM. L. & CRIM. JUST., UNIV. OF MINN., PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE: STATE REPORT: NEW JERSEY 21 (2022), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-06/new_jersey_doi_report_6_29_22.pdf [<https://perma.cc/R3UQ-WEGE>].

543. There are “work credits” which are earned at a rate of one day for every five days that prisoners are “employed in productive occupations consistent with their health, strength, and mental capacity.” These “productive occupations” include “all education and workforce skills or vocational training programs.” N.J. REV. STAT. § 30:4-92 (2024). Additionally, inmates are eligible to earn one day of credit for every five days of productive occupation on top of a maximum of five days per month for employment in honor camps after the first year of employment. *Id.*

544. Those given an indeterminate sentence must serve the minimum term of their sentence before being eligible for parole. W. VA. CODE § 62-12-13 (b)(1)(A) (2025). For an explanation, with examples, of how the system works, see KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE: STATE REPORT: WEST VIRGINIA 12–14 (2022), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-07/west_virginia_doi_report_7_10_22.pdf [<https://perma.cc/292N-9G3D>].

545. Eligible inmates can earn up to one day of credit per each day served. Those sentenced to life are not eligible. Extra good time may be given out at the discretion of the commissioner. W. VA. CODE § 15A-4-17(c) (2024).

546. Felony offenders may each up to ninety days of time credit for completing approved academic or vocational programs. *Id.* § 15A-4-17(i)(2) (2025).

547. VA. CODE ANN. § 53.1-165.1(E) (2025) (“[A]ny person sentenced to a term of life imprisonment for a single felony or multiple felonies committed while the person was a juvenile and who has served at least 20 years of such sentence shall be eligible for parole and any person who has active sentences that total more than 20 years for a single felony or multiple felonies committed while the person was a juvenile and who has served at least 20 years of such sentences shall be eligible for parole.”). *See also id.* § 19.2-311 (giving judges discretion to impose indeterminate sentences on defendants who were under age twenty-one at the time of their offenses and have no prior convictions). Indeterminate sentences imposed under *id.* § 19.2-311 must be four years in length but must include an additional suspended prison term of at least eighteen months. Defendants convicted of murder and serious sex offenses are excluded. In order to impose such a sentence, the judge must conclude that an individual defendant is “capable of returning to society as a productive citizen following a reasonable amount of rehabilitation.” *Id.* § 19.2-311(B). For prisoners who receive such sentences, the rules of parole eligibility are found in *id.* § 19.2-313 (providing no minimum term to parole eligibility, but prisoners become eligible for parole consideration only “upon certification by the Director of the Department of Corrections that the person has successfully completed the [youthful offender] program . . . and a determination that he has demonstrated that such release is compatible with the interests of society and of such person and his successful rehabilitation to that extent”).

VA	No early release on parole ⁵⁴⁸	1=1.5 ⁴⁹ 352	0%	1=1.5 ⁵⁰ 353	50%
DC	67% ⁵⁵¹	1=1.17 ⁵⁵²	43%	1 y/rehab program ⁵⁵³	43% +1y/ rehab program
OH	No early release on parole ⁵⁵⁴	1=1 ⁵⁵⁵	0%	32.9% + 10% program completion ⁵⁵⁶	39.6%
WY	No early release on parole ⁵⁵⁷	1=1.5 ⁵⁵⁸	33%	8.3% ⁵⁵⁹	38.6%
NY	No early release on parole ⁵⁶⁰	1=1.3 ⁵⁶¹	23%	17% ⁵⁶²	33% ⁵⁶³

548. VA. CODE ANN. § 53.1-165.1(E) (2025). *See also id.* § 19.2-311 (giving judges discretion to impose indeterminate sentences on defendants who were under age 21 at the time of their offenses and have no prior convictions). Indeterminate sentences imposed under *id.* § 19.2-311 must be four years in length but must include an additional suspended prison term of at least eighteen months. Defendants convicted of murder and serious sex offenses are excluded. In order to impose such a sentence, the judge must conclude that an individual defendant is “capable of returning to society as a productive citizen following a reasonable amount of rehabilitation.” *Id.* § 19.2-311(B) (2024). For prisoners who receive such sentences, the rules of parole eligibility are found in *id.* § 19.2-313 (2015) (providing no minimum term to parole eligibility, but prisoners become eligible for parole consideration only “upon certification by the Director of the Department of Corrections that the person has successfully completed the [youthful offender] program . . . and a determination that he has demonstrated that such release is compatible with the interests of society and of such person and his successful rehabilitation to that extent”).

549. *Time Computation*, VA. DEP’T. OF CORR., <https://vadoc.virginia.gov/inmates-and-probationers/incoming-inmates/time-computation/> [<https://perma.cc/2PT5-CSMM>] (last visited Feb. 16, 2026).

550. Most felonies are included in this section. For other offenders, the maximum amount of credits earned is fifteen days per thirty days served, 7.5 days per thirty days served, 3.5 days per thirty days served, or no time credit. These credits may not be used to reduce the period of time one must serve before becoming eligible for parole. VA. CODE ANN. § 53.1-202.3(B) (2025).

551. D.C. CODE § 24-408(a) (2024). Violent offenders must serve 85% of their sentence before eligibility for parole. *Id.* § 24-408(b) (2024).

552. 18 U.S.C. § 3624(b)(1); *see* D.C. CODE § 24-403.01(d) (2025).

