

# CREDIT FOR TIME SERVED

Summary of Montana's policy

CRIMINAL JUSTICE OVERSIGHT COUNCIL  
LAURA SHERLEY, RESEARCH ANALYST – NOVEMBER 2025

## SUMMARY

Credit for time served is a legal practice in which a person's time spent in incarceration or supervision is credited toward their sentence. This system safeguards defendants from being punished twice and acknowledges the days they spend in custody awaiting trial or sentencing. It also allows for shortened sentences for good behavior.

In Montana, credit for time is calculated based on incarceration before and after conviction and applied to the total sentence time. In cases where a defendant is not incarcerated but is under supervision, such as "street time," the discretion to credit that time toward a sentence lies with the sentencing court. Although Montana abolished its "good time" credit system in 1997, inmates convicted of offenses before then can still reduce their sentences by demonstrating good behavior. In 2025, the Montana Legislature established a work-time credit policy for probationers and parolees, allowing them to earn reductions in their supervision by engaging in work.

## CREDIT FOR TIME IN CUSTODY

### PRE-CONVICTION CREDIT

Pre-conviction credit refers to time spent in custody before conviction that is credited to the final sentence.<sup>1 2</sup> This applies to days spent in a correctional institution, residential treatment facility under court order, or tribal custody.<sup>3</sup>

**How it's calculated:** A defendant is credited for each day spent in custody before a conviction, provided that the custody is related to the same conduct for which they have been convicted.

**Example:** A defendant is arrested on January 1, 2025, and sentenced on June 10, 2025, to 5 years in state prison. In this scenario, the defendant spent 161 days in county jail from the date of arrest until sentencing. The 161 days spent in county jail are applied directly to the prison sentence. The total sentence is 5 years, which equals 1,825 days (5 years x 365 days). The remaining sentence is calculated as follows:

$$1,825 \text{ days of total sentence} - 161 \text{ days spent in jail} = 1,664 \text{ days remaining sentence to be served}$$

The defendant is sent to state prison to serve the remaining 1,664 days of their sentence.

### POST-CONVICTION CREDIT

Post-conviction credit refers to time served in incarceration for an original conviction that is applied to subsequent or modified convictions of a similar nature.<sup>4</sup>

**How it's calculated:** If a court finds that an offender's original judgment is invalid or modifies it while the offender is still serving time on that sentence, the time already served must be credited toward the new sentence.

<sup>1</sup> 46-18-403, Montana Code Annotated

<sup>2</sup> [House Bill 582 \(2025\)](#), Montana Legislature

<sup>3</sup> State of Montana v. Malinda Crazymule. DA 21-0574 (2022)

<sup>4</sup> 46-18-402, Montana Code Annotated

## "STREET TIME" CREDIT

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A judge must consider granting credit for time spent on probation or a suspended sentence, otherwise known as "street time", upon revocation.<sup>5</sup> <sup>6</sup> The judge has the discretion to award or deny that credit only after considering any violations that may have occurred during that period.<sup>7</sup> <sup>8</sup> However, a judge must credit each day of incarceration or home arrest directly related to the revocation proceedings. If credit is denied, the judge must state the reasons for the denial in an order.

**How it's calculated:** A judge may grant credit for all time served towards a defendant's revocation sentence if there are no violations found during the defendant's time spent on probation or a suspended sentence. If violations are found and the judge denies credit for all or part of the elapsed time, the judge must state the specific reasons for the denial in the court order.

## CREDIT FOR TIME BASED ON CONDUCT

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### MONTANA'S HISTORY OF "GOOD TIME" CREDIT

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"Good time" credit generally refers to crediting an inmate's sentence for good behavior. Montana permitted good time credit until February 1, 1997, when the passage of [House Bill 356 \(1995\)](#) eliminated the policy. Today, the Department of Corrections will grant an appropriate good time allowance to inmates who committed offenses before January 31, 1997.<sup>9</sup>

**How it is calculated:** Good time credit is calculated for eligible inmates based on their good behavior and compliance with rules established by the Department of Corrections. Earned credit allowances are capped by an inmate's classification, and credit can be forfeited if an attempted escape occurs.

The department's policies<sup>10</sup> state that they will credit an eligible inmate with appropriate good time on jail time ordered by the court. However, based on disciplinary hearing recommendations, the department may still forfeit all or part of previously earned good time credits. However, forfeited credits can be restored if the inmate maintains good behavior and applies to have their good time credits restored.

### WORK TIME CREDIT

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The 2025 Montana Legislature passed [Senate Bill 217](#), establishing a work time credit policy for probationers and parolees. This policy is an incentive system that allows individuals to earn time off their supervision sentences by maintaining employment.

**How it's calculated:** The policy allows probationers or parolees to earn one day of credit for every 40 hours of eligible work, reducing their supervision period. To qualify, individuals must be compliant with their supervision conditions and be current on their court-ordered payments. They must provide documentation of their employment, and credits can be revoked if conditions are violated.

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<sup>5</sup> 46-18-203, Montana Code Annotated

<sup>6</sup> State of Montana v. Jacob Tyler Powell. DA 24-0116 (2025)

<sup>7</sup> State of Montana v. Charles Edward Jardee. DA 18-0164 (2020)

<sup>8</sup> [House Bill 582 \(2025\)](#), Montana Legislature

<sup>9</sup> Montana Department of Corrections [Policy 1.5.1 – Adult Offender Good Time Allowance](#) (Re. 1/25/12)

<sup>10</sup> [Montana Department of Corrections Policy Manual](#), August 2025