

STATE OF NEW YORK

5092

2025-2026 Regular Sessions

IN SENATE

February 18, 2025

Introduced by Sens. SEPULVEDA, SALAZAR -- 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, chapter 738 of the laws of 2004 amending the correction law and other laws relating to controlled substances and indeterminate sentences, and the executive law, in relation to expanding eligibility in the merit time allowance program for all incarcerated individuals except those serving a sentence of life imprisonment without parole, murder in the first degree, incest, an act of terrorism, aggravated harassment of an employee by an incarcerated individual, or an attempt or conspiracy to commit any such offense, to earn merit time allowance; and to repeal section 803-b of the correction law relating to limited credit time allowances

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

- 1 Section 1. Subparagraphs (i), (ii) and (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law, subparagraph (i) as added
2 by section 7 of chapter 738 of the laws of 2004, subparagraphs (ii) and
3 (iv) as amended by section 224 of chapter 322 of the laws of 2021 and
4 subparagraph (iv) as separately amended by section 1 of chapter 242 of
5 the laws of 2021, are amended to read as follows:
6
7 (i) Except as provided in subparagraph (ii) of this paragraph, every
8 person under the custody of the department or confined in a facility in
9 the department of mental hygiene serving an indeterminate sentence of
10 imprisonment with a minimum period of one year or more or a determinate
11 sentence of imprisonment of one year or more [~~imposed pursuant to~~
12 ~~section 70.70 or 70.71 of the penal law,~~] may earn a merit time allow-
13 ance.
14 (ii) Such merit time allowance shall not be available to any person
15 serving [~~an indeterminate~~] a sentence [~~authorized for an A-I felony~~
16 ~~offense, other than an A-I felony offense defined in article two hundred~~

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

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~~twenty of the penal law, or any sentence imposed for a violent felony offense as defined in section 70.02 of the penal law, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide]~~
imposed for murder in the first degree as defined in section 125.27 of the penal law, an offense defined in article one hundred thirty of the penal law, incest, ~~[or]~~ an offense defined in article two hundred sixty-three of the penal law, ~~[or]~~ an act of terrorism as defined in article four hundred ninety of the penal law, aggravated harassment of an employee by an incarcerated individual, or an attempt or conspiracy to commit any such offense.

(iv) Such merit time allowance may be granted when an incarcerated individual successfully participates in the work and treatment program assigned pursuant to section eight hundred five of this article and when such incarcerated individual ~~[obtains a]~~ achieves one of the following:
(1) completes their general equivalency diploma, their educational requirements as determined by the department or satisfactorily completes coursework sponsored by an institution of higher learning representing a semester of academic training; (2) completes an alcohol and substance abuse treatment ~~[certificate, a vocational trade certificate following at least six months of vocational programming,]~~ program, or completes a comparable program of a different type as determined by the department, including, but not limited to, anger management, family violence, or parenting; (3) completes a vocational training program or a comparable and equivalent training program as determined by the department; (4) performs satisfactorily for at least six months in a skilled job assignment, including but not limited to, Incarcerated Individual Program Aide (IIPA), law library clerk, medical/infirmarary aide, children's center aide, and food service worker; (5) completes at least eighteen credits in a program registered by the state education department from a degree-granting higher education institution; or (6) performs at least four hundred hours of service as part of a community work crew.

Such allowance shall be withheld for any serious disciplinary infraction or upon a judicial determination that the person, while an incarcerated individual, commenced or continued a civil action, proceeding or claim that was found to be frivolous as defined in subdivision (c) of section eight thousand three hundred three-a of the civil practice law and rules, or an order of a federal court pursuant to rule 11 of the federal rules of civil procedure imposing sanctions in an action commenced by a person, while an incarcerated individual, against a state agency, officer or employee.

