U.S. Department of Justice
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Information Center

STATE LEGISLATIVE ACTIONS ON TRUTH IN SENTENCING:

A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994

May 26, 1995

STATE LEGISLATIVE ACTIONS ON TRUTH IN SENTENCING:

A Review of Law and Legislation in the Context of the Violent Crime Control and Law Enforcement Act of 1994

Prepared by the U.S. Department of Justice,
National Institute of Corrections
and by LIS, Inc., NIC Information Center Contractor
Longmont, Colorado

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INTRODUCTION

The study that follows was conducted by the U.S. Department of Justice, National Institute of Corrections (NIC) at the request of the Office of Justice Programs (OJP). OJP has the responsibility to promulgate regulations for implementing the Truth in Sentencing Incentive Grant portion of the Violent Crime Control and Law Enforcement Act of 1994 (the Crime Bill), enacted by the U.S. Congress.

The purpose of the study was to collect information on truth in sentencing" laws in all fifty states and the District of Columbia. Specifically, inquiries were conducted to:

- Identify *current truth in sentencing laws:* the number of states with laws in place, the nature of those laws, and any requirements regarding the percentage of sentence imposed that must be served in prison.

- Identify *pending legislation on truth in sentencing: the* number of states with proposed bills, the general provisions of those bills, and the impetus or motivations for the proposed law changes.

The overall purpose of the Crime Bill is to ensure that violent offenders remain incarcerated for substantial periods of time. Two grant programs under Title II, Subtitle A of the Crime Bill-Truth In Sentencing Incentive Grants and Violent Offender Incarceration Grants-offer support for states pursuing increases in time served for violent crimes. The Truth in Sentencing Incentive Grant program requires states to meet either of two standards in order to qualify for grant funds.

Under the first standard for Truth In Sentencing Incentive Grants, states must have laws in effect that require persons convicted of anyviolent offense to serve 85% of the sentence imposed. The aim of this study was to create a context for understanding the position of states in terms of the likelihood of their meeting this standard.

The second standard for compliance was not addressed within this study. It requites states, since 1993, to have increased the percentage of convicted violent offenders sentenced to prison, the average time served in prison by violent offenders, and the percentage of sentence served in prison by violent offenders. Also under the second standard, states must have laws in effect that require violent offenders with one or more previous convictions for a violent offense or a serious drug offense to serve at least 85% of the sentence imposed.

No definitive Judgment can be made on whether individual states am in compliance with the first standard for Truth in Sentencing Incentive Grants until several key terms are defined in the OJP regulations, yet to be published. Needed, for example, are a definition of "violent offense' and clarification on what the term "sentence" means for purposes of the 85% calculation. Thus, this document provides no state-by-state analysis of the ability to qualify for grant funds, though there were extensive conversations with states on this issue during the process of collecting the information

Methodology

NIC contacted the states beginning in March 1995 to determine whether truth in sentencing laws were in effect or had been proposed in the current legislative session. In most states, the department of corrections (DOC) legislative liaison, research staff, or general counsel staff responded. In other states, NIC was referred to contacts outside the DOC who were involved in developing the legislation-often a legislator or a member of the state's sentencing commission.

A set of questions regarding the status and content of legislation was prepared and faxed to the states. (The instrument is attached as Appendix A.) Respondents were given the option of discussing their answers over the telephone or faxing a written response. All fifty states and the District of Columbia responded; their answers are presented in Table 1, pages 6 through 28.

This initial round of questions identified states that were operating under truth-in-sentencing law and/or considering truth-in-sentencing legislation in the current legislative session. Project staff reviewed the information provided by each state to identify states that appeared to achieve the 85% of sentence standard for incarcerating violent offenders.

States operating under, implementing, or working with proposed 85% truth-in-sentencing law were re-contacted for further information on the legislation. Project staff obtained copies of statutes and pending legislation and drafted summaries of current and proposed law. The state contacts were then provided an opportunity to review the tabulated data and summary analysis developed for their states.

Assumptions

The following are qualifiers for how the study was conducted and how the results should be interpreted:

- NIC relied on the states to identify the best contact person to provide information.
- NIC provided state respondents no specific information about the provisions of the Crime Bill.
- States were not provided a definition of truth in sentencing and responded to the survey based on their own interpretations of the term. Acknowledging these variations, NIC accepted the states' definitions for purposes of tabulating the responses.
- Given time constraints, NIC was not able to obtain or review all the penal codes that affect sentencing, incarceration, and offender release. Certain factors--such as emergency control release, medical release, and placement of offenders in other DOC-controlled settings-were not analyzed in detail.
- A complete analysis of the language used by states for covering their truth in sentencing laws was not possible. Language used by the states varies and is complex; consequently, the survey cannot always reflect all features and conditions a state has in place.
- Because state legislative activity was continuing as this report was being written, it was necessary to impose a cut-off date of May 1,1995.
- Responses should not be interpreted as representing the official position of any state or agency regarding a decision to apply for grant funds under the Violent Crime Control and Law Enforcement Act of 1994.

Research Findings

States showed strong Interest In truth-In-sentencing legislation. Table 1 summarizes past and current state legislative activity related to truth in sentencing. Nineteen (19) states were found to have had truth-in-sentencing legislation in place before the 1995 legislative session, and legislatures in 29 states reportedly dealt with proposed truth-in-sentencing legislation in the 1995 session.

- Among the 29 states that considered truth in sentencing legislation in the 1995 session, five states had passed laws by the May 1 cut-off date imposed by the study.
- Proposed truth-in-sentencing legislation failed in four of the 29 states.
- Truth-in-sentencing legislation was pending in the remaining 20 states; respondents in nine of these states indicated that the legislation was likely to pass.

The Federal Crime Bill has had a demonstrable Impact on state legislative activity. The desire to qualify for Crime Bill funding was reported as a factor in the development of legislation in several, but not all, of the states that considered truth-in-sentencing legislation.

- Of the states that reported truth-m-sentencing legislative activity in 1995, approximately 60% reported that provisions of the Crime Bill were a significant factor in developing or passing the legislation. In 20% of the states, the Crime Bill was the main or only impetus.
- Roughly 40% of states that considered truth in sentencing legislation attributed the legislative interest to factors other than the Crime Bill.

States' truth-in-sentencing legislation appears generally compatible with Federal aims. NIC reviewed the text of legislation as proposed or passed in more than 30 states. Several themes were observed in the legislation:

- States have attempted to achieve truth in sentencing through a variety of means: establishing or refining sentencing guideline systems; making sentences more determinate **by** imposing mandatory prison terms for specific offenses; abolishing discretionary parole; eliminating good time; and adding or increasing percentage requirements for time to be served in prison before release consideration.
- Many states have chosen to define a set of 'Violent" offenses, or "serious" or "dangerous" offenses, to which the truth-in-sentencing laws apply. These definitions are sometimes narrow and sometimes broad. In other states, the laws apply to all offenders committed to the corrections department.
- States have acted to create more predictability at the time of sentencing for the actual time that will be served on a sentence. Sentencing has become more determinate, either for all offenders or for those convicted of specific offenses or categories of offenses.
- States in which the courts impose both a minimum and a maximum sentence often require offenders to serve at least the minimum prison term imposed, or 85% of the minimum term, before they can be considered for parole. Other states require service of 85% of the maximum term before offenders reach eligibility for release.

Profiles of Truth-in-Sentencing Law

Project staff profiled truth-in-sentencing law and legislation for those states where the language appeared to meet or be close to meeting the first standard for incentive grant funds under the Crime Bill.

The following tables provide a quick reference to the the states profiled in this study.

States with Profiled Law:

	ENACTMENT YEAR/ EFFECTIVE DATE OF CURRENT LAW	PROFILE ON PAGE:
ARIZONA	Effective January 1, 1994.	30
CALIFORNIA	Passed 1993. Legislation also pending in 1995 session.	31
CONNECTICUT	Effective October 1, 1994. Legislation also pending in 1995 session.	32
DELAWARE	Passed 1990.	33
DISTRICT OF COLUMBIA	Passed 1994; effective August 20, 1994.	34
FLORIDA	Passed 1983, 1993. Legislation also pending in 1995 session.	35
GEORGIA	Passed 1994; effective January 1995.	36
KANSAS	Passed 1992; effective July 1, 1993. Passed 1995.	37
MASSACHUSETTS	Effective July 1, 1994	38
MICHIGAN	Passed 1994; effective 1996 or 1997.	39
MINNESOTA	Passed 1980. Passed 1992; effective August 1, 1993.	40
MISSISSIPPI	Passed 1995; effective June 30, 1995.	41
MISSOURI	Passed 1994.	42
NORTH CAROLINA	Passed 1993; effective October 1, 1994.	43
NORTH DAKOTA	Passed 1995; effective August 1, 1995.	44
OREGON	Passed 1988 and 1989. Passed 1994; effective April 1, 1995.	45
VIRGINIA	Passed 1994; effective January 1, 1995.	46
WASHINGTON	Passed 1981, 1990, 1993. Legislation also pending in 1995 session.	47

States with Profiled Pending Legislation:

	PROFILE BEGINS ON PAGE:
CALIFORNIA	50
CONNECTICUT	52
FLORIDA	53
ILLINOIS	54
IOWA	55
LOUISIANA	56
NEBRASKA	57
NEW JERSEY	58
NEW YORK	59
OHIO	60
RHODE ISLAND	62
SOUTH CAROLINA	63
WASHINGTON	64
WISCONSIN	65

Additional Issues Raised by States

- Some respondents expressed the belief that, in assessing the degree of punitiveness in state sentencing systems, it may be appropriate to consider other factors than the percentage of sentence served. Actual time served for a given violent offense is longer in some states than in others, yet can appear shorter when presented in percentage terms.

- In many DOCs, an earned time or good time system is considered an important tool for managing offender behavior.

- Some respondents wanted it more widely recognized that discretionary parole plays an important role in the corrections system, rather than being an open door for release of violent offenders as it has sometimes been portrayed. Eligibility for parole at 50% of a sentence, for example, is built into sentencing law not for leniency to the offender but to allow the corrections system to target its resources toward offenders who most need to be controlled. The parole release decision provides an opportunity to reassess public safety concerns based on the offender's prison record and other factors.

- Many states have carefully crafted systems for supervision, control, and treatment of offenders after they are released from prison and consider post-release supervision an essential component of their correctional system.

TABLE 1. Survey: State Legislative Actions on Truth in Sentencing

	SENTENCING LAW PASSED IN EARLIER LEGISLATIVE SESSIONS				SENTENCING LEGISLATION: 1995 LEGISLATIVE SESSION				
	Has State Passed Truth in Sentencing Legislation in a Previous Session?		Provisions of Current Truth-in-Sentencing Law	Requirements for Percentage of Sentence Served Under Current Law	Has State Considered Truth in Sentencing Legislation in This Session?		Provisions of Current Legislation	Is Bill Likely to Pass?	What Is The Impetus Behind Current Truth-in-Sentencing Efforts?
	Yes	No			Yes	No			
Alabama		✔	—	—		✔	Though not "truth-in-sentencing" per se, a proposed modification of Alabama's Habitual Offenders Act would impose mandatory sentences of 5, 7, or 10 years for violent personal crimes. The net effect across all offenders in this category would be 85% of sentence served. The bill also would change the state's 1981 three-strikes law, focusing it on those convicted of violent crimes by creating more sentencing alternatives for third-strike offenders convicted of lesser crimes.	Very likely	Federal Crime Bill funding not a factor. Since 1991, the state has been moving toward alternative sentencing that allows longer incarceration to be concentrated on those convicted of violent crimes. The state's current budget provides resources for significant progress in this direction.

