

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6270
BILL NUMBER: SB 260

NOTE PREPARED: Feb 25, 2013
BILL AMENDED:

SUBJECT: Educational Credit Time.

FIRST AUTHOR: Sen. Merritt
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- A. *Previously Earned Degrees* – It prohibits a person who has previously earned an associate's degree from earning educational credit time for earning an additional associate's degree while incarcerated. It also prohibits a person who has previously earned a bachelor's degree from earning educational credit time for earning an additional bachelor's degree while incarcerated.
- B. *Sex Offenders and Educational Credit Time* – It prohibits a person incarcerated for a sex offense from receiving educational credit time for earning an associate's or bachelor's degree.
- C. *Deduction of Earned Credit Time* – The bill specifies that earned credit time will be deducted from the sentence if the person is a sex or violent offender. (Note: Current law requires that the credit time be deducted from the release date.)

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Summary* - This bill would delay the release of sex and violent offenders who have earned credit time, ranging from days to years. These delays are estimated to increase the offender population in Department of Correction (DOC) custody by 393 FTE offenders annually by FY 2017.

If these offenders could be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$3,233.90 annually, or \$8.86 daily, per prisoner. The estimated additional expenditures for these offenders from FY 2014 to FY 2017 are summarized in the table below.

Added Expenditures in \$M for Delayed Release of Certain Offenders				
FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
\$0.89	\$1.17	\$1.26	\$1.27	\$1.27

The following table shows the projected new beds needed due to the delayed releases.

Number of Beds Needed Due to Delayed Releases						
	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>
Previously Earned Degrees	<i>minimal effect on offender population</i>					
Educational Credit Time	45	72	80	80	80	80
Deduction of Earned Credit Time	<u>231</u>	<u>290</u>	<u>310</u>	<u>313</u>	<u>313</u>	<u>313</u>
Total Increase in Offender Population	<u>276</u>	<u>362</u>	<u>390</u>	<u>393</u>	<u>393</u>	<u>393</u>

Background – Under current law, offenders in DOC facilities can receive two types of credit time (called “time cuts”) that can reduce their length of stay in DOC facilities.

First, under IC 35-50-6-3, offenders in the Class I credit classification can receive up to one day off for each day they are compliant with facility rules (“good time” credit).

Second, if they are in the Class I credit classification, they can also receive earned credit time by successfully completing educational programs, vocational and technical programs, substance abuse programs, basic life skills programs, and reformatory programs.

The amount of earned credit time that an offender can receive is the lesser of four years or one third of the person’s total applicable credit time. Offenders successfully completing bachelor’s degrees can earn two years credit time, and offenders completing associate’s degrees can earn one year of credit time.

DOC calculates the release date for an offender by first applying the “good time” credit (generally 50%) and then subtracting the earned credit time.

As proposed, offenders who are sex and violent offenders (IC 11-8-8-5) will have their release dates calculated by first subtracting the earned credit time from the fixed term of incarceration and then subtracting the “good time” credit. In addition, sex offenders (IC 11-8-8-4.5) will be denied any earned credit time for earning either associate’s or bachelor’s degrees.

Offenders Affected – Under IC 11-8-8-4.5 includes the following offenders.

Crimes Covered by IC 11-8-8-4.5 Sex Offenders		
Child Exploitation	Human Trafficking	Rape
Child Molesting	Incest	Sexual Battery
Child Seduction	Kidnapping	Sexual Misconduct by a Service Provider with a Detained Child
Child Solicitation	Possession of Child Pornography	Sexual Misconduct-minor
Criminal Confinement	Promoting Prostitution	Sexual Trafficking of a Minor
Criminal Deviate Conduct	Promotion of Human Trafficking	Vicarious Sexual Gratification

Under IC 11-8-8-5, sex and violent offenders include all sex offenders in IC 11-8-8-4.5 and offenders who were sentenced for murder and voluntary manslaughter.

Subtracting Earned Credit Time First, Then Applying the Good Time Credit – LSA used offenders released during CY 2011 to estimate the change on offender population. There were 681 offenders who were classified as sex and violent offenders and released after their initial commitment for a sex or violent crime under IC 11-8-8-4.5 or IC 11-8-8-5.

Of the total, 115 offenders were estimated to have no earned credit time, so this share of the offender population would not have been affected by the bill.

The other 566 offenders had some earned credit time, so this share of the offender population would have had their release date delayed by the reformulation of how credit time is applied to each offender’s release date under the bill. Their delay could range from days to years, depending on how much credit time was accumulated. LSA projected their new release dates using the formula in the bill and added the number of offenders who will remain in DOC for an extended time. The length of stay for each offender was represented as a fraction of a full-time-equivalent offender. For example, offenders who were projected to remain in DOC for six months in the next calendar year were assigned 0.5 FTE, while offenders who were projected to remain in DOC for the first three months of the next calendar year were assigned 0.25 FTE.

The distribution by offense of the CY 2011 offender population from which the projections were based is shown in the following table.

Sex and Violent Offenders Released in CY 2011			
Offense	Offenders Released	With Earned Credit Time	Without Earned Credit Time
Child Exploitation	16	14	2
Child Molesting	308	253	55
Child Seduction	3	2	1
Child Solicitation	22	19	3
Criminal Deviate Conduct	22	18	4
Incest	15	12	3
Murder	28	26	2
Possession of Child Porn	1	1	0
Rape	49	39	10
Sex Misconduct-minor	157	131	26
Sexual Battery	34	29	5
Vicarious Sex Gratification	3	3	0
Voluntary Manslaughter	21	18	3
Grand Total	681	566	115

LSA estimated that the FTE offender population would increase by 231 in FY 2014, 362 in FY 2015, and 390 in FY 2016 and each year thereafter.

Sex Offenders and Educational Credit Time – Offenders committed for a sex crime would be prohibited from the educational credit time if they earn either a bachelor’s or associate’s degree. These offenders would still be eligible for earned educational credit time if they earn GEDs. Offenders who were committed for either murder or voluntary manslaughter would still be eligible for educational credit if they earn either an associate’s or bachelor’s degree.

Prohibiting sex offenders from having time cuts was estimated to increase the DOC FTE population by 45 offenders in FY 2014, 72 offenders in FY 2015, and 80 offenders in FY 2016 and each year thereafter. (Note: LSA estimated that three sex offenders who earned an associate’s or bachelor’s degree did not receive earned credit time.)

Sex Offenders Released in CY 2011 Who Earned Bachelor’s and Associate’s Degrees Who Would Be Prohibited from Including Degree as Earned Credit Time			
Offense	Associate’s Degree	Bachelor’s Degree	Grand Total
Child Molesting	18	10	28
Criminal Deviate Conduct	3	1	4
Rape	3	2	5
Sex Misconduct-minor	<u>8</u>	<u>3</u>	<u>11</u>
Grand Total	<u>32</u>	<u>16</u>	<u>48</u>

Prohibiting Offenders from Earning Educational Credit Time for an Associate’s or Bachelor’s Degree When They Have Previously Earned an Associate’s or Bachelor’s Degree – The number of offenders who would

be affected by this provision should be minimal. DOC reports that information about previous educational degrees is self-reported and cannot be verified.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected:

Information Sources: Department of Correction Offender Information System.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.