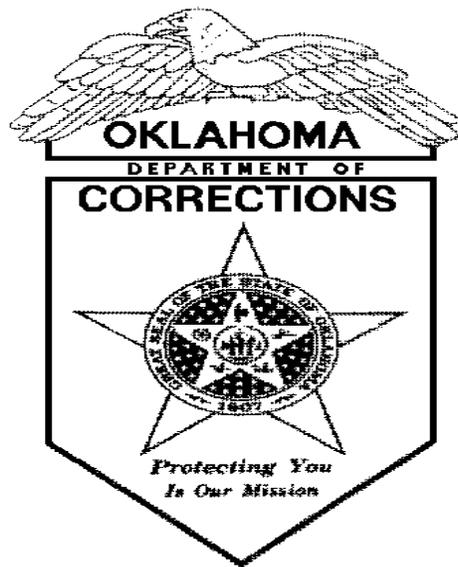


**THE SERVICE OF SENTENCES AND  
CREDIT APPLICABLE TO OFFENDERS IN CUSTODY  
OF THE  
OKLAHOMA DEPARTMENT OF CORRECTIONS**



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# **The Service of Sentences and Credit Applicable to Offenders in Custody of the Oklahoma Department of Corrections**

## **I. Introduction**

The mission of the Oklahoma Department of Corrections is to:

1. Protect the public
2. Protect the employee
3. Protect the offender

The Department of Corrections protects the public by maintaining offenders remanded to its custody for the duration of their sentences of confinement or supervision. All sentences are served and monitored according to Oklahoma state statute and applicable case law. The following is a brief overview of the policies based on state law regarding the service of sentences.

## **II. Incarceration**

Most incarcerated offenders are eligible by Oklahoma statute to have their term of imprisonment reduced by earning credits. A credit is equal to a day.

When an inmate is received at Lexington Assessment and Reception Center (males) or Mabel Bassett Assessment and Reception Center (females), a beginning release date is established by adding the term of incarceration, as designated by the judgment and sentence, to the reception date. This date is then converted to days remaining to serve. Each month, thereafter, the days remaining to be served are updated based upon the number of credits earned or lost and the number of days served. When the days remaining to serve reaches "0", the inmate has discharged the sentence.

After classification at an assessment and reception center the inmate will be transferred to an appropriate security level at a correctional facility.

### **A. Time Spent in County Jail**

#### **1. Jail Time**

57 O.S. 138, provides that all offenders sentenced to the Department of Corrections to a term of incarceration are entitled to have deducted from their sentence the number of days spent in the county jail under the same case number. If court ordered, time spent in a state mental institution for evaluation of competency is also applied as a sentence reduction credit. A judge may specifically order that an inmate not receive jail time credits.

#### **2. Deferred Reception Credits**

Effective September 1, 1993, 57 O.S. 138 provides that offenders sentenced to imprisonment in the Department of Corrections, but detained in the county jail because of the department's reception scheduling procedure, will be awarded earned credits at the rate of Class Level 2 beginning the date of the judgment and sentence to the day of reception. The amount of credit will be determined by multiplying the number of days by .73.

### **B. Earned Credit Classes**

Effective November 1, 1988, 57 O.S. 138 provides that every inmate will be assigned to one of four class levels. Class level assignments are determined by the adjustment review committee/unit treatment team based upon the desired behavior of the inmate in all areas of institutional life: work attendance and productivity, conduct

record, program participation, cooperative general behavior, and appearance of self and living area.

Effective November 1, 2001, 57 O.S. 138, provides for two enhanced levels of credit for inmates who have never been convicted as an adult or a youthful offender or adjudicated delinquent as a juvenile for any of the felony crimes listed in 57 O.S. 138, subsection E. Eligible inmates assigned to Levels 3 or 4 are awarded credit at the enhanced rates.

