

To: Robert E. Carter, Jr,

Fr: Aaron Isby

DOC# 892219  
Doc# 892219

Commissioner of I.D.O.C.

G-328, Miami Corr. Fac.

IGC-South

3038 West 850 South

302 W. Washington St.

Bunker Hill, IN 46914

Indianapolis, IN 46204

RE: Appeal Pursuant to I.C. 35-50-6-5.5,

6/23/22

I.C. 35-50-6-5(c), Requesting Grant of all

previously deprived credit time and all

additional good time and educational credit

not previously awarded.

Commissioner Carter:

I am seeking the restoration of all previously deprived credit time as follows:

1) 3 years, 4 1/2 months previously deprived credit time during my incarceration. (see I.C. 35-50-6-5 (c)).

I am owed the following additional good time credits for each day I have served my sentence in credit class one in I.D.O.C., with no bad conduct as follows:

2) 8 years credit time for good behavior with no bad conduct in credit class one from December 2014 to the present owed to me and not previously awarded. (see I.C. 35-50-6-3, I.C. 35-50-6-4).

I am also entitled to educational credit for each of the following certificates I obtained while in I.D.O.C.:

3) 6 months for High School equivalency diploma (GED). (see Wilson v. State, 785 N.E.2d 1152 (Ind. App. 2003), I.C. 35-50-6-3.3 (a)).

4) 1 year for Business Technology in digital computing certification from Oakland City University (OCU) (2019). see I.C. 35-50-6-3.3(d)).

5) 1 year for Braille UEB Literacy transcription certification (2021) from the library of Congress and the National library for the Blind and Physically Handicapped. (see I.C. I.C. 35-50-6-3.3(d)).

On 1/10/22, I submitted a petition restoration of credit time with the

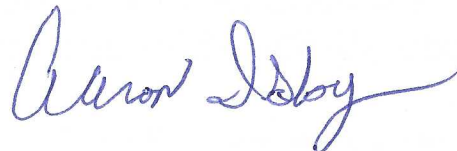
classification division at Miami Correctional Facility, seeking all the previously deprived credit time, good and educational credit time mentioned herein above.

On 1/27/22, Assistant Warden Jacqueline Scaife, was instructed by Jack Hendrix to talk to me about my credit time and during this meeting I explained to Mrs. Scaife, that I was entitled to the restoration of all the 3 years 4 1/2 months previously deprived, all educational credit and the 8 year good time credit owed to me, pursuant to the Statute I.C. 35-50-6-5(c), to be applied to my Sentence/release date and by IDOC denying me, credit time, the IDOC was violating the Ex post facto clause. Scaife replied, that IDOC policy 02-04-101, prevent the restoration of all my credit time, and all I was entitled to was 30 days. Scaife, further stated that all my paperwork would be forwarded to Jack Hendrix for further review to see if additional credit would be granted. It has been Six months now, and I have received no response from Mr. Hendrix, about the restoration of my credit time herein. I should have by now received a answer from Mr. Hendrix months ago according to Policy 01-04-101, and by failing to respond, deems my request for restoration of all Statutory credit time denied. I am serving a 40 year, 6 month sentence in I.D.O.C., imposed by Madison County Circuit Court, on September 30, 1992, under cause number 48CO1-9011-CF-139, for two concurrent counts of Attempted Murder, class A felonies and a third consecutive misdemeanor count of Battery. I have no prior sentences to serve because all my prior sentences have expired and I have satisfied them. According to the 1993 version of the I.D.O.C. Policy 01-04-101, "Adult offender Classification", "IDOC recognizes that once my prior sentences (upon which to base a consecutive sentence) has been satisfied or expires, the sentence I am currently serving becomes the original sentence." Thus, under this 1993 version of this policy, the IDOC is required to recalculated my sentence/release date from date of arrest to the sentencing date and count all time I have served in IDOC since 1992 and applied all this time to my sentence as time served, my earning of credit time towards my current sentence was not supposed to change and all the time I have served since 1992 counts towards my release date. (See Dunn v. Jenkins, 377 N.E.2d 868 (Ind. 1978)). There is no turn-over law authorized by the Indiana Criminal Code or Statute.id. My sentence on this current conviction I am serving herein commence to run on September 30, 1992, the date the Madison Circuit Court Imposed sentence. (see Ind. Code 35-38-3-2(d)).

