

SB1 ENGROSSED



1 V7EDPL-2
2 By Senator Weaver
3 RFD: Judiciary
4 First Read: 07-Mar-23
5 PFD: 17-Jan-23



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A BILL
TO BE ENTITLED
AN ACT

Relating to correctional incentive time; to amend Section 14-9-41, as last amended by Act 2022-322, 2022 Regular Session, Code of Alabama 1975, to reduce the amount of correctional incentive time a prisoner receives; to require a prisoner to remain in a certain classification for a longer period of time before moving up to a higher classification; to provide for additional circumstances in which a prisoner may be required to forfeit his or her correctional incentive time; and to require the Department of Corrections to provide annual reports to the Legislature, the Governor, and the Attorney General regarding correctional incentive time.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as Deputy Brad Johnson Act.

Section 2. Section 14-9-41, as last amended by Act 2022-322, 2022 Regular Session, Code of Alabama 1975, is amended to read as follows:

"§14-9-41

(a) Except as provided in subsection (e), each prisoner



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29 who is convicted of any offense against the laws of the State
30 of Alabama and is confined, in execution of the judgment or
31 sentence upon any conviction, in the penitentiary, or at hard
32 labor for the county jail, or in any municipal jail for a
33 definite or indeterminate term, whose record of conduct shows
34 that he or she has faithfully observed the rules for a period
35 of time to be specified by this article, may earn a deduction
36 from the term of his or her sentence as follows:

37 (1) ~~Seventy-five~~ Thirty days for each 30 days actually
38 served while the prisoner is classified as a Class I prisoner.

39 (2) ~~Forty~~ Fifteen days for each 30 days actually served
40 while the prisoner is a Class II prisoner.

41 (3) ~~Twenty~~ Five days for each 30 days actually served
42 while the prisoner is a Class III prisoner.

43 (4) No ~~good~~ correctional incentive time shall accrue
44 during the period the prisoner is classified as a Class IV
45 prisoner.

46 (b) Within 90 days after May 19, 1980, the Commissioner
47 of the Department of Corrections shall establish and publish
48 in appropriate directives certain criteria not in conflict
49 with this article for Class I, II, III, and IV prisoner
50 classifications. The classifications shall encompass
51 consideration of the prisoner's behavior, discipline, and work
52 practices and job responsibilities.

53 (c) (1) Class I includes prisoners who are considered to
54 be trustworthy in every respect and who, by virtue of their
55 work habits, conduct, and attitude of cooperation have proven
56 their trustworthiness. An example of a Class I inmate would be

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57 one who could work without constant supervision by a security
58 officer.

59 (2) Class II includes prisoners whose jobs will be
60 under the supervision of a correctional employee at all times.
61 Any inmate shall remain in this classification for a minimum
62 period of ~~six~~12 months before being eligible for Class I.

63 (3) Class III includes prisoners with special
64 assignments. They may not receive any of the privileges of
65 Class I and Class II prisoners. A prisoner shall remain in
66 this classification for a minimum period of ~~three~~six months
67 before being eligible for Class II.

68 (4) Class IV includes prisoners not yet classified~~and~~
69 ~~for these~~, including all incoming prisoners, prisoners who are
70 able to work and refuse, prisoners who commit disciplinary
71 infractions that do not warrant a higher classification, ~~or~~
72 and prisoners who do not abide by the rules of the
73 institution. Prisoners who are classified in this earning
74 class receive no correctional incentive time. This class is
75 generally referred to as "flat time" or "day-for-day." A
76 prisoner shall remain in this classification for a minimum
77 period of ~~30 days~~three months before being eligible for Class
78 III.

79 (5) No prisoner may reach any class without first
80 having gone through and meeting the requirements of all lower
81 classifications.

82 (d) As a prisoner gains a higher classification status
83 he or she shall not be granted retroactive correctional
84 incentive time based on the higher classification he or she



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85 has reached, but shall only be granted correctional incentive
86 time based on the classification in which he or she was
87 serving at the time the correctional incentive time was
88 earned. Nothing in this article authorizes a prisoner to
89 receive correctional incentive time based on the highest
90 classification he or she attains for any period of time in
91 which he or she was serving in a lower classification or from
92 the date of his or her sentence.

93 (e) (1) No prisoner may receive correctional incentive
94 time under any of the following circumstances:

95 a. He or she has been convicted of a Class A felony.

96 b. He or she has been convicted of any crime that
97 caused the death of another person by means of a deadly
98 weapon, as defined in Section 13A-1-2.

99 c. He or she has been sentenced to life, sentenced to
100 death, or has received a sentence for more than 15 years.

101 d. He or she has been convicted of a sex offense
102 involving a child, as defined in Section 15-20A-4.

103 (2)a. No prisoner may be placed in Class I under ~~either~~
104 any of the following circumstances:

105 1. He or she has been convicted of an assault where the
106 victims of the assault suffered the permanent loss or use or
107 permanent partial loss or use of any bodily organ or
108 appendage.

109 2. He or she has been convicted of a crime involving
110 the perpetration of sexual abuse upon the person of a child
111 under the age of 17 years.

112 3. He or she has been convicted of a Class B felony

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113 that is a violent offense, as defined in Section 12-25-32.