The class levels and their corresponding credits are as follows:

- Class Level 1 - 0 credits per month
- Class Level 2 - 22 credits per month
- Class Level 3 - 33 credits per month
- Class Level 4 - 44 credits per month
- Enhanced Class Level 3 - 45 credits per month
- Enhanced Class Level 4 - 60 credits per month

1. Class Level Criteria

a. Class Level 1

Inmates will be assigned to Level 1 under the following circumstances:

- (1) When placed on escape status
- (2) When incarcerated under the Delayed Sentencing Program for Young Adults, 22 O.S. 996.1
- (3) When serving a sentence of death
- (4) While assigned to segregation housing
- (5) Upon conviction of a Class X misconduct (prison rule violation)

b. Class Level 2

Inmates will be assigned to Level 2 upon their reception at the Lexington Assessment and Reception Center. To maintain this level of earning, the inmate must receive good evaluations for participation in a work or program assignment, good evaluations for personal hygiene and maintenance of living area, meet program participation requirements, and maintain a satisfactory attitude and relationship with staff and other inmates.

c. Class Level 3

Inmates may be considered for a promotion to Level 3 after being incarcerated for at least three months, receiving excellent work or program evaluations, excellent evaluations for personal hygiene and maintenance of living area, have no active Class X misconduct or escape custody assessment points, meet program participation requirements, and maintain a satisfactory attitude and relationship with staff and other inmates.

d. Class Level 4

Inmates may be considered for a promotion to Level 4 after being incarcerated for at least eight months, receiving outstanding work or program evaluations, and outstanding evaluations for personal hygiene and maintenance of living area, have no active Class X misconduct or escape custody assessment points, meet program requirements, and maintain a satisfactory attitude and relationship with staff and other inmates.

**C. Other Types of Credit**

1. Achievement Credit

Effective November 1, 1988, achievement earned credits for successful completion of departmentally approved programs, or for attaining set goals, or standards, will be awarded. These credits can be earned through participation in a variety of programs such as substance abuse, cognitive/behavioral, education, and vocational training. This credit is authorized per 57 O.S. 138.

2. Meritorious Earned Credit

Inmates who perform meritorious acts involving property preservation or matters of life, security, or safety are eligible to receive up to 100 credits for each act. This credit is authorized per 57 O.S. 138.1.

3. Emergency Time Credit

This credit was mandated per 57 O.S. 570, the “Oklahoma Prison Overcrowding Emergency Powers Act” and commonly referred to as “Cap” credit. The act was in effect from April 4, 1984 until its repeal effective July 1, 2001.

Upon the declaration by the Governor that a state of emergency existed within the penal system, the director of the Department of Corrections authorized each facility to grant 60 days of emergency time credit to all eligible inmates. An emergency existed whenever the inmate population exceeded 95 percent of authorized capacity. Once an emergency was declared, the director was authorized by law to grant the credit every 60 days for as long as the emergency existed. Effective July 1, 1989, no inmate received more than 360 days of emergency time credit during a year.

Eligibility for emergency time credits was determined by the following criteria:

- a. Classified as medium security or lower
- b. Incarcerated for nonviolent offense as defined by 57 O.S. 571
- c. Not incarcerated for a second and subsequent offense under provisions of Section 51 or 52 of Title 21 of the Oklahoma Statutes.

4. Credit Prior to November 1, 1988

Prior to November 1, 1988, state law authorized inmates to earn credits based solely on their work or program assignments. Up to three days of credit could be earned for each day of participation. Prior to September 8, 1976, state law authorized the granting of good time, an automatic reduction of the term of incarceration based upon the sentence length. In addition to this statutory good time, inmates could be granted work time, work incentive credits, and blood time.

Current inmates whose crimes were committed while these credit statutes were in effect are entitled to have terms of imprisonment reduced by such credits. The Department of Corrections grants the inmate the credit or combination of credits most advantageous in accordance with ex post facto court rulings.

5. Lost Credit

Inmates are subject to lose earned credits as punishment through the disciplinary process for infractions of Department of Corrections rules and regulations. When an inmate is charged with a violation, he/she is formally notified, and a hearing date is established. Trained staff will review the charge, interview the inmate, and render a decision. If found guilty, punishment, established per degree of violation, is rendered. Due process is maintained through several levels of appeal.

**D. Determining the Amount of Time Actually Served on a Sentence**

Since statehood, Oklahoma law has provided for some type of credit to be applied as a sentence reduction. As a result, Oklahoma inmates rarely serve their sentences day-for-day in full. The following methods can be used to

approximately project the amount of time to be served on a given sentence based upon an inmate's class level assignment.