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	Yes	No			Yes	No			
Alaska		✔	(A 1980 revision of the criminal code mandates presumptive sentencing for serious and violent first offenses and all second and subsequent offenses, as well as limited discretionary parole for lesser offenses.)	All offenders serve at least 67% of the sentence—more if good time is forfeited. Under presumptive sentencing, offenders are not eligible for discretionary parole, except those serving aggravated or consecutive sentences. These offenders can be considered for parole when they reach the aggravated or consecutive portion of the sentence. A 1986 statutory revision mandates 33% time off for good behavior for all offenses; however, on sentences of two years or longer, time off for good behavior is served on mandatory parole.		✔	—	—	The state is unlikely to consider legislation that would add to its current prison crowding problem.
Arizona	✔		A law effective January 1, 1994 abolished discretionary parole release and reduced good time to a maximum of one day for every 7 days of the sentence.	Law requires all offenders to serve 85.7% of the sentence, which will tend to increase term lengths for violent and repeat offenders.		✔	—	—	—

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Arkansas	✔		Under a 1993 truth in sentencing package, juries must factor in release eligibility and good time while determining the sentence. Release criteria were made objective; discretionary release was retained for seven serious felonies. Other early release mechanisms were abolished, with the exception of boot camps and emergency powers.	Under objective criteria for post-prison release decisionmaking, many serious offenses must serve 50% of the sentence minus good time (minimum of 25% of sentence). Discretionary release has been retained for certain serious/violent crimes. Capital murder is punishable by death or life without parole.	✔		Current legislation proposes increased percentages of time served for certain offenses: murder 1, rape, aggravated robbery, and kidnapping would serve 70% with no good time. If not passed in current session, which adjourns this week, legislation may be taken up in special session.	Possible	Availability of Federal Crime Bill funds is being discussed as a factor in the legislation, but caution is being exercised due to the large cost to the state of implementing the proposed changes.
California	✔		Law requires an 85% percent minimum for violent offenses. All offenders are required to receive parole supervision after release.	Offenders convicted of violent crimes must serve 85% of the sentence. Other offenders are eligible for parole release after serving 50%. Length of the parole period ranges from three years for lesser offenses to life for 1st or 2nd degree murder.	✔		Proposed legislation would expand the number of offenses that require 85% of the sentence to be served.	Not likely due to cost; state is behind in building prison space	The state has been moving toward the 85% benchmark for ten years. Although the prospect of Federal Crime Bill funding provided some momentum, it was not the main impetus.

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Colorado		✔	—	On average, offenders serve 67% of the sentence. Second- and third-time violent offenders serve 75% to 85% of their sentences.	✔		Legislation addressed sentencing of violent and repeat offenders but did not specify an 85% requirement.	Bills died	Legislation was motivated both by state politics and by interest in Federal Crime Bill funding. The DOC's position is that an 85% requirement would cost more than would be recovered in Federal funds.
Connecticut	✔		Offenders are eligible for community release or parole after they have served 50% of the sentence; however, they remain under supervision for 100% of the sentence by either the Department of Correction or the Board of Parole. If community release or parole is denied, such release may be reconsidered at the sole discretion of the granting authority.	Offenders with an offense date on or after October 1, 1994 serve 100% of the sentence under the supervision of the Department of Correction or the Board of Parole, even if they are transferred to community release or parole from a prison facility	✔		Proposed legislation would increase time served behind bars from 50% to 85% before inmates convicted of certain serious/violent crimes could be eligible for parole or community release. These offenders would remain under supervision for 100% of the sentence if granted community release or parole.	Very likely	The state considers that it would meet Federal Crime Bill requirements and thus be eligible for available funding.
Delaware	✔		1990 legislation abolished parole and limited good time and early release; prison terms were better defined.	A minimum of 75% of the sentence must be served in any category of offense.		✔	—	—	—

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	Yes	No			Yes	No			
District of Columbia	✔		As of August 24, 1994, the omnibus criminal justice reform bill changed sentencing for those convicted of violent crime.	Those convicted of a violent crime are ineligible for parole until 85% of the minimum sentence has been served, regardless of educational and meritorious good time credits; any mandatory minimum sentence must be served in its entirety.		✔	—	—	(The District will seek Federal Crime Bill funds to improve facilities maintenance, build new facilities, and increase the number of metropolitan police officers.)
Florida	✔		Sentencing guidelines passed in 1983 abolished parole. By eliminating good time, 1993 legislation increased the average percentage of time served.	Offenders sentenced from 1993 on have served an average of 75% of the sentence, excluding capital or life sentences. (Cooperative inmates average 67% of the sentence; uncooperative offenders average 90% to 95%.) Some offenders serving life sentences who were sentenced between 1983 and 1993 were given mandatory minimums of 25 years. In 1993, minimums were eliminated; a life sentence must be served for life.	✔		Several proposals are being fielded within two pieces of legislation: 1) Offenders would serve an 85% minimum, which also limits the amount of gain time that can be earned. Gain time would be reduced to 10 days per month to encourage good behavior. 2) Abolish sentencing guidelines to give judges more discretion. Limit gain time eligibility for some offenses. Serve minimum of 85% of the sentence.	(1) is likely to pass (2) is not likely to pass	The 85% element in proposed legislation came from public sentiment and the Crime Bill. The DOC's position is that an 85% requirement would cost more than would be recovered in Federal funds.

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	Yes	No			Yes	No			
Georgia	✔		Legislation requires that first-time offenders convicted of any of six specified violent crimes must serve 100% of the sentence, which must be a minimum length of 10 years.	First-time offenders convicted of any of seven specified violent crimes must serve 100% of the sentence. Those sentenced to life on a first conviction on murder charges must serve at least 14 years before their first parole consideration. Those convicted a second time of any of these offenses receive a sentence of life without parole.	✔		Legislators have called for the abolishment of the Board of Pardons and Paroles. This would require an amendment to the state constitution.	(No answer)	Legislation was prompted by the political climate in the state rather than Federal Crime Bill provisions.
Hawaii		✔	—	If offender is incarcerated, the paroling authority establishes the minimum time to be served within six months of sentence imposition. Good time is managed by the paroling authority and may be conferred on an individual or group basis.		✔	—	—	—
Idaho		✔	—	—		✔	(An interim committee has been appointed to work toward sentencing reform in the summer of 1995.)	—	Interest has not been prompted by Federal Crime Bill provisions.

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Illinois		✔	—	Since 1978, offenders have received good time of up to 50% of the sentence and have been eligible for award of an additional 90 days. The presumptive parole date factors in anticipated good time.	✔		In this session and last, various bills have proposed that inmates serve 85% of the sentence for violent crimes such as sex offenses and murder.	Very likely	Legislative interest pre-dated the Federal Crime Bill, but there is interest in obtaining Federal funding.
Indiana		✔	—	—	✔		Proposed truth-in-sentencing legislation would have required offenders convicted of murder or a forcible felony to serve 85% of the sentence. The bill as passed requires offenders to serve 50% of the sentence.	Passed	The political climate in the state was the primary impetus; potential availability of Federal Crime Bill funds was also a factor in content of earlier versions of the legislation.
Iowa		✔	—	—	✔		The legislature is considering a measure that would require persons convicted of forcible felonies to serve 85% of the sentence.	Fairly likely	The legislation was not prompted by Federal Crime Bill provisions.

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	Yes	No			Yes	No			
Kansas	✔		The state's sentencing guidelines act, effective for crimes committed on or after July 1, 1993, established two grids, one for drug-related felonies and the second for non-drug-related felonies. The grids indicate presumptive sentences based on crime severity and the criminal history of the offender. First degree murder is off the grid, requiring a minimum of 15, 25, or 40 years.	When sentencing guidelines were enacted, the law provided for maximum possible good time earnings equalling 20% of the incarceration portion of the sentence. (1995 legislation reduces possible good time to 15%.) Between 3,000 and 4,000 inmates who committed crimes before July 1, 1993 remain incarcerated and are subject to release by decision of the state parole board.	✔		In the 1995 session, the governor recommended and the legislature approved legislation lowering the maximum possible good time from 20% to 15% of the sentence. The change in good time affects persons sentenced for crimes committed on or after April 20, 1995.	Passed	Passage of sentencing guidelines pre-dated the Federal Crime Bill, but the change in amount of possible good time earnings from 20% to 15% was prompted primarily by provisions of the Crime Bill.
Kentucky		✔	—	The standard requirement is for offenders to serve 20% of the sentence. For certain violent offenses, offenders must serve 50% of the sentence. For certain sex offenses, offenders must complete institutional treatment to become eligible for parole.		✔	—	—	—

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	Yes	No			Yes	No			
Louisiana		✔	—	—	✔		More than 20 bills are under consideration. Proposed measures would abolish good time or reduce good time so that 85% of the sentence is served, particularly for crimes of violence; abolish probation and parole for crimes of violence; or require 100% of the sentence to be served for violent crimes and 85% to be served for all other crimes.	Likely; compromise position is now being developed	Federal Crime Bill provisions are a factor, but the legislation essentially continues a trend in the state toward more severe sanctions for violent offenders.
Maine		✔	—	The most serious inmates imprisoned in the state system receive an up-front 10 days good time per month and can earn up to 3 additional days per month; toward the end of their sentences they can earn an additional 2 days per month. They therefore serve between 50% and 67% of the sentence.	✔		Current proposals would reduce good time for all sentences to 5 earned days per month.	Not likely due to costs	Crime Bill provisions are not a factor in the legislation, but the legislature is aware of the possible availability of Federal funds.

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	Yes	No			Yes	No			
Maryland		✔	(1994 legislation requires that persons convicted of a violent crime must serve at least 50% of the sentence before being eligible for parole. Offenders over the age of 65 who have served at least 15 years of the sentence may petition for parole consideration.)	By law, offenders with parolable sentences are immediately eligible for parole; however, Parole Commission regulations require that offenders serve 25% of the sentence before becoming eligible for their first parole hearing. A three-strike law and mandatory sentencing statutes limit parole release for certain repeat violent and narcotics offenders, who may also be ineligible to earn the maximum time credits that would otherwise be possible or to be considered for early release programs.	✔		Bills were introduced that would have abolished discretionary parole release for violent offenders, require certain violent offenders to serve 85% of the sentence in prison, abolish good conduct time, and establish a Sentencing Policy Advisory Commission.	All bills failed	Impetus for the legislation was public sentiment and political climate in the state, rather than the Crime Bill. There has been public outcry against the increase in violent crime and a demand for more severe sanctions for violent offenders.
Massachusetts	✔		Truth in sentencing provisions effective July 1, 1994 eliminated statutory good time and established the point of earliest parole eligibility at the minimum term of the sentence, rather than at 1/3 or 2/3 of the minimum term.	Parole eligibility for those sentenced for crimes committed after July 1, 1994 is reached when 100% of the minimum term of the sentence has been served.		✔	—	—	—

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Michigan	✔		Truth in sentencing legislation passed in June 1994 and is anticipated to go into effect in late 1996 or early 1997. A sentencing commission is now being appointed and will develop guidelines. Violent offenders will serve more time; good time will be abolished for violent offenders.	(Percentages undetermined at this time.)		✔	—	—	The legislation was not prompted by Federal Crime Bill provisions. Factors were current national interest in truth in sentencing and victim rights.

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	Yes	No			Yes	No			
Minnesota	✔		Legislation passed in 1980 abolished discretionary parole, and 1993 legislation eliminated good time.	Since the legislature abolished good time in 1993, all felons being sentenced will serve 100% of the prison sentence set by the judge, as well as time on supervised release as imposed by the judge. The only exception is felons serving life for murder 1, who must serve 30 years to be considered for release. Prior to 1993, inmates could reduce the time served to 67% of the sentence by earning good time. For all inmates, the period in prison can be extended if an inmate is disruptive.		✔	—	—	(Past legislation has achieved the state's sentencing goals. BJS data indicate that Minnesota is one of the top states in time served. In 1989, the state began increasing penalties for violent crimes, particularly sex offenses and murder, based on severity of offense and criminal history. In the current session, the legislature is resistant to the costs imposed by the increased penalties.)

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Mississippi		✔	(Parole has been abolished via legislation passed in April 1995.)	All offenders are eligible for parole after serving 25% of the sentence. Average time served runs at 30% to 32% of the sentence.	✔		Legislation signed into law in April 1995 requires all felony offenders to serve 85% of the sentence, abolishes discretionary parole as of June 30, 1995, and will phase out the parole board from five to three members. The remaining 15% good time is credited but can be revoked in whole or in part. As part of the state's long-range systems approach to corrections, another new law establishes a criminal history report system.	Passed April 1995	Although the prospect of Federal Crime Bill funds aided passage, the state had already funded 6,200 new prison beds that are now being built. 2,000 of these beds will be privately operated in a pilot program. Federal funding could accelerate the state's planned systems approach, which has been under development since 1984.
Missouri	✔		1994 legislation defines percent minimums for violent (dangerous) offenses and for repeat offenders.	The 1994 legislation requires persons who commit crimes defined as dangerous felonies to serve 85% of the sentence before they become eligible for any type of provisional release. Persons with one prior DOC remand must serve 40%; two priors, 50%; three or more remands, 80%.		✔	—	—	—

	SENTENCING LAW PASSED IN EARLIER LEGISLATIVE SESSIONS				SENTENCING LEGISLATION: 1995 LEGISLATIVE SESSION				
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	Yes	No			Yes	No			
Montana		✔	(Legislation has passed in the 1995 session.)	—	✔		Legislation requires all offenders to serve at least 25% of the sentence.	Passed	Public sentiment; victim issues.
Nebraska	✔		1992 legislation defines truth in sentencing as a requirement for judges to tell the offenders and victims exactly how much time will be served. Judges define sentences very specifically, factoring in automatic good time, minimums, and maximums to select the exact amount of time an offender will serve.	Except for life sentences, which cannot earn good time, 50% good time is automatically given at the time of sentence for all offenses. Good time may be forfeited by negative behavior. Given the exactness of judges' sentencing calculations and the fact that good time can be lost but is not earned, time served is, in effect, 100% of the sentence.	✔		Governor's proposed legislation would require offenders to earn good time, to be re-termed "positive time." Three months per year would remain automatic and forfeitable by negative behavior, and three months would be available to be earned. The proposal also increases terms and sets mandatory minimums for some offenses, on which no good time would be available.	Likely	The primary factor is the political climate in the state.
Nevada		✔	—	—	✔		Proposed laws address repeat offenders, sex offenders, and persistent violent offenders; one bill would establish mandatory minimums for more than 600 felony offenses.	Not known	State's political climate is main force behind proposed legislation; potential availability of Federal Crime Bill funds is not a factor.