The law in effect in 1992 that applies to me, required me to only serve 50 percent of my sentence (20 years, 3 months), in credit class one. "A person earn one day of credit time for each day the person is imprisoned for a crime or confined awaiting trial or sentence." (I.C. 35-50-6-3, I.C. 35-50-6-4). Each day of good conduct credit I have earned shall reduce by one day my period of incarceration set by the Madison Circuit Court.

With the time I have served in IDOC, and the credit time due to me herein, which I am entitled to, I have satisfied this sentence and I should be immediately released from prison! By continuing to use I.D.O.C. policy to permanently deny me restoration of all my statutory credit and not apply it to my current sentence/release date, is a unconstitutional Ex post facto application of IDOC policy and Indiana Statute, because it 1) places a limit on my earning and/or accumulation of credit time, which lengthens the period that I have to spend in prison, 2) constricts my opportunity to earn early release, and 3) has made more onerous the punishment for the crime herein before this new law or policy was implemented against me. Thus, because this credit time that I am entitled to herein, if applied to my sentence/release date would entitle me to immediate release from prison, I am urging you for reason stated in my incorporated legal analysis, to exercise your statutory authority and grant me all requested credit time herein and apply it to my sentence/release date, and direct my release from IDOC immediately!

Signed by,

A handwritten signature in blue ink that reads "Aaron Idby". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Hereto incorporated:

Legal Analysis

Relevant Authority

Exhibits #1 Thru#9 Attached hereto.

## ANALYSIS

Paul v. State, 888 N.E.2d 818 (Ind. Ct. App. 2008) is demonstrative of Indiana's position regarding violation of constitutional prohibitions against ex post facto laws and/or administrative policies. Paul was denied educational credit for a second Associate's Degree obtained following an amendment of Indiana's statute and DOC Policy limiting the number of Associate's Degrees a person could receive educational credit for to one (1). At the time of Paul's conviction in 2002 there was no statutory or administrative limit to the number of Associate's Degrees a person could receive educational credit for.

Paul was entitled to credit for his second Associate's Degree because the version of I.C. 35-50-6-3.3 that was in effect when he committed the crime did not limit the number of degrees, except for a statutory maximum for educational credit time. After the law and the DOC's policy changed to limit his earning of credit to a single Associate's Degree, the reduction in educational credit time accumulation lengthened the period that he had to spend in prison, constricted his opportunities to earn early release, and made more onerous the punishment for the crime he committed before the new law was enacted.

Isby position is stronger than Paul's. In Paul, both the Indiana Code and DOC's Administrative Policy governing educational credit had been amended following his sentencing to his detriment, In Isby's case the statute is in his favor. DOC's Amendment of its Adult Disciplinary Procedure (ADP) violated Indiana Code 35-50-6-5(c) and constitutional prohibitions against ex post facto laws.

Indiana Code 35-50-6-5(a)(l) provides "A person may, with respect to the same transaction, be deprived of any part of the educational credit or Good Time Credit the person has earned for any of the following: 1) violation of one (1) or more rules of the DOC...". Indiana Code 35-50-6-5(c) states "Any part of the educational credit or Good Time Credit of which a person is deprived under this section may be restored." The above-referenced statute has remained largely unchanged since 1991. The operative portion for Isby GTC argument **IS** 35-50-6-5(c) which, again, states "**ANY** part of... GTC of which a person is deprived under the section may be restored." (Emphasis added)

The Court of Appeals previously held "...The deprivation or restoration of a person's credit time is a discretionary matter entrusted to the administrators of the DOC." -Campbell v. State, 714 N.E.2d 678, 683-84 (Ind. Ct. App. 1999). While DOC has discretion in the administration of GTC deprivation and restoration this discretion is not **absolute**. They are bound by statute and the ex post facto clauses of the U.S. and Indiana Constitutions.