553. D.C. CODE § 24-403.01(d-1)(1) (2019).

554. “Definite sentences” must be imposed for third, fourth, and fifth degree felonies. They are also imposed for first and second degree felonies committed before March 22, 2019. OHIO REV. CODE ANN. §§ 2929.14(A)(1)(b), (2)(b), (3)–(5) (2025).

555. NAT’L CONF. OF STATE LEGIS., *supra* note 85, at 6 (2020).

556. Individuals in Ohio state prison are eligible to earn up to 10% off of their sentence by completing educational programs, including diplomas, equivalence programs (such as a GED), and certifications. OHIO REV. CODE ANN. § 2967.194 (West 2025); OHIO ADMIN. CODE 5120-2-06(A) (2025). Following an amendment in 2024, prisoners are also able to earn an additional ten days per month of credit for active participation in rehabilitative programs, which equates to approximately 32.9% additional discount. OHIO REV. CODE ANN. § 2967.194 (West 2025).

557. WYO. STAT. ANN. § 7-13-402(a) (2025).

558. WYO. DEP’T OF CORR., POLICY AND PROCEDURE #1.500: GOOD TIME 2 (2024), <https://drive.google.com/file/d/1HFIfivJQOm8PNrUz0R1Ru9urxIAqWTId/view> [<https://perma.cc/BKG5-WWHZ>].

559. 001-0 WYO. CODE R. § 4(a) (LexisNexis 2025) (“The Board may award up to one month of special good time off the minimum sentence for every year in length of the minimum sentence, up to a maximum reduction of one year, in addition to the monthly good time allowance authorized herein.”).

560. N.Y. CORRECT. LAW § 803(1)(b) (McKinney 2025).

561. N.Y. CORRECT. LAW § 803(1)(b)–(c) (McKinney 2025). Those serving an indeterminate sentence are eligible for credits of up to 33% of their sentence for good and earned time credit. Those serving determinate sentences are eligible for a maximum of a 14% sentence reduction for good and earned time credits. This credit does not apply to those serving life sentences. *Id.*

562. N.Y. CORRECT. LAW § 803(1)(d)(iii) (McKinney 2025).

563. *Id.* § 803(1)(b)–(c).

DE	No early release on parole ⁵⁶⁴	1=1.1 ⁵⁶⁵	9% ⁵⁶⁶	10 days/month + 60days/academic program ⁵⁶⁷	33% ⁵⁶⁸
WA	No early release on parole ⁵⁶⁹	1=1.1 1=1.3 1=2 ⁵⁷⁰	50%	N/A	33% 50% 95%
MN	67% ⁵⁷¹	1=1	33%	0% ⁵⁷²	33%
GA	33% ⁵⁷³	1=1 ⁵⁷⁴	33%	50% ⁵⁷⁵	33% 83.5% ⁵⁷⁶

564. DEL. CODE ANN. tit. 11, § 3901(a) (2025); *see also id.* § 4205(a) (“A sentence of incarceration for a felony shall be a definite sentence.”); *id.* § 4204(f) (“In committing an offender to the Department of Correction the court shall fix the maximum term of incarceration.”); KEVIN R. REITZ, MELANIE GRIFFITH & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE: STATE REPORT: DELAWARE 4 (2021), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-03/delaware_doi_report_6_1_21.pdf [<https://perma.cc/KUU9-PUJF>] (stating “all sentences, other than a life sentence . . . may be reduced by good time credit,” except habitual offenders or when so ordered by the sentencing judge” (quoting DEL. CODE ANN. tit. 11, § 4381 (2025))).

565. DEL. CODE ANN. tit. 11, § 4381(c)(1)–(2) (2025).

566. *Id.* § 4381(c)(3), (d), (e); *id.* § 4381(e) (“No more than a total of 180 days of ‘good time’ may be earned in any 1 year consisting of 365 days actually served.”). This limitation equates to a rate of one day actual time served equaling 1.5 days of time which corresponds to a maximum 33% reduction.

567. *Id.* § 4381. For the information on meritorious “good time” see *id.* § 4381(d) (explaining that the ten days per month can be earned through work, rehabilitation or other approved programs, and the additional sixty day are earmarked for programs “designed to reduce recidivism”); *see* State of Del. Dep’t of Corr., Policy No. 7.2, APPLICATION OF GOOD TIME VLE.1 (2019), https://doc.delaware.gov/assets/documents/policies/policy_7-2.pdf [<https://perma.cc/M4XP-DP9N>] (last visited Feb. 16, 2026).

568. *Id.* § 4381(c)(3), (d), (e); *id.* § 4381(e) (“No more than a total of 180 days of ‘good time’ may be earned in any 1 year consisting of 365 days actually served.”). This limitation equates to a rate of one day actual time served equaling 1.5 days of time which corresponds to a maximum 33% reduction.

569. WASH. REV. CODE ANN. § 9.94A.728 (2025). Washington abolished their parole system in 1984. Currently, offenders may not be released from custody prior to the expiration of their sentence unless they earn early release time or are subject to an exception included in parts b-k of this statute. *Id.*

570. *Id.* § 9.94A.729(3)(a) (limiting aggregate earned time credit to 10% of original sentence for aggravated first degree murder and any sentences or life sentences ordered before the age of 18). *Id.* § 9.94A.729(3)(e) (providing the general limit on earned credits at 33% of the original sentence unless other conditions in § (3) provides otherwise). *Id.* § 9.94A.729(3)(d) (allowing for up to a 50% discount if offender meets certain requirements including being a nonviolent offender, with a low recidivism risk, and no methamphetamine violations among other conditions).

