

# Sentence Credit Earnings & Forfeitures and their Effect on Parole Eligibility and Sentence Discharge Dates

Nevada Board of Parole Commissioners

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This document was developed to provide basic information regarding sentence credit earnings and forfeitures for the Nevada Parole Board. The Nevada Department of Corrections (NDOC) has the statutory responsibility to calculate eligibility and expiration dates based on the various credits that may be applied to sentences in accordance with NRS 209. The information appearing in this document is for general informational purposes only and is not intended to provide legal advice to any individual or entity. The creation of this informational document is not intended to establish a cause of action if adherence is not followed. This document has not been approved as policy by the Board or the NDOC and may be revised from time to time without notice. This document was prepared by David M. Smith, Parole Hearings Examiner II. Questions or concerns regarding its contents may be directed to [dmsmith@parole.nv.gov](mailto:dmsmith@parole.nv.gov) or 775-687-6506.

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# Credit Earnings, Credit Forfeiture and Effect on Parole Eligibility and Sentence Discharge Dates

Prisoners earn a variety of credits while serving a sentence in custody. Parolees can also earn a variety of credits while on parole. Parole eligibility and sentence discharge dates are calculated using assumptions that prisoners earn a certain number of credits in addition to day-for-day time.

Prisoners can forfeit certain credits if they are found guilty of violating provisions of the Code of Penal Discipline. Adjustments to eligibility and discharge can also occur when a prisoner doesn't earn the credits they were projected to earn, or when they earn more credits than projected.

Parolees also earn and can lose previously earned credits for violating parole and being revoked. Some credits are forfeited in the discretion of the Board and others by statute based on the action of the Board. The Board has discretion to restore credits in most circumstances but is prohibited from restoring credits in others.

This document explains the credits that can be earned and how sentence credit earnings and forfeitures affect various eligibility and discharge dates.

## Credits Earned in Prison

When a sentence is imposed, the prisoner must serve and earn the total number of days representing the length of the sentence. For example, a 3-year sentence equates to 1,095 days. A 10-year sentence equates to 3,650 days.

In addition to each calendar day a prisoner serves on his/her sentence, most prisoners can earn credits to reduce their maximum and minimum sentence. The day-to-day calendar time a prisoner serves ("flat time") is also considered a "credit" for purposes of calculating time. Since a "credit" represents a "day," the sentence is completed when the prisoner has served and earned the total number of days of the sentence imposed.

There are numerous credits laws that may be applied to sentences based on the offense or sentence date. Information in this document is limited to the current<sup>1</sup> credit laws applied to prisoners sentenced for a crime committed on or after July 17, 1997 (NRS 209.4465).

The types of credits prisoners may earn while in prison include:

**Flat Time** = The day-to-day calendar time a prisoner is incarcerated, on residential confinement, or assigned to the custody of Parole and Probation for a reentry court program<sup>2</sup> or a correctional program<sup>3</sup>. Each "flat" credit represents a single calendar day a prisoner serves.

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<sup>1</sup> Current as of June 18, 2020

<sup>2</sup> Reentry court program pursuant to NRS 209.4886

<sup>3</sup> Correctional program pursuant to NRS 209.4888

**Stat Credits**<sup>4</sup> = 20 credits each month for good behavior (“...who has no serious infraction of the regulations of the Department...”). Stat credits are prorated for partial months of incarceration.

**Work Credits**<sup>5</sup> = 10 credits each month for work or study (“...diligence in labor and study...”). Work credits may be prorated for partial months.

**Camp Work Credits**<sup>6</sup> = 10 credits each month while assigned to a restitution center, conservation camp or a work release program. This is not a separate category in the NDOC system, and these credits are combined with work credits when the offender is assigned to applicable facilities.

**Educational Achievement Credits**<sup>7</sup> = Prisoners can earn the following credits for making educational achievements as follows:

- 60 credits = For earning an educational development certificate or equivalent document.
- 90 credits = For earning a high school diploma;
- 120 credits = For earning his or her first associate degree; and
- 90 credits = For each additional degree of higher education earned by an offender.

**Meritorious Credit**<sup>8</sup> = The Director of Corrections may award up to 90 merit credits each year for an offender who engages in exceptional meritorious service.