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New Hampshire	✔		Judges establish a minimum and a maximum sentence, adding to either or both terms a projection of possible good time, so that offenders can never serve less than the minimum sentence imposed. Courts can modify the sentence to shorten the minimum term.	Offenders serve 100% of the minimum term of the sentence.		✔	—	—	—
New Jersey		✔	—	None.	✔		Legislation would make certain felons ineligible for parole until they have served at least 85% of the sentence; bill addresses violent and repeat offenders.	Likely	State is interested in obtaining Federal Crime Bill funding.
New Mexico		✔	—	—	✔		One bill had the "truth in sentencing"/85% requirement. However, the bill sent to the governor would have reduced good time for habitual offenders and those convicted of most serious violent crimes.	Vetoed	State is interested in obtaining Federal Crime Bill funding.

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	Yes	No			Yes	No			
New York		✔	(Though not a statutory limitation, the parole board's discretion is affected by the governor's directive that serious violent felony offenders not receive discretionary parole release.)	—	✔		Proposed legislation would impose a requirement that designated violent felony offenders serve 85% of the maximum term of incarceration before being eligible for release. Legislation would apply to the violent felony offender categories identified in the Federal Crime Bill.	Some-what likely	Though Federal Crime Bill provisions were a factor, the legislation probably would have been introduced regardless.
North Carolina	✔		Legislation in July 1993 abolished discretionary parole release; the effective date of the legislation was moved by special session from February 1995 to October 1994.	Offenders are considered to serve 100% of the sentence, as the sentencing judge determines the minimum time to be served. Offenders may be required to serve enhanced time following bad behavior. Earned credits can reduce felons' time served by up to six days per month and misdemeanants' time served by up to four days per month.		✔	—	—	The legislation pre-dated the Federal Crime Bill, but funds could be used to assist in building new prisons that would replace several smaller facilities for greater efficiency and cost-effectiveness.
North Dakota		✔	(A measure passed in the 1995 session.)	—	✔		Newly passed legislation provides that violent offenders must serve 85% of the sentence.	Passed	Though Federal Crime Bill provisions were a factor, the legislation probably would have been introduced regardless.

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Ohio		✔	—	(Ohio inmates on average serve 131% of their minimum terms. Inmates may earn credit for participating in certain programs and may reduce their minimum or definite term through good behavior.)	✔		A bill now in subcommittee would require that time imposed by the court would actually be served, would create a repeat violent offender specification allowing judges to impose up to 10 additional years, and would create "bad time" to be added to terms of inmates who commit crimes while in prison.	Likely	Federal Crime Bill provisions are not a factor, though passage of the measure now being developed will enable the state to apply for Federal funds. The legislation is part of a state effort initiated in 1991 with the convening of a criminal sentencing commission.
Oklahoma		✔	—	Offenders serve an average of 25% of the sentence.	✔		Proposed legislation developed by a state sentencing commission would establish a modified determinate sentencing matrix that would require inmates to serve a minimum of 80% of the sentence, reduce earned credits, and abolish discretionary parole release, among other provisions.	50-50	Federal Crime Bill provisions did not influence the proposal from the sentencing commission; its proposal was based on public opinion. Unsuccessful proposals had incorporated the 85% requirement cited by the Crime Bill.
Oregon	✔		Legislation ended parole release and allows a period of post-prison supervision to be specified at sentencing.	Good time is limited to 20% of the sentence.		✔	—	—	—

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Pennsylvania		✔	(In state's indeterminate sentencing, the minimum sentence can be no greater than one-half the maximum. Offenders serve 100% of the minimum sentence, at which time they become eligible for parole consideration.)	(On average, inmates serve 124% of their minimum sentence.)		✔	—	—	—
Rhode Island		✔	—	—	✔		Committee has considered several bills regarding sentencing for serious and violent offenses, none of which has gone to the floor. Provisions have included the requirement that a minimum of 85% of sentence be served.	(No answer)	Federal Crime Bill provisions have been somewhat a factor; legislature primarily seeks to keep violent offenders in prison longer.

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South Carolina		✔	—	—	✔		Proposed legislation would require violent offenders to serve 85% of the sentence to be released on parole, or 80% to be eligible for work release. Non-violent offenders would serve at least 70% of the sentence to be eligible for parole or 60% to be eligible for work release. The legislation also would abolish discretionary parole.	(No answer)	State is interested in obtaining Federal Crime Bill funding.
South Dakota		✔	—	Good time is a lump sum credit that is awarded at the beginning of the sentence and can be lost through disciplinary infractions, parole revocation, or other limited instances under statute.	✔		Legislation failed in committee that would have required serious violent felony offenders to serve 90% of the sentence, after good time is deducted, before being eligible for parole.	Failed	Potential availability of Federal Crime Bill funding was not a factor.

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Tennessee		✔	(The state's sentencing structure was revised in 1989 with an aim of improving consistency in sentences imposed.)	Offenders in "Standard Range I" (90% of all convictions) must serve 30% of the sentence, but this can be reduced through good time and program credits; offenders released in FY'89-90 and FY'90-91 on average served 30%-35% of their sentences. Certain types of offenders are ineligible for consideration for emergency release.	✔		Governor has proposed legislation that would require violent offenders to serve more time. Other proposals would: require serious felons to serve 85% of the sentence; change the state's three-strikes bill to two-strikes; and increase presumptive sentence length for Class A felons. All proposals apply to serious, violent offenders. No action has been taken on any of these measures.	Not known	Public and legislative sentiment are primary factors; potential availability of Federal Crime Bill funds may increase the likelihood that legislation will be approved.
Texas		✔	—	By the terms of a law passed in 1993, persons convicted of aggravated (generally, violent) offenses must serve 50% of the sentence in calendar time. All other offenders are under indeterminate sentencing.		✔	—	—	Texas has already experienced a massive building expansion; the state does not intend to further increase time served in order to qualify for Federal Crime Bill funding.
Utah		✔	—	—		✔	—	—	—

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Vermont		✔	—	The state has no laws that require a minimum percentage of time to be served. By DOC policy, all violent offenders must serve 100% of the minimum sentence, less any statutory good time. In actual practice, violent offenders have been serving, on average, 134% of the minimum sentence.		✔	(A "three strikes" bill for specific violent offenses would allow life without parole.)	Passed	To date, reforms have not been thought of as "truth in sentencing," though there is growing interest in this approach. Legislation is not necessarily aimed at meeting Federal Crime Bill requirements.
Virginia	✔		Legislation effective January 1995 abolished parole and created voluntary sentencing guidelines. Recommended sentences for persons with prior violent offenses are between 100% and 500% longer than the time served by offenders released from 1988 to 1992 who served time for similar offenses.	Every offender entering the DOC after January 1, 1995 will serve a minimum 85% of the sentence.		✔	—	—	(Reform was pursued in a special legislative session. Application for Federal funding under the Crime Bill was not discussed.)

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Washington	✔		A 1981 sentencing reform act implemented a determinate sentencing system. 1990 legislation reduced the amount of early release time serious violent offenders can earn. A "three-strikes" law was passed in 1993.	Serious violent offenders must serve 85% of the sentence, except for those sentenced to life without parole. Other offenders may be released after serving 67%.	✔		A citizens' initiative to broaden the definition of first degree murder has been approved by both houses and becomes effective as of July 23, 1995. Legislation now being deliberated would broaden the list of offenses for which offenders must serve 85% of the sentence, so that offenses match the requirements specified in the Federal Crime Bill.	Citizen initiative passed; legis-lation failed in the Senate but is being recon-sidered as a budget proviso.	Proposed legislation was designed to bring state into conformity with Federal Crime Bill requirements.
West Virginia		✔	—	—		✔	—	—	—

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	Yes	No			Yes	No			
Wisconsin		✔	—	Three laws passed in the last session, while not "truth-in-sentencing" laws, did affect release dates. The first allows an extension of the period of incarceration beyond the presumptive release date at 67% of the sentence, i.e., sentence minus good time, for public safety reasons. The second allows the sentencing court to set parole eligibility for repeat offenders anywhere within a range from 25% to 67% of the sentence, up from a blanket 25%. The third is a three-strikes measure mandating life without parole for serious felony offenders.	✔		Among the legislation that has been introduced is a bill that would require persons convicted of a second serious felony to serve 85% of the sentence; first offenders would serve two-thirds of the sentence. The governor seeks truth in sentencing reform under which offenders would serve 100% of the sentence, followed by mandatory community supervision on release.	A bill will likely pass	State is interested in obtaining Federal Crime Bill funding.
Wyoming		✔	—	—		✔	—	—	—

PROFILES OF STATE TRUTH-IN-SENTENCING LAW

ARIZONA

CURRENT LAW: Arizona passed a wide-ranging revision to the state's sentencing code (Senate Bill 1049, Chapter 255, 1993 laws) in the 1993 legislative session. The measure became effective on January 1, 1994. While the truth-in-sentencing portion of the statute requires all offenders to serve at least 85.7% of the sentence imposed, it will result in additional time to be served-compared to the former sentencing law-only for "dangerous and repetitive offenders." For most offenses, sentences were "rolled back" in such a manner that 85.7% of the altered sentence matches the historical average time served for each offense. For dangerous and repetitive offenders, however, sentences were not tolled back, and these categories of offenders will be serving additional time under the new law because of delayed release eligibility. The legislation also eliminated virtually all forms of early release from prison, including parole, work furlough, home arrest, and provisional release; it limits good conduct credit to one day in seven; and it requites offenders to be placed under community supervision after release from prison for a period equal to one-seventh of the sentence imposed.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies. The truth in sentencing portion of the code revision applies to all offenses, but it increases actual time served only for dangerous and repetitive offenders. Dangerous offenses are those involving serious physical injury or the use or exhibition of a deadly weapon or dangerous instrument.

Definition of the sentence used as the basis for the 85% calculation. Arizona has a "presumptive" sentencing structure. It appears that the court is generally required to impose sentence based on the presumptive sentence in the statute unless there are aggravating or mitigating circumstances.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law. With the exception of as much as one day off in seven for good behavior, offenders will be requited to serve the entire sentence imposed by the court. The only remaining early release mechanism appears to be a provision for temporary release, which may be granted up to 90 days prior to the scheduled release date.

Contact: Daryl Fischer, Manager, Research Unit, Arizona Department of Corrections; telephone (602) 542-3691; fax (602) 542-5399.

CALIFORNIA

CURRENT LAW: Assembly Bill 2716 was signed into law on September 21, 1994 and went into effect immediately (see PC 2933.1). The law limits the credit reduction possible for any violent felon to 15% of the sentence. California also has a "three-strikes" law that requires that an offender convicted of any felony who has previously been convicted of any one of the specified serious or violent felonies shall have his sentence doubled and be entitled to only a 20% worktime credit. Under the 'three-strikes" law, offenders convicted of any felony who have two or more prior serious or violent felony convictions are required to serve an indeterminate term of at least 25 years to life.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-in-sentencing law applies. Felonies specified in the legislation include murder or manslaughter, mayhem; rape by force, violence, duress, menace or fear of immediate bodily injury on the victim or another person; sodomy by force, violence, duress, menace or fear of immediate bodily injury on the victim or another person; oral copulation by force, violence, duress, menace or fear of immediate bodily injury on the victim or another person; lewd act on a child under the age of 14 years; any felony punishable by death or imprisonment for life; any felony resulting in great bodily injury or in which a firearm was used; robbery of an inhabited dwelling, vessel or trailer coach, in which a deadly or dangerous weapon was used; arson that causes great bodily injury; penetration by foreign object; attempted murder, explosion with intent to commit murder, kidnapping for purpose of committing lewd act on victim under 14 years of age; kidnapping in which the victim was under 14 years of age; continuous sexual abuse of a child; carjacking in which the defendant personally used a deadly or dangerous weapon.

