



County Technical Assistance Service

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Sentence Reduction Credits

Dear Reader:

The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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Sentence Reduction Credits

Reference Number: CTAS-1395

There is no right under the Constitution to earn or receive sentence credits. *Miller v. Campbell*, 108 F.Supp.2d 960, 966 (W.D. Tenn. 2000), citing *Hansard v. Barrett*, 980 F.2d 1059, 1062 (6th Cir. 1992). Neither is there any fundamental right to parole or to release from a sentence of incarceration that has itself been lawfully imposed. *Id.*, citing *Greenholtz v. Nebraska Penal Inmates*, 442 U.S. 1, 7, 99 S.Ct. 2100, 60 L.Ed.2d 668 (1979).

Road work performed by a prisoner under T.C.A. § 41-2-123(b) shall be credited toward reduction of the prisoner's sentence as follows: for each one day worked on the road by the prisoner, the prisoner's sentence shall be reduced by two days. T.C.A. § 41-2-123(b)(3). Work performed by a prisoner under T.C.A. § 41-2-146 shall be credited toward reduction of the prisoner's sentence as follows: for each one day worked on such duties by the prisoner, the sentence shall be reduced by two days. T.C.A. § 41-2-146(b). See also T.C.A. § 41-2-147 (Work performed by a prisoner under T.C.A. § 41-2-147 shall be credited toward reduction of the prisoner's sentence as follows: for each one day worked on such duties by the prisoner, the sentence shall be reduced by two days.); Op. Tenn. Atty. Gen. No. 03-125 (September 29, 2003).

Any prisoner receiving sentence credits under T.C.A. § 41-2-147 is not eligible for good time credits authorized by T.C.A. § 41-2-111. T.C.A. § 41-2-147(c).

FELONY OFFENDERS. Sentence reduction credits for good institutional behavior as authorized by T.C.A. § 41-21-236 for state prisoners serving sentences in county jails shall likewise apply in accordance with the terms of T.C.A. § 41-21-236, and under the criteria, rules and regulations established by the Department of Correction, to all felony offenders serving sentences of one or more years in local jails or workhouses and to all inmates serving time in county jails or workhouses because the inmate's commitment to the Department of Correction has been delayed due to invocation of the governor's emergency overcrowding powers or through an injunction from a federal court restricting the intake of inmates into the Department of Correction. When T.C.A. § 41-21-236 is applied to such offenders, references therein to "warden" are deemed references to the superintendent or jailer, as appropriate. Such felony offenders are not eligible to receive any other sentence credits for good institutional behavior provided that in addition to the sentence reduction credits for good institutional behavior as authorized by T.C.A. § 41-21-236, such felony offenders may receive any credits for which they are eligible under Title 41, Chapter 2, for work performed or satisfactory performance of job, educational or vocational programs. T.C.A. § 41-21-236(d).

With respect to sentence reduction credits, when a state inmate is serving a sentence in a county jail the sheriff is deemed to be a warden pursuant to T.C.A. § 41-21-236(d) and is, therefore, required to keep written records on a monthly basis of the sentence reduction credits a prisoner has earned. T.C.A. § 41-21-236(a)(3). Because prisoners may become ineligible to earn sentence reduction credits (see T.C.A. § 41-21-236(b)(7)) and may also be deprived of sentence reduction credits they have already earned (see T.C.A. § 41-21-236(a)(5), (6)), these records must reflect any actions that either render a prisoner ineligible to earn sentence credits or deprive a prisoner of previously earned sentence reduction credits. *Cooley v. May*, 2001 WL 1660830, *6 (Tenn. Ct. App. 2001).

"Although no statute or rule expressly requires a sheriff housing a state prisoner to send an accounting of a prisoner's sentence reduction credits to the Department of Correction, this obligation is a necessary part of T.C.A. § 41-21-236(a)(3). It would be nonsensical to allow state prisoners to earn sentence reduction credits while they are incarcerated in a county jail but then not to require a sheriff to inform the Department of Correction – the legal custodian of the prisoner – how many sentence reduction credits the prisoner had earned or forfeited on a monthly basis." *Id.*

A defendant is given credit on his sentence by the trial court for any period of time in which the defendant was committed and held in the county jail or workhouse pending arraignment and trial, provided the time spent in jail arises out of the original offense for which the defendant was tried. Tenn. Code Ann. § 40-23-101(c). The statute provides specifically in pertinent part:

The trial court shall, at the time the sentence is imposed and the defendant is committed to jail, the workhouse or the state penitentiary for imprisonment, render the judgment of the court so as to allow the defendant credit on the sentence *for any period of time* for which the defendant was committed and held in the city jail or juvenile court

detention prior to waiver of juvenile court jurisdiction, or county jail or workhouse, pending arraignment and trial.

(emphasis added). The provisions of this code section are mandatory. *Stubbs v. State*, 216 Tenn. 567, 393 S.W.2d 150 (1965). Pretrial jail credit must be documented by the court in the judgment order. Tenn. Code Ann. § 40-35-209(e)(1)(P). Pretrial jail credits affect release eligibility and sentence expiration in the same manner as other types of credit for time served. Tenn. Attny. Gen 11-12 (January 27, 2011)

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