§ 2. Subparagraphs (i), (ii) and (iv) of paragraph (d) of subdivision 1 of section 803 of the correction law, subparagraph (i) as added by section 10-a of chapter 738 of the laws of 2004, subparagraphs (ii) and (iv) as amended by section 224-a of chapter 322 of the laws of 2021 and subparagraph (iv) as separately amended by section 2 of chapter 242 of the laws of 2021, are amended to read as follows:

(i) Except as provided in subparagraph (ii) of this paragraph, every person under the custody of the department or confined in a facility in the department of mental hygiene serving an indeterminate sentence of imprisonment with a minimum period of one year or more or a determinate sentence of imprisonment of one year or more ~~[imposed pursuant to section 70.70 or 70.71 of the penal law,]~~ may earn a merit time allowance.

(ii) Such merit time allowance shall not be available to any person serving ~~[an indeterminate]~~ a sentence ~~[authorized for an A-I felony]~~

1 ~~offense, other than an A-I felony offense defined in article two hundred~~
2 ~~twenty of the penal law, or any sentence imposed for a violent felony~~
3 ~~offense as defined in section 70.02 of the penal law, manslaughter in~~
4 ~~the second degree, vehicular manslaughter in the second degree, vehicu-~~
5 ~~lar manslaughter in the first degree, criminally negligent homicide]~~
6 imposed for murder in the first degree as defined in section 125.27 of
7 the penal law, an offense defined in article one hundred thirty of the
8 penal law, incest, [or] an offense defined in article two hundred
9 sixty-three of the penal law, [or] an act of terrorism as defined in
10 article four hundred ninety of the penal law, aggravated harassment of
11 an employee by an incarcerated individual, or an attempt or conspiracy
12 to commit any such offense.

13 (iv) Such merit time allowance may be granted when an incarcerated
14 individual successfully participates in the work and treatment program
15 assigned pursuant to section eight hundred five of this article and when
16 such incarcerated individual ~~[obtains a]~~ achieves one of the following:
17 (1) completes their general equivalency diploma, their educational
18 requirements as determined by the department or satisfactorily completes
19 coursework sponsored by an institution of higher learning representing a
20 semester of academic training; (2) completes an alcohol and substance
21 abuse treatment [certificate, a vocational trade certificate following
22 at least six months of vocational programming,] program, or completes a
23 comparable program of a different type as determined by the department,
24 including, but not limited to, anger management, family violence, or
25 parenting; (3) completes a vocational training program or a comparable
26 and equivalent training program as determined by the department; (4)
27 performs satisfactorily for at least six months in a skilled job assign-
28 ment, including but not limited to, Incarcerated Individual Program Aide
29 (IIPA), law library clerk, medical/infirmarary aide, children's center
30 aide, and food service worker; (5) completes at least eighteen credits
31 in a program registered by the state education department from a
32 degree-granting higher education institution; or (6) performs at least
33 four hundred hours of service as part of a community work crew.

34 Such allowance shall be withheld for any serious disciplinary infrac-
35 tion or upon a judicial determination that the person, while an incar-
36 cerated individual, commenced or continued a civil action, proceeding or
37 claim that was found to be frivolous as defined in subdivision (c) of
38 section eight thousand three hundred three-a of the civil practice law
39 and rules, or an order of a federal court pursuant to rule 11 of the
40 federal rules of civil procedure imposing sanctions in an action
41 commenced by a person, while an incarcerated individual, against a state
42 agency, officer or employee.

43 § 3. Subparagraph (v) of paragraph (d) of subdivision 1 of section 803
44 of the correction law, as added by section 7 of chapter 738 of the laws
45 of 2004, is amended to read as follows:

46 (v) The provisions of this paragraph shall apply to persons in custody
47 serving an indeterminate sentence on the effective date of this para-
48 graph as well as to persons sentenced to an indeterminate sentence on
49 and after the effective date of this paragraph and prior to September
50 first, two thousand five and to persons sentenced to a determinate
51 sentence ~~[prior to September first, two thousand eleven]~~ for a felony as
52 defined in article two hundred twenty or two hundred twenty-one of the
53 penal law.

