

1 HB45
2 215586-1
3 By Representatives Greer and Pettus
4 RFD: Judiciary
5 First Read: 11-JAN-22
6 PFD: 12/07/2021

SYNOPSIS: This bill would create the Sergeant Nick Risner Act.

Under existing law, certain prisoners in the physical custody of the Department of Corrections are eligible for correctional incentive time.

This bill would provide that any person convicted of manslaughter would not be eligible for correctional incentive time.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

A BILL
TO BE ENTITLED
AN ACT

Relating to crimes and offenses; to create the Sergeant Nick Risner Act; to amend Section 14-9-41, Code of Alabama 1975; to provide that certain offenses would be ineligible for good time; and to make nonsubstantive,

1 technical revisions to update the existing code language to
2 current style.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited
5 as the Sergeant Nick Risner Act.

6 Section 2. Section 14-9-41, Code of Alabama 1975, is
7 amended to read as follows:

8 "§14-9-41.

9 "(a) ~~Each~~ Except as provided in subsection (e), each
10 prisoner who ~~shall hereafter be~~ is convicted of any offense
11 against the laws of the State of Alabama and is confined, in
12 execution of the judgment or sentence upon any conviction, in
13 the penitentiary, ~~or at hard labor for~~ the county jail, or in
14 any municipal jail for a definite or indeterminate term, ~~other~~
15 ~~than for life~~, whose record of conduct shows that he or she
16 has faithfully observed the rules for a period of time to be
17 specified by this article, may be entitled to earn a deduction
18 from the term of his or her sentence as follows:

19 "(1) Seventy-five days for each 30 days actually
20 served while the prisoner is classified as a Class I prisoner.

21 "(2) Forty days for each 30 days actually served
22 while the prisoner is a Class II prisoner.

23 "(3) Twenty days for each 30 days actually served
24 while the prisoner is a Class III prisoner.

25 "(4) No good time shall accrue during the period the
26 prisoner is classified as a Class IV prisoner.

1 "(b) Within 90 days after May 19, 1980, the
2 Commissioner of the Department of Corrections shall establish
3 and publish in appropriate directives certain criteria not in
4 conflict with this article for Class I, II, III, and IV
5 prisoner classifications. ~~Such~~ The classifications shall
6 encompass consideration of the prisoner's behavior,
7 discipline, and work practices and job responsibilities.

8 "(c) (1) Class I ~~is set aside for those~~ includes
9 prisoners who are considered to be trustworthy in every
10 respect and who, by virtue of their work habits, conduct, and
11 attitude of cooperation have proven their trustworthiness. An
12 example of a Class I inmate would be one who could work
13 without constant supervision by a security officer.

14 "(2) Class II ~~is that category of~~ includes prisoners
15 whose jobs will be under the supervision of a correctional
16 employee at all times. Any inmate shall remain in this
17 classification for a minimum period of six months before being
18 eligible for Class I.

19 "(3) Class III ~~is for~~ includes prisoners with
20 special assignments. They may not receive any of the
21 privileges of Class I and Class II ~~inmates~~ prisoners. ~~Any~~
22 ~~inmate~~ A prisoner shall remain in this classification for a
23 minimum period of three months before being eligible for Class
24 II.

25 "(4) Class IV ~~is for~~ includes prisoners not yet
26 classified and for those who are able to work and refuse, ~~or~~
27 prisoners who commit disciplinary infractions ~~of such a nature~~

1 ~~which~~ that do not warrant a higher classification, or ~~inmates~~
2 prisoners who do not abide by the rules of the institution.
3 ~~Inmates~~ Prisoners who are classified in this earning class
4 receive no correctional incentive time. This class is
5 generally referred to as "flat time" or "day-for-day." ~~Any~~
6 ~~inmate~~ A prisoner shall remain in this classification for a
7 minimum period of 30 days before being eligible for Class III.

8 "(5) No ~~inmate~~ prisoner may reach any class without
9 first having gone through and meeting the requirements of all
10 lower classifications.

11 "(d) As a prisoner gains a higher classification
12 status he or she shall not be granted retroactive correctional
13 incentive ~~credit~~ time based on the higher classification he or
14 she has reached, but shall only be granted correctional
15 incentive ~~credit~~ time based ~~solely~~ on the classification in
16 which he or she was serving at the time the correctional
17 incentive ~~credit~~ time was earned. Nothing in this article
18 ~~shall be interpreted as authorizing an inmate~~ authorizes a
19 prisoner to receive correctional incentive ~~credits~~ time based
20 on the highest classification he or she attains for any period
21 of time in which he or she was serving in a lower
22 classification or from the date of his or her sentence.

