

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Prisoners' Good Time
Sentences' Good Time

17-A M.R.S.A. 1253(3)

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

June 30, 1977

The Honorable Samuel W. Collins, Jr.
Senate Chairman
Committee on Judiciary
State House
Augusta, Maine 04333

The Honorable Richard A. Spencer
House Chairman
Committee on Judiciary
State House
Augusta, Maine 04333

Dear Senator Collins and Representative Spencer:

This is in response to your letter dated May 5, 1977, in which you ask my opinion concerning the proper method of computing "good time" credits against sentences of imprisonment pursuant to 17-A M.R.S.A. § 1253 (3). You noted that some members of the Judiciary Committee believed the repeal of the previous "good time" statute, 34 M.R.S.A. § 705, and its replacement by § 1253 (3), should have effected a change in the method of computation. You have been informed the practice under § 705 was, and under § 1253 (3) is to compute and award "good time" for an inmate's full sentence at the outset of the inmate's service of the sentence. Specifically, you question whether this practice or computing the amount of credit month by month, based on the inmate's conduct, is correct.

17-A M.R.S.A. § 1253 (3), provides:

"Each person sentenced to imprisonment for more than 6 months whose record of conduct shows that he has observed all the rules and requirements of the institution in which he has been imprisoned shall be entitled to a deduction of 10 days a month from his sentence, commencing, in the case of all convicted persons, on the first day of his delivery into custody of the department."

Compare the relevant portion of 34 M.R.S.A. § 705, the immediate predecessor of § 1253 (3), which authorized the Warden to award "good time" at the Maine State Prison:

"Each convict, whose record of conduct shows that he has faithfully observed all the rules and requirements of the State Prison, shall be entitled to a deduction of 7 days a month from the minimum term of his sentence, commencing on the first day of his arrival at the State Prison."

These provisions clearly indicate that individual inmates, as a matter of right, are entitled to the specified number of days providing each observes the rules and requirements of the institution in which he is confined. It is not clear from the statute, however, the method of computation the Legislature intended. We have confirmed with past and present administrators of the Prison that since at least 1950, the practice has been to compute the amount of credit for an inmate's full sentence at the outset of service of the sentence and thereafter make deductions for breaches of Prison rules. An alternative method of computation which might have been adopted is the earlier referenced month by month evaluation. Each method would carry out the clear intention of the Legislature that the inmate be entitled to the specified number of days unless he fails to observe institutional rules and requirements.

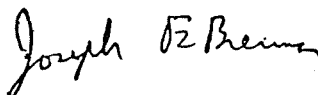
We have noted the practice of computing "good time" at the Prison since 1950. It is a rule of statutory construction that when a statute is unclear, weight is to be given the interpretation of the agency entrusted with its administration. Brooks v. Smith, 356 A. 2d 723 (Me. 1976). The application of this rule is particularly persuasive in light of the 27 year history of computing "good time" at the State Prison.

The provisions of § 1253 (3) were clearly "borrowed" from the earlier "good time" language appearing in § 705. That language can be traced to P.L. 1951, c. 84, § 1, although credits for good behavior were first authorized by the Legislature by enactment of P.L. 1858, c. 16. Since 1951, the Legislature has specifically considered provisions relating to "good time" on at least seven occasions. See, P.L. 1957, c. 149; P.L. 1959, c. 242 § 5; P.L. 1961, c. 304, § 8; P.L. 1965, c. 210; P.L. 1975, c. 499, §§ 1, 58, c. 740, § 120. It is reasonable to assume the Legislature was aware of the method of computation adopted at the Prison as it considered and enacted the above cited provisions relating to the "good time" laws. As your letter indicates, members of the Legislature were apparently aware of the practice at the Prison when the language of § 1253 (3) was considered. Nevertheless, the language of § 705 and § 1253 (3) is substantially

the same, the only significant difference in § 1253 (3) being the requirement of a six month minimum sentence of imprisonment and the increase of deductions from 7 to 10 days per month. The absence of any corrective action by the Legislature since 1950 with respect to the Prison's method of computation, together with the long history of such administrative interpretation, lead us to the opinion that the method of computing "good time" practiced by the Department of Mental Health and Corrections is correct under law.

I trust this opinion will prove helpful to your committee as it considers legislation concerning sentences of imprisonment. If I or my office may be of further assistance, please let us know.

Very truly yours,



Joseph E. Brennan
Attorney General

JEB/wjk/reb