DOC disciplinary procedure are 'rules.' The Indiana Code governing DOC disciplinary procedure, IC 11-11-5.-2, states"... the term 'rule' as used in this section related solely to internal policy and procedure, not having the force of law." DOC policy and procedure is meant to accurately implement the penal code, not violate or supersede it. "Changes in administrative regulations representing an exercise of delegated legislative authority are subject to the prohibition against ex post facto laws." -Prater v. United States Parole Com., 802 F.2d 948, 965 (7th Cir. 1986).

In recent years IDOC has implemented several executive directives and amendments to the Adult Disciplinary Code that violate the statutory provisions of Indiana Code 35-50-6-5(c) and constitutional prohibitions against ex post facto laws. The Adult Disciplinary Procedure contains at least six (6) provisions that allow the permanent deprivation of credit time or prevent the complete restoration or previously deprived credit time. IC 35-50-6-5 (c) in its present form has been in effect since January of 1991. The above-referenced executive directives and amendments went into effect beginning in 2016, well after Isby convictions it is implemented against.

"Critical to relief under the Ex Post Facto Clause is... the lack of fair notice and governmental restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated. This, even if the statute merely alters the penal provisions accorded by the grace of the legislature, it violates the Clause if it is both retrospective and more onerous than the law in effect at the date of the offense." -Weaver v. Graham, 450 U.S. 24, 31,101 S.Ct. 960, 963, 67 L.Ed.2d 17, 22 (1981).

In the present case the statute in effect strengthens Isby position, It provides for complete restoration of Good Time and educational credit time. The statute remains in effect. This is key because it renders every permanent deprivation and/or impediment to complete restoration a violation of the Ex Post Facto Clause because at the time of sentencing Isby is statutorily entitled to complete restoration of deprived credit time.

Therefore, any permanent deprivation of Isby credit time is "retrospective and more onerous than the law in effect at the date of Isby offense." Weaver, 450 U.S. at 31. DOC and its classification staff is actively abusing its delegated authority in imposition of regulations against Isby which violate IC 35-50-6-5(c) and the Ex Post Facto Clauses of the U.S. and Indiana Constitutions.

Further, fair notice is impossible due to the retrospective nature of the disciplinary policies.

DOC may argue that the language of Indiana Code 35-50-6-5(c) gives them absolute discretion regarding deprivation and restoration of credit time. But the language and statutory construction do not support this contention. "Any part of the educational credit or Good Time Credit of which a person is deprived under this section may be restored." (I.C. 35-50-6-5(c)). The term 'any,' "in its broad distributive sense, the sense in which the word is frequently used, it may have the meaning of 'all,' 'every,' or 'each one of all.' its meaning is often restrained, limited, or influenced by the subject matter... When used in a statute, it should be construed as to make its meaning comport with the general scheme of the statute in which it was used." (Ballentine's Law Dictionary).

This was echoed by the Supreme Court when they held "In construing a statute, [the] objective is to determine and give effect to legislative intent. Because the statute involves criminal penalties, the State may only prevail if the plain language of the statute is clean. Ambiguities must be resolved in favor of the criminal defendant." Boss v. State, 702 N.E.2d 782, 784 (Ind. 1998). The statute is clear and unambiguous. "Any part of educational credit or Good Time Credit of which a person is deprived under this section may be restored." IC 35-50-6-5(c). If the State attempts to assign alternative meanings to the terms 'any' or 'may' in support of their contention of absolute discretion it will render the statute legally ambiguous in which case the ambiguities will be resolved in Isby favor.

The Court of Appeals holding in *Campbell v. State*, sheds additional light on legislative intent. "The purpose of credit time is 'to encourage inmates of penal institutions to behave well while confined, to improve morale, and thus to help prison authorities to maintain order and control.'" *Campbell v. State*, 714 N.E.2d 678, 682 (Ind. Ct. App. 1999), quoting *State v. Eckhardt*, 687 N.E.2d 375, 376 (Ind. Ct App. 1997)). The Good Time statute is based on the proverbial 'carrot and stick' tactic. Behave well and one earns Good Time towards early release. Behave poorly and Good Time is deprived resulting in a longer prison sentence. Restoration provides a continued incentive for problem inmates to correct negative behaviors.