1. Credit Rates

	<u>Credits Per Month</u>	<u>Projected Release Rate</u>
Class Level 1	0	1.00
Class Level 2	22	.58
Class Level 3	33	.48
Class Level 4	44	.41
Enhanced Class Level 3	45	.40
Enhanced Class Level 4	60	.34

- a. Determine sentence length in days.
- b. Project the number of days that would actually be served using the projected release rate for the level to which the inmate is assigned.

Example: 3,650 days x .58 (Level 2) = 2,117 days

2,117 days or 5.8 years in the approximate amount of time to complete a ten-year sentence for an inmate on earned credit Level 2.

- 2. Projecting the amount of time actually served does not consider the possible loss of credit due to misconduct, jail time granted, future class level changes, court ordered modifications, or release on parole. These factors greatly affect the accuracy of the preceding chart. A less complicated method can be used to estimate the amount of time to be served on a given sentence. The following formula projects the quickest amount of time a sentence can be served by assuming the inmate will earn the highest level of earned credits when eligible, a total of 200 achievement credits, and no loss of credit through misconduct.

(Sentence length in days) x .40\* = approximate amount of time actually served

\*Use .35 if enhanced credit level eligible

**III. Probation and Parole**

The Department of Corrections' probation and parole districts supervise offenders sentenced to probation and inmates paroled by the Governor. Offenders do not receive credit reductions while on probation or parole.

**A. Deferred Sentence**

22 O.S. 991c. authorizes the court upon a verdict or plea of guilty, to defer sentencing and place a defendant on supervised probation. The Department of Corrections supervises the offender until the date specified on the order of deferred sentence. If the offender violates the conditions of the deferred sentence any time prior to its expiration, the court may accelerate sentencing and enter a judgment. The deferred judgment procedure does not apply to offenders found guilty or who plead guilty or nolo contendere to a sex offense required by law to register pursuant to the Sex Offenders Registration Act. Offenders with prior felony convictions are ineligible for a deferred sentence unless the court waives this prohibition upon written application of the district attorney.

**B. Suspended Sentence**

22 O.S. 991a. authorizes the court to suspend the execution of a sentence in whole or in part, with or without probation. Offenders who receive suspended sentences with probation are supervised by the Department of Corrections for a period specified by the Judgment and Sentence. For example, if an offender receives a one-year suspended sentence he will be supervised for one calendar year beginning the date the Judgment and Sentence was rendered. This statute allows the Department of Corrections to end supervision at two years if deemed to be in the best interest of the public.

If a violation warrant is issued by the sentencing court any time prior to the termination of the suspended sentence, the offender goes through a revocation process and may have the sentence fully or partially revoked by the court. (22 O.S. 991b.)

If the sentence is revoked, the offender will be remanded to Department of Corrections custody for the period specified and may have the sentence reduced through the earned credit process previously described.

**C. Split Sentence**

The courts may render a sentence specifying a term of incarceration and a term of probation. The term of incarceration would be subject to credit reduction and upon discharge the specified period of probation would begin. The remaining probation is subject to revocation and additional incarceration.

**D. Parole**

All parole recommendations are made by the Pardon and Parole Board (57 O.S., Sections 332 - 365). The Pardon and Parole Board should be contacted directly for information on how parole dockets are established.

Parole recommendations by the Pardon and Parole Board must have the Governor's approval. A parole is in effect until reaching the release date established at the time of parole. For example, if an inmate paroled on February 1, 2011, and the release date for the term of incarceration is March 5, 2014, the inmate would remain on parole until March 5, 2014.

If anytime prior to completion of the parole the Department of Corrections initiates a parole violation warrant, the offender will receive due process through a two-part hearing and is subject to have the parole revoked by the Governor. The Governor, at his/her discretion alone, may grant the time spent on parole as a deduction from the parole revocation. This time is commonly referred to as "street time".

**E. Community Sentencing**

The purpose of the Oklahoma Community Sentencing Act, 22 O.S. 988.3, is to protect the public; establish a statewide community sentencing system; adequately supervise felony offenders punished under a court-ordered community sentence; provide a continuum of sanctions to the court for eligible offenders sentenced to a community sentence within the community sentencing system; increase the availability of punishment and treatment options to eligible felony offenders; improve the criminal justice system within Oklahoma through public/private partnerships, reciprocal and inter-local governmental agreements, and interagency cooperation and collaboration; and operate effectively within the allocation of state and local resources for the Oklahoma criminal justice system.

