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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Bracy) recommended the following:

Senate Amendment (with title amendment)

Delete lines 38 - 69

and insert:

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

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

(1) The provision of criminal penalties and of limitations



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11 upon the application of such penalties is a matter of
12 predominantly substantive law and, as such, is a matter properly
13 addressed by the Legislature. The Legislature, in the exercise
14 of its authority and responsibility to establish sentencing
15 criteria, to provide for the imposition of criminal penalties,
16 and to make the best use of state prisons so that violent
17 criminal offenders are appropriately incarcerated, has
18 determined that it is in the best interest of the state to
19 develop, implement, and revise a sentencing policy. The Criminal
20 Punishment Code embodies the principles that:

21 (e) The sentence imposed by the sentencing judge reflects
22 the length of actual time to be served, shortened only by the
23 application of incentive and meritorious gain-time as provided
24 by law, and may not be shortened if the defendant would
25 consequently serve less than 65 percent of his or her term of
26 imprisonment as provided in s. 944.275(4)(b)3.a. or less than 85
27 percent of his or her term of imprisonment as provided in s.
28 944.