

STATE OF NEW YORK

6500

2025-2026 Regular Sessions

IN SENATE

March 14, 2025

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the correction law and the penal law, in relation to establishing merit time allowance credits for local correctional facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The correction law is amended by adding a new article 24-A
2 to read as follows:

3 ARTICLE 24-A

4 MERIT TIME ALLOWANCE CREDITS

5 FOR LOCAL CORRECTIONAL FACILITIES

6 Section 810. Definitions.

7 811. Merit time allowance credit accrual and application.

8 812. Forfeiture of merit time allowance credit.

9 813. Record keeping.

10 § 810. Definitions. As used in this article, the following terms shall
11 have the following meanings:

12 1. "Credit" means a reduction of twenty-four hours in the amount of
13 time an incarcerated individual must serve in a correctional facility on
14 the incarcerated individual's sentence upon conviction; and

15 2. "Eligible incarcerated individual" means an incarcerated individual
16 in the custody of the sheriff of a local correctional facility who is
17 serving one or more definite sentences of one year or less or who is
18 detained pending trial, sentence or other disposition and who partic-
19 ipates in the merit time allowance credit program established pursuant
20 to this article.

21 § 811. Merit time allowance credit accrual and application. 1. Upon
22 the active participation in an educational, vocational, work, or rehabi-
23 litative program that has been assigned by the chief administrative

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 officer, an eligible incarcerated individual shall accrue credits
2 applied to their sentence in the same manner as jail time credit pursu-
3 ant to subdivision three of section 70.30 of the penal law. One credit
4 shall accrue for every four days in which the incarcerated individual
5 successfully participates in the program.

6 2. Accrued credits shall, in accordance with this section, be applied
7 against an eligible incarcerated individual's sentence or, if pre-trial,
8 against the sentence ultimately imposed, and shall diminish the incar-
9 cerated individual's period of imprisonment according to the schedule
10 set forth in subdivision one of this section.

11 3. If an eligible incarcerated individual accrues credits pursuant to
12 subdivision one of this section during a period of pre-trial or pre-sen-
13 tence detention for a felony offense, and is later convicted of and
14 sentenced to a period of imprisonment in a state correctional facility
15 for such a felony offense, the credits accrued by the incarcerated indi-
16 vidual shall be applied by the department as additional jail time credit
17 pursuant to subdivision three of section 70.30 of the penal law to the
18 sentence served by the incarcerated individual for such felony offense.

19 4. All participation by an incarcerated individual in the merit time
20 allowance credit program is voluntary. Except in administrative
21 proceedings concerning the incarcerated individual's opportunity to
22 participate in, or continue to participate in, such a voluntary program
23 administered by a correctional facility, evidence of an incarcerated
24 individual's failure to successfully participate in or complete a merit
25 time allowance credit program, pursuant to this article, shall not be
26 admissible against the incarcerated individual, provided, however, that
27 the incarcerated individual may present information concerning success-
28 ful participation for the purposes of mitigation, where relevant, in any
29 court or proceeding. Upon admission to a local correctional facility,
30 each incarcerated individual shall be notified by the sheriff, in writ-
31 ing, of the existence, criteria and rules governing participation in the
32 merit time allowance credit program.

33 § 812. Forfeiture of merit time allowance credit. 1. Any merit time
34 allowance credit accrued pursuant to the program established pursuant to
35 this article may, after notice and an opportunity to be heard, be with-
36 held, forfeited or cancelled in whole or in part for bad behavior,
37 violation of institutional rules or failure to participate successfully
38 in the program. The sheriff shall notify the incarcerated individual
39 promptly in writing of the reasons for any such determination.

40 2. An incarcerated individual who loses a merit time allowance credit
41 pursuant to subdivision one of this section is eligible for subsequent
42 participation in a merit time allowance credit program at the discretion
43 of the sheriff.

44 § 813. Record keeping. A contemporaneous record shall be kept by the
45 sheriff of all merit time allowance credits an incarcerated individual
46 accrues pursuant to this article. In any case where the sheriff has the
47 duty to deliver an incarcerated individual to the custody of the depart-
48 ment, or a sheriff or similar department in another jurisdiction, wheth-
49 er under an order of sentence and commitment or otherwise, the sheriff
50 shall also deliver to the state correctional facility, sheriff or simi-
51 lar department to which the incarcerated individual is delivered, and to
52 the incarcerated individual, a certified record of merit time allowance
53 credits accrued by the incarcerated individual.