### Credits Earned on Parole

Parolees can earn various credits while on parole, and credit earnings can vary based on the offense, sentence and release date. This section pertains to the most common parole credit earnings which is based on Stat credits earned by prisoners sentenced after June 30, 1991, and work/fiscal credits for prisoners on parole or released on parole on or after January 1, 2004.

**Parole Stat Credits**<sup>9</sup> = 10 credits each month for good behavior (“...no serious infractions of the terms and conditions of his or her parole or the laws of this state...”).

**Parole Fiscal Credits**<sup>10</sup> = 20 credits each month for being current with fees and restitution (“...current with any fee to defray the costs of his or her supervision charged by the Division...” and “...current with any payment of restitution required by the State Board of Parole Commissioners...”).

**Parole Work Credits**<sup>11</sup> = 10 credits each month for work (“Whose diligence in labor or study merits such credits.”).

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<sup>4</sup> NRS 209.4465(1)

<sup>5</sup> NRS 209.4465(2)

<sup>6</sup> NRS 209.4465(4)

<sup>7</sup> NRS 209.4465(3) and NRS 209.4465(2)(a, b & c)

<sup>8</sup> NRS 209.4465(5)

<sup>9</sup> NRS 209.447(2)

<sup>10</sup> NRS 209.4475(1)

<sup>11</sup> NRS 209.4475(3)

## How Credits are Applied to a Sentence

### *Historical Review*

The way sentences are imposed by the Courts in Nevada has changed over time. For a period prior to 1995, courts would impose a maximum sentence and the parole eligibility date would be established when 1/3 of the sentence was served. Prior to the “1/3<sup>rd</sup> law,” certain prisoners earned credits based on a complicated varying schedule that awarded either 5, 10 or 12.5 credits each month depending on the amount of time the prisoner had served.

Senate Bill 416 of the 1995 Legislative Session, also known as “truth in sentencing,” changed sentencing laws and required courts to impose a minimum sentence and a maximum sentence. The minimum term could not exceed 40% of the maximum term. From 1995-2007, sentence credits would only reduce the maximum term and prisoners were required to serve their entire minimum term before becoming eligible for parole.

As Nevada’s prison population grew by over 60% from a total of 7,713 prisoners at end of year 1995 to 12,839 in 2006, the Nevada Legislature made changes to the laws enacted from SB416 to control the rising prison population. Assembly Bill 510 passed during the 2007 session made major changes to credits that could be applied to prisoner sentences including:

- Doubled the amount of Stat credits prisoners could earn (from 10 per month to 20 per month);
- Allowed credits to reduce the minimum terms of lower level offenses; and,
- Allowed the application of the additional monthly Stat credits (20) to be applied to the minimum and maximum sentences of most prisoner sentences retroactively back to July 17, 1997.

AB 510 helped stabilize the growth of the prison population to under 10% between 2006 and 2016, a dramatic reduction in comparison to the previous 11 years’ growth of 60%.

### Applying Credits to Sentence Minimum and Maximum Terms

The calculation of eligibility and expiration dates on sentences can be exceptionally complicated. The following explains and illustrates the application of credits to time periods in order to provide a basic understanding of how eligibility and expiration dates are calculated.

#### Invention of Sentence “Credits”

It would be easy to explain parole eligibility if prisoners served the sentences imposed by the Courts. A prisoner sentenced to 1 year in jail on February 1<sup>st</sup> would expire the next year on January 31<sup>st</sup>. At one time, this was exactly how sentences were executed. But over time, legislatures devised ways to provide relief to the rising costs of incarceration by establishing methods to encourage rehabilitation and population reduction by awarding credits against a sentence.

### Actual Credits Versus Projected Credits

Actual credits are those credits that the prisoner has earned at any point in time. Projected credits are credits the NDOC assumes a prisoner will earn, in addition to flat time, that will reduce the remaining balance of days owed on a sentence to zero.

If the prisoner earns the credits the NDOC has projected the prisoner will earn, the expiration date won't change.

If a prisoner does not earn all credits that were previously projected, the expiration will move out to a later date.

If a prisoner earns, or is projected to earn, more credits than previously projected, the sentence dates will change to reflect an earlier projected expiration date. This is common when a prisoner moves from a medium custody location to a camp or restitution center.

### Effect of the Award of Merit Credits on Projected Sentence Expirations

Probably the biggest complaint employees receive regarding credit awards is when a prisoner receives a large number of merit credits (for example 90 credits), but the sentence expiration only changes by approximately half the award (45 days).

