



Testimony for the House Judiciary Committee

Thursday, March 28, 2024

SB 1098 – Correctional Services –

Diminution Credits – Sexual Offenses

OPPOSE

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The ACLU of Maryland urges an unfavorable report on SB 1098, which seeks to prohibit incarcerated individuals serving sentences for first-degree rape and sexual offenses from earning diminution credits to reduce their terms of confinement. Under current law, generally incarcerated individuals are eligible to earn diminution credits based on good conduct, completed work tasks, education programs, and special projects or initiatives, and the credits serve as a behavioral incentive and to reduce prison overcrowding.¹

Diminution credits may be categorized under reward systems in prison, which are commonly used worldwide in order to influence the behavior and attitudes of incarcerated individuals.² Reward systems, such as diminution credits, apply the technique of providing rewards contingent on display of ‘good’ behavior and removing rewards following misbehavior.³

Diminution credits help to maintain safety in facilities

The possibility of earning enough credits to be released early incentivizes prisoners to comply with facility rules. The same principle applies to the use of parole. As the chair of the Parole Commissioner recognized, “[Parole] is a reward for good behavior and lowers the threat of violence on our prison staff. If you were a lifer

¹ Rossmark, Claire E., Shirleen M.E. Pilgrim and Michael S. Raup. (December 2020). Department of Legislative Services, Office of Policy Analysis, Annapolis, Maryland. *Maryland Diminution Credit System*. Retrieved from <https://dls.maryland.gov/pubs/prod/CourtCrimCivil/Maryland-Diminution-Credit-System.pdf>.

² Elbers, Jan Maarten, van Ginneken, Nieuwbeertg, Boone, and Palmen. (December 2022). *International Journal of Law, Crime and Justice. The effects of reward systems in prison: A systematic review*. Retrieved from <https://www.sciencedirect.com/science/article/pii/S1756061622000349>.

³ *Id.*

and knew you could never get out, you could do what you wanted to. Parole is the primary reason inmates adjust to prison.” Courts have recognized this incentive as well—good conduct credits are a behavioral incentive and a means of reducing prison overcrowding. *Stouffer v. Staton*, 152 Md.App. 586, 592 (2003).

In fact, according to the Fiscal and Policy Note accompanying a prior iteration of this bill, the Department of Public Safety and Correctional Services relies heavily on diminution credits in order to maintain safety--

DPSCS advises that it uses an inmate’s ability to earn diminution credits as an incentive to encourage good behavior and participate in rehabilitative programs and/or work programs. By eliminating the applicability of diminution credits for inmates serving a life sentence, DPSCS advises that it loses the ability to modify inmate behavior. In addition, DPSCS advises that the elimination of diminution credits could decrease the number of inmates who are working or participating in programming and increase institutional violence.⁴

Diminution credits may reduce prison costs

Diminution credits allow persons convicted and imprisoned to earn early release through good behavior and by engaging in productive activities inside. Maryland spends an estimated \$38,383 per prisoner annually.⁵ Other states have recognized and capitalized on the cost savings of earned credit programs—the New York Department of Corrections saved \$369 million from 1997–2006 due to sentence reductions. Washington State also reported saving an average of \$7,179 per inmate due to earned credit programs.⁶

Diminution credits have the potential to reduce recidivism

A recent study by the National Conference of State Legislators found that states with earned credit programs actually report lower recidivism rates than states that do not have similar programs.⁷ For example, Wisconsin found that 17% of inmates released early recidivated after the first year, as compared with 28% of those who recidivated after serving the full mandatory sentence.⁸

For the foregoing reasons, the ACLU of Maryland urges an unfavorable report on SB 1098.

⁴ SB 210 Correctional Services - Murder - Diminution Credits, Fiscal and Policy Note (2018).

⁵ Vera Institute of Justice, *The Price of Prisons, what incarceration costs taxpayers: Maryland* (Jan. 2012).

⁶ National Conference of State Legislators, *Cutting Corrections Costs: Earned Time Policies for State Prisoners* (July 2009).

⁷ *Id.*

⁸ *Id.*

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