571. MINN. STAT. ANN. § 244.101 (2025). A standard sentence consists of a minimum term of imprisonment that is two thirds of the executed sentence and a period of supervision equal to one third of the executed sentence.

572. NAT’L CONF. OF STATE LEGISLATURES., *supra* note 85, at 4.

573. GA. CODE ANN. § 42-9-45 (2025); KEVIN R. REITZ, MATT JACOBS & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE STATE REPORT: GEORGIA 9 (2021), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2022-07/georgia_doi_report_7_7_22.pdf [<https://perma.cc/9CN6-H5VC>] (“By statute, sentences with judicial maximum terms of 21 years or more generally carry fixed minimum terms of seven years. The seven-year duration does not increase in relation to longer maximum terms for sentences of more than 21 years.”).

574. NAT’L CONF. OF STATE LEGISLATURES., *supra* note 85, at 4.

575. GA. CODE ANN. § 42-5-101(a)-(c) (2025).

576. The 50% discount available by earning credits through voluntary participation programs can be used to reduce the parole eligibility date from 33% to 16.5% of the original sentence. However, offenders that received a sentence greater than twenty-one years have a statutorily imposed seven-year minimum of actual time served making their maximum reduction 33%. *See id.*; *id.* § 42-9-45(b)(2).

SC	33% ⁵⁷⁷	1=1.11 1=1.65 ⁵⁷⁸	66% ⁵⁷⁹	19.7% 49.3% ⁵⁸⁰	27.7% 82.8% ⁵⁸¹
KS	No early release on parole ⁵⁸²	1=1.18 1=1.25 ⁵⁸³	20% ⁵⁸⁴	Up to 120 days ⁵⁸⁵	20% + 120 days
OR	80% ⁵⁸⁶	1=1.25 ⁵⁸⁷	20%	N/A	20%
FL	No early release on parole ⁵⁸⁸	1=1.33 ⁵⁸⁹	15% ⁵⁹⁰	One time 60 days for an academic program + up to 60 days for a lifesaving feat ⁵⁹¹	15% ⁵⁹²
LA	No early release on parole ⁵⁹³	1=1	0%	15% ⁵⁹⁴ 397	15%

577. More severe offenses, as outlined in the statute, are subject to a lower rate of good time per day served of 1.11 days per day served while other offenders can earn 1.65 days per day served. S.C. CODE ANN. § 24-21-610 (2025).

578. Inmates serving parole eligible sentences are eligible for twenty days of credit per month, for a maximum of 240 days per year. Those serving no-parole sentences are eligible for three days of credit per month. *Id.* § 24-13-210.

579. *Id.* § 24-13-230(A) (explaining that work credits can affect parole eligibility dates but other types of credit do not).

580. *Id.* A maximum number of 180 days of credit per year are possible for work and educational programs. Exceptions are listed in part (B) of this statute. *See infra* note 584.

581. Parole eligibility is not advanced based on good time credits. These discounts are based on the total amount of discount credits that can be earned based on the category of offense. The top number represents the maximum amount of for inmates serving no-parole sentences assuming maximum good time and earned time credits. The bottom number represents the total discount of work credits that can reduce parole eligibility by an additional 49.3%, which equates to a maximum discount of 82.8 percent.

582. KAN. STAT. ANN. § 22-3717(a) (2025).

583. For nondrug severity levels seven through ten or for drug severity levels three or four. For other crimes the good time credit is limited to 15% of the prison sentence, or the 1=1.18 rate above. *Id.* § 21-6821(b)(2)(B).

584. *See* KEVIN R. REITZ, ALLEGRA LUKAC & EDWARD E. RHINE, PRISON-RELEASE DISCRETION & PRISON POPULATION SIZE STATE REPORT: KANSAS 5 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-08/kansas_doi_report_7_28_23.pdf [<https://perma.cc/H8NJ-DJU9>]. Judges must provide “the maximum potential reduction in sentence as a result of good time,” as well as the maximum term of imprisonment and the terms of “postrelease supervision.” KAN. STAT. ANN. § 21-6804(c)(1), (2).

585. *Id.* § 21-6821(c)(1)(B) allows for 120 days of earned credit for program completion but, per KAN. ADMIN. REGS. § 44-6-127(d) (“Program credits shall not exceed 60 days on any one eligible controlling sentence, regardless of the number of programs completed.”).

586. Inmates who committed crimes after 1989 are not eligible for parole. These inmates may be granted release to post-prison supervision once they have served at least one year of their sentence and at least 80% of it. OR. REV. STAT. ANN. § 421.508(4)(b)–(5). Crimes excluded from post-prison release eligibility are listed in *id.* § 137.751.

587. An offender is eligible for a sentence reduction of 20% for good and earned credits combined. Credits may not be used to shorten the prison term to less than six months. *See* OR. REV. STAT. ANN. § 421.121(2), (4).

588. FLA. STAT. § 944.275(4)(f) (2025).

589. *Id.* § 944.275(4)(a).

590. Normally, a standard credit of 1=1.33 would reduce the sentence by 25%, but Florida’s sentencing reduction is capped at 15% maximum. *See* U.S. SENT’G COMM’N, *supra* note 389, at vi.

591. FLA. STAT. § 944.275(4)(c) (2025) (allowing a one-time educational program award for the completion of a GED or certification of completion of a vocational program for certain offenders, and allowing up to 60 days for an “outstanding deed” like saving a life or recapturing an escaped inmate).