Definition of the sentence used as the basis for the 85% calculation. California has both determinate and indeterminate sentencing statutes; however, the indication is that for the purposes of sentencing persons convicted of violent felonies (except for persons convicted of murder), the determinate sentences apply. A majority of California inmates are serving determinate sentences.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. Although there is a provision for a possible 15% worktime credit, the credit serves only to reduce the prison portion of the sentence from 100% to 85%. Other statutory provisions prohibit the award of any good time credit to a small category of repeat violent offenders.

Contact: Gregory W. Harding, Deputy Director, California Department of Corrections; telephone (916) 445-5692; David Padilla, Branch Manager, (916) 324-8735; Michael B. Neal, Legislative Liaison, (916) 445-4737.

CONNECTICUT

CURRENT LAW: Section 54-125 of Connecticut General Statutes provides that any person confined for an indeterminate sentence can be paroled after serving the minimum term. The Parole Board is authorized to release an offender if: 1) there is reasonable probability that the individual will live and remain in the community without violating the law; and 2) such a release is not incompatible with the welfare of society. Section 54-125a provides that an individual given a definite sentence of two years or more on or after October 1, 1990 can be released, at parole board discretion, after serving 50% of the sentence imposed. Individuals so released will then spend the remainder of the sentence under the supervision of the Board of Parole. However, conviction for several specified crimes committed after October 1, 1981 results in ineligibility for parole consideration and therefore service of 100% of the sentence imposed.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies. State law makes persons convicted of the following crimes and crime categories ineligible for parole: capital felonies; felony murder, arson murder, murder, and any offense committed with a firearm as defined in section **53a-3** or within 1,500 feet of a school.

Definition of the sentence used as the basis for the percent calculation. Connecticut law provides for the imposition of either a determinate or an indeterminate sentence. Offenders who are required to serve 50% of the sentence in prison are those who have a definite sentence of two years or more.

Sentence-reduclng measures that apply to the offenses covered by the truth-In-sentencing law. Persons convicted of the listed crimes must serve 100% of the sentence imposed.

Contact: Peter Matos, Deputy Commissioner, Connecticut Department of Correction; telephone (203) 566-3917; fax (203) 566-4784.

DELAWARE

CURRENT LAW: Delaware's Truth in Sentencing Act of 1989 abolished discretionary parole release and limited the use of good time, thus better defining prison terms within the state's sentencing accountability, five-level structure. Specifically, the law defines the maximum amount of earned good time that can be accrued per month for: 1) Good behavior (2 days per month during the first year of incarceration and 3 days per month during subsequent years); 2) participation in education and rehabilitation programs (2 days per month); and 3) work programs (2.5 days per month). No more than 90 days of total good time can be earned in any one year. The law also specifies that a sentence of incarceration for a felony shah be a definite or fixed sentence. Some mandatory sentences preclude the accrual of any good time credits.

FEATURES OF CURRENT LAW:

Specific offenses to which the 85% truth-In-sentencing legislation applies. The 1989 act applies to all felons going to prison.

Definition of the sentence used as the basis for the 85% calculation. Judges are required by law to give a split sentence for any sentence over one year in length, to include a fixed term of level 5 incarceration and a period of post-prison supervision. The judge must specify the length of the term at each sentencing level.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. During the last six months of incarceration and subject to the availability of space in a level-IV, halfway house facility, offenders may become eligible for work release. These placements are at a premium. The DOC can also apply to the original sentencing judge for a modification of an offender's sentence in cases that involve exceptional rehabilitation or special medical needs, or during times of prison overcrowding.

Contact: Frank Carver, Delaware Criminal Justice Council, telephone (302) 577-3438; fax (302) 577-3440.

DISTRICT OF COLUMBIA

CURRENT LAW: The Districtof Columbia's Omnibus Criminal Justice Reform Amendment Act of 1994, D.C. Law 10-151, became effective on August 20, 1994. The law addresses a number of different criminal justice issues and has a section specific to truth in sentencing.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies. D.C. Code 22-3201 defines "crimes of violence" as "any of the following crimes, or an attempt to commit any of the same, namely: murder, manslaughter, rape, mayhem, maliciously disfiguring another, abduction, kidnapping, burglary, robbery, housebreaking, any assault with intent to kill, commit rape, or robbery, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment in the penitentiary, arson, or extortion or blackmail accompanied by threats of violence."

Definition of the sentence used as the basis for the 85% calculation. The reference in the law is to "85% of the minimum sentence imposed."

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. Though the District has provisions for meritorious and educational good time, these credits cannot reduce the minimum sentence of any inmate convicted of a crime of violence by more than 15%. Persons convicted of violent offenses also cannot be paroled prior to serving 85% of the minimum sentence imposed.

Contact: Pamela Pope, Committee Clerk, Committee on the Judiciary, (202) 727-8200; William P. Lightfoot, Chairman, (202) 724-8045.

FLORIDA

CURRENT LAW: Florida's comprehensive Safe Streets Initiative (P.L. 93406) went into effect in January 1994. Among its many provisions, the Initiative provided sentencing guidelines, revised criteria for habitual felony offenders, expanded the role of the state's Control Release Authority to allow movement of non-violent offenders from prison into alternative programs, and replaced basic good time with awarded incentive time.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies. Felony offenses are ranked in ten offense levels. Level 10 includes unlawful killing of a human (unpremeditated homicide), kidnapping with bodily harm or terrorized victim, kidnapping of child under age 13 with abuse or sexual battery, etc. (life offense), sexual battery of a victim 12 years of age or older with use or threat to use deadly weapon or physical force to cause serious injury. (life offense). Level 9 offenses include attempted premeditated murder, accomplice in murder in connection with arson, sexual battery, robbery, burglary, or other specified felonies; attempted murder of law enforcement officer engaged in duty (life offense); kidnapping for ransom, reward, or shield or with intent to commit a felony; false imprisonment of child under age 13; attempted capital firearms offense; attempted sexual battery of victim under 12 years of age; sexual battery of victim 12 years of age or older under certain circumstances; robbery with a firearm or deadly weapon; attempted capital trafficking offense: sexual battery by offender under age 18 upon victim under age 12 (life offense); and other specific drug trafficking offenses. Violent offenses at Level 8 include DUI manslaughter, killing a human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burlgary, kidnapping, aircraft piracy, or unlawfully discharging a bomb; sexual battery of a victim 12 years of age or older without force/serious injury; burglary with assault, battery, or use of weapon or explosives; robbery with a weapon; and aggravated battery on a child. Reckless vehicular homicide and killing of a human by the act, procurement, or culpable negligence of another are violent Level 7 offenses.

Definition of the sentence used as the basis for the 85% calculation. The sentencing guidelines were developed to ensure incarceration of violent criminal offenders and nonviolent criminal offenders who commit repeated acts of criminal behavior and who have demonstrated an inability to comply with less restrictive penalties previously imposed for nonviolent criminal acts.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. In addition to earned incentive time, inmates may receive meritorious award of time for program achievement or acts such as preventing an assault on an officer. Current law retains provisions for emergency control release of inmates under certain circumstances, i.e., a federal court order to reduce crowding in one or more state correctional facilities; the DOC anticipates that such releases could be effected through inmate transfers or lodging of inmates in county facilities. Inmates are eligible for gain time at a rate of 20 days per month for Level 8-10 offenses or 25 days per month for lesser felonies; actual time awarded is significantly less than the maximum allowable, and inmates currently serve an average of 75% of the sentence imposed.

Contact: Bill Bales, Chief, Bureau of Planning, Research and Statistics, Florida Department of Corrections; telephone (904) 488-1801; Katherine Pennington, Legislative Director, telephone (904) 488-5021.

GEORGIA

CURRENT LAW: Georgia's Sentence Reform Act of 1994, Senate Bill 441, became effective in January 1995. The act requires mandatory prison terms for seven serious violent offenses and requires a sentence of life without parole for a second or subsequent conviction.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-in-sentencing law applies. The offenses to which this law applies include a second or subsequent conviction for any of seven serious violent crimes: murder, armed robbery, kidnapping, rape, aggravated child molestation, aggravated sodomy, and aggravated sexual battery.

Definition of the sentence used as the basis for the 85% calculation. The sentence for second or subsequent offenses for the seven major crimes listed refers to life without parole.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. The law requires that 100% of the sentence be served for a second or subsequent conviction on any of the seven listed serious violent crime-further, these offenders are sentenced to life without parole, and the sentence cannot be suspended, stayed, probated, deferred, or withheld. Nor are these offenders eligible for any form of pardon, parole, or early release or any earned time, work release, leave, or any other sentence reducing measure.

Contact: Hank Pinyan, Assistant Commissioner, Georgia Department of Corrections; telephone (404) 651-6994; fax (404) 656-6434.

KANSAS

CURRENT LAW: The Kansas Sentencing Guidelines Act was passed in the 1992 session of the legislature with an effective date of July 1, 1993. Important amendments to that law have been made in each subsequent legislative session. With the exception of offenders convicted of first degree murder or treason, the law requires that all persons convicted of a felony committed on or after July 1, 1993 and for which imprisonment is ordered must serve a determinate sentence, the term of which can be reduced by good time credits by no more than 20%. During the 1995 session, the legislature lowered the possible good time credit to 15%. The legislation also requires a period of post-release supervision upon completion of the confinement portion of the sentence; offenders sentenced under this law are not subject to the release authority of the Kansas Parole Board. Persons sentenced for first degree murder and treason remain under the releasing authority of the Kansas Parole Board and are considered for release after they have served statutorily defined periods of incarceration, which cannot be reduced by good time.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies. With the two exceptions of first degree murder and treason, all felony convictions for which a person is sentenced to a prison term require service of at least 85% of the sentence imposed.

Definition of the sentence used as the basis for the 85% calculation: Kansas has a determinate sentencing structure. The courts are generally required to impose a sentence in accordance with a sentencing grid. The grid defines which offenders have a presumptive sentence of community supervision and those whose presumptive sentence is incarceration. The length of the sentence is contained in the appropriate grid box and is stated in terms of months of be served. The length of the sentence can be modified by the court taking into consideration mitigating or aggravating circumstances. At the time of sentencing, the offender is advised of the amount of potential **"good** time" that can be earned to reduce the confinement portion of the sentence, and the period of post-release supervision is specified in accordance with law. Any good time earned to reduce the confinement portion of the sentence is added to the period of post-release supervision If an offender is convicted of a criminal offense while under post-release supervision, he/she must serve the remainder of any post-release supervision time in confinement in addition to the sentence imposed for the new crime. The time remaining from the prior sentence cannot be reduced through the application of good time and must be served on a "day-for-day" basis.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law: With the exception of the potential maximum 15% reduction factor, offenders ate required to serve the entire sentence imposed by the court It is anticipated that approximately 20% to 25% of inmates will serve in excess of the 85% requirement because they will fail to earn all their potential good time.

Contact: Charles E. Simmons, Secretary of Corrections; telephone (913) 296-3310; fax (913) 296-0014.

MASSACHUSETTS

CURRENT LAW: Massachusetts "truth in sentencing" law, Chapter 432 of the Acts of 1993, applicable to crimes committed after June 30, 1994, eliminated the indeterminate state reformatory sentence, eliminated suspended state prison sentences, eliminated parole at one-third or two-thirds of the minimum term of a state prison sentence, and eliminated statutory good time for all state and county sentences. Offenders committed to state prison must serve the minimum term before becoming eligible for discretionary parole release. The law does not abolish discretionary parole release, but it raises the point of parole eligibility for state sentences from one-third or two-thirds of the minimum term to the full minimum term. Earned good time, capped at 7.5 days per month, can reduce the minimum term by a maximum of 15%.

FEATURES OF CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies: The law applies to all offenses for which a state prison term is imposed. These offenses include the most serious violent offenses, such as rape, home invasion, kidnapping, robbery, and burglary, among others.