Permanent deprivation of Good Time removes 'the carrot' leaving only 'the stick,' which has a negative effect on morale and actually discourages behavioral improvement, thereby undermining the legislative intent of the Good Time Statute.

"In analyzing an ex post facto claim, the US Supreme Court applies the 'intent-effects' test." *Smith v. Doe*, 538 U.S. 84, 105-06, 123 S.G. 11.40, 155 L.Ed 2d 164 (2003). The first step is to determine if the legislature meant the statute to establish civil proceedings. *Id.* at 92. If the legislature intended to impose punishment, the inquiry ends because punishment results. *Id.*

If however, the court concludes that the legislature intended a non-punitive regulatory scheme, then the court must further examine whether the statutory scheme is so punitive in effect as to negate that intention thereby transforming what has been intended as a civil regulatory scheme into a criminal penalty. *Id.*" *Wallace v. State*, 905 N.E.2d 371, 378 (Ind. 2009), quoting *Smith v. Doe*, 538 US 84, 105-06, 123 S.Ct 1140, 155, L.Ed2d 164 (2003).

The Good Time Statute is located under Title 35, 'Criminal Law and Procedure,' specifically Article 50, 'Sentences.' It is inherent that Good Time governs the degree to which punishment is imposed. DOC's ex post facto application of administrative policy adds an additional, more severe level of punishment. In this instance the inquiry should end here because punishment results.

Assuming, arguendo, DOC contends that the Indiana Legislature intended a non-punitive regulatory scheme, i.e. maintaining order and control over the correctional setting, than DOC's violation of IC 35-50-6-5(c) in the permanent deprivation of Good Time Credit certainly transforms the legislature's regulatory scheme into a permanent, more severe criminal penalty. Further, permanent deprivation of Credit Time ensures execution of 100% of an inmate's sentence, destroys morale and removes any incentive for future good behavior.

"In assessing a statute's effects, courts should consider the seven factors listed in *Kennedy v. Mendoza-Martinez*, 372 U.S. 144 168-69, 83 S.G. 554, 9 L.Ed2d 644 (1963). The seven factors are:

1. Whether the sanction involves an affirmative disability or restraint;
2. Whether it historically has been regarded as a punishment;
3. Whether it comes into play only on a finding of scienter;
4. Whether its operation will promote the traditional aims of punishment-retribution and deterrence;
5. Whether the behavior to which it applies is already a crime;
6. Whether an alternative purpose is assignable to it;
7. Whether it appears excessive in relation to the alternative purpose assigned"

-*Wallace v. State*, 905 N.E.2d 371, 379 (Ind. 2009) quoting *Smith*, 538 U.S. AT 106 (2003).

[1] Permanent deprivation of Good Time Credit involves restraint in that it results in extended incarceration. [2] Deprivation of Credit Time for misconduct in the penal setting has historically been deemed a punishment. [3] Deprivation of Good Time is only possible after a finding of guilt following disciplinary proceedings. [4] Deprivation of Good Time as an extension of the original sentencing decision certainly promotes traditional aims of retribution-punishment and deterrence especially in the correctional setting. [5} Good Time Credit applies directly to the underlying criminal offense. [6} The only alternative purpose is behavior regulation in the correctional setting. [7} Indiana statute allows for restoration of any deprived Credit Time contingent on good conduct.



The permanent deprivation of Good Time Credit based on a unilateral change in administrative regulation is a violation of the legislative intent of IC 35-50-6-5(c). It has the opposite effect of any regulatory scheme intended and is certainly more excessive than any other alternative purpose assigned.

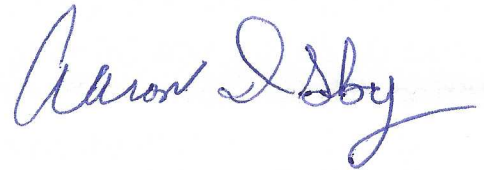
The second method of permanent deprivation is DOC's demotion of Credit Class. Those sentences prior to July 1, 2014 are initially assigned to Credit Class 1. IC 35-50-6-3(b). For each day served in Credit Class 1 they earn one (1) day of Good Time Credit. Those demoted to Credit Class II earn one (1) day of Good Time Credit for every two (2) days served resulting in an increase of 25% from 50% execution of sentence to 75% execution of sentence. Those demoted to Credit Class III earn no Good Time Credit, resulting in 100% execution of sentence. In order to be promoted to a higher Credit Class following demotion one must remain clear of major conduct for ninety (90) days. But the time lost during demotion of Credit Class is lost permanently because DOC provides no mechanism for restoration of time lost due to a demotion in Credit Class.

