



THE UNIVERSITY OF CHICAGO
THE LAW SCHOOL
Criminal and Juvenile
Justice Clinic



BAIRD PERDUE
Prison Consultants

You Received a Commutation – Now What?

1. Good Time Credit (GTC)

- a. The First Step Act amended 18 U.S.C. § 3624(b) so that you can earn up to 54 days of good time credit (GTC) for every year of your imposed sentence as long as the Bureau of Prisons (BOP) determines compliance with institutional disciplinary regulations.
- b. *If you were serving a life sentence that was commuted to a term of years (“fixed term”), you are entitled to GTC to be calculated so that the credit is reflected in your release date. Your GTC credit will be automatically calculated when your sentence computation is updated by the BOP’s Designation and Sentence Computation Center in Grand Prairie, TX. You should ask your case manager for an updated sentence computation form.*
 - i. *It is our understanding that BOP is doing calculations first for those whose release as a result of the commutation is impending or past due.*
- c. Example: If your life sentence was commuted to 280 months (23.3 years), you should receive approximately 3.5 years of GTC, assuming BOP determines you have been in compliance with institutional disciplinary regulations and you have not been sanctioned to any loss of GTC.

2. Earned Time Credit (ETCs)

- a. The First Step Act of 2018 established Earned Time Credits (ETCs) for pre-release programming for eligible individuals. This is separate from GTC. Earned time credits can reduce a sentence by one year and, additionally, result in your release to community and/or home confinement well in advance of your release date.
- b. ETCs *are not subject to the BOP’s discretion*, but over the years, the BOP has had problems with ETC implementation.
- c. *If you do not have a life sentence and you are **eligible** to receive ETCs*, the BOP should be calculating and applying these credits already.
- d. *If you were serving a life sentence that was commuted to a fixed term*, you may be eligible for ETCs to reduce your sentence and/or provide for your release to community and/or home confinement in advance of your release date. You should speak to your case manager/counselor to determine that your ETCs are correctly calculated into your release date.
- e. **ETC Eligibility:** You must be *eligible* to receive ETCs. Here are the basics on ETC eligibility:
 - i. Your conviction is ETC-credit eligible. Check 18 U.S.C. § 3632(d)(4)(D) or the chart in the resource section below.
 1. You are **not** ETC eligible if, for example:

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- a. You were convicted under the Controlled Substances Act, the drug was heroin or methamphetamine, and the judge found you were a leader, organizer, manager, or supervisor.
 - b. You were convicted under the Controlled Substances Act for any drug and the judge found that (1) the offense involved fentanyl/analogues and (2) you were a leader, organizer, manager, or supervisor.
 - c. Other categories of offenses are ineligible for ETCs, including sex offenses; certain immigration offenses; certain gun offenses; terrorism, espionage, and human trafficking offenses; and offenses involving significant violence.
 - d. This list is *not exhaustive*; it is important to check the chart that is linked below.
- ii. Your PATTERN score must be MINIMUM or LOW.
 1. Your PATTERN score is based on a points calculation. Sometime the BOP makes mistakes. If your PATTERN score is inaccurately calculated, you should ask your Unit Team for it to be re-calculated.
 - iii. You are not subject to a final order of removal from the U.S. at the end of your sentence under any provision of the Immigration and Naturalization Act.

3. Other Credits: Residential Drug Treatment Program (RDAP)

- a. The RDAP is a voluntary, intensive program for incarcerated people with substance abuse issues.
- b. Federal law allows the BOP to reduce the sentences of some of those who complete the RDAP program by up to one year.
 - i. *Note:* Certain individuals are not eligible to *receive a sentence reduction* for completing the RDAP.
- c. There are often long waiting lists for the RDAP.
- d. If your sentence was commuted, but you still have time to serve, you may be eligible to enroll in RDAP earlier than you were prior to the commutation. Talk with your case manager/counselor if you believe you are eligible to participate.

4. Second Chance Act: Halfway House/Home Confinement Eligibility

- a. By law, the BOP is required to do as much as is practical to ensure that people preparing to leave prison spend some part of their sentence in “conditions that will prepare the prisoner for reentry,” including time in a halfway house or on home confinement.

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- b. This is supposed to be the shorter of 10% of the sentence or six months.
- c. Halfway house/home confinement eligibility *is subject to the BOP's discretion.*
- d. *Eligibility matters:* You are not eligible for placement in a halfway house if:
 - i. You require in-patient medical, psychological, or psychiatric treatment.
 - ii. You are assigned a “Deportable Alien” Public Safety Factor.
 - iii. You have unresolved pending charges or detainers that would likely lead to arrest, conviction, or confinement.
 - iv. You refuse to participate in the Inmate Financial Responsibility Program.
 - v. You withdrew, refused to participate, or otherwise did not complete a required Drug Abuse Education Course.
- e. Recently the BOP has had bed space shortages at halfway houses; we anticipate this might be a problem with the number of commutations President Biden issued, and the number of people who will be eligible for release to a halfway house.

5. Help with Benefits and Obtaining an Identification Card

- a. Under the First Step Act, the BOP is required to assist individuals preparing to leave prison in applying for federal and state benefits and obtaining identification, including a social security card, driver’s license or other official photo ID, and birth certificate. 18 U.S.C. § 4042(a).
- b. You should discuss this requirement with your case manager/counselor.
- c. Your family can also explore what resources and organizations are available in your release district. Some districts have organizations that offer employment assistance/job training, counseling, housing, and other benefits to assist with your transition from prison to the community.

6. Clothing, Funds, and Transportation for Release

- a. Upon your release, the BOP is required by [statute](#) (18 U.S.C. § 3624(d)) to provide:
 - i. (1) suitable clothing;
 - ii. (2) an amount of money, not more than \$500, determined by the Director to be consistent with the needs of the individual and the public interest, unless the Director of the BOP determines that the individual’s financial position is such that no sum should be furnished (this is typically a nominal amount of \$100 or less); and
 - iii. (3) transportation to the place of the conviction, to the individual’s residence within the United States, or another place within the United States as may be authorized by the Director.

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1. How one travels is determined by what will cost the government the least. In most cases, this is by bus. If you are releasing directly home and will not go to a halfway house, your family can pick you up at the institution on the day of your release.
- b. If you will be released soon, you should talk to your case manager/counselor about clothing, money, and transportation. If time permits, your family can mail your release clothing to the institution. The clothing will be held in the R&D section and given to you on the day of your release.

7. Additional Resources:

- a. Good Time Credit: <https://www.bop.gov/inmates/fsa/overview.jsp>
- b. ETCs:
 - i. https://www.fd.org/sites/default/files/criminal_defense_topics/essential_topics/sentencing_resources/isa_etc_handout.pdf
- c. Halfway House/Home Confinement:
 - i. <https://famm.org/wp-content/uploads/2018/04/FAQ-Halfway-House-4.24.pdf>
 - ii. <https://www.uscourts.gov/about-federal-courts/probation-and-pretrial-services/evidence-based-practices/residential-reentry-centers-reference-guide/how-residential-reentry-centers-operate-and-when-impose>

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