

CONFERENCE COMMITTEE SUBSTITUTE FOR SB323

SYNOPSIS: Under existing law, a prisoner does not receive a deduction in his or her sentence for the successful completion of academic, vocational, risk-reducing, or apprenticeship programs.

This bill would provide a prisoner with a possible deduction in his or her sentence upon a successful completion of a qualifying academic, vocational, risk-reducing, or apprenticeship program in certain circumstances.

This bill would require the Department of Corrections, in consultation with the Joint Legislative Prison Oversight Committee, to adopt rules for the administration of education incentive time.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to corrections; to add a new Article 4 to
2 Chapter 9 of Title 14 of the Code of Alabama 1975; to provide
3 for a possible deduction of a prisoner's sentence upon
4 completion of qualifying programs in certain circumstances; to
5 require the Department of Corrections, in consultation with
6 the Joint Legislative Prison Oversight Committee, to adopt
7 rules for the administration of education incentive time; to
8 amend Section 29-2-20, Code of Alabama 1975, to make
9 nonsubstantive technical revisions to update the existing code
10 language to current style.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Article 4, beginning with Section
13 14-9-100, is added to Chapter 9 of Title 14 of the Code of
14 Alabama 1975, to read as follows:

15 Article 4.

16 §14-9-100.

17 This act shall be known as the Alabama Education
18 Incentive Time Act.

19 §14-9-101.

20 The Legislature finds and declares that according to
21 2013 RAND Corporation research, offenders who participate in
22 quality education programs are 43 percent less likely to
23 return to prison within three years. The Legislature further
24 finds and declares that providing this group of individuals
25 with skills essential for post-release success is paramount,
26 in that it will reduce recidivism and improve post-release
27 transition for offenders.

1 §14-9-102.

2 As used in this article, the following terms shall
3 have the following meanings:

4 (1) QUALIFYING PROGRAM. An academic, vocational,
5 risk-reducing, or apprenticeship program approved by the
6 Department of Corrections.

7 (2) TERM OF INCARCERATION. A continuous period of
8 time during which a prisoner is in the legal or physical
9 custody of the Department of Corrections pursuant to one or
10 more court-imposed sentences starting on the sentence
11 beginning date recorded on the prisoner's conviction
12 transcript and concluding on the prisoner's department
13 calculated end of sentence date.

14 §14-9-103.

15 The Department of Corrections shall adopt rules
16 regarding the administration of education incentive time;
17 provided, however, the department may not propose rules until
18 the department has consulted with the Joint Legislative Prison
19 Oversight Committee, created pursuant to Section 29-2-20. The
20 rules shall include, but are not limited to, specifying the
21 maximum amount of time a sentence may be reduced based on the
22 successful completion of a qualifying program, determining the
23 incremental credit awarded depending on the program complexity
24 and length, establishing a revocation provision for
25 disciplinary infractions, and adopting any additional
26 restrictions at the discretion of the commissioner. The final

1 rules shall be certified to the Legislative Services Agency no
2 later than March 1, 2022.

3 §14-9-104.

4 (a) Except as provided in subsections (e) and (f), a
5 prisoner serving a term of incarceration in a Department of
6 Corrections facility, or a facility leased by the department,
7 may earn a deduction from the term of his or her sentence for
8 successfully completing a qualifying program, known as
9 education incentive time.

10 (b) A prisoner may not receive more than a total of
11 12 months of education incentive time during any term of
12 incarceration.

13 (c) Deductions from a prisoner's term of
14 incarceration based on education incentive time shall be in
15 addition to any other available sentence deductions,
16 including, but not limited to, correctional incentive time
17 awarded pursuant to Section 14-9-41.

18 (d) A prisoner may not receive education incentive
19 time for the completion of any qualifying program that was
20 completed prior to the beginning of the term of incarceration.

21 (e) A prisoner may not receive the benefit of
22 education incentive time if any of the following occur:

23 (1) He or she has been sentenced to death.

24 (2) He or she has been sentenced to a term of life
25 imprisonment.

1 (3) He or she has been convicted of a violent
2 offense, as provided in Section 12-25-32, that is classified
3 as a Class A or Class B felony.

4 (4) He or she has been convicted of a sex offense as
5 provided in Section 15-20A-5.

6 (5) He or she is serving a term of confinement
7 pursuant to Section 15-18-8.