'Earned Credit Time' is a misnomer. Good Time Credit is awarded to an offender at the time of sentencing via their initial assignment to Credit Class I. This is reflected by an inmate's earliest possible release date, which reflects 50% execution for those sentences after July 1, 2014. It isn't earned and banked as you go as is frequently misrepresented by DOC. IC 35-50-6-5(c) allows for the restoration of "any part of... Good Time Credit for which a person is deprived."

According to this statutory construction, credit time deprived through demotion of credit class is also restorable. Yet, DOC does not provide a mechanism for time deprived through demotion of Credit Class. With respect to time lost through demotion of Credit Class we must again look at the plain language of the statute and consider previous findings regarding its legislative intent. The plain language of the statute states "any part" of Good Time Credit may be restored. This should include Credit Time demoted through demotion in Credit Class.

Mr. Isby is entitled to all Statutory Credit Time, that he has earned in credit class one the past eight years without any bad conduct, educational credit time for certificates obtained herein that has not been awarded and all restoration of 3 years, 4 1/2 months previously deprived credit time. Mr. Isby is requesting that all these credits be applied against his sentence/release date and because the credit times owed to me (Isby), is more than the remaining time I have in prison to serve, I am entitled to immediate release from prison!

Signed by:

A handwritten signature in blue ink that reads "Aaron Isby". The signature is written in a cursive style with a long horizontal stroke at the end.

## RELEVANT AUTHORITY

### o **Constitutional Provisions**

- o "No bill of attainder or ex post facto law shall be passed" US Constitution, Article I, §9, Cl. 3
- o "No state shall [...] pass any bill of attainder, ex post facto law..."
  - o US Constitution, Article I, §10, Cl. 1
- o "No ex post facto law [...] shall ever be passed" Indiana Constitution, Article I, §24

### o **Case Law**

o "The ex post facto prohibition forbids the Congress and the States to enact any law 'which imposes a punishment for an act which was not punishable at the time it was committed; or imposes additional punishment to that than described'"

o Weaver v. Graham, 450 US 24,28,101 5.Ct. 960,963, 67 L.Ed.2d 17, 22 (1981)

o "Through this prohibition, the framers sought to assure that legislative acts give fair warning of their effect and permit individuals to rely on their meaning until explicitly changed"

o Weaver v. Graham, 450 US 24, 28-29 (quoting Dobbert v. Florida, 432 US 282, 298 (1977))

o "...our decisions prescribe that two critical elements must be present for a criminal or penal law to be ex post facto: it must be retrospective, that is, it must apply to events before its enactment, and it must disadvantage the offender affected by it."

o Weaver, 450 US AT 29 (Quoting Lindsey v. Washington, 301 US 397,401 (1937))

o "Critical to relief under the Ex Post Facto Clause is not an individual's right to less punishment, but the lack of fair notice and governmental restraint when the legislature increases punishment beyond what was prescribed when the crime was consummated. Thus, even if a statute merely alters penal provisions accorded by the grace of the legislature, it violates the Clause if it is both retrospective and more onerous than the law in effect at the date of the offense."