592. *Id.* § 944.275(4)(f) (“A prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed.”).

593. Louisiana removed the possibility of parole and reduced many of their sentencing credits in effective as of August 2024. Brasted, *supra* note 398. Previously, LA. STAT. ANN. § 15:574.4(A)(1)(a) (2024) allowed parole after serving 25% of a sentence for most crimes.

594. *Id.* § 15:571.3.1(B)–(G) (2025) (“Every offender . . . may earn diminution of sentence for good behavior up to a maximum amount of fifteen percent of the particular sentence imposed The secretary of the

Federal	No early release on parole ⁵⁹⁵	1=1.17 ⁵⁹⁶	15%	0% ⁵⁹⁷	15%
ME	No early release on parole ⁵⁹⁸	1=1.13 ⁵⁹⁹	12%	0% ⁶⁰⁰	12%
NH	No early release on parole ⁶⁰¹	1=1 ⁶⁰²	0%	21 months ⁶⁰³	0% + 21 months

Department of Public Safety and Corrections shall have sole power and authority to determine when good time has been earned and when diminution of sentence may be allowed in accordance with the provisions of this Section.”).

595. U.S. SENT’G COMM’N, *supra* note 389, at vi.

596. Federal inmates are eligible for up to 54 days of good time credit for every year they are imprisoned. 18 U.S.C. § 3624(b).

597. The First Step Act has allowed eligible nonviolent federal inmates to earn 10–15 days of credit for every thirty days of participation in Evidence Based Recidivism Reduction Programs and Productive Activities. This allows offenders to accrue credits faster, but does not increase the maximum amount they could receive. *First Step Act – Frequently Asked Questions*, FED. BUREAU OF PRISON, https://www.bop.gov/inmates/fsa/faq.jsp#fsa_good_conduct_time [<https://perma.cc/99NM-VF2C>] (last visited Feb. 16, 2026).

598. ME. REV. STAT. ANN. tit. 34-A, § 5802(2) (2025). For offenders who are imprisoned for crimes committed before 1976, most are eligible for parole after serving 50% of their sentences. For those with a minimum-maximum sentence, they become eligible for a hearing by the parole board after the expiration of the minimum sentence. In Maine, the parole system was abolished in 1976 in favor of a system of supervised release. For an explanation of how Good Time Credits are applied in Maine, see MAINE DEP’T OF CORR., PRESENTATION FROM THE COMMISSION TO REEXAMINE PAROLE 3 (Oct. 7, 2022), <https://legislature.maine.gov/doc/9091#> [<https://perma.cc/5KWU-V8V7>].

599. Prior to the 125th Legislative Session for Maine, offenders were eligible for earned time credits. ME. STAT. tit. 17-A § 1253(9) (2011) (“An inmate who commits a crime after August 1, 2004 is eligible to receive up to 4 days per month of good conduct credit. Inmates convicted of murder, sex offenses, or domestic violence are not eligible for this credit.”). This provision, however, has seen been repealed. See *id.* § 1253 (2024); NAT’L CONF. OF STATE LEGIS., *supra* note 85, at 4.

600. An inmate who commits a crime after August 1, 2004 is eligible to receive three days of credit per month fulfillment of work, education, or rehabilitation programs and two days per month for fulfillment of community work, education, or rehabilitation programs. 17-A ME. REV. STAT. § 1253 (10)(A)—(B) (2011). Like the good time credits, this program was also repealed. NAT’L CONF. OF STATE LEGISLATURES, *supra* note 85, at 4.

601. N.H. REV. STAT. § 651-A:6 (2025).

602. See *id.* § 651:2(II-e) (“To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year . . . [t]his additional disciplinary period may be reduced for good conduct as provided in [N.H. REV. STAT. ANN. §] 651-A:22 and for earned time as provided in [N.H. REV. STAT. ANN. §] 651-A:22-a.”). See also *id.* § 651-A:22(III) (providing that a prisoner “may reduce the additional disciplinary period provided in RSA 651:2, II-e of such prisoner by up to 12-½ days for each month during which the prisoner has exhibited such good conduct”). Earned time credits in New Hampshire are applied as reductions from both the judicial minimum and maximum terms, see *id.* § 651-A:22-a(I), but are limited to total reductions of twenty-one months. *Id.* § 651-A:22-a(IV).

603. Ninety days of credit are earned for a high school equivalency certificate, 120 days are earned for a high school diploma, 180 days are earned for an associates, bachelor’s, master’s, or doctorate. Sixty days are earned for completion of vocational programming, mental health programming, family connections center programming, correctional industries on-the-job training, or other eligible programs. N.H. REV. STAT. ANN. § 651-A:22-a (IV). KEVIN R. REITZ, MELANIE GRIFFITH & EDWARD E. RHINE, PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE STATE REPORT: NEW HAMPSHIRE 15 (2023), https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/2023-02/new_hampshire_doi_report_2_13_22.pdf [<https://perma.cc/MG3S-WF3D>] (“There is a statutory ceiling on earned-time credits of 21 months in New Hampshire, which cuts off total earnings no matter how long the maximum term.”).