The reason this occurs is because projected credit earnings have already been calculated on the sentence and applying the merit award reduces the amount of time remaining on the sentence for projected credits to be applied against.

In other words, since a prisoner generally earns 60-70 credits per month (30/31 flat, 20 Stat and 10 or 20 work), the merit award takes away the prisoner's ability to earn the originally projected Stat and work time. When this happens, the prisoner isn't losing any time, he has just earned the time differently.

The following charts show how this occurs.

**CHART 1:** If the prisoner served the entire sentence day for day without credits starting on January 1, he would expire December 31.

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOT
Flat	31	28	31	30	31	30	31	31	30	31	30	31	365
Cumulative	<b>31</b>	<b>59</b>	<b>90</b>	<b>120</b>	<b>151</b>	<b>181</b>	<b>212</b>	<b>243</b>	<b>273</b>	<b>304</b>	<b>334</b>	<b>365</b>	

**CHART 2:** If the prisoner earned 20 Stat credits each month, and 10 work credits each month, he would expire on July 2<sup>nd</sup>

	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
Flat	31	28	31	30	31	30	2	183
Stat	20	20	20	20	20	20	1	121
Work	10	10	10	10	10	10	1	61
Total	<b>61</b>	<b>58</b>	<b>61</b>	<b>60</b>	<b>61</b>	<b>60</b>	<b>4</b>	<b>365</b>
Cumulative	<b>61</b>	<b>119</b>	<b>180</b>	<b>240</b>	<b>301</b>	<b>361</b>	<b>365</b>	

**CHART 3:** Using the same example in chart 2, if the prisoner earns 90 merit credits on April 1st, he would expire on May 18th, or 45 days earlier than the July 2nd date.

	Jan	Feb	Mar	Apr	May	Total
Flat	31	28	31	30	18	138
Stat	20	20	20	20	11	91
Work	10	10	10	10	6	46
Merit				90		90
Total	<b>61</b>	<b>58</b>	<b>61</b>	<b>150</b>	<b>35</b>	<b>365</b>
Cumulative	<b>61</b>	<b>119</b>	<b>180</b>	<b>330</b>	<b>365</b>	

In Summary, you can generally estimate the “flat time” reduction effect of a lump sum merit credit award on a projected expiration date by deducting half the number of merit credits from the pre-award projected expiration date. Since prisoners earn more credits while at a camp, the net “flat time” reduction effect of a merit award would be slightly less (approx. 45% of the number of merit credits rather than 50%).

### Effect of Credit Losses on Sentences

Prisoners can lose Stat credits they have earned for committing certain infractions of the NDOC penal code. Prisoners can also lose credits if they commit a parole violation or are revoked off parole. The following chart shows a prisoner serving a 3-year term (365\*3=1095 days) with credits earned in prison and on parole who was revoked but did not lose any Stat credits. The prisoner would expire after serving 505 flat days, or approximately 16 months on the 36-month term.

*Released to Parole on June 1, Revoked on August 1 - no loss of credits*

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Total
Flat	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	20	505
Stat	20	20	20	20	20			20	20	20	20	20	20	20	20	20	13	293
Work	10	10	10	10	10			10	10	10	10	10	10	10	10	10	7	147
Merit				90														90
Parole Stat						10	10											20
Fiscal Credits						20	20											40
																		0
Month Total	61	58	61	150	61	60	61	61	60	61	60	61	61	58	61	60	40	1095
Cumulative	61	119	180	330	391	451	512	573	633	694	754	815	876	934	995	1055	1095	

In the above example, the prisoner earned 100 Stat credits while in prison from January-May, then earned 20 Stat credits on parole in June and July for a total of 120 credits. The above example doesn't show a loss of credits, but if the prisoner was revoked on August 1<sup>st</sup> and the Board ordered the forfeiture of all Stat credits earned prior to revocation, the net Stat loss would be 120 credits.

This would not result in the prisoner serving 120 additional days though. The following chart shows the effect of the forfeiture of 120 credits on the prisoner's sentence. The forfeiture pushes the expiration date from May 20<sup>th</sup> to July 18<sup>th</sup> or a total of 59 more days in prison as a result of the 120-credit loss. The reason it is ½ of the time is because the prisoner will earn Stat and work credits while serving the 120 credits of forfeited time.