114 b. The court sentencing a person shall note on the
115 transcript accompanying the prisoner that he or she has been
116 sentenced to a crime that forbids his or her being classified
117 as a Class I prisoner.

118 (f) (1) If, during the term of imprisonment, a prisoner
119 commits an offense or violates a rule of the Department of
120 Corrections, all or any part of his or her correctional
121 incentive time accrued pursuant to this section shall be
122 forfeited.

123 (2) a. The Commissioner of the Department of Corrections
124 may restore any portion of the correctional incentive time
125 that has been forfeited by a prisoner for violating any
126 existing law or ~~prison~~ department rule or ~~regulation~~, as the
127 commissioner deems proper, upon recommendation and evidence
128 provided by the warden in charge.

129 b. This subdivision shall not apply to prisoners who
130 commit or attempt to commit violations provided in subdivision
131 (3).

132 (3) If, during the term of imprisonment, a prisoner
133 commits or attempts to commit by any overt act toward the
134 commission of any of the following ~~violations~~violations, as
135 defined by the department's Administrative Regulation Number
136 403 as of January 1, 2023, he or she may no longer receive
137 correctional incentive time for the term of imprisonment and
138 shall forfeit all of his or her correctional incentive time
139 accrued pursuant to this section:

140 a. Homicide.

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- 141 b. Escape.
 - 142 c. Assault that causes serious physical injury,
 - 143 excluding when used in self-defense, as determined by the
 - 144 Department of Corrections.
 - 145 d. Seizing or holding a hostage in any manner.
 - 146 e. Sexual assault.
 - 147 f. Inciting a riot.
 - 148 g. Rioting, excluding civil protests.
 - 149 h. Fighting with a weapon resulting in serious physical
 - 150 injury.
 - 151 i. Arson.
- 152 (g) (1) For prisoners receiving correctional incentive
- 153 time, the term of supervision required pursuant to Section
- 154 15-22-26.2, shall not further reduce the term of imprisonment
- 155 except where the minimum required term of supervision would
- 156 exceed the correctional incentive time accrued.
- 157 (2) When a prisoner is serving two or more terms of
- 158 imprisonment and the sentences run consecutively, all
- 159 sentences shall be combined for the purpose of computing
- 160 deductions for correctional incentive time and release date.
- 161 The actual deduction from sentence for correctional incentive
- 162 time provided by this section shall apply only to sentences to
- 163 be served.
- 164 ~~(2)~~ (3) When a prisoner is serving two or more sentences
- 165 that run concurrently, the sentence that results in the longer
- 166 period of incarceration shall be used for the purpose of
- 167 computing deductions for correctional incentive time and
- 168 release date. When computing the deductions allowed in this

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169 section on indeterminate sentences, the maximum sentence shall
170 be the basis for the computation.

171 (h) This section shall be administered by the chief
172 administrative officer of the penal institution as it applies
173 to prisoners in any state penal institution, by the sheriff of
174 the county as it applies to prisoners in any county jail, and
175 by the chief of police as it applies to prisoners in any
176 municipal jail.

177 (i) Deductions for good behavior, work habits and
178 cooperation, or good conduct shall be interpreted to give
179 authorized ~~good~~ correctional incentive time retroactively to
180 those offenders convicted of crimes committed after May 19,
181 1980, except those convicted of crimes of the unlawful sale or
182 distribution of controlled substances as enumerated in Article
183 5 of Chapter 12 of Title 13A and for any sex offenses as
184 enumerated in Articles 4 and 4A of Chapter 6 of Title 13A. The
185 commissioner shall have the prison records of all prisoners
186 who become eligible under this article reviewed and shall
187 disqualify any prisoner from being awarded correctional
188 incentive time under this article at his or her discretion.

189 (j) The Department of Corrections, by February 15 of
190 each year, shall submit to the Legislature, the Governor, and
191 the Attorney General a report including all of the following:

192 (1) The number of prisoners in each classification.

193 (2) The number of prisoners who changed
194 classifications.

195 (3) The number of prisoners who had their correctional
196 incentive time forfeited based on a high level violation, as



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197 provided by department guidelines, including the specific kind
198 and number of the high level violation for each prisoner.

199 (4) The number of prisoners who had their correction
200 incentive time forfeited based on a violation of subdivision
201 (f)(3), including the cumulative number of days that were
202 forfeited."

203 Section 3. All amendatory language to Section 14-9-41,
204 Code of Alabama 1975, regarding the calculation as to
205 correctional incentive time, added pursuant to this amendatory
206 act shall be applied prospectively, and any adjustment to that
207 time shall only apply to violations committed after the
208 effective date of this act. This act shall supersede any
209 policy, procedure, or rule in place on the effective date of
210 this act, with exception of the Department of Corrections'
211 Administrative Regulation Number 403.

212 Section 4. This act shall become effective immediately
213 following its passage and approval by the Governor, or its
214 otherwise becoming law.



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217 Senate

218 Read for the first time and referred18-Jan-23
219 to the Senate committee on Judiciary
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221 Read for the second time and placed22-Mar-23
222 on the calendar:
223 1 amendment
224
225 Read for the third time and passed23-Mar-23
226 as amended
227 Yeas 30
228 Nays 1
229 Abstains 0
230
231
232 Patrick Harris,
233 Secretary.
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