

By Senator Miller

18-747-04

1 A bill to be entitled
2 An act relating to gain-time awards for good
3 conduct; amending s. 944.275, F.S.; increasing
4 the amount of gain-time that the Department of
5 Corrections may grant to certain prisoners;
6 providing that such increase may not be granted
7 to a prisoner convicted of committing a
8 forcible felony; amending s. 921.002, F.S.,
9 relating to the Criminal Punishment Code;
10 conforming provisions to changes made by the
11 act; providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Subsection (4) of section 944.275, Florida
16 Statutes, is amended to read:

17 944.275 Gain-time.--

18 (4)(a) As a means of encouraging satisfactory
19 behavior, the department shall grant basic gain-time at the
20 rate of 10 days for each month of each sentence imposed on a
21 prisoner, subject to the following:

22 1. Portions of any sentences to be served concurrently
23 shall be treated as a single sentence when determining basic
24 gain-time.

25 2. Basic gain-time for a partial month shall be
26 prorated on the basis of a 30-day month.

27 3. When a prisoner receives a new maximum sentence
28 expiration date because of additional sentences imposed, basic
29 gain-time shall be granted for the amount of time the maximum
30 sentence expiration date was extended.

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1 (b) For each month in which an inmate works
2 diligently, participates in training, uses time
3 constructively, or otherwise engages in positive activities,
4 the department may grant incentive gain-time in accordance
5 with this paragraph. The rate of incentive gain-time in effect
6 on the date the inmate committed the offense which resulted in
7 his or her incarceration shall be the inmate's rate of
8 eligibility to earn incentive gain-time throughout the period
9 of incarceration and shall not be altered by a subsequent
10 change in the severity level of the offense for which the
11 inmate was sentenced.

12 1. For sentences imposed for offenses committed prior
13 to January 1, 1994, up to 20 days of incentive gain-time may
14 be granted. If granted, such gain-time shall be credited and
15 applied monthly.

16 2. For sentences imposed for offenses committed on or
17 after January 1, 1994, and before October 1, 1995:

18 a. For offenses ranked in offense severity levels 1
19 through 7, under s. 921.0012 or s. 921.0013, up to 25 days of
20 incentive gain-time may be granted. If granted, such
21 gain-time shall be credited and applied monthly.

22 b. For offenses ranked in offense severity levels 8,
23 9, and 10, under s. 921.0012 or s. 921.0013, up to 20 days of
24 incentive gain-time may be granted. If granted, such
25 gain-time shall be credited and applied monthly.

26 3. For sentences imposed for offenses committed on or
27 after October 1, 1995, the department may grant up to 10 days
28 per month of incentive gain-time, except that: ~~no~~

29 a. A prisoner is ineligible ~~eligible~~ to earn any type
30 of gain-time in an amount that would cause a sentence to
31 expire, end, or terminate, or that would result in the a

1 prisoner's release, prior to serving a minimum of 65 ~~85~~
2 percent of the sentence imposed. For purposes of this
3 ~~sub-subparagraph~~ subparagraph, credits awarded by the court
4 for time physically incarcerated shall be credited toward
5 satisfaction of 65 ~~85~~ percent of the sentence imposed. Except
6 as provided by this section, a prisoner may ~~shall~~ not
7 accumulate further gain-time awards at any point when the
8 tentative release date is the same as that date at which the
9 prisoner will have served 65 ~~85~~ percent of the sentence
10 imposed.

11 b. A prisoner who is serving a sentence for conviction
12 of a forcible felony as defined in s. 776.08 is ineligible to
13 earn any type of gain-time in an amount that would cause the
14 sentence to expire, end, or terminate, or that would result in
15 the prisoner's release, prior to serving a minimum of 85
16 percent of the sentence imposed. For purposes of this
17 sub-subparagraph, credits awarded by the court for time
18 physically incarcerated shall be credited toward satisfaction
19 of 85 percent of the sentence imposed. Except as provided by
20 this section, a prisoner who is serving a sentence for
21 conviction of a forcible felony as defined in s. 776.08 may
22 not accumulate additional gain-time awards at any point if the
23 tentative release date is the same as that date at which the
24 prisoner will have served 85 percent of the sentence imposed.

25 c. State prisoners sentenced to life imprisonment
26 shall be incarcerated for the rest of their natural lives,
27 unless granted pardon or clemency.

28 (c) An inmate who performs some outstanding deed, such
29 as saving a life or assisting in recapturing an escaped
30 inmate, or who in some manner performs an outstanding service
31 that would merit the granting of additional deductions from

1 the term of his or her sentence may be granted meritorious
2 gain-time of from 1 to 60 days.

3 (d) Notwithstanding subparagraphs (b)1. and 2., the
4 education program manager shall recommend, and the Department
5 of Corrections may grant, a one-time award of 60 additional
6 days of incentive gain-time to an inmate who is otherwise
7 eligible and who successfully completes requirements for and
8 is awarded a general educational development certificate or
9 vocational certificate. Under no circumstances may an inmate
10 receive more than 60 days for educational attainment pursuant
11 to this section.

12 Section 2. Paragraph (e) of subsection (1) of section
13 921.002, Florida Statutes, is amended to read:

14 921.002 The Criminal Punishment Code.--The Criminal
15 Punishment Code shall apply to all felony offenses, except
16 capital felonies, committed on or after October 1, 1998.

17 (1) The provision of criminal penalties and of
18 limitations upon the application of such penalties is a matter
19 of predominantly substantive law and, as such, is a matter
20 properly addressed by the Legislature. The Legislature, in
21 the exercise of its authority and responsibility to establish
22 sentencing criteria, to provide for the imposition of criminal
23 penalties, and to make the best use of state prisons so that
24 violent criminal offenders are appropriately incarcerated, has
25 determined that it is in the best interest of the state to
26 develop, implement, and revise a sentencing policy. The
27 Criminal Punishment Code embodies the principles that:

28 (e) The sentence imposed by the sentencing judge
29 reflects the length of actual time to be served, shortened
30 only by the application of incentive and meritorious gain-time
31 as provided by law, and may not be shortened if the defendant

1 would consequently serve less than 65 percent or 85 percent,
2 as applicable,of his or her term of imprisonment as provided
3 in s. 944.275(4)(b)3. The provisions of chapter 947, relating
4 to parole, shall not apply to persons sentenced under the
5 Criminal Punishment Code.

6 Section 3. This act shall take effect October 1, 2004.

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SENATE SUMMARY

10 In order to encourage satisfactory behavior among
11 inmates, increases the amount of incentive gain-time that
12 the Department of Corrections may award so that certain
13 prisoners are required to serve at least 65 percent
14 rather than 85 percent of the sentence imposed. Continues
15 the requirement that a prisoner serve at least 85 percent
16 of the sentence imposed if the prisoner was convicted of
17 a forcible felony.

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