*Released to parole on June 1, revoked on August 1 - lost all previously earned Stat time.*

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Total
Flat	31	28	31	30	31	30	31	31	30	31	30	31	31	28	31	30	31	30	18	564
Stat	20	20	20	20	20			20	20	20	20	20	20	20	20	20	20	20	15	335
Work	10	10	10	10	10			10	10	10	10	10	10	10	10	10	10	10	6	166
Merit				90																90
Parole Stat						10	10													20
Fiscal cred.						20	20													40
credit loss								-120												-120
Month Tot.	61	58	61	150	61	60	61	-59	60	61	60	61	61	58	61	60	61	60	39	1095
Cumulative	61	119	180	330	391	451	512	453	513	574	634	695	756	814	875	935	996	1056	1095	

In Summary, you can generally estimate the "flat time" increase effect of a lump sum credit loss on a projected expiration date by adding half the number of forfeited credits from the pre-loss projected



expiration date. Since prisoners earn more credits while at a camp, the net “flat time” increase effect of a Stat loss would be slightly less (approx. 45% of the number of credits lost rather than 50%).

## Effect of Credits on the Calculation of the Mandatory Parole Release Date (NRS 213.1215)

The Parole Board receives occasional complaints alleging the “late” release of prisoners on Mandatory Parole. The confusion on the actual release date occurs because of projected credit earnings and specific language in the Mandatory Parole statute.

Subsection 1 of NRS 213.1215 requires the Board to release certain prisoners on parole “12 months before the end of his or her maximum term... ..as reduced by any credits the prisoner has earned to reduce his or her sentence...”.

Subsection 1 means that once a prisoner has served and earned all but 365 days, he must be released on Mandatory Parole.

Subsection 10 of NRS 213.1215 states: “For the purposes of this section, the determination of the 12-month period before the end of the prisoner’s term must be calculated without consideration of any credits the prisoner may have earned to reduce his or her sentence had the prisoner not been paroled.”

When this section of statute was first enacted in 1987, it specified 9 months rather than 12 months. At that time, parolees did not earn credits on parole, so it was a true 9 months of parole supervision. Since a prisoner would expire a prison term sooner than 9 months because of credit earnings, subsection 10<sup>12</sup> was intended to clarify the distinction between 9 months of parole time and approximately 6 months of prison time.

In 1991 the Legislature passed a law allowing Stat credits to be earned while on parole and also changed the MPR statute to indicate release prior to expiration from 9 months to 12 months. The 1991 changes resulted in a general equalization between the amount of time an offender would serve in the community on mandatory parole supervision, or in prison if MPR was denied.

Since 1991, there have been additional changes to credit earnings to sentences served in prison and on parole. These additional credits results in the calculation of the MPR date (when 365 days are remaining on a sentence) to be approximately 6 months before discharge in prison or on parole.

## Authority Regarding the Forfeiture, Restoration and Awarding of Credits

The only types of credits subject to forfeiture by the Board are Stat credits earned in prison and on parole. Stat credits earned while on parole are subject to forfeiture if the Board finds that a parolee violated a condition of parole. Stat credits earned in prison and parole are forfeited upon revocation, with the restoration subject to the type of parole being served (discretionary or MPR) and the basis of the violation itself.

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<sup>12</sup> Subsection 10 in 2020 was subsection 6 in 1987.

## Forfeiture of Stat Credits Earned on Parole

A parole violation hearing is a two-step process. 1) The determination of whether a violation occurred and 2) the sanction imposed by the Board if a violation occurred.

When the Board finds a parolee guilty of violating a condition of parole, the Board may order that the parolee forfeit all or part of the Stat credits earned while on parole.

### **NRS 213.1518 Effect of violation of condition of parole, forfeiture and restoration of credits for good behavior.**

1. If a parolee violates a condition of his or her parole, the parolee forfeits all or part of the credits for good behavior earned by the parolee pursuant to [chapter 209](#) of NRS after his or her release on parole, in the discretion of the Board.
2. A forfeiture may be made only by the Board after proof of the violation and notice to the parolee.
3. The Board may restore credits forfeited for such reasons as it considers proper.
4. The Chief shall report to the Director of the Department of Corrections any forfeiture or restoration of credits pursuant to this section.

The forfeiture of Stat credits earned on parole are not subject to any statutory limitations with respect to the type of violation or type of parole. Once the Board finds a parolee guilty of a violation (including a technical violation), the Board has the authority to order (or not to order) the forfeiture of any Stat credits earned on parole.