Felony offenders who have been convicted of or who have entered a plea other than not guilty to a felony offense and who upon completion of a Level of Services Inventory or another assessment instrument have been found to be in the moderate range, are eligible for a community sentence if not otherwise prohibited by law. (22 O.S. 988.2). The District Attorney must consent to a community sentence for an offender with a violent crime enumerated in 57 O.S. 571. An offender must be statutorily eligible for probation in order to receive a community sentence.

**IV. Special Consideration**

**A. Life Sentence**

No deductions will be credited to any inmate serving a sentence of Life imprisonment; however, per 57 O.S. 138, a complete record of the inmate's participation in work, school, vocational training, or other approved programs is maintained. If a Life sentence is ever commuted or modified to a determinate sentence, the recorded credit would apply as a reduction.

**B. Death Sentence**

Persons under the sentence of death are not eligible to receive or earn any type of credit. If the sentence is modified or commuted to a sentence other than death, they would become eligible to earn credit.

**C. Concurrent/Consecutive**

21 O.S., Sections 61.1, 61.3, and 22 O.S. 976 provide that sentences are to be served consecutively unless a Judgment and Sentence states that it is to run concurrently with another Judgment and Sentence. When revoking a parole, the Governor may order concurrence to an existing sentence.

**D. Sentence Concurrent with Foreign Jurisdiction**

Occasionally, offenders receive sentences in Oklahoma designated as concurrent to a sentence in another state, or the federal system, with initial custody assumed by the other jurisdiction. This is authorized per 21 O.S., Sections 61.2-61.4. The Oklahoma term of incarceration does not begin until the convicting county delivers the offender to Department of Corrections custody per 21 O.S. 61.5. Upon delivery to a reception center, the offender will be credited with time served in the foreign jurisdiction beginning the date the Oklahoma Judgment and Sentence was rendered. After reception, the offender is eligible for earned credit under Oklahoma statutes.

**E. 21 O.S. Section 801**

Offenders sentenced under the 1982 amendment to 21 O.S. 801, serving at least their third felony conviction for a Robbery or Attempted Robbery with a Dangerous Weapon or Imitation Firearm, are not eligible for good time credits for ten years from reception, minus jail time. There must be documentation the sentence was enhanced under 21 O.S. 801.

**F. Trafficking in Illegal Drugs Act**

Effective November 1, 1989, 63 O.S. 2-415 provides that persons convicted of trafficking in marijuana, cocaine, heroin, amphetamine, methamphetamine, LSD, PCP, or crack are not eligible for earned credits for the duration of their sentence. Achievement credits may be awarded if the inmate meets the statutory standards for Level 2.

**G. Racketeering**

22 O.S. 1401, the Oklahoma Corrupt Organizations Prevention Act, applies to persons convicted of Racketeering activities. Offenders convicted under this act must serve one-half of their sentence day-for-day before becoming eligible for work release, house arrest, pre-parole conditional supervision, parole, or release from confinement on any other basis.

**H. Distribution Within 2,000 Feet of School/Park, or Possession/Purchase Within 1,000 Feet of School/Park, or Possession/Purchase in the Presence of a Child Under 12**

Effective May 19, 1989, 63 O.S. 2-401 provides that offenders convicted of Distributing Controlled Substances Within 1,000 Feet of a School must serve 50 percent of their sentence prior to becoming eligible for earned credits. Offenders convicted a second and subsequent time under this statute must serve 90 percent of their sentence prior to becoming eligible for credits. Effective September 1, 1991, 63 O.S. 2-401 was amended to include Distribution Within 1,000 feet of a Park or Recreation Area. Effective June 7, 1994, 63 O.S. 2-401 was amended to include Distribution Within 1,000 feet of a Public Housing Project. Effective November 1, 1999, 63 O.S. 2-401 was amended to include Distribution of a Controlled Substance Within 2,000 Feet of a School, Park, or Public Housing Project. Effective July 1, 2001, inmates convicted a second and subsequent time under this statute must serve 85% of their sentence prior to becoming eligible for earned credits. Effective July 1, 2003, 63 O.S. 2-401 was amended to include Distribution of a Controlled Substance Within 2,000 Feet of a Child Care Facility; and Manufacture of a Controlled Substance Within 2,000 Feet of a Public or Private Elementary or Secondary School, Public Vocational School, or a Public or Private College or University, or other institution of higher education, Recreation Center or Public Park Including State Parks and Recreation Areas, Public Housing Project, or Child Care Facility.