54 § 2. Subdivision 3 of section 70.30 of the penal law, as amended by
55 chapter 3 of the laws of 1995, the opening paragraph as amended by chap-
56 ter 1 of the laws of 1998, is amended to read as follows:

1 3. Jail time. The term of a definite sentence, a determinate sentence,
2 or the maximum term of an indeterminate sentence imposed on a person
3 shall be credited with and diminished by the amount of time the person
4 spent in custody prior to the commencement of such sentence as a result
5 of the charge that culminated in the sentence. In the case of an inde-
6 terminate sentence, if the minimum period of imprisonment has been fixed
7 by the court or by the board of parole, the credit shall also be applied
8 against the minimum period. The credit herein provided shall be calcu-
9 lated from the date custody under the charge commenced to the date the
10 sentence commences and shall not include any time that is credited
11 against the term or maximum term of any previously imposed sentence or
12 period of post-release supervision to which the person is subject. The
13 credit herein provided shall also include any additional merit time
14 allowance credit accrued in a local correctional facility pursuant to
15 article twenty-four-A of the correction law. Where the charge or charges
16 culminate in more than one sentence, the credit shall be applied as
17 follows:

18 (a) If the sentences run concurrently, the credit shall be applied
19 against each such sentence;

20 (b) If the sentences run consecutively, the credit shall be applied
21 against the aggregate term or aggregate maximum term of the sentences
22 and against the aggregate minimum period of imprisonment.

23 In any case where a person has been in custody due to a charge that
24 culminated in a dismissal or an acquittal, the amount of time that would
25 have been credited against a sentence for such charge, had one been
26 imposed, shall be credited against any sentence that is based on a
27 charge for which a warrant or commitment was lodged during the pendency
28 of such custody.

29 § 3. Subdivision 3 of section 70.30 of the penal law, as amended by
30 chapter 648 of the laws of 1979, the opening paragraph as separately
31 amended by chapter 1 of the laws of 1998, is amended to read as follows:

32 3. Jail time. The term of a definite sentence or the maximum term of
33 an indeterminate sentence imposed on a person shall be credited with and
34 diminished by the amount of time the person spent in custody prior to
35 the commencement of such sentence as a result of the charge that culmi-
36 nated in the sentence. In the case of an indeterminate sentence, if the
37 minimum period of imprisonment has been fixed by the court or by the
38 board of parole, the credit shall also be applied against the minimum
39 period. The credit herein provided shall be calculated from the date
40 custody under the charge commenced to the date the sentence commences
41 and shall not include any time that is credited against the term or
42 maximum term of any previously imposed sentence or period of post-re-
43 lease supervision to which the person is subject. The credit herein
44 provided shall also include any additional merit time allowance credit
45 accrued in a local correctional facility pursuant to article twenty-
46 four-A of the correction law. Where the charge or charges culminate in
47 more than one sentence, the credit shall be applied as follows:

48 (a) If the sentences run concurrently, the credit shall be applied
49 against each such sentence;

50 (b) If the sentences run consecutively, the credit shall be applied
51 against the aggregate term or aggregate maximum term of the sentences
52 and against the aggregate minimum period of imprisonment.

53 In any case where a person has been in custody due to a charge that
54 culminated in a dismissal or an acquittal, the amount of time that would
55 have been credited against a sentence for such charge, had one been
56 imposed, shall be credited against any sentence that is based on a

1 charge for which a warrant or commitment was lodged during the pendency
2 of such custody.

3 § 4. This act shall take effect on the first of November next succeed-
4 ing the date on which it shall have become a law; provided that the
5 amendments to subdivision 3 of section 70.30 of the penal law made by
6 section two of this act shall be subject to the expiration and reversion
7 of such subdivision pursuant to subdivision d of section 74 of chapter 3
8 of the laws of 1995, as amended, when upon such date the provisions of
9 section three of this act shall take effect.