



“Earned” Time Off Prison Sentences *Frequently Asked Questions*

What is earned time/early release?

Earned time traditionally functions as a correctional management tool. It incentivizes prisoners for good behavior or participating in rehabilitation and treatment programs. The idea is to allow prisoners the opportunity to leave prison slightly earlier in order to encourage them to follow the rules in prison.

Source: Harry Allen, Edward Latessa, Bruce Ponder, and Clifford Simonsen. *Corrections in America*. 433 (2007) Prentice Hall.

How do Oregon inmates earn time off their prison sentence?

Except for inmates serving mandatory minimum prison sentences, inmates at the Oregon Department of Corrections (ODC) essentially automatically receive time off their sentence. They only serve their complete sentence if they misbehave in prison and have the time off revoked following an administrative process. Inmates must obey prison rules to receive the time off, however, practically speaking an inmate does not have to do anything special to be entitled to receive this “earned” time off their prison sentence. Even an inmate who escapes from prison is eligible for earned time they accrue starting the day after they are returned to ODC custody, and escaping from prison is a very serious violation of prison rules.

Source: OAR 291-097-0020, OAR 291-097-0020 (5).

Why is Oregon’s earned time policy being called a “Yo-Yo” or “Bouncing Ball” Policy?

Starting in 1989, Oregon inmates could earn 20% off their non-mandatory minimum sentences for good behavior.¹

This changed in 2009, when the Oregon legislature bumped available earned time off to 30% and made the increase retroactive. The early release policy applied to all non-mandatory minimum prisoners, except some prisoners serving time for crimes that were excluded from the list of eligible crimes.

This policy change sparked public concern when some violent criminals received early release,

¹ Some inmates are eligible for “alternative incarceration programs (AIP)” which are intensive rehabilitation programs. These AIP inmates can receive up to 40% off their sentence, regardless of the normal 20% cap on earned time.

when victims suffered the trauma of re-sentencing hearings, and when District Attorneys and the courts were forced to spend money to handle the early-release cases – by most estimates, more than the \$6 million the new early release policy was supposed to save on corrections costs.

After this outcry from the public, the legislature modified the early release policy in the 2010 special session. The modified law excludes more violent crimes than the first law, however, it does not follow Attorney General John Kroger's recommendation that the list be for included crimes, rather than excluded crimes.

Now for the "bouncing ball" of earned time policy: The modified law, SB 1007, suspends 30% earned time until 2011. In 2011, earned time bounced back up to 30%. Later, in 2013, it will bounce back down to 20%.

This is a very odd, back and forth approach to an important public safety matter. It would be more responsible to set earned time at 20% permanently for non-mandatory minimum sentences and allow a regular session of the legislature to reconsider the earned time if it chooses to do so.

30%? 20%? 15%? What is an appropriate amount of earned time off prison sentences to offer criminals?

Federal inmates are only eligible for 15% off their sentences. Attorney General John Kroger and other law enforcement leaders think Oregon should adopt this Federal standard to preserve truth in sentencing.

Oregon's current, temporary 20% or 30% off is more than generous when earned time is viewed as a correctional management tool. 20% off a five year sentence means the criminal will serve four years. If an entire year off the sentence is not enough incentive, it is difficult to see how one and a half years off a sentence will do a better job motivating an inmate to behave in prison.

30% is a significant reduction in prison time. If an offender is sentenced to five years, 30% earned time allows them to be released after serving only three and a half years of their prison sentence. Moving to 30% is unwise because it undermines the public's trust in the criminal justice system and reduces the deterrent effect of truth in sentencing. What a judge says to a criminal in open court should matter. When Oregon constantly shifts its earned time policy, and starts shaving up to 30% off prison sentences, truth in sentencing is undermined.

Source: Attorney General John Kroger's Letter to Rep. Barker and Sen. Prozanski, January 14, 2010.

Does earned time reduce recidivism?

According to a study in Washington, earned time may reduce the recidivism rate of early-released criminals by as much as 3.5%. However, the Washington study looked at an earned time program very different from Oregon's bouncing ball policy. All violent crimes and all sex

offenders are excluded from the studied Washington earned time policy. The Washington policy uses a list of eligible crimes rather than a list of excluded crimes.

The Washington study also estimates that the increased earned time resulted in an average of 4.7 new felony property crimes per early released criminal. Oregon should be very reluctant to opt-in to almost 5 new felonies per offender just to save a tiny percentage of the corrections budget.