NC	No early release on parole ⁶⁰⁴	1=1 ⁶⁰⁵	0%	0 ⁶⁰⁶	0%
MI	No early release on parole ⁶⁰⁷	1=1	0%	0%	0%

APPENDIX B: SENTENCES PUBLICLY IMPOSED VERSUS ACTUAL TIME SERVED
FOR SPECIFIC OFFENSES⁶⁰⁸
(SORTED BY RE-INCARCERATION RATE, COL. 7)

TABLE 1: AGGRAVATED ASSAULT

1. State ⁶⁰⁹	2. Average sentence imposed (years) ⁶¹⁰	3. Average time actually served (years) ⁶¹¹	4. Average discount provided (years) ⁶¹²	5. Average % discount provided ⁶¹³
MT	5.0	1.9	3.1	61.4%
KY	4.4	1.9	2.5	56.1%
PA	6.4	2.8	3.6	56.1%
MO	4.0	2.0	2.0	49.0%
CA	3.8	1.9	1.9	48.6%
TX	4.0	2.3	1.7	41.5%
WA	3.2	1.9	1.3	39.2%
CO	5.1	3.1	2.0	39.1%
NC	1.9	1.2	0.7	38.3%
MS	4.4	2.7	1.7	38.2%
GA	1.7	1.1	0.6	37.0%
AZ	2.8	1.9	0.9	33.4%
IN	2.2	1.5	0.7	33.3%
DE	2.4	1.6	0.8	32.5%
MN	1.1	0.7	0.4	32.5%
TN	2.9	2.0	0.9	29.8%
MD	3.2	2.2	1.0	29.2%
LA	2.2	1.6	.6	28.7%
AL	2.7	1.9	0.8	27.4%
MA	2.9	2.1	0.8	26.0%
NE	2.3	1.7	0.6	25.5%
IL	2.2	1.7	0.5	24.9%
KS	2.1	1.6	0.5	24.9%

604. N.C. GEN. STAT. ANN. § 20-179(p)(2) (2025).

605. Good time is awarded only to those sentenced for offenses committed prior to Oct 1, 1994. N.C. DEPT. PUB. SAFETY, B-0100-01-07-21 Sentence Credits 1 (Jan. 7, 2021), <https://www.ncdps.gov/b-0100-01-07-21/open> [<https://perma.cc/GB3R-CXB5>].

606. N.C. GEN. STAT. ANN. § 148-13(a1) (2025) (“The Secretary of the Department of Adult Correction shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions.”).

607. MICH. COMP. LAWS ANN. § 769.34(2)(b) (2025); *id.* § 791.233.

608. All data taken from the National Corrections Reporting Program of people incarcerated between 1991 and 2020. U.S. BUREAU OF JUST. STAT., *supra* note 154.

609. These tables include all the states that provided data to the National Corrections Reporting Program, with states that had insufficient data from the program listed as “N/A.” States that did not provide data to the Reporting Program and therefore are not the tables include Alaska, Arkansas, Connecticut, Hawaii, Idaho, Vermont, and Virginia. *Id.*

610. This column represents the average sentence (in years) for each of the defined offenses for state prisoners that were released between 1991 and 2020 as provided by the National Corrections Reporting Program. *Id.*

611. This column represents the average time an individual primarily incarcerated for that offense actually spent in prison (in years) based on their admitted year and release year. This number does not include the time served by prisoners that have yet to be released. *Id.*

612. This figure represents the difference between column 3 and column 4.

613. This figure represents the percentage that column 4 represents of column 2.

OR	3.4	2.6	0.8	23.3%
SC	2.2	1.7	0.5	22.9%
RI	0.8	0.6	0.2	19.9%
WV	2.4	2.0	0.4	18.6%
NY	3.5	2.8	0.7	18.5%
FL	2.6	2.1	0.5	18.1%
NJ	2.9	2.4	0.5	17.2%
NV	2.4	2.0	0.4	16.1%
OH	2.2	1.9	0.3	14.7%
WI	1.9	1.6	0.3	14.5%
ND	1.7	1.4	0.3	13.3%
SD	2.0	1.8	0.2	9.4%
MI	4.1	3.8	0.3	7.5%
OK	2.9	2.8	0.1	3.6%
WY	2.3	2.3	0	0%
IA	N/A	N/A	N/A	N/A
ME	N/A	N/A	N/A	N/A
NH	N/A	N/A	N/A	N/A
NM	N/A	N/A	N/A	N/A
UT	N/A	N/A	N/A	N/A
DC	N/A	N/A	N/A	N/A
Seven states provided no information to the National Corrections Reporting Program: Alaska, Arkansas, Connecticut, Hawaii, Idaho, Vermont, and Virginia ⁶¹⁴				

614. These states did not provide any information to the National Corrections Reporting Program. The states listed as "N/A," however, provided partial data to the Reporting Program, but this data was insufficient to calculate time served and sentencing discounts. For instance, a state like New Mexico provided data describing lists of people incarcerated with demographics data and information on what offense they were convicted of, but insufficient sentencing data to formulate the columns in this Appendix B, while a state like Alaska provided no data at all that is publicly available. U.S. BUREAU OF JUST. STAT., *supra* note 154.