## Revocation of Discretionary Parole and Forfeiture of Stat Credits Earned in Prison

When a discretionary parolee is revoked, the parolee forfeits all the credits for good behavior (Stat credits) earned in prison and on parole<sup>13</sup>. The Board may restore any amount or combination thereof of the number of credits that are automatically forfeited upon revocation. The Board should affirmatively indicate on its order revoking parole the number of credits restored (indicate none, all or a specific number).

As explained earlier in this document, the “net” effect of credit forfeitures generally results in 1 additional calendar day in prison for every 2 credits forfeited.

### **A “temporary revocation” is not considered a “revocation” for the purposes of the forfeiture of Stat credits earned in prison.**

## Revocation of Mandatory Parole and the Forfeiture of Stat Credits Earned in Prison

There are two types of releases under Mandatory Parole. Subsection 1 of NRS 213.1215 pertains to the release of a prisoner on parole generally when 12 months are remaining on their sentence of 36 months or more (that is less than life). Subsection 2 of NRS 213.1215 pertains to prisoners who were under the age of 16 at the time they committed their offense that resulted in a life sentence.

A parolee released pursuant to subsection 1 of NRS 213.1215 who is revoked for committing a new felony forfeits all the Stat credits they have earned to reduce their sentence, must serve the balance of

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<sup>13</sup> NRS 213.1519(1)

that sentence and may not be released on parole again on that sentence<sup>14</sup>. The Board does not have the authority to restore credits that have been forfeited to a parolee released under MPR subsection 1 when the revocation was the result of the parolee having been convicted of a new felony<sup>15</sup>. The Board has the authority to restore credits that have been forfeited upon revocation for any other violations.

**NRS 213.1519**

2. A parolee released on parole pursuant to subsection 1 of [NRS 213.1215](#) whose parole is revoked for having been convicted of a new felony:
  - (a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to [chapter 209](#) of NRS;
  - (b) Must serve the entire unexpired maximum term or the maximum aggregate term, as applicable, of his or her original sentence; and
  - (c) May not again be released on parole during his or her term of imprisonment.

The penalties for a parolee released pursuant to subsection 2 of NRS 213.1215 who is revoked for any reason fall under the same provisions related to the revocation of a parolee released under discretionary parole. However, a prisoner released under the MPR provisions of subsection 2 who has been revoked is no longer subject to the provisions of subsection 2 of NRS 213.1215 when considered for parole release in the future. Prisoners who were initially eligible under the mandatory provisions of subsection 2 of NRS 213.1215 who are later revoked become subject to the provisions for release in the discretion of the Board<sup>16</sup> with maximum rehearing dates of 3 or 5 years.

**NRS 213.1519**

3. A parolee released on parole pursuant to subsection 2 of [NRS 213.1215](#) whose parole is revoked by decision of the Board for a violation of any rule or regulation governing his or her conduct:
    - (a) Forfeits all credits for good behavior previously earned to reduce his or her sentence pursuant to [chapter 209](#) of NRS;
    - (b) Must serve such part of the unexpired maximum term or maximum aggregate term, as applicable, of his or her original sentence as may be determined by the Board; and
    - (c) Must not be considered again for release on parole pursuant to subsection 2 of [NRS 213.1215](#) but may be considered for release on parole pursuant to [NRS 213.1099](#), with rehearing dates scheduled pursuant to [NRS 213.142](#).
- ↳ The Board may restore any credits forfeited under this subsection.

## Restoration of Forfeited Stat Credits

When a parolee is revoked, all the Stat credits that reduced their sentence while in prison and on parole are forfeited. Except for a parolee released on MPR who is convicted of a new felony and revoked, the Board has the discretion to restore all or part of the Stat time that was forfeited. The restoration of forfeited credits may take place immediately following revocation at the parole violation hearing, or later when the prisoner has shown good cause to do so. The Board currently requires a request for restoration include a favorable recommendation from the NDOC.

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<sup>14</sup> NRS 213.1519(2)

<sup>15</sup> Subsection 2 of NRS 213.1519 does not include the statement “*the Board may restore any credits forfeited under this subsection*” as it does in subsections 1 and 3 of NRS 213.1519.

<sup>16</sup> These prisoners become subject to being reheard by the Board in accordance with NRS 213.142.