23 "(e) (1) ~~Provided, however, no~~ No person may receive
24 ~~the benefits of~~ correctional incentive time if any of the
25 following:

26 "a. ~~he~~ He or she has been convicted of a Class A
27 felony.

1 "b. He or she has been convicted of manslaughter. ~~or~~
2 ~~has been~~

3 "c. He or she has been sentenced to life, ~~or~~
4 sentenced to death, or ~~who~~ has received a sentence for more
5 than 15 years. ~~in the state penitentiary or in the county jail~~
6 ~~at hard labor or in any municipal jail. No person may receive~~
7 ~~the benefits of correctional incentive time if~~

8 "d. he He or she has been convicted of a sex offense
9 involving a child as defined in Section 15-20A-4(26).

10 "(2) No person may be placed in Class I if any of
11 the following:

12 "a. he He or she has been convicted of an assault
13 where the victims of ~~such~~ the assault suffered the permanent
14 loss or use or permanent partial loss or use of any bodily
15 organ or appendage.

16 "b. No person may be placed in Class I if he He or
17 she has been convicted of a crime involving the perpetration
18 of sexual abuse upon the person of a child under the age of 17
19 years.

20 "The court sentencing a person shall note ~~upon~~ on
21 the transcript ~~to accompany such~~ accompanying the prisoner ~~the~~
22 ~~fact~~ that he or she has been sentenced ~~as a result of~~ to a
23 crime that forbids his or her being classified as a Class I
24 prisoner.

25 "(f) (1) If, l during the term of imprisonment, l a
26 prisoner commits an offense or violates a rule of the
27 Department of Corrections, all or any part of his or her

1 correctional incentive time accrued pursuant to this section
2 shall be forfeited.

3 "(2) The Commissioner of the Department of
4 Corrections ~~shall have the power to restore to any prisoner~~
5 ~~who has heretofore, or who may hereafter, forfeit the~~
6 ~~deductions allowed him or her for good behavior, work habits~~
7 ~~and cooperation, or good conduct, by violating any existing~~
8 ~~law or prison rule or regulation such portion of his or her~~
9 ~~deduction for good conduct or good behavior as may be proper~~
10 ~~in his or her judgment, upon recommendation and evidence~~
11 ~~submitted to him or her by the warden in charge.~~ may restore
12 any portion of the correctional incentive time that has been
13 forfeited by a prisoner, for violating any existing law or
14 prison rule or regulation, as the commissioner deems proper,
15 upon recommendation and evidence provided by the warden in
16 charge.

17 "(g) (1) When a prisoner is serving two or more terms
18 of imprisonment and the sentences run consecutively, ~~then~~ all
19 ~~such~~ sentences shall be combined for the purpose of computing
20 deductions for correctional incentive time and release date,
21 ~~however,~~ the The actual deduction from sentence for
22 correctional incentive time provided by this section shall
23 apply only to sentences to be served.

24 "(2) When a prisoner is serving two or more
25 sentences which run concurrently, the sentence which results
26 in the longer period of incarceration ~~yet remaining~~ shall be
27 ~~considered the term to which such prisoner is sentenced~~ used

1 for the purpose of computing ~~his or her release date and~~
2 deductions for correctional incentive time ~~under the~~
3 ~~provisions of this article~~ and release date. When computing
4 the deductions allowed in this section on indeterminate
5 sentences the maximum sentence shall be the basis for the
6 computation. ~~The provisions of this~~ This section shall be
7 administered by the chief administrative officer of the penal
8 institution as it applies to prisoners in any state penal
9 institution, by the sheriff of the county as it applies to
10 prisoners in any county jail, and by the chief of police as it
11 applies to prisoners in any municipal jail.

12 "(h) Deductions for good behavior, work habits and
13 cooperation, or good conduct shall be interpreted to give
14 authorized good time retroactively, to those offenders
15 convicted of crimes committed after May 19, 1980, except those
16 convicted of crimes of the unlawful sale or distribution of
17 controlled substances as enumerated in Title 13A and in former
18 Chapter 2 of Title 20, and for any sexual offenses as
19 enumerated in Chapter 67 of Title 13A, ~~provided however that~~
20 ~~the Commissioner of the Department of Corrections~~ The
21 commissioner shall have the prison records of all ~~inmates~~
22 prisoners, who become eligible under this article, reviewed
23 and shall disqualify any such ~~inmate~~ prisoner from being
24 awarded ~~good~~ correctional incentive time under this article at
25 his or her discretion."

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.