TABLE 2: ROBBERY⁶¹⁵

1. State	2. Average sentence imposed (years)	3. Average time actually served (years)	4. Average discount provided (years)	5. Average % discount provided
MT	6.0	2.0	4.0	66.7%
GA	2.9	1.1	1.8	64.5%
KY	7.1	2.6	4.5	64.0%
PA	6.7	2.7	4.0	60.1%
CA	4.9	2.2	2.7	55.0%
AZ	4.2	2.3	1.9	44.2%
MO	6.4	3.7	2.7	42.6%
TX	7.6	4.5	3.1	41.0%
RI	3.4	2.1	1.3	37.6%
DE	4.3	2.8	1.5	35.0%
WA	4.4	2.9	1.5	33.9%
TN	4.3	2.9	1.4	32.5%
CO	5.1	3.5	1.6	31.4%
AL	4.0	2.8	1.2	30.9%
IL	3.1	2.2	0.9	30.8%
MD	5.4	3.7	1.6	30.5%
MA	4.3	3.0	1.3	29.4%
MI	6.1	4.5	1.6	25.5%
NE	4.2	3.2	1.0	24.5%
FL	5.0	3.8	1.2	23.9%
LA	7.9	6.2	1.7	21.0%
NV	4.0	3.2	0.8	20.5%
SD	4.4	3.5	0.9	20.1%
OK	8.4	6.7	1.7	19.8%
IN	3.6	2.9	0.7	19.7%
WV	5.1	4.1	1.0	19.7%
DC	2.0	1.6	0.4	19.7%
KS	4.3	3.5	0.8	19.5%
NY	3.3	2.7	0.6	18.5%
OH	4.0	3.3	0.7	18.4%
SC	5.1	4.2	0.9	17.8%
NC	3.7	3.0	0.6	17.6%
WI	4.0	3.4	0.6	16.6%
ND	3.0	2.5	0.5	16.3%
WY	4	3.4	0.6	16.3%
MS	6.3	5.3	1.0	15.1%
OR	5.3	4.6	0.7	12.7%
NJ	4.3	3.8	.5	10.9%
MN	1.6	1.6	0	0.6%
IA	N/A	N/A	N/A	N/A
ME	N/A	N/A	N/A	N/A
NH	N/A	N/A	N/A	N/A
NM	N/A	N/A	N/A	N/A
UT	N/A	N/A	N/A	N/A

Seven states provided no information to the National Corrections Reporting Program: Alaska, Arkansas, Connecticut, Hawaii, Idaho, Vermont, and Virginia.⁶¹⁶

615. Heading explanations to the first table apply to all the tables in this Appendix.

616. These states did not provide any information to the National Corrections Reporting Program. The states listed as "N/A," however, provided partial data to the Reporting Program, but this data was insufficient to calculate time served and sentencing discounts. For instance, a state like New Mexico provided data describing lists of people incarcerated with demographics data and information on what offense they were convicted of, but insufficient sentencing data to formulate the columns in this Appendix B, while a state like Alaska provided no data at all that is publicly available. U.S. BUREAU OF JUST. STAT., *supra* note 154.

TABLE 3: MURDER

1. State	2. Average sentence imposed (years)	3. Average time actually served (years)	4. Average discount provided (years)	5. Average % discount provided
T	22.6	4.7	17.9	79.4%
KY	17.8	7.0	10.8	60.4%
PA	14.7	6.3	8.3	56.8%
CO	27.7	12.8	14.9	53.8%
DE	17.7	9.0	8.7	49.1%
NV	13.0	7.3	5.7	44.1%
TX	20.7	12.4	8.3	40.2%
TN	14.1	8.8	5.3	37.8%
CA	11.0	6.8	4.2	37.6%
IL	15.2	10.1	5.1	33.7%
ND	16.9	11.2	5.7	33.7%
AZ	10.7	7.1	3.6	33.6%
MI	20.3	13.5	6.8	33.3%
MN	9.4	6.2	3.2	33.3%
WY	10.5	7.3	3.2	31.2%
NY	16.2	11.4	4.8	30.0%
WA	17.6	13.0	4.6	25.8%
OK	16.9	12.6	4.3	25.3%
MO	12.8	9.8	3.0	23.6%
FL	11.2 ⁶¹⁷	8.6	2.6	23.2%
KS	14.3	11.1	3.2	22.5%
AL	10.7	8.4	2.3	21.5%
WV	9.7	7.6	2.1	21.5%
OR	22.5	17.7	4.8	21.2%
OH	16.7 ⁶¹⁸	13.4	3.3	19.7%
MD	13.8	11.9	1.9	14.0%
IN	13.8	12.3	1.5	10.6%
WI	10.0	9.5	0.5	4.4%
NC	12.5	12.3	0.19	1.5%
MA	7.0	7.0	0.0	0.0%
SD	10.8	11.6	-0.8	-7.4%
NJ	9.1	9.9	-0.8	-8.0%
SC	11.4	12.6	-1.2	-10.3%
NE	11.4	12.9	-1.5	-13.9%
LA	13.1	16.9	-3.8	-28.7%
MS	10.0	13.1	-3.1	-31.4%
GA	6.4	8.5	-2.1	-31.9%
IA	N/A	N/A	N/A	N/A
ME	N/A	N/A	N/A	N/A
NH	N/A	N/A	N/A	N/A
NM	N/A	N/A	N/A	N/A
RI	N/A	N/A	N/A	N/A
UT	N/A	N/A	N/A	N/A
DC	N/A	N/A	N/A	N/A
Seven states provided no information to the National Corrections Reporting Program: Alaska, Arkansas, Connecticut, Hawaii, Idaho, Vermont, and Virginia. ⁶¹⁹				

617. Florida reformed their sentencing practices in the 1980s to remove the possibility of parole. FLA. STAT. ANN. § 944.275 (2025). However, some individuals sentenced prior to the reform remained eligible for parole. *Id.* § 944.275(6)(a). As such, we have excluded these individuals from the calculation as some sentences were 2,000-5,000 years long and disproportionately affected the average sentences and discounts available. When including these values, Florida has an average sentence of 563.4 years and an average time served of 9.7 years, representing a 98.3% discount.

