

# Earned Discretionary Sentence Credit FAQ

## December 2021

### Section I. General Earned Discretionary Sentence Credit Guidelines

#### 1) Statutory Citation

730 ILCS 5/3-6-3(a)(3).

#### 2) Eligibility Requirements

The following criteria will be utilized to determine eligibility for an Earned Discretionary Sentence Credit award:

- a. The Director may award EDSC as follows, in specific instances as the Director deems proper:
  - i. Up to 180 days of EDSC for individuals in custody serving a sentence of less than 5 years.
  - ii. **NEW:** Up to 365 days of EDSC for individuals in custody serving a sentence of 5 years or longer.
- b. The good conduct may include, but is not limited to, compliance with the rules and regulations of the Department, service to the Department, service to a community, or service to the State.
- c. **Individuals in custody eligible for an award of EDSC may be selected to receive said credit at the sole discretion of the Director. There is no entitlement to this credit.**
- d. Eligibility for EDSC under this paragraph may be based on, but shall not be limited to, the following:
  - i. Participation in programming offered by the Department as appropriate for the individual in custody based on the results of any available risk/needs assessment.
  - ii. Demonstrated commitment to rehabilitation:
    - (a) By an individual in custody with a history of conviction for a forcible felony enumerated in Section 2-8 of the Criminal Code of 2012, the master record file, including, but not limited to, sentencing material including the facts and circumstances of the holding offense, past offense history, the individual in custody's behavior and improvements in disciplinary history while incarcerated, and reports of staff recommendations made concerning the individual in custody.

- (b) Including participation in programming offered by the Department.
- iii. Any heroic action of the individual in custody such as saving the life of an employee or other individual. **(This only applies if a person is also statutorily eligible for receive the credit.)**
- e. No individual in custody shall be eligible to receive earned discretionary sentence credit if he or she:
  - i. Has been found guilty of a 100-level disciplinary offense under 20 Ill. Adm. Code 504 within the last year. **(Please keep in mind that all disciplinary history will be reviewed when making determinations.)**
  - ii. Has been found guilty of, or has a pending charge resulting from, a criminal offense committed during his or her current term of incarceration.
  - iii. Has an active order of protection.
  - iv. Is currently SVP eligible.
  - v. Is serving time for a parole violation.
  - vi. Is serving a term of natural life.
- f. Sentencing structures
  - i. Individuals serving 100% sentencing are not eligible to receive an award of Discretionary Sentence Credit.
  - ii. Individuals serving 85% sentencing cannot have a sentence reduction beyond the 85%.
  - iii. Individuals serving 85% sentencing with concurrent or consecutive 50% charges can only have sentence reductions on the 50% charges.
  - iv. Individuals serving 75% sentencing may not have their sentence reduced less than 60%, except for *Gunrunning* which shall not be reduced less than 75%
  - v. Individuals sentenced for first degree murder or terrorism are ineligible.
- g. The Director shall make a determination that the individual:
  - i. is eligible for the earned sentence credit;
  - ii. has served a minimum of 60 days, or as close to 60 days as the sentence will allow;
  - iii. has received a risk/needs assessment or other relevant evaluation or assessment administered by the Department using a validated instrument; and
  - iv. has met the eligibility criteria established by rule for earned sentence credit.

### 3. **Additional Eligibility Requirements**

- a. Substance Abuse Treatment - No individual in custody whose court sentencing order recommends substance abuse treatment for offenses committed on or after September 1, 2003 shall be awarded EDSC unless:

- i. He or she participates in and completes a substance abuse treatment program; or
  - ii. The Director waives the requirement to participate in or complete the treatment program in specific instances in which the individual in custody is not a good candidate for the program due to medical, programming or operations reasons. When substance abuse treatment is not available, individuals shall be placed on a waiting list for treatment program prior to release may be eligible for a waiver and receive EDSC as determined by the Director.
- b. Sex Offender Treatment - No individual in custody who has been convicted of a sex offense, as defined in the Sex Offender Registration Act, shall be awarded earned discretionary sentence credit unless he or she:
- ii. Successfully completes or is participating in sex offender treatment as defined by the Sex Offender Management Board
4. EDSC Review process
- a. The assigned counselor shall perform an initial review for EDSC eligibility:
    - i. **NEW:** For those individuals in custody newly committed to the Department, within 90 days of commitment to the Department.
    - ii. For those individuals in custody already in custody of the Department, upon receipt of the list generated by Offender 360 (O360) for use for EDSC reviews
  - b. Counselor initiates the review and makes a recommendation. Counselors should conduct a thorough review of the criminal history to include a review of the master file and LEADS report before making the recommendation.
  - c. Counselor supervisor (CWS/CSS) reviews the award and makes a recommendation.
  - d. Warden or designee (CSS) reviews the award and makes a recommendation.
  - e. If a substance abuse waiver is required, the Addiction Recovery Management Services Unit, reviews.
  - f. The Chief of Programs and Support Services or designee shall review the recommendation and make a final determination as to whether an otherwise eligible individual receives EDSC or a Case Plan. The determination shall be based on the totality of the circumstances that may include, but shall not be limited to, time since prior forcible felony or domestic violence arrest and need for programming.

**4. NEW for Forcible Felony Reviews:**

- a. Moderate Risk: Individuals in custody who score moderate risk to recidivate but who are currently committed for a forcible felony conviction or have a prior forcible felony conviction in the past five years may be eligible for EDSC at the discretion of the Chief of Programs and Support Services, who may award an initial award of up to 30 days of EDSC for moderate risk individuals in custody with a forcible felony in the past five years. **Individuals do have the ability to earn additional EDSC through the process indicated below in point c.**
- b. High Risk: No initial credit shall be awarded to individuals in custody who score high on the static risk assessment, and who have a current forcible felony conviction or have a prior forcible felony conviction in the past five years. **Individuals do have the ability to earn EDSC through the next bullet point.**
- c. Clinical Services shall establish a Case Plan (**This is the ORAS assessment and corresponding case plan**) in order to afford individuals an opportunity to be awarded time for meeting goals and completion of the plan.
  - i. A Case Plan shall include the treatment, education, training and/or programming interventions that the individual in custody must actively pursue to be eligible for EDSC based on a completed risk and needs assessment.
  - ii. These requirements shall be based on available programs at the individual in custody's parent facility or include recommendations for future transfer to a facility that can provide the intervention opportunity.
  - iii. Transfers shall be subject to factors including, but not limited to, bed and program seat availability, classification, medical considerations and sentence length.
  - iv. Individuals in custody who have been denied for an award of EDSC due to risk to recidivate score (or who were awarded 30 days for a moderate risk score) and forcible felony convictions may be able to earn an EDSC award in 45-day increments up to the total award amount allowed by law. Individuals in custody may be granted these 45-day incremental EDSC awards if they are found to be actively pursuing completion of their Case Plan and demonstrating a commitment to rehabilitation. Award potential will be reviewed at the completion of each program contract.
  - v. For those individuals in custody in substance use treatment programs currently, the review for EDSC shall commence when minimum criteria for that program are met.

- vi. Individuals in custody who have completed all programs listed on their Case Plans since the previous review shall be considered eligible for an incremental award.
- vii. Individuals in custody who are on waitlists for programs identified in their Case Plan and are unable to enroll in any identified programs due to capacity limits, but have demonstrated a commitment to rehabilitation during the preceding 90-day period shall be considered eligible to be reviewed for an incremental award.
- vii. In instances where an otherwise qualified individual in custody cannot access the programs required on his or her case plan due to a disability, the individual in custody shall be recommended for EDSC to the Chief of Programs and Support Services if he or she meets the following requirements:
  - i. The individual in custody has a physical or mental impairment that substantially limits one or more of his or her major activities;
  - ii. No reasonable accommodation would have assisted the individual in custody in participating in the programming; and
- ix. Upon completion of Case Plan requirements, or if the individual in custody is within 365 days of his or her MSR date and is anticipated to complete the requirements or cannot complete requirements due to issues outside of his or her control, the counselor shall refer the individual in custody for an EDSC determination by the Chief of Programs and Support Services.