8 §14-9-105.

9 (a) Any education incentive time awarded by the
10 department to a prisoner shall be reported by the department
11 to the Board of Pardons and Paroles. The Board of Pardons and
12 Paroles shall apply education incentive time to advance the
13 initial consideration date and any tentative parole review
14 date already established for the prisoner. The board shall
15 consider the education incentive time when making a final
16 parole release decision of the prisoner.

17 (b) The department shall report to the Board of
18 Pardons and Paroles when a prisoner, who is capable of
19 participating in a qualifying program, declines or refuses to
20 participate in a qualifying program.

21 §14-9-106.

22 This article does not create an interest or right
23 for any prisoner to participate in, or receive education
24 incentive time for, any qualifying program, nor does it
25 authorize the commissioner to create an interest or right. No
26 prisoner or class of prisoners may bring a cause of action
27 against any party in any court involving the subject matter of

1 education incentive time under this article. No court has
2 subject matter jurisdiction over challenges to directives,
3 rules, or policies adopted under this article; awards or
4 failures to award education incentive time; decisions related
5 to approving programs for credit; program admission decisions;
6 financial aid eligibility determinations; evaluations or
7 grades; certifications of program completion; or any other
8 acts or omissions arising from or related to the authority
9 granted by this article.

10 §14-9-107.

11 (a) In addition to any reporting requirements under
12 existing law, the Department of Corrections shall provide to
13 the Joint Legislative Prison Oversight Committee quarterly
14 reports, including all of the following:

15 (1) The number of prisoners who are eligible to
16 receive education incentive time for participation in
17 qualifying programs.

18 (2) The number of prisoners eligible to receive
19 education incentive time who participate in a qualifying
20 program.

21 (3) The number of prisoners eligible to receive
22 education incentive time who complete or fail to complete a
23 qualifying program.

24 (4) The recidivism rate for prisoners who
25 successfully complete a qualifying program before release.

1 (5) The post-release outcomes, including employment,
2 of prisoners who successfully complete a qualifying program
3 before release.

4 (b) In addition to any reporting requirements under
5 existing law, the Board of Pardons and Paroles shall provide
6 the Joint Legislative Prison Oversight Committee quarterly
7 reports detailing the outcomes of parole hearings of prisoners
8 who have received education incentive time.

9 §14-9-108.

10 The Board of Pardons and Paroles shall adopt rules
11 to implement and administer this article.

12 Section 2. Section 29-2-20, Code of Alabama 1975, is
13 amended to read as follows:

14 "§29-2-20.

15 "(a) A permanent legislative committee, to be known
16 as the Joint Legislative Prison Oversight Committee, which
17 shall be composed of eight members, two of whom shall be ex
18 officio members and six of whom shall be appointed members,
19 three each to be appointed by the President of the Senate and
20 Speaker of the House, who shall both serve as the ex officio
21 members, shall be formed to ~~assist in realizing the~~
22 ~~recommendations of the Legislative Prison Task Force and~~
23 examine all aspects of the operations of the Department of
24 Corrections. The ~~chairman~~ chair of the committee shall be
25 selected by and from among the membership.

26 "(b) The committee shall ~~make diligent inquiry and a~~
27 ~~full examination of~~ examine Alabama's present and long term

1 prison needs and they shall file reports of their findings and
2 recommendations to the ~~Alabama~~ Legislature not later than the
3 fifteenth legislative day of each regular session ~~that the~~
4 ~~committee continues to exist.~~

5 "~~(b)~~ (c) The committee shall study and address
6 mental health issues for prisoners reentering the community
7 after a term of imprisonment in order to streamline the
8 sharing of critical mental health information and in order to
9 address barriers to accessing mental health treatment for ~~such~~
10 prisoners. The committee shall report ~~such~~ the findings to the
11 Legislature ~~no not~~ later than ~~April 20, 2016~~ the fifteenth
12 legislative day of each regular session, and shall work in
13 conjunction with all of the following in studying and
14 addressing ~~such~~ the issues:

15 "(1) Department of Corrections~~7.~~

16 "(2) Board of Pardons and Paroles~~7.~~

17 "(3) Department of Mental Health~~7.~~

18 "(4) Administrative Office of Courts~~7.~~

19 "(5) Office of Prosecution Services~~7.~~

20 "(6) Office of the Attorney General~~7.~~

21 "(7) Alabama State Law Enforcement Agency~~7.~~

22 "(8) Association of County Commissions of Alabama~~7.~~

23 "(9) Alabama Probate Judges Association~~7.~~

24 "(10) Alabama Sheriffs' Association~~7.~~

25 "(11) Alabama Criminal Defense Lawyers Association~~7.~~

26 "(12) Alabama Circuit Judges' Association~~7.~~

27 "(13) Department of Public Health~~7.~~

1 "(14) Office of the Governor~~7.~~
2 "(15) Alabama District Attorneys Association~~7.~~
3 "(16) Alabama Drug Abuse Task Force~~7.~~~~and.~~
4 "(17) Any other advocacy groups as determined by the
5 committee.

6 "~~(c)~~ (d) The committee shall study and address
7 issues related to felony restitution collection in order to
8 improve rates of collection for restitution obligations in
9 felony cases and establish best practices relating to a
10 defendant's ability to pay obligations owed. The committee
11 shall report ~~such~~ the findings to the Legislature ~~no~~ not later
12 than ~~April 20, 2016~~ the fifteenth legislative day of each
13 regular session, and shall work in conjunction with all of the
14 following in studying and addressing ~~such~~ the issues:

15 "(1) Department of Corrections~~7.~~
16 "(2) Board of Pardons and Paroles~~7.~~
17 "(3) Administrative Office of Courts~~7.~~
18 "(4) Office of Prosecution Services~~7.~~
19 "(5) Office of the Attorney General~~7.~~
20 "(6) Alabama State Law Enforcement Agency~~7.~~
21 "(7) Alabama Criminal Defense Lawyers Association~~7.~~
22 "(8) Alabama Circuit Judges' Association~~7.~~
23 "(9) Association of County Commissions of Alabama~~7.~~
24 "(10) Alabama Sheriffs' Association~~7.~~
25 "(11) Alabama Crime Victims Compensation
26 Commission~~7.~~
27 "(12) The Alabama Circuit Clerk's Association~~7.~~

1 "(13) Two crime victims' rights advocates designated
2 by the Attorney General~~7.~~

3 "(14) Two members from the Alabama District
4 Attorneys Association, of which one shall be from a largely
5 populated metropolitan judicial circuit and the other shall be
6 from a small, rurally populated judicial circuit~~7.~~~~and.~~

7 "(15) Any other advocacy groups as determined by the
8 committee.

9 "~~(d)~~ (e) The committee shall study and address
10 capacity issues within the Department of Corrections to
11 include, but not be limited to, the issue of design capacity
12 and operational or functional capacity, as well as the
13 construction of new prison facilities and the renovation of
14 current correctional facilities as they relate to prison
15 overcrowding and public safety. The committee shall report
16 ~~such~~ the findings to the Legislature ~~no~~ not later than ~~April~~
17 ~~20, 2016~~ the fifteenth legislative day of each regular
18 session, and shall work in conjunction with the following in
19 studying and addressing ~~such~~ the issues:

20 "(1) Department of Corrections~~7.~~

21 "(2) Board of Pardons and Paroles~~7.~~

22 "(3) Department of Mental Health~~7.~~

23 "(4) Department of Public Health~~7.~~

24 "(5) Administrative Office of Courts~~7.~~

25 "(6) Office of Prosecution Services~~7.~~

26 "(7) Office of the Attorney General~~7.~~

27 "(8) Alabama State Law Enforcement Agency~~7.~~

1 "(9) Alabama Drug Abuse Task Force~~7.~~.
2 "(10) Alabama Criminal Defense Lawyers Association~~7.~~.
3 "(11) Alabama Circuit Judges' Association~~7.~~.
4 "(12) Association of County Commissions of Alabama~~7.~~.
5 "(13) Two members from the Alabama Sheriffs'
6 Association, of which one shall be from a largely populated
7 metropolitan judicial circuit and the other shall be from a
8 small, rurally populated judicial circuit~~7.~~and.
9 "(14) Two members from the Alabama District
10 Attorneys Association, of which one shall be from a largely
11 populated metropolitan judicial circuit and the other shall be
12 from a small, rurally populated judicial circuit.
13 "~~(e)~~ (f) The studies and collaborating partners
14 provided for in this section shall reflect the racial, gender,
15 geographic, urban/rural, and economic diversity of the state."
16 Section 3. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.