618. As with Florida, some older sentences skewed the results, so we filtered them out of our analysis. When including those pre-sentencing reform individuals, the average sentence was 125.0 years with an average time served of 14.7 years, representing an 88.3% discount.

619. These states did not provide any information to the National Corrections Reporting Program. The states listed as "N/A," however, provided partial data to the Reporting Program, but this data was insufficient to calculate time served and sentencing discounts. For instance, a state like New Mexico provided data describing lists

TABLE 4: RAPE

1. State	2. Average sentence imposed (years)	3. Average time actually served (years)	4. Average discount provided (years)	5. Average % discount provided
WV	18.7	4.4	14.2	76.1%
SD	12.9	4.0	8.9	68.9%
CA	6.7	2.7	4.0	59.5%
KY	8.0	3.8	4.2	52.7%
MT	7.8	3.7	4.1	52.4%
AZ	6.5	3.3	3.2	48.7%
NC	6.7	3.6	3.1	46.4%
GA	2.1	1.1	1.0	45.4%
PA	10.2	5.7	4.5	44.9%
MD	9.5	5.5	4.0	42.1%
AL	6.5	3.9	2.6	40.0%
CO	6.7	4.2	2.5	37.7%
DE	5.6	3.5	2.1	37.2%
KS	6.2	4.2	2.0	32.3%
TX	9.4	6.5	2.9	30.5%
WY	9.4	6.5	2.9	30.5%
TN	7.3	5.2	1.9	29.5%
MO	6.6	4.6	2.0	29.4%
IL	4.5	3.2	1.3	27.9%
OH	7.5	5.4	2.1	27.3%
FL	5.7	4.3	1.4	24.6%
OR	7.7	5.8	1.9	24.4%
OK	6.8	5.1	1.7	24.3%
IN	3.8	2.9	0.9	24.1%
MA	7.9	6.1	1.8	22.6%
RI	4.9	3.8	1.1	22.0%
LA	9.6	7.6	2.0	21.5%
NE	5.0	4.0	1.0	21.0%
WA	5.1	4.1	1.0	18.3%
WI	4.4	3.6	0.8	18.1%
ND	4.0	3.3	0.7	18.0%
NY	4.0	3.6	0.4	11.8%
NV	7.0	6.3	0.7	10.3%
SC	5.3	4.8	0.5	9.6%
MS	6.9	6.5	0.4	5.2%
NJ	4.4	4.2	0.2	5.0%
MI	6.1	6.0	0.1	1.6%
MN	2.0	2.0	0	0%
IA	N/A	N/A	N/A	N/A
ME	N/A	N/A	N/A	N/A
NH	N/A	N/A	N/A	N/A
NM	N/A	N/A	N/A	N/A
UT	N/A	N/A	N/A	N/A
DC	N/A	N/A	N/A	N/A

Seven states provided no information to the National Corrections Reporting Program: Alaska, Arkansas, Connecticut, Hawaii, Idaho, Vermont, and Virginia⁶²⁰

of people incarcerated with demographics data and information on what offense they were convicted of, but insufficient sentencing data to formulate the columns in this Appendix B, while a state like Alaska provided no data at all that is publicly available. U.S. BUREAU OF JUST. STAT., *supra* note 154.

620. These states did not provide any information to the National Corrections Reporting Program. The states listed as "N/A," however, provided partial data to the Reporting Program, but this data was insufficient to calculate time served and sentencing discounts. For instance, a state like New Mexico provided data describing lists of people incarcerated with demographics data and information on what offense they were convicted of, but insufficient sentencing data to formulate the columns in this Appendix B, while a state like Alaska provided no data at all that is publicly available. *Id.*

APPENDIX C: AUTHORIZED DISCOUNT AVAILABLE, AVERAGE DISCOUNT PROVIDED, AND THREE-YEAR RE-INCARCERATION RATE
(SORTED BY RE-INCARCERATION RATE, COL. 7)

1. State	2. Total Possible Discount ⁶²¹ (App A, col 6)	3. Average Discount Provided – Aggravated Assault ⁶²² (App B, Tbl 1, col 5)	4. Average Discount Provided – Robbery ⁶²³ (App B, Tbl 2, col 5)	5. Average Discount Provided – Murder ⁶²⁴ (App B, Tbl 3, col 5)	6. Average Discount Provided – Rape ⁶²⁵ (App B, Tbl 4, col 5)	7. Average Three year re-incarceration rate ⁶²⁶ (avg of 2022 ⁶²⁷ & 2023 ⁶²⁸)
AK	83.5%	N/A	N/A	N/A	N/A	61.6%
DC	43% + 1y/rehab program	N/A	N/A	N/A	N/A	57.1%
NM	85% + 1y/rehab program	N/A	N/A	N/A	N/A	49.1%
TN	89% + 120 days	29.8%	32.5%	37.8%	29.5%	47.2%
AR	91% + 360 days	N/A	N/A	N/A	N/A	46.8%
CT	78.8%	N/A	N/A	N/A	N/A	46.5%
UT	100%	N/A	N/A	N/A	N/A	46%*
SD	75%	9.4%	20.1%	-7.4%	68.9%	44.4%
PA	100%	56.1%	60.1%	56.8%	44.9%	43.9%
NH	0% + 21 months	N/A	N/A	N/A	N/A	43.5%
KY	90.7%	56.1%	64.9%	60.4%	52.7%	43.3%
VT	61.5%	N/A	N/A	N/A	N/A	43.2%
CO	81.5% + 120 days	39.1%	31.4%	53.8%	37.7%	42.5%
NY	33% ⁶²⁹	18.5%	18.5%	30.0%	11.8%	41.8%
ND	100%	13.3%	16.3%	33.7%	18.0%	41.2%*
MD	75% 87.5	29.2%	30.5%	14.0%	42.1%	40.5%*
WI	75%	14.5%	16.6%	4.4%	18.1%	38.7%
IL	60% + 450 days	24.9%	30.8%	33.7%	27.9%	38.5%*
MT	75%	61.4%	66.7%	79.4%	52.4%	38.2%
IA	100%	N/A	N/A	N/A	N/A	37.9%