- o Weaver, 450 US AT 31
  - o “We have previously recognized that a prisoner’s eligibility for reduced imprisonment is a significant factor entering into both the defendant’s decision to plea bargain and the judge’s calculation of the sentence to be imposed.”
- o Weaver, 450 US AT 32
  - o “We have held that a statute may be retrospective even if it alters punitive conditions outside of the sentence”
- o Weaver. 450 US AT 33
  - o “In post-Weaver cases, we have also considered whether the legislature’s action lengthened the sentence without examining the purposes behind the original sentencing scheme”
- o Lynce v. Mathis, 519 US 433, 443
  - o “The relevant inquiry is whether the ‘change alters the definitions of criminal conduct or increases the penalty by which a crime is punishable”
- o Lynce, 519 US AT 443
  - o “In construing a statute, our objective is to determine and give effect to legislative intent. Because the statute involves criminal penalties, the State may only prevail if the plain language of the statute is clear. Ambiguities must be resolved in favor of the criminal defendant.”
- o Boss v. State, 702 NE2d 782, 784 (Ind. 1998)
  - o “The Indiana Constitution provides that ‘no ex post facto law [...] shall ever be passed””
- o Strowmatt v. Ind. Dep’t of Corrections, 2016 Ind. App. Unpub. Lexis 666 (Quoting Ind. Const. Art. I, §24)
  - o “In analyzing an ex post facto claim, the United States Supreme Court applied the ‘intent-effects’ test.”
- o Smith v. Doe, 538 US 84, 105-06, 123 S.Ct. 1140, 155 L.Ed,2d 164 (2003)

o "The first step is to determine if the legislature meant the statute to establish civil proceedings. ID at 92. If the legislature meant the statute to impose punishment, the query ends because punishment results. Is, however, the court concludes that the legislature intended a non-punitive regulatory scheme, then the court must further examine whether the statutory scheme is so punitive in effect as to negate that intention thereby transforming what had been intended as a civil regulatory scheme into a criminal activity."

o Strowmatt, 2016 Ind. App. Unpub. Lexis 666 (quoting Smith v. Doe, 538 US 84, 105-06)

o "In assessing a statute's effects, courts should consider the seven factors listed in Kennedy v. Mendoza-Martinez, 372 US 144, 168-69, 83 S. Ct. 554, 9 L.Ed.2d 644 (1963). The seven factors are:

1. Whether the sanction involves an affirmative disability or restraint
2. Whether it has historically been regarded as a punishment
3. Whether it comes into play only on a finding of scienter
4. Whether its operations will promote the traditional aims of punishment-retribution and deterrence
5. Whether the behavior to which it applies is already a crime
6. Whether an alternative purpose to which it may rationally be connected is assignable to it; and,
7. Whether it appears excessive in relation to the alternative purposes assigned

o Strowmatt, (Quoting Wallace v. State, 905 N.E.2d 371, 379 (Ind.2009))

o "Our Supreme Court has held that the 'intent-effects' test provides the appropriate analytical framework for analyzing ex post facto claims under the Indiana Constitution."

o Wallace v. State, 905 N.E.2d 371,378 (Ind. 2009)

o "A law violates the ex post facto clause if: 1. It has retroactive application, and 2. It disadvantages the offender affected by it."

- o Norwood v, Brennan, 891 F.2d 179,182 (7th Cir. 1989)
- o "Additionally, the petitioner must also demonstrate that the challenged laws affected a substantive change in his rights, rather than a merely procedural change."
- o Black v. Peters, 990 U.S. App Lexis 29891,919 F.2d 740 (Quoting Dobbert v. Florida, 432 U.S. 282,292 (1977))
- o "Changes in administrative regulations representing an exercise of delegated legislative authority are subject to the prohibition against ex post facto laws."
- o Prater v. United States Parole Com., 802 F.2d 948, 954 (7th Cir. 1986)

**o Indiana Code**

- o "...for purposes of IC 4-22-2, the term 'rule' as used in this section relates solely to internal policy and procedure and not having the force of law."
  - o Indiana Code 11-11-5-2
  - o Indiana Code 35-50-6-3
  - o **(a)** This section applies to a person who commits an offense before July 1,2014
  - o **(b)** A person assigned to Class I earns one (1) day of Good Time Credit for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.
  - o **(c)** A person assigned to Class II earns one (1) day of Good Time Credit for every two (2) days the person is imprisoned for a crime or confined awaitig trial or sentencing.
  - o **(d)** A person assigned to Class III earns no Good Time Credit

- o **(e)** A person assigned to Class IV earns one (1) day of Good Time Credit for every six (6) days the person is imprisoned or a crime or confined awaiting trial or sentencing.
  