54 § 4. Subparagraph (v) of paragraph (d) of subdivision 1 of section 803
55 of the correction law, as added by section 10-a of chapter 738 of the
56 laws of 2004, is amended to read as follows:

1 (v) The provisions of this paragraph shall apply to persons in custody
2 serving an indeterminate sentence on the effective date of this para-
3 graph as well as to persons sentenced to an indeterminate sentence on
4 and after the effective date of this paragraph and prior to September
5 first, two thousand five and to persons sentenced to a determinate
6 sentence [~~prior to September first, two thousand eleven~~] for a felony as
7 defined in article two hundred twenty or two hundred twenty-one of the
8 penal law.

9 § 5. Paragraph (g) of subdivision 2-a of section 803 of the correction
10 law, as added by section 9 of chapter 738 of the laws of 2004, is
11 amended to read as follows:

12 (g) The provisions of this subdivision shall apply to persons in
13 custody serving an indeterminate sentence on the effective date of this
14 subdivision as well as to persons sentenced to an indeterminate sentence
15 on and after the effective date of this subdivision and prior to Septem-
16 ber first, two thousand five and to persons sentenced to a determinate
17 sentence [~~prior to September first, two thousand eleven~~] for a felony as
18 defined in article two hundred twenty or two hundred twenty-one of the
19 penal law.

20 § 6. Paragraph (g) of subdivision 2-a of section 803 of the correction
21 law, as added by section 11 of chapter 738 of the laws of 2004, is
22 amended to read as follows:

23 (g) The provisions of this subdivision shall apply to persons in
24 custody serving an indeterminate sentence on the effective date of this
25 subdivision as well as to persons sentenced to an indeterminate sentence
26 on and after the effective date of this subdivision and prior to Septem-
27 ber first, two thousand five and to persons sentenced to a determinate
28 sentence [~~prior to September first, two thousand eleven~~] for a felony as
29 defined in article two hundred twenty or two hundred twenty-one of the
30 penal law.

31 § 7. Section 803-b of the correction law is REPEALED.

32 § 8. Subdivision (c-1) of section 41 of chapter 738 of the laws of
33 2004 amending the correction law and other laws relating to controlled
34 substances and indeterminate sentences, is amended to read as follows:

35 (c-1) the provisions of sections seven, eight, nine, ten and ten-a of
36 this act, and subdivision 2-a of section 803 of the correction law, as
37 added by section eleven of this act shall apply to persons in custody
38 serving an indeterminate sentence on the effective date of such
39 provisions as well as to persons sentenced to an indeterminate sentence
40 on and after the effective date of such provisions and prior to Septem-
41 ber 1, 2005 and to persons sentenced to a determinate sentence [~~prior to~~
42 ~~September 1, 2011~~] for a felony as defined in article 220 or 221 of the
43 penal law;

44 § 9. Clause (C) of subparagraph (i) of paragraph (e) of subdivision 1
45 of section 632-a of the executive law, as amended by section 24 of part
46 A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

47 (C) [~~an offense for which a merit time allowance may not be received~~
48 ~~against the sentence pursuant to paragraph (d) of subdivision one of~~
49 ~~section eight hundred three of the correction law]~~ an A-I felony
50 offense, other than an A-I felony offense defined in article two hundred
51 twenty of the penal law, manslaughter in the second degree, vehicular
52 manslaughter in the second degree, vehicular manslaughter in the first
53 degree, criminally negligent homicide, an offense defined in article one
54 hundred thirty of the penal law, incest, an offense defined in article
55 two hundred sixty-three of the penal law, aggravated harassment of an
56 employee by an incarcerated individual;

1 § 10. This act shall take effect on the ninetieth day after it shall
2 have become a law and shall apply to: (i) persons in custody serving an
3 indeterminate or determinate sentence or sentences on the effective
4 date; (ii) persons sentenced to an indeterminate or determinate sentence
5 or sentences on or after the effective date; and (iii) persons who have
6 not completed service of an indeterminate or determinate sentence or
7 sentences imposed prior to the effective date; provided, however, that
8 the amendments to section 803 of the correction law made by sections
9 one, three, and five of this act shall be subject to the expiration and
10 reversion of such section pursuant to subdivision d of section 74 of
11 chapter 3 of the laws of 1995, as amended, when upon such date the
12 provisions of sections two, four and six of this act shall take effect.