Definition of the term "sentence" used as the basis for the 85% calculation: Massachusetts has an indeterminate sentence structure for state prison sentences, which provides that the sentencing judge sets both the maximum term and the minimum term. The minimum term establishes the date that an offender becomes eligible for parole; the maximum term establishes the date that the inmate will be discharged. Therefore, the new "truth in sentencing" law provides that offenders sentenced to state prison must serve at least 85% of the minimum term.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law: Both the minimum and maximum terms can be reduced by not more than 15% by good time earned for participation in work, education, or rehabilitation programs.

Contact: Robert C. Krakorian, Undersecretary of Public Safety; telephone (617) 727-7775.

MICHIGAN

CURRENT LAW: Michigan passed truth-in-sentencing legislation in June 1994 via Public Acts 217 and 218, to be implemented on approval of sentencing guidelines that are currently being developed. Under the new law, prisoners convicted of specified crimes of violence or assaultive crimes will be ineligible for parole until they have served 100% of the minimum sentence imposed, plus any disciplinary time imposed. The law both abolishes good time for these offenders and institutes a new system of "disciplinary time"-time added to a sentence by the Department of Corrections as a consequence of bad behavior.

Implementation of the truth in sentencing law is tied to the work of a sentencing guidelines commission, also created by legislation during the 1994 session. The commission is mandated to take into account the capacity of prisons and jails as it develops the guidelines, and to submit its recommendations to the legislature in the fall of 1996. The truth in sentencing law will take effect on the date that the sentencing guidelines are enacted, probably in late 1996 or early 1997.

Under laws that are now in effect, good time earnings make it possible for offenders to reduce their time served to 82% of the minimum sentence imposed. When implemented, the new law will require targeted offenders to serve 100% of the minimum term imposed.

FEATURES OF CURRENT LAW

Specific offenses to which the truth-in-sentencing law applies: The new law will apply to many offenses, among which the following crimes are prominent: arson of a house or real property; assault with a dangerous weapon; assault with intent to murder, to do great bodily harm, to rob, or to commit a felony; first degree home invasion; first degree child abuse; sexual abuse of a child; various explosives charges; extortion; first and second degree murder, manslaughter, kidnapping; larceny; criminal sexual conduct, first through fourth degree; assault with intent to commit first or second degree criminal sexual conduct; armed robbery; catjacking; unarmed robbery; and bank robbery. The law also applies to any other offense punishable by life imprisonment; these include the offenses of delivery, manufacture, or possession of 650 grams or more of a controlled substance; a second conviction on a controlled substance offense; attempted murder, sexual delinquency; abduction/compelling a woman to many; inducing a minor to commit a felony; poisoning; assault while lawfully imprisoned/detained; and boarding a railroad train in order to rob it.

Definition of the sentence used as the basis for the percentage calculation: Michigan now has an indeterminate sentencing system in which offenders are subject to discretionary parole release. With passage of the new guidelines, persons convicted of crimes covered by the truth-in-sentencing law will serve the minimum sentence imposed by the court, plus any disciplinary time accumulated, before they can come under the jurisdiction of the parole board.

Sentence-reducing measures that apply to the offenses covered by the truth in-sentencing law: No early release mechanisms apply that would reduce the minimum time to be served.

Contact: Richard McKeon, Executive Assistant to the Director, Michigan Department of Corrections; (517) 373-1944; fax (517) 373-2558.

MINNESOTA

CURRENT LAW: Legislation passed in 1980 created a sentencing guidelines structure and abolished discretionary parole. A 1992 crime bill eliminated good time for all felony offenders sentenced to prison after August 1, 1993 and established a new system for sentencing felony offenders. The new, bifurcated sentencing system established truth in sentencing by requiring the judge to order two separate sentences for felony offenders going to prison: 1) The judge must sentence offenders to a specific period of imprisonment, the term of which cannot be shortened but which may be increased as a result of disciplinary infractions during incarceration. 2) The judge also must sentence felony offenders to a specific and separate sentence of community supervision. Two-thirds of the overall sentence is served in prison, and one-third is served under community supervision. The same legislation also increased the periods of community supervision required for violent sex offenders.

FEATURES OF CURRENT LAW:

Specific offenses to which the 85% truth-in-sentencing legislation applies. The 1993 law applies to all offenders sentenced to prison.

Definition of the sentence used as the basis for the 85% calculation. Minnesota statutes designate that a sentence is a fixed term of imprisonment, selected by the judge from the sentencing grid range for the offense.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law. Only through two conditions might a prison sentence be reduced: though an inmate's selection for the "challenge incarceration program," a boot camp that has restrictive eligibility criteria, or through a rarely used and revokable medical release for terminally ill offenders. Otherwise prison terms may not be reduced, although some offenders may serve some of the term of imprisonment in another controlled setting, such as work release, in which they are still under the supervision of the DOC.

Contact: Dan O'Brien, Assistant to the Commissioner, Minnesota Department of Corrections, telephone (612) 642-0414.

MISSISSIPPI

CURRENT LAW:

On April 7, 1995, the Mississippi legislature enacted a truth in sentencing bill, S.B. 2175, which abolishes discretionary parole release for any offenders who are convicted or whose suspended sentence is revoked after June 30,1995, and who are committed to the custody of the Department of Corrections. Tied to this measure is a system of earned time in which an inmate may receive an earned time allowance of four and one-half days for each thirty days served, if the department determines that the inmate has complied with the good conduct and performance requirements of the earned time allowance program. The earned time may not exceed 15% of an inmate's term of sentence. Further, any inmate released before the expiration of his term of sentence shall be placed under earned-release supervision until the expiration of the full term of the sentence is reached.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-in-sentencing law applies: The law will apply to all persons sentenced for felony offenses after June 30,1995.

Definition of the sentence used as the basis for the 65% calculation: Judges set a fixed term based on the statutory ranges for the particular felony offense class.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law: Felony offenders in general are eligible for placement in other controlled settings, such as work release, managed by the Department of Corrections. However, offenders convicted of murder, rape, armed robbery, and aggravated assault are ineligible for work release. The corrections department also has a medical release program, but very few offenders qualify for it. Mississippi also has an emergency crowding act, which authorizes the governor to release inmates when the prisons reach 95% of capacity; these emergency powers have not been invoked by either of the past two governors.

Contact: Larry Richardson, Staff Attorney, Senate Corrections Committee, Mississippi Legislature; (601) 359-3217; fax (601) 359-3935.

MISSOURI

CURRENT LAW: Under the provisions of the Missouri 1994 Crime Bill (S.B. 763). any offender convicted of a dangerous felony, as defined in 556.061 RSMo, and committed to the Department of Corrections after August 28, 1994 must serve a minimum prison term of 85% of the sentence imposed by the court. The 85% of minimum sentence imposed is the point of earliest parole release consideration Parole supervision occurs from the date of discretionary release to the expiration of 100% of the judge's sentence.

FEATURES OF CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies: The 1994 law applies to seven "dangerous felonies," which include: arson 1, assault 1, forcible rape, forcible sodomy, kidnapping, murder 2, and robbery 1. (Persons convicted of murder 1 must receive a sentence of life without parole.)

Definition of the sentence used as the basis for the 85% calculation: Judges select a fixed term from the statutory ranges for the particular felony offense class.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law: Neither conditional release nor good time credit reductions apply to the dangerous felony offense categories. Dangerous felons sentenced under this law may be eligible for parole release consideration when they reach age 70 and have served at least 40% of the sentence imposed. Another provision of the law allows offenders who are advanced in age and need full-time nursing home cam to be eligible for medical parole.

Contact: Kenneth Hartke, Director of Planning, Research and Evaluation, Missouri Department of Corrections, (314) 5266510; fax (314) 751-8501.

NORTH CAROLINA

CURRENT LAW: In 1993, the North Carolina General Assembly passed new laws called "structured sentencing"; the laws were the result of recommendations from the North Carolina Sentencing and Policy Advisory Commission. The new sentencing laws apply to all felony and misdemeanor crimes (except Driving While Impaired) committed on or after October 1, 1994. Structured sentencing eliminates parole discretionary release, good time, and gain time, and replaces these mechanisms with a system of earned time. A sentence disposition is prescribed for each combination of offense class and prior record level. Dispositions include active punishments, intermediate punishments, and community punishments. Active punishments are prison or jail terms. At sentencing, the judge imposes both a minimum and a maximum sentence. The minimum sentence is selected from the sentencing grid, and the maximum sentence is set at 20% longer. For the violent offender categories, an additional nine months of post-release supervision is added to the maximum sentence.

FEATURES OF CURRENT LAW:

Specific offenses to which the 85% truth-in-sentencing legislation applies. The law applies to all felony and misdemeanor offenses that result in an active punishment (prison or jail) sentence.

Definition of the sentence used as the basis for the 85% calculation. A sentence is a fixed term selected from the sentencing grid. Each sentence includes both a minimum term, determined by the grid, and a maximum term that is 120% of the minimum term.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. Offenders sentenced for crimes committed on or after October 1, 1994 must serve 100% of the minimum sentence. Any earned time comes off the maximum sentence. Earned time reductions from the maximum sentence are limited to an average of six days per month. The earned time system is considered a critical tool for managing inmate behavior.

Contact: Robin Lubitz, Executive Director, North Carolina Sentencing and Policy Advisory Commission, telephone (919) 733-9543.

NORTH DAKOTA

CURRENT LAW: In April 1995, the North Dakota legislature passed House Bill 1218. regarding the sentencing of violent offenders. The law requires that violent offenders who are convicted after August 1, 1995 and receive a prison sentence be ineligible for discretionary parole release until they have served 85% of the sentence imposed by the court, except in cases of commutation. The date of first parole eligibility for violent offenders is, in effect, the date they complete 85% of the prison sentence.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-in-sentencing law applies: The new law applies to actual or attempted murder, manslaughter, aggravated assault, kidnapping, gross sexual imposition involving force or bodily injury, robbery, and home burglaries involving force or bodily injury.

Definition of the sentence used as the basis for the 85% calculation: Judges select a fixed term from the statutory ranges for the particular felony offense class.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law: Other than through commutation, offenders must serve 85% of their sentences. The Department of Corrections can, however, place inmates on work or education release because these placements am not considered a "release" from confinement. Inmates so placed still live at a DOC facility and are only absent from the facility during work- or education-related hours. Also, these release placements must be earned and are only granted toward the end of the inmate's sentence.

Contact: Elaine Little, Director, North Dakota Department of Corrections and Rehabilitation; (701) 328-6390; fax (701) 328-6651.

OREGON

CURRENT LAW: Oregon adopted sentencing guidelines for felony offenses in 1989. The guidelines establish determinate sentences under which the maximum earned time credit for any offender is 20% of the sentence imposed. Earned time credits are based on participation in programs and on institutional behavior. The state's parole board has no ability to establish an early release date. Oregon inmates serve, on average, more than 85% of their sentences.

A 1988 ballot measure provided that persons convicted a second time of any of nine felonies serve a determinate sentence with no eligibility for any reduction in sentence. Voters approved another ballot measure in 1994 that provides for mandatory minimum sentences for 16 felony offenses, with no possibility of earned time credit or sentence reduction. The measure became effective on April 1, 1995. Minimum terms for the offenses range from 70 months to 300 months.

FEATURES OF CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies: Sentencing guidelines were developed for all felony offenses. Specified offenses covered in the 1994 ballot measure include murder, manslaughter 1, rape 1, sexual penetration 1, sodomy 1, assault 1, kidnapping 1, robbery 1, manslaughter 2, rape 2, sexual abuse 2, sexual penetration 2, sodomy 2, assault 2, kidnapping 2, and robbery 2. The offenses covered in the 1988 ballot measure include murder, manslaughter 1, assault 1, kidnapping 1, rape 1, sodomy 1, sexual penetration 1, burglary l,arson l,and robbery l.

Definition of the sentence used as the basis for the 85% calculation. The courts impose sentence based on the guidelines.

Sentencereducing measures that apply to the offenses covered by the 85% truth-In-sentencing law. Except for offenders sentenced to six months or less and offenders convicted of the specific violent crimes identified above, felony offenders are eligible to earn as much as 20% time credit through program participation and good behavior. The 1994 average for credit granted to eligible offenders was 17%. Offenders convicted of the violent crimes identified above are ineligible for any earned time credit or reduction of sentence.

Contact: David Factor, Oregon Department of Corrections, telephone (503) 378-2053.

VIRGINIA

CURRENT LAW: On September 30, 1994, the Virginia Assembly passe HB 5001 and SB 3001, which abolished parole and good conduct allowances for any person convicted of a felony committed on or after January 1, 1995 and created a system of "earned sentence credits." Under this system, an offender sentenced to incarceration in a correctional facility will serve a minimum of 85% of the sentence in an institution.