Effective September 1, 1992, 63 O.S. 2-402 provides that offenders convicted of Possessing or Purchasing a Controlled Dangerous Substance Within 1,000 Feet of a School, Park, or Public Housing Project must serve 50 percent of their sentence prior to becoming eligible for earned credits. Offenders convicted a second and subsequent time under this statute must serve 90 percent of their sentence prior to becoming eligible for credits. Effective June 7, 1993, this statute was amended to also include the Possession or Purchase of a Controlled Dangerous Substance in the Presence of any Child Under 12 Years of Age.

**I. Offenses Required to Serve 85% of Sentence**

Effective March 1, 2000, 21 O.S. 13.1 provides that offenders who commit certain crimes on or after such date, must serve 85% of their sentence of imprisonment before becoming eligible for parole consideration, earned credits, or any type of credit that might reduce the length of the sentence to less than 85%. The crimes are Murder I, Robbery with a Dangerous Weapon, Rape I, Arson I, Burglary I, Bombs and Explosives Violations, Child Abuse, Forcible Sodomy, Child Pornography, Parental Consent to Child Pornography, Child Prostitution, and Lewd Molestation of a Child.

Effective July 1, 2001, 21 O.S. 13.1 was amended to include the following crimes: Murder II, Manslaughter I, Poisoning with Intent to Kill, Shooting with Intent to Kill, Assault and Battery with a Deadly Weapon, Use of a Vehicle to Facilitate Use of a Firearm/Crossbow/Weapon, Assault with Intent to Kill, Conjoint Robbery, Robbery I.

Effective July 1, 2001, 63 O.S. 2-401 was amended to provide that offenders convicted of the crime of Aggravated Manufacture of CDS must serve 85% of their sentence of imprisonment before becoming eligible for parole consideration, earned credits, or any type of credit that might reduce the length of the sentence to less than 85%.

Effective March 8, 2002, 21 O.S. 13.1 was amended to include the crime of Abuse, Neglect, or Financial Exploitation by Caretaker of a Vulnerable Adult who is a resident of a nursing facility.

Effective November 1, 2007, 21 O.S. 13.1 was amended to include the crime of Aggravated Trafficking, 63 O.S. 2-415.

Effective November 1, 2011, 21 O.S., Section 13.1 was amended to include aggravated assault and battery upon any person defending another person from assault and battery.

The Court of Criminal Appeals has ruled that offenders whose Judgment and Sentences reflect they have been convicted of an “attempt” to commit an 85% crime are not subject to the 85% restriction and are eligible to earn credits toward the service of their entire sentence. This does not apply to the crimes of Attempt to Kill, 21 O.S. § 652; and attempts to damage, injure, or kill with the Possession, Use, Manufacturing or Telephone Threat of Incendiary Device or Bomb, 21 O.S. § 1767.1, as these statutes describe crimes in which the term “attempt” is an element of the crime.

**J. Post Conviction Relief/Court Orders**

The Department of Corrections functions as the custodian for convicted felons. Therefore, if the court orders a reduction of a sentence or the application of credit to a sentence, the Department of Corrections will comply.

**V. For more information concerning credits and the service of sentences, write:**

Jim Rabon, Administrator  
Sentence Administration and Offender Records  
Oklahoma Department of Corrections  
3400 Martin Luther King Avenue  
P.O. Box 11400  
Oklahoma City, Oklahoma 73136-0400

**or call:** (405) 425-2500

(405) 425-2608 FAX

**or e-mail:** [jim.rabon@doc.state.ok.us](mailto:jim.rabon@doc.state.ok.us)

**or to find this document on the DOC web site:**

<http://www.doc.state.ok.us/field/sentence/SERVICE%20OF%20SENTENCE%20BROCHURE.pdf>

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