Source: Washington State Institute for Public Policy, *Increased Earned Release From Prison: Impacts of a 2003 Law on Recidivism and Crime Costs*, Revised (2009)

Legislative Argument in Support

Measure 57: The Better Way To Fight Crime

Law enforcement across Oregon has asked for more tools to crack down on drug traffickers, identity thieves, and criminals who prey on the elderly. Measure 57 provides those tools without resorting to one-size-fits-all sentencing gimmicks.

Sentences Criminals Deserve

Measure 57 increases sentences for criminals who threaten kids, the elderly, and our communities:

- Trafficking cocaine, meth, ecstasy, or heroin 34-130 months
- Dealing cocaine, meth, ecstasy, or heroin to a minor 34-72 months
- Thefts against the elderly 16-45 months
- Property crimes 18 or 24 months
- Identity theft 24 months
- Eliminates probation for repeat offenders

These increased sentences ensure that criminals get the sentences they deserve.

Mandatory Drug and Alcohol Treatment to Stop the Revolving Door

It makes sense to have tougher sentences, but it also makes sense to stop drug-addicted repeat offenders and revolving-door justice.

- **85%** of offenders in prison for property crimes have **drug or alcohol addictions**.
- Now only **12%** get intensive drug or alcohol **treatment**.
- **Almost 50%** of repeat property offenders **commit more crimes** after release.

That's why Measure 57 dramatically increases drug and alcohol treatment for offenders and **provides penalties for offenders who refuse treatment**.

Taxpayer Savings

Measure 57 will make Oregon communities safer while saving taxpayers money compared to the rigid, one-size-fits-all approach of Measure 61. In fact, Measure 57 is estimated to cost up to **\$150 million less every year** when fully implemented.

It also **saves up to \$1 billion** in the cost of building new prisons and **up to \$640 million** in interest.

Broad Support

Measure 57 is the only crime measure on the ballot that has the broad support of law enforcement across Oregon. District Attorneys, Sheriffs, Police Officers, Corrections Officers, Parole Officers, and Treatment Providers from every corner of Oregon are urging a yes vote on Measure 57 for one simple reason: it's **the Better Way To Fight Crime in Oregon**.

Committee Members:

Senator Floyd Prozanski
Representative Andy Olson
Representative Greg Macpherson

Appointed by:

President of the Senate
Speaker of the House
Speaker of the House

(This Joint Legislative Committee was appointed to provide the legislative argument in support of the ballot measure pursuant to ORS 251.245.)

November 4, 2008, General Election Abstracts of Votes

STATE MEASURE NO. 57

Increases Sentences For Drug Trafficking, Theft Against Elderly And Specified Repeat Property And Identity Theft Crimes; Requires Addiction Treatment For Certain Offenders.

County	*Yes	No	% In favor
Baker	4,703	3,657	56%
Benton	24,619	19,119	56%
Clackamas	108,222	73,236	60%
Clatsop	12,171	5,546	69%
Columbia	14,711	9,006	62%
Coos	17,490	12,235	59%
Crook	6,200	3,720	63%
Curry	7,057	4,673	60%
Deschutes	45,629	29,345	61%
Douglas	28,484	21,895	57%
Gilliam	625	434	59%
Grant	1,980	1,699	54%
Harney	2,034	1,450	58%
Hood River	5,649	3,625	61%
Jackson	54,764	40,166	58%
Jefferson	5,058	2,965	63%
Josephine	21,894	17,666	55%
Klamath	16,866	11,325	60%
Lake	1,831	1,704	52%
Lane	113,073	59,569	65%
Lincoln	14,217	8,529	63%
Linn	28,456	20,798	58%
Malheur	5,580	4,366	56%
Marion	71,691	46,176	61%
Morrow	2,499	1,417	64%
Multnomah	223,090	118,698	65%
Polk	20,555	13,529	60%
Sherman	597	395	60%
Tillamook	7,927	4,837	62%
Umatilla	15,094	9,276	62%
Union	6,605	5,404	55%
Wallowa	2,323	1,870	55%
Wasco	6,485	4,381	60%
Washington	135,330	86,232	61%
Wheeler	438	330	57%
Yamhill	25,008	16,669	60%
	1058955	665942	61%

* Indicates Passage or Nonpassage of Measure