FEATURES OF THE CURRENT LAW

Specific offenses to which the 85% truth-In-sentencing law applies. The law applies to all felony offenses resulting in sentence to incarceration in a correctional facility. Detail on the nature of these offenses was not provided.

Definition of the sentence used as the basis for the 85% calculation. Courts in Virginia impose a specific sentence, not a range. It is the judge's prerogative to suspend part of a sentence, in which case the 85% would apply to the time the person is incarcerated to serve. For example, a judge may impose a sentence of 20 years, in which case the offender would be required to serve 17 years. Or, the judge may sentence an offender to 20 years and suspend. 15 years, in which case the person would be required to serve 85% of the five years, or 4.25 years.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing law. The earned sentence credits (replacing the former "good time" allowances) accumulate at the rate of a maximum of 4.5 days for every 30 days of a sentence served, equalling 15% of the sentence. The earned sentence credits are earned over the course of the sentence and require adherence to prison rules and regulations and participation in rehabilitation and educational programs. The state allows two exceptions to the 85% requirement: 1) Under a "geriatric provision" of Virginia's sentencing law, offenders who reach age 65 and have served five years of the sentence may petition the Parole Board for early release. Offenders who have reached the age of 60 and have served 10 years also are eligible to petition the Parole Board. 2) Offenders may also petition the governor for executive clemency.

Contacts: Mindy Daniels, Virginia Parole Board, (804) 674-3081; Dr. Kick Kerm, Virginia Criminal Sentencing Commission, (804) 225-4398.

WASHINGTON

CURRENT LAW: Under the earned early release section of a 1990 law, offenders convicted of serious violent offenses or a Class A sex offense on or after July 1, 1990 may not earn early release time in excess of 15% of the sentence. The earned early release time is for good behavior and good performance as determined by the correctional agency having jurisdiction-either a jail, during the period of presentence incarceration, or the prison system. Offenders may not be credited with the early release time in advance of actually earning the credits. For all other offenses, the aggregate, earned early release time may not exceed one-third of the sentence.

The state's Initiative 593, which became effective December 2, 1993, mandates mandatory minimum sentences for offenders convicted of murder 1, rape 1, assault 1, and assault of a child 1. During the mandatory minimum portion of the sentence, the offender is not eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release. The remainder of the sentence is covered by the legislation that took effect on July 1, 1990. Initiative 593 also mandates that persons convicted of a third "most serious offense" be sentenced to prison for life without the possibility of release.

A measure introduced in the 1995 session, Initiative 159, was brought by the state's voters and approved by both houses of the legislature. It will take effect on July 23, 1995. Initiative 159 broadens the definition of aggravated murder, for which the only sentencing options are the death penalty or life without the possibility of release, by including several circumstances under which a person may be charged with this offense. It also adds sentence enhancements for crimes committed while in possession of a deadly weapon and prohibits the offender from earning any early release time during the enhanced portion of the sentence.

FEATURES OF CURRENT LAW:

Specific offenses to which the 85% truth-in-sentencing law applies. The 1990 law applies to serious violent offenses (murder 1 and 2, homicide by abuse, kidnapping 1, assault 1, and assault of a child 1) and to Class A sex offenses (such as rape 1, rape 2, rape of a child 1, rape of a child 2, and child molestation 1).

Definition of the sentence used as the basis for the 85% calculation. The judge will select a fixed sentence from the sentencing guidelines grid, or may go outside the grid sentence for aggravating or mitigating circumstances. A sentence means commitment to the Department of Corrections.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing law. In general, as part of the DOC sentence, an offender may be placed in a pre-release facility, which is considered total confinement, or be placed in a work release facility, which is considered partial confinement. Since these offenders have been convicted of very serious crimes, placement in work release would be rare.

Contact: R. Peggy Smith, Manager, DOC Legislative & Constituent Affairs; telephone **(206) 753-404;** fax (360) 664-3985.

PROFILES OF PENDING TRUTH-IN-SENTENCING LEGISLATION

CALIFORNIA

LEGISLATION PENDING: Existing California law provides that any person who is convicted of a violent felony shall accrue no more than 15% of worktime credit, earnable through work or education programs, and prohibits the accrual of time credits by persons with prior felony convictions. Two proposed amendments now in committee focus on sentence credits for persons convicted of serious or violent felonies. 1) Assembly Bill No. 12 would require that persons convicted of serious felonies also be limited to the 15% worktime credit and would prevent the DOC director from restoring any credits that persons convicted of a violent felony lose following disciplinary infractions. 2) Senate Bill 214 would prohibit the accrual of any type of credits by persons convicted of a violent or serious felony. 3) Senate Bill 1231 would prohibit the accrual of any type of credits by persons convicted of a violent felony.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-in-sentencing legislation would apply.
Violent felony offenses are identified in subdivision (c) of Section 667.5 of the California Code as including murder or manslaughter, mayhem; rape by force, violence, duress, menace or fear of immediate bodily injury on the victim or another person; sodomy by force, violence, duress, menace or fear of immediate bodily injury on the victim or another person; oral copulation by force, violence, duress, menace or fear of immediate bodily injury on the victim or another person; lewd act on a child under the age of 14 years; any felony punishable by death or imprisonment for life; any felony resulting in great bodily injury or in which a firearm was used; robbery of an inhabited dwelling, vessel or trailer coach, in which a deadly or dangerous weapon was used; arson that causes great bodily injury; penetration by foreign object; attempted murder, explosion with intent to commit murder, kidnapping for purpose of committing lewd act on victim under 14 years of age; kidnapping in which the victim was under 14 years of age; continuous sexual abuse of a child; carjacking in which the defendant personally used a deadly or dangerous weapon.

Serious are identified in subdivision (c) of Section 1192.7 as including murder or voluntary manslaughter mayhem; rape; sodomy by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; oral copulation by force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person; lewd or lascivious act on a child under the age of 14 years; any felony punishable by death or imprisonment for life; any other felony in which the defendant personally inflicts great bodily injury on any person or personally uses a firearm; attempted murder, assault with intent to commit rape or robbery; assault with a deadly weapon or instrument on a peace officer, assault by a life prisoner on a non-inmate; arson; exploding a destructive device or any explosive with intent to injure; exploding a destructive device or any explosive causing great bodily injury or mayhem; exploding a destructive device or any explosive with intent to murder, burglary of an inhabited dwelling house, or trailer coach as defined by the Vehicle Code, or inhabited portion of any other building; robbery or bank robbery; kidnapping; holding of a hostage by a person whined in a state prison; attempt to commit a felony punishable by death or life imprisonment; any felony in which the defendant personally used a dangerous or deadly weapon; selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give to a minor, heroin, cocaine, phencyclidine (PCP), a methamphetamine-related drug, or a precursor of methamphetamine; any violation of PC ss. 289(a) where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another

person; grand theft involving a firearm; carjacking; any attempt to commit a crime listed in this subdivision other than an assault; continuous sexual abuse of a child,

Definition of the sentence used as the basis for the 85% calculation. Derivation of the base prison term is not specified in the legislation.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. AB 12 would require that a person who is convicted of a violent felony or a serious felony would accrue no more than 15% of worktime credit or good behavior credit; the 15% limitation applies to the entire term of imprisonment. In addition, if persons convicted of violent or serious felonies forfeit any worktime credit for disciplinary reasons, the credit cannot be restored. (By current law, offenders can receive a sentence reduction of up to six months for every six months of full-time performance in a credit qualifying program; these credits can be lost for disciplinary reasons but restored by the DOC director.) SB 214 was developed to eliminate all sentence credits for violent or serious felony offenders.

STATUS OF LEGISLATION: AB 12 was passed by the Assembly's Public Safety Committee and referred to the Committee on Appropriations. SB 214 was introduced on February 24, 1995, and was in the Senate Criminal Procedure Committee as of April 25. SB 1231 failed passage on April 25 in the Senate Criminal Procedure Committee.

Contact: Joyce C. Hayhoe, Legislative Liaison Unit, California Department of Corrections, telephone (916) 323-3712; fax (916) 323-0902.

CONNECTICUT

LEGISLATION PENDING: Senate Bill 927 would increase the minimum requirement for time served on a conviction for a violent crime for which parole is available from 50% to 85% of the prison term imposed. Although proposals have been made to apply the 85% rule retrospectively, the bill currently states that the 85% provision would apply to persons convicted of offenses committed on or after October 1, 1995.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-in-sentencing legislation would apply. Persons convicted of Class A or B felonies would be required to serve no less than 85% of the sentence before becoming eligible for parole, except that persons convicted of a Class B violent offense (assault 1, assault 1 on a victim over 60, sexual assault 1, burglary 1, and robbery 1) with a weapon or firearm must receive a sentence of at least five years. The following specific offenses must serve 85% of the sentence: carrying of pistol or revolver without permit; altering or removing identification mark weapons in a vehicle; injury or risk of injury to, or impairing morals of, children; carrying and sale of dangerous weapons; manslaughter 2; manslaughter 2 with a firearm; manslaughter 2 with a motor vehicle; misconduct with a motor vehicle; assault 2; sexual assault 2; sexual assault 3; rape 2; deviate sexual intercourse 1 and 2; sexual contact 1.2, and 3; unlawful restraint 1; custodial interference 1; burglary 3 with a firearm; robbery 2; robbery 3; assault of a peace officer, fireman, employee of an emergency medical service organization, emergency room physician or nurse, employee of the department of correction, employee, or member of the Board of Parole or probation officer, stalking 1; possession of a sawed-off shotgun or silencer, stealing a firearm; criminal use of firearm or electronic defense weapon; criminal possession of a firearm or electronic defense weapon. Parole is not possible for capital felonies, including murder, arson murder, any offense committed with a firearm within 1,500 feet of a school, and other offenses.

Definition of the sentence used as the basis for the 85% calculation. Under the provisions of Senate Bill 927, violent or serious offenders must receive a definite sentence. For Class A felonies other than murder, the term of incarceration is from 10 to 25 years. A conviction for a capital felony results in death or life imprisonment without release. A Class A murder conviction results in a definite sentence of between 25 years and life in prison. Class B felonies result in determinate sentences of between one and 20 years.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing legislation. Under existing law, persons convicted of capital felonies or felony murder are permanently ineligible for parole. S.B. 927 would further prohibit parole eligibility for any person convicted of assault on a victim aged 60 or older. Medical parole could not be used to reduce these sentences. The state's Prison Overcrowding Act would affect parole eligibility for persons convicted of these sentences; repeal of the Act has been recommended.

STATUS OF LEGISLATION: As of May 1, 1995, the bill was under consideration in the Senate.

Contact: Peter Matos, Deputy Commissioner, Connecticut Department of Correction; telephone (203) 566-3917; fax (203) 566-4784.

FLORIDA

LEGISLATION PENDING:

Four bills were proposed this session with regard to criminal justice/corrections reform in areas including mandatory minimum sentencing, career criminals, prison capacity, inmate population management, and early release programs. Senate Bill 168 would create minimum terms for career criminals who commit forcible felonies and limit these offenders' eligiblity for incentive gain time to up to 5 days per month, while retaining a requirement that 85% of the imposed sentence be served in prison. S.B. 94 would increase the DOC's total capacity from 133% of design capacity to 150%. S.B. 172 would increase the severity of the 1994 sentencing guidelines as well as providing technical changes. House Bill 687, the Stop Turning Out Prisoners Act, would require offenders convicted of crimes committed on or after October 1, 1995 to serve at least 85% of the sentence, would eliminate the present one-time award for education achievement, would reduce the amount of earnable gain time for these offenders to no more than 10 days per month, and would permit the DOC to withold consideration for gain time for inmates who violate DOC rules and regulations.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-In-sentencing legislation would apply. Attention has focused on forcible felonies such as murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, aircraft piracy, aggravated child abuse, bombing, carjacking, home-invasion robbery, and aggravated stalking. Under S.B. 172, persons convicted of such offenses while possessing a firearm or other "destructive device" would be ineligible for control release. S.B. 94 would exclude from control release eligibility offenders with current or prior convictions for manslaughter, kidnapping, robbery, carjacking, home invasion robbery, and certain burglaries.