- o Indiana Code 35-50-6-3.1
  
- o **(a)** This section applies to a person who commits an offense after June 30, 2014
- o **(b)** A person assigned to Class A earns one (1) day of Good Time Credit for each day the person is imprisoned for a crime or confined awaiting trial or sentencing.
- o **(c)** A person assigned to Class B earns one (1) day of Good Time Credit for every three (3) days die person is imprisoned for a crime or confined awaiting trial or sentencing.
- o **(d)** A person assigned to Class C earns one (1) day of Good Time Credit for every six (6) days the person is imprisoned for a crime or confined awaiting trial or sentencing.
- o **(e)** A person assigned to Class D earns no Good Time Credit.
- o **(f)** A person assigned to Class P earns one (1) day of Good Time Credit for every four (4) days the person serves on pre-trial home detention awaiting trial. A person assigned to Class P does not earn accrued time for time served on pre-trial home detention awaiting trial.
- o "A person may, with respect to the same transaction, be deprived of any part of the educational credit or Good Time Credit the person has earned for any of the following: 1. A violation of one (1) or more rules of the Department of Correction..."
- o Indiana Code 35-50-6-3.1 (a)(1)
- o "Any part of the educational credit, or Good Time Credit of which a person is deprived under this section may be restored"
- o Indiana Code 35-50-6-5(c)

## o Administrative Policy

- o IDOC Policy 02-04-101(lx)(E)(3)(e)
- o "Harm to a staff person, volunteer, visitor, or contractor. If any adult offender is found guilty of a violation of Offense Code A-117: 'Battery Against a Staff Person, Volunteer, Visitor, or Contractor, ' A-1 00: 'Violation of Law, ' or A-115: 'Non-Consensual Sexual Act,' and the offensive act results in bodily injury being caused to a staff person, volunteer, visitor, or contractor, the offender may receive, in addition to the other sanctions listed above, a loss of the entire balance of the offender's accumulated Credit Time. Additionally, if any offender is found guilty of any subsequent violation of any major offense outlined in the Disciplinary Code for Adult Offenders after being found guilty of violating Offense Codes A-117, A-100, or A-115 resulting in bodily injury during his/her current commitment period, the offender may, receive, in addition to the sanctions listed above, loss of up to the entire balance of the offender's accumulated earned Credit Time, based on the severity of the subsequent violation."
  
- o IDOC Policy 02-04-101 (111)(H)
- o "Bodily Injury: Any impairment of physical condition, including physical pain."
  
- o IDOC Policy 02-04-101(1x)(E)(9)
- o "No offender is entitled to a restoration of deprived earned Credit Time, except to the extent that he/she meets criteria established in the following procedures..."
  - o 02-04-101 (lx)(E)(9)(a)(3)
- o "Effective June 1,2015, an offender may not petition for restoration of time that was taken for the following codes: (a) A-100: Violation of Law; (b) A-102 Battery; (c) A-108 Escape; (d) A-113 Trafficking; (e) A-114 Sexual Act with a Visitor; (f) A-115 Non-Consensual Sex Act; (g) A-117 Assault on a Staff Person; (h) A-121 Use/Possession of a Cellular Telephone; or (i) Conspiracy/Attempting/Aiding or Abetting relating to Codes A-H."



- o 02-04-101 (lx)(E)(9)(b)
- o "Credit Time restored in the previous six (6) months as a result of a successful petition for restoration is conditioned upon the offender's continued good conduct. Once a Petition for Restoration is approved, a guilty finding in the next six (6) months of a Class A or B conduct code shall cause the most recently approved Petition for Restoration, during the current commitment period, active sentences only, but those not prior to June 1, 2015, and administrative procedure, to be rescinded..."
  
- o 02-04-101 (lx)(E)(9)(g)(3)
- o "The total maximum amount of deprived earned credit time that can be restored is fifty percent (50%) of the cumulative amount of restorable earned credit time..
  
- o 02-04-101 (lx)(E)(9)(g)(4)
- o "Credit Time that was never earned as a result of a demotion in Time Earning. Credit Class cannot be restored as 'deprived' Credit Time."
  
- o 02-04-101 (lx)(E)(9)(m)
- o "No offender shall receive a restoration of deprived Credit Time if the restoration results in placing the offender within forty-five (45) days of his/her EPRD, regardless of conviction."