621. This column displays the total possible discount that an offender can receive on their sentence by maximizing all available credits and being granted parole the instant they are eligible. For citations, see *supra* notes 441–610.

622. This column represents the average discount off their minimum sentence of offenders convicted of aggravated assault based on the average minimum sentence and average time served for the offense as determined from the National Corrections Reporting Program. U.S. BUREAU OF JUST. STAT., *supra* note 154.

623. This column represents the average discount off their minimum sentence of offenders convicted of robbery based on the average minimum sentence and average time served for the offense as determined from the National Corrections Reporting Program. *Id.*

624. This column represents the average discount off their minimum sentence of offenders convicted of murder based on the average minimum sentence and average time served for the offense as determined from the National Corrections Reporting Program. *Id.* The National Corrections Reporting Program defines murder to also include non-negligent manslaughter. *Id.*

625. This column represents the average discount off their minimum sentence of offenders convicted of rape/sexual assault based on the average minimum sentence and average time served for the offense as determined from the National Corrections Reporting Program. *Id.*

626. This column displays the average recidivism rate over three years for offenders released from prison in 2022 and 2023. The values for these years were averaged, unless otherwise noted in the chart. Some calculated discounts exceed the total discount determined in Column 2. This difference suggests that states are finding alternative ways to reduce time served beyond early release on parole and sentencing credits. *Id.*

627. TAMA CELL, BRITTNEY VIA & MEGAN SKOLNICK, VA. DEP'T CORR., STATE RECIDIVISM SURVEY 2 (2023), <https://vadoc.virginia.gov/media/1818/vadoc-state-recidivism-comparison-report-2023-01.pdf> [<https://perma.cc/JNG8-EVRE>].

628. *Recidivism Rates by State 2025*, WORLD POPULATION REV., <https://worldpopulationreview.com/state-rankings/recidivism-rates-by-state> [<https://perma.cc/X8YE-677X>] (last visited Feb. 16, 2026).

629. N.Y. CORRECT. LAW § 803(1)(b)–(c) (2024).

MS	89%	38.2%	22.5%	-31.4%	5.2%	36.1%
IN	100%	33.3%	19.7%	10.6%	24.1%	36%*
ID	100%	N/A	N/A	N/A	N/A	35.9%
AZ	62%	33.4%	44.2%	33.6%	48.7%	35.1%
MO	92.5%	49.0%	42.6%	23.6%	29.4%	34.6%
WY	38.6%	0%	16.3%	31.2%	30.5%	33.8%*
KS	20% + 120 days	24.9%	19.5%	22.5%	32.3%	33.5%
OH	39.6%	14.7%	18.4%	19.7%	27.3%	32.7%
MA	67.5%	26.0%	29.4%	0.0%	22.6%	30.5%
NJ	53.8%	17.2%	10.9%	-8.0%	5.0%	30.4%
NE	55.9%	25.5%	24.5%	-13.9%	21.0%	30.2%*
WA	33% 50% 95%	39.2%	33.9%	25.8%	18.3%	29.1%
AL	100%	27.4%	30.9%	21.5%	40.0%	29.0%
WV	50% + 90 days/achievement	18.6%	19.7%	21.5%	76.1%	27.8%
LA	15%	28.7%	21.0%	-28.7%	21.5%	27.4%
ME	12%	N/A	N/A	N/A	N/A	26.3%*
NV	98%	16.1%	20.5%	44.1%	10.3%	25.6%
MI	0%	7.5%	25.5%	33.3%	1.6%	25.1%
MN	33%	32.5%	0.6%	33.3%	0%	24.5%
FL	15%	18.1%	23.9%	23.2%	24.6%	23.3%
OK	75% 66% + 200 days/achievement	3.6%	19.8%	25.3%	24.3%	22.6%*
VA	50%	N/A	N/A	N/A	N/A	21.5%
TX	98.4%	41.5%	41.0%	40.2%	30.5%	20.3%*
SC	27.7% 82.8%	22.9%	17.8%	-10.3%	9.6%	20.2%
OR	20%	23.3%	12.7%	21.2%	24.4%	13.1%*
RI	92.6% + 30 days	19.9%	37.6%	N/A	22.0%	N/A
DE	33%	32.5%	35.0%	49.1%	37.2%	N/A
GA	33% 83.5%	37.0%	64.5%	-31.9%	45.4%	N/A
NC	0%	38.3%	17.6%	1.5%	46.4%	N/A
CA	100%	48.6%	55.0%	37.6%	59.5%	N/A
HI	100%	N/A	N/A	N/A	N/A	N/A
Fed.	15%	N/A	N/A	N/A	N/A	N/A

*Reincarceration rate is from 2023 only.