Definition of the sentence used as the basis for the 85% calculation. The courts in Florida impose sentence based on 1994 sentencing guidelines, with enhanced penalties prescribed in the 1995 proposed legislation.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. House Bill 687 contains a specific prohibition against awarding any type of gain-time in an amount that would cause the inmate to serve less than the 85% imposed. Persons sentenced to life imprisonment after October 1, 1995 would be eligible for release only by pardon or clemency. Though the 60-day education award would be eliminated and earnable gain time reduced, inmates would be eligible for all remaining one-time awards or meritorious gain time as long as the award would not cause the offender to serve less than 85% of the sentence, Whether conditional medical release would continue to be possible was not addressed in the legislation. S.B. 94 would exclude certain violent offenders from control release, as noted above; under pre-existing law, habitual violent offenders already are ineligible for control release.

STATUS OF LEGISLATION: The four bills were under consideration as of May 1, 1995 and were considered likely to pass.

Contact: Katherine Pennington, Legislative Director, Florida Department of Corrections; telephone (904) 488-0987; fax (904) 922-4316.

ILLINOIS

LEGISLATION PENDING: House Bill 2038 provides for a tiered system of sanctions for those convicted of violent offenses or offenses involving great bodily harm and requires judges to state the estimated length of time offenders would be incarcerated. The bill provides specific language to be used when making this statement to inform the public of the actual period of time the defendant is likely to spend in prison as a result of the sentence.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-in-sentencing legislation would apply. The legislation applies--to those convicted of first degree murder, who must serve 100% of the sentence, as well as to persons convicted of offenses in two categories, who must serve 85% of the sentence. The first category, violent offenses, includes: attempt to commit first degree murder; intentional homicide of an unborn child; aggravated criminal sexual assault; criminal sexual assault; aggravated battery with a firearm; heinous battery; aggravated battery of a senior citizen; aggravated battery of a child; solicitation of first degree murder, and solicitation of murder for hire. The second category includes certain offenses if their commission involved great bodily harm: aggravated kidnapping for ransom; home invasion; armed robbery; aggravated vehicular hijacking; aggravated discharge of a firearm; and armed violence with a category I or category II weapon. ("A category I weapon is a handgun, sawed-off shotgun, sawed-off rifle, any other firearm small enough to be concealed upon the person, semiautomatic firearm, or machine gun. A category II weapon is any other rifle, shotgun, spring gun other firearm, stun gun, or taser as defined . . . , knife with a blade of at least 3 inches in length, dagger, dirk, switchblade knife, stiletto, axe, hatchet, or other deadly or dangerous weapon or instrument of like character.")

Definition of the sentence used as the basis for the 85% calculation. The sentencing judge states on the record the estimated time that the offender will serve, according to then-current statutory rules and regulations for early release. The derivation of the base prison term is unspecified in the legislation.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. According to a DOC analysis dated April 7, 1995, persons convicted of any of the offenses specified above are ineligible for meritorious good time or other good time programs. However, the legislative text that was also provided indicates 1) that only those convicted of first-degree murder are ineligible to earn good conduct credits, and 2) that persons convicted of the other offenses identified above may earn up to 4.5 good time days per month, for an actual sentence length of 85%, and may earn an additional one-half day of credit per month for program participation.

STATUS OF LEGISLATION: House Bill 2038 as amended by HA #7 passed the House on April 7,1995 and was sent to the Senate.

Contact: Craig Cellini, Legislative Liaison, Illinois DOC, (217) 522-2666, ext. 2081; fax (217) 522-9771.

IOWA

LEGISLATION PENDING: Section 5 of House Bill 471 (formerly HSB 170), would reduce and in some cases eliminate the eligibility of repeat violent offenders for parole and work release. The minimum percentage of sentence served would be 50% for offenders with one prior conviction for a forcible felony or crime of similar gravity, or 85% for those with two prior convictions. An effective date for the legislation was not specified.

FEATURES OF THE PROPOSED legislation

Specific offenses to which the 85% truth-In-sentencing legislation would apply. Specific offenses are not listed in the legislation; the terms "forcible felony" and "a crime of similar gravity" are used but not defined. The provisions of the bill apply to second- and third-time offenders.

Definition of the sentence used as the basis for the 85% calculation. Offenders who have previously been convicted of a forcible felony or a crime of similar gravity-in Iowa or in any other state-must serve at least 50% "of the maximum term of the person's sentence.*' Offenders with two prior convictions must serve 85% "of the maximum term of the person's sentence."

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. Inmates sentenced according to the provisions outlined above are ineligible for parole or work release until they have served the specified minimum percentages of their prison terms. They may, however, accrue a reduction of sentence for good conduct at the rate of five days per year.

STATUS OF LEGISLATION: Legislation was passed by the House on March 21, 1995.

Contact: James McKinney, Deputy Director, Institutions; telephone (515) 281-4810; fax (5 15) 281-7845.

LOUISIANA

LEGISLATION PENDING: House Bill 146, Regular Session 1995, is prototypical of several bills under consideration and seeks to increase the percentage of sentence served on most crimes to 85%. (Other proposals now pending would require, variously, 100% of sentence for violent crimes and 85% for all others; abolition of all good time credit; and abolition of probation and parole as options for those who commit a crime of violence.) HB 146 "provides a decrease in the rate at which prisoners earn good time" (such that good time release would occur only after an inmate had served 85% of the sentence) and "requires that an offender convicted of a crime of violence serve at least 85% of his sentence before being eligible for parole." The provisions of HB 146, if passed, would become effective on January 1,1997.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-in-sentencing legislation would apply. "Crimes of violence," covered by the 85% rule in House Bill 146, include (by statute) solicitation for murder, first degree murder, second degree murder, manslaughter, aggravated battery, second degree battery, aggravated assault, mingling harmful substances, aggravated rape, forcible rape, simple rape, sexual battery, aggravated sexual battery, oral sexual battery, aggravated oral sexual battery, intentional exposure to AIDS virus, aggravated kidnapping, second degree kidnapping, simple kidnapping, aggravated arson, aggravated criminal damage to property, aggravated burglary, armed robbery, first degree robbery, simple robbery, purse snatching, extortion, assault by drive-by shooting, aggravated crime against nature, and carjacking. It is also likely that the attempt to commit any of these crimes will be added to the definition of "crimes of violence."

Definition of the sentence used as the basis for the 85% calculation. Under the proposed law, any inmate released by good time or sentenced for a crime of violence and then paroled will be required to serve 85% of the sentence imposed. Title 14 of the Louisiana Revised Statutes defines crimes and sets penalties. Within these boundaries and after consideration of the advisory Louisiana Sentencing Guidelines, the court sentences the offender to a particular number of years. It is this period of which the inmate must serve 85% before becoming eligible for parole or good time release.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing legislation. For all offenses and circumstances, the proposed legislation would change the rate for accumulating good time from 30 days of good time for each 30 days served in actual custody, to three days of good time for every 17 days in actual custody. This rate would result in an inmate serving 85% of sentence before reaching the good time release date. For persons convicted of a crime of violence, the proposed legislation would require at least 85% of sentence to be served before eligibility for parole is reached. The victim or victim's family would be "notified whenever the offender is to be released." As in present law, no person convicted of a third or subsequent felony would be eligible for parole.

STATUS OF LEGISLATION: The DOC expects some form of compromise measure to pass before the legislative session ends in June 1995.

Contact: Jean Wall, Office of the Secretary, (504) 342-1056, fax (504) 342-3095.

NEBRASKA

LEGISLATION PENDING: While Legislative Bill 371 defines maximum and minimum sentences for certain felonies committed by habitual offenders, it does not establish any minimum percentage of time served.

FEATURES OF THE PROPOSED legislation

Specific offenses to which the 85% truth-In-sentencing legislation would apply. No mandatory minimum percentages apply to any offenses. Third-time felons would be subject to a mandatory minimum sentence of ten years in an adult correctional facility; certain serious third-time offenses as defined by reference to existing statutes (violation of sections 28-303,28-304,28-308,28-313,28-319,28-502,28-929, or 28-1222, or a violation of section 28-202 premised upon violations of such sections) would be punished by a mandatory minimum sentence of twenty-five years. Offenders committing Class IC and ID felonies, which are not specified in the bill but presumably include violent felonies, are also subject to mandatory minimum sentences (prison terms of five years and three years, respectively). Class IB felonies are listed in the bill as calling for a minimum (but not a mandatory minimum) sentence of twenty years in prison. Class IA felonies call for life imprisonment; Class I felonies carry the death penalty.

Definition of the sentence used as the basis for the 85% calculation. Based on a survey of the legislation submitted, no such calculation is applied.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing legislation. Except in those cases in which a life term is required by law, minor offenders may be dealt with under the Nebraska Juvenile Code. Moreover, effective January 1, 1996, Section 83-1, 107 as modified by LB 371 would allow sentence reduction of up to six months for each year of an offender's term, which is to include any confinement prior to sentencing. The total of all such reductions are deducted from the inmate's maximum term in order to determine the date of mandatory release. Every committed offender, unless s/he has been sentenced in accordance with a are minimum term, would be eligible for parole after serving one-half of the minimum term of his or her sentence. According to Section 2 of LB 371, a person convicted of a felony for which a mandatory minimum sentence is required would not be eligible for probation. It is unclear from LB 371 when or if offenders who have incurred a mandatory minimum sentence are eligible for parole, and whether Nebraska's current and proposed sentencing laws would fulfill Federal truth-in-sentencing guidelines.

STATUS OF LEGISLATION: The bill had not been heard as of May 1, 1995, but was expected to be presented to the full legislature within twenty days.

Contact: Ron Riethmuller, Records Administrator, DOC; (402) 471-2654

NEW JERSEY

LEGISLATION PENDING: Senate Bill 1916 was written as a supplement to the Parole Act of 1979. The bill would make certain felons ineligible for parole until they have served at least 85% of their sentence. In order to allow the state to prepare for the anticipated effects of the measure on the state's prison population, its provisions would apply to crimes committed on or after January 1, 1998. No provision of the bill would reduce mandatory minimum periods of incarceration under existing New Jersey law.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-In-sentencing legislation would apply. Offenders subject to the measure would be those who had committed a "crime of the first or second degree." First degree offenses include paying or accepting monetary benefit for fire or explosion, carjacking, conspiracy to commit murder, kidnapping, aggravated manslaughter, murder, robbery with intent to kill or inflict serious bodily injury or with use of a firearm or deadly weapon, aggravated sexual assault, unauthorized act at nuclear plant causing death, racketeering involving a crime of violence or use of firearms, being the leader of a narcotics trafficking network, distributing a controlled substance to a pregnant women or person under age 18, maintaining or operating a controlled substances production facility, distribution of heroin or cocaine in excess of five ounces or LSD in excess of 100 mg. or phencyclidine in excess of ten grams, strict liability for a drug-induced death, or attempt to commit murder or other first degree crime. Second degree offenses include but are not limited to sexual assault, robbery, aiding a suicide by purposeful cause or attempt, aggravated arson, aggravated assault involving actual or attempted serious bodily injury, burglary involving injury or the use of a firearm or deadly weapon or explosive device, causing or risking injury or damage through hazardous discharge, conspiracy to commit a first or second degree crime, employing juveniles in a drug distribution scheme, endangering the welfare of a child, causing or facilitating escape from a secure setting, manslaughter, and various offenses involving possession of weapons or explosive or destructive devices, bribery, racketeering, fraud, property/theft offenses involving sums of $75,000 or more, and trafficking in controlled substances or stolen vehicles.

Definition of the sentence used as the basis for the 85% calculation. The basis for the calculation is the "court-ordered term of incarceration."

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. Inmates would not be eligible for parole until they have fulfilled the 85% requirement. The Parole Board may, at its discretion, allow exceptions in the case of inmates who are (1) 65 years or older and have served at least five years of the sentence imposed; (2) 60 years or older and have served at least ten years of the sentence imposed; or (3) are determined after public hearings to have a medical condition that precludes them from posing a threat to the public.

STATUS OF LEGISLATION: Legislation was pending as of May 1, 1995 and was considered likely to pass.

Contact: Loxetta O'Sullivan, Legislative Liaison, New Jersey Department of Corrections; telephone (609) 292-9860; fax (609) 777-4445.

NEW YORK

LEGISLATION PENDING: Bill S.1824-A (a.k.a. A.3124-A) would require that persons convicted of certain violent felonies serve no less than six-sevenths, or 85.7%, of the maximum prison sentence imposed by the court (Under existing law, the minimum period of imprisonment under an indeterminate sentence for a violent felony must be fixed by the court at one-third of the maximum term imposed, but can be set at between one-third and one-half of the maximum when the sentence is for a conviction of a class B armed felony offense.)

FEATURES OF THE PROPOSED legislation

Specific offenses to which the 85% truth-in-sentencing legislation would apply. Violent felony offenses are defined in Section 70.02 of the New York penal code as follows. Class B violent offenses include an attempt to commit the class A-I felonies of murder 2, kidnapping 1, and arson 1; manslaughter 1; rape 1; sodomy 1; aggravated sexual abuse; kidnapping 2; burglary 1; arson 2; robbery 1; criminal possession of a dangerous weapon 1; criminal use of a firearm 1; aggravated assault upon a peace officer, and intimidating a victim or witness 1. Class C violent felony offenses include an attempt to commit any of the class B felonies; assault 1; burglary 2; robbery 2; criminal possession of a weapon 2; and criminal use of a firearm 2. Class D violent felony offenses include an attempt to commit any class C felonies; assault 2; sexual abuse 1; criminal possession of a weapon 3; criminal sale of a firearm 1; and intimidating a victim or witness 2. Class E violent felony offenses include an attempt to commit any of the felonies of criminal possession of a weapon in the third degree as defined in subdivisions four and five of section 265.02 as a lesser included offense of that section as defined in section 220.20 of the criminal procedure law.

Definition of the sentence used as the basis for the 85% calculation. New York courts employ indeterminate sentencing, and the basis of the calculation is the maximum term of imprisonment imposed by the court. If an offender is serving multiple terms, the calculation is based on the aggregate maximum sentence.

Sentence-reducing measures that apply to the *offenses* covered by the 85% truth-In-sentencing legislation. Reduction of sentence for good behavior or other activities and achievements is expressly limited to not more than one-seventh (14.3%) of the maximum term of imprisonment imposed for violent felony offenders.

STATUS OF LEGISLATION: Legislation is pending.

Contact: Deirdre Keating, Senior Attorney, DOCs; (5 18) 485-5468; fax (5 18) 457-7615.

OHIO

LEGISLATION PENDING: A bill incorporating recommendations of the Ohio Criminal Sentencing Commission, based on a multi-year study of sentencing practices that was initiated in 1991, is currently being considered by the state legislature. The bill generally requires that offenders serve the actual time in prison specified by the judge, followed by a period of post-release supervision. Since the actual text of the legislation was approximately 1,000 pages, information presented here is based on "A Plan for Felony Sentencing in Ohio," a formal report of the Commission that includes suggested legislative language with regard to a wide range of sentencing issues. The plan adopts a simplified but flexible schema under which mandatory prison sentences would be requited for murders, rapes, repeated first and second degree felonies, and certain other violent offenses; "repeat violent offenders" would be identified and incarcerated for longer periods of time; and the prison term imposed by a judge would more closely reflect the actual time that a felon spent in prison. Additional "bad time" of up to one-half of the original sentence could be added by the Parole Board for misbehavior in prison.

FEATURES OF THE PROPOSED legislation

Specific offenses to which the 85% truth-in-sentencing legislation would apply. The Ohio commission's report predated the Federal Crime Bill, and it does not recommend application of an 85% rule. The study instead proposes "'honest sentencing" in the form of a set of "basic prison terms" based on the classification of felonies other than murder in five categories. According to this schema, for example, a felony in the first degree would be punishable by a prison sentence between three and ten years, with possible enhancements for bad behavior, the use of firearms, or repeated violent offenses. Provisions of the draft legislation address "truth-in-sentencing" for violent offenders.

Definition of the sentence used as the basis for the 85% calculation. Offenders sentenced under the proposed legislation would serve at least 85% of the court-ordered sentences; an offender who receives the maximum earned credit reductions and no added "bad time" would serve almost 97% of the original sentence. With bad time additions, many offenders would serve more than 100% of their court ordered sentences. According to the state DOC, Ohio inmates have historically served 131% of their minimum prison terms. The state is seeking clarification with regard to whether the 85% provision in the Federal Crime Bill must be met on an individual or an aggregate, system-wide basis.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. The proposals of the Commission would abolish existing "good time" provisions but would allow for one day per month "earned credit" for meaningful participation in various training and treatment programs. Also, offenders serving five years or less, unless they are serving mandatory sentences, would be eligible for judicial release at the discretion of the sentencing court. The bill would also require judicial approval for release of offenders to a halfway house for educational and employment purposes. Executive clemency and medical parole could also be used to bring about release of violent offenders. The state's overcrowding emergency provisions-which have never been invoked to date-could be used to effect the release of some, less violent felons but not the state's most violent felons.

The current version of the legislation also allows for sentence review through the Parole Board: offenders serving terms of more than five years could petition the Board for a one-time review of the sentence for possible modification; those serving terms of more than 15 years could petition for a

hearing after serving 15 years and at five year intervals thereafter. (The DOC and the governor seek to remove this provision from the proposed legislation.)

STATUS OF LEGISLATION: As of May l, 1995, Senate Bill 2 was pending in the Senate Judiciary Subcommittee on Criminal Sentencing.

Contact: Scott Neely, DOC Legislative Liaison; telephone (614) 752-1150; fax (614) 752-1171.

RHODE ISLAND

LEGISLATION PENDING: Passage of Senate Bill 95-S 608 would extend the period of time a prisoner must serve before becoming eligible for parole. Inmates convicted of violent crimes would be required to serve 85% of their sentence before becoming eligible for parole. All other inmates would be required to serve one-half of their sentence.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-in-sentencing legislation would apply. S.B. 95-S 608 would apply to those convicted of violent crimes as defined by R.I.G.L. 11-47-2, including actual or attempted murder, manslaughter, rape, mayhem, robbery, burglary, or breaking and entering; any felony violation involving the illegal manufacture, sale or delivery of a controlled substance; possession with intent to manufacture, sell or deliver a controlled substance; assault with a dangerous weapon, assault or battery involving grave bodily injury, assault with intent to commit any offense punishable as a felony.

Definition of the sentence used as the basis for the 85% calculation. The term "sentence" is used to mean "the length of the term of imprisonment imposed by the sentencing court." No less than 85% of a given sentence must be served in the Adult Correctional Institute.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. "No reductions in time or suspension of the term of imprisonment . . . shall be permitted."

STATUS OF LEGISLATION: The bill passed the Senate Judiciary Committee and was scheduled to come before the full Senate on May 2, 1995. A fiscal/policy impact study was completed in April 1995.

Contact: Jeffrey Renzi, Associate Director Planning/Research, DOC; telephone (401) 464-3922; fax (401) 464-2253.

SOUTH CAROLINA

LEGISLATION PENDING: H.3238-Truth in Sentencing Judiciary Committee Bill. Section 3 of the bill provides that "a prisoner. . . sentenced to the custody of the Department of Corrections . . . is not eligible for early release, discharge, or community supervision" until an offender convicted of a violent crime has served 85 percent of the sentence, and an offender convicted of a non-violent crime has served 70 percent of the sentence. Section 9 sets only three sentencing options for murder: death, life imprisonment, and a mandatory minimum of twenty-five years. Section 17 provides that an offender convicted of a violent crime for the third time must be sentenced to life imprisonment.

FEATURES OF THE PROPOSED legislation

Specific offenses to which the 85% truth-in-sentencing legislation would apply. As defined in Section 16-1-60 of the 1976 Code, violent crimes include the offenses of murder, criminal sexual conduct in the first and second degree; criminal sexual conduct with minors, first and second degree; assault with intent to commit criminal sexual conduct, first and second degree; assault and battery with intent to kill; kidnapping: voluntary manslaughter, armed robbery; drug trafficking as defined in Sections 44-53-370(e) and 44-53-375(C); arson in the first degree; burglary in the first and second degree; engaging a child for a sexual performance; accessory before the fact to commit any of the above offenses; and attempt to commit any of the above offenses. Only those offenses specifically enumerated in this section are considered violent offenses.

Definition of the sentence used as the basis for the 85% calculation. Percentages for both violent and non-violent crimes would be "applied to the actual term of imprisonment, not to include the portion of the sentence which has been suspended." The legislative language specifically excludes the application of credits earned for work, education, and good time.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-In-sentencing legislation. Section 20 allows for three days of good time to be earned for every month served. No reduction below established minimums (ref. Section 24-13-150 in the 1976 Code) is allowed, and credits earned may not be applied to "prevent full participation in the department's pre-release and community supervision program." 'When two or more consecutive sentences are to be served, the aggregate" is the basis for computing good time credits.

STATUS OF LEGISLATION: Legislation is not expected to pass in full, as sentencing guidelines have not yet been developed. It is anticipated that these guidelines could be developed by January 1996.

Contact: David Jordan, South Carolina Department of Corrections, Legislative Affairs, (803) 896-8501; fax (803) 896-1220.

WASHINGTON

LEGISLATION PENDING: House Bill 1709 would amend the state's sentencing reform act by including several offenses among the crime categories for which the aggregate earned early release time may not exceed 15% of the sentence.

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-in-sentencing legislation would apply. Offenses that would be newly included among those that require offenders to serve 85% of the sentence are: robbery in the first or second degree; manslaughter in the first or second degree; assault in the second degree; or any attempt, conspiracy, or solicitation to commit these crimes.

Definition of the sentence used as the basis for the 85% calculation. Judges in the state use a determinate sentencing system in imposing sentence.

Sentence-reducing measures that apply to the offenses covered by the 85% truth-in-sentencing legislation. (Not specified.)

STATUS OF LEGISLATION: House Bill 1709 did not pass the Senate, but as of May 1, 1995, it was being considered as a budget proviso by the conference committee meeting on the budget.

Contact: R. Peggy Smith, Washington Department of Corrections, (360) 7534604; fax (360) 664-3985.

WISCONSIN

LEGISLATION PENDING: 1995 Assembly Bill 192 was presented on March 13, 1995. The legislation **would** require that "2nd-time serious felony offenders must serve 85% of the sentence imposed by the court before they are eligible for any type of release on parole." (First-time serious felony offenders "must serve two-thirds of the sentence imposed by the court before they are eligible for any type of release on parole.")

FEATURES OF THE PROPOSED LEGISLATION

Specific offenses to which the 85% truth-In-sentencing legislation would apply. The state defines a "serious felony" as "any felony punishable by a maximum prison term of 30 years or more involving the manufacture or delivery; possession with intent to manufacture or deliver, or conspiracy to manufacture or deliver large quantities of" cocaine, crack, amphetamine, PCP or methcathinone, or heroin. The "serious felony" category also includes first-degree intentional homicide (a life sentence, therefore not covered by Assembly Bill 192), first-degree reckless homicide, felony murder, second-degree intentional homicide, homicide by intoxicated use of a vehicle, aggravated battery, mayhem, first- or second-degree sexual assault, taking hostages, kidnapping, causing death by tampering with household products, arson of buildings, damage of property by explosives, armed burglary, burglary involving explosives or battery, use or threat of force or dangerous weapon in a motor vehicle theft (catjacking), armed robbery, assault by prisoners, first- or second-degree sexual assault of a child, intentional causation of great bodily harm to a child, sexual exploitation of a child, incest with a child, child enticement, soliciting a child for prostitution, abduction of another's child by force or threat of force, soliciting a child to commit a Class A *or* Class B felony, use of a child to commit a Class A felony, and the solicitation, conspiracy or attempt to commit a Class A felony.

Definition of the sentence used as the basis for the 85% calculation. The presumptive release date for an offender convicted of a serious felony for the second time would be reached at 85% of the court-imposed sentence. The state's Parole Commission could extend this date further for reasons of public safety.

Sentence-reducing measures that apply to the offenses covered by the 65% truth-in-sentencing legislation. Pending legislation does not specify or define early release mechanisms.

STATUS OF LEGISLATION: A truth in sentencing bill is likely to pass. Any serious consideration of legislation will await any revisions in the interpretation of the Federal Crime Bill in the next few months.

Contact: Robert Margolies, DOC Legislative Liaison, (608) 266-2931; fax (608) 267-3661.

APPENDIX A. TELEPHONE SURVEY INSTRUMENT

Project staff faxed the following material to state respondents in order to solicit specific information about the truth-in-sentencing laws they reported:

State Analysis Issues

The nature of truth in sentencing laws/measures regarding:

1. Specific offenses to which law applies.

2. The percentage of sentence imposed which must be served in prison and a definition of the term, sentence (i.e., minimum or maximum, including supervised release, etc.).

   Also make a statement re: whether it appears that the state would meet the 85% of sentence standard, assuming the flexibility to employ the state's own definitions of violent offenses and sentence.

3. Any sentence reducing measures which apply to the offenses specified in the law.

Where possible, provide the name of the bill, date of passage, person and phone number providing the Information.

APPENDIX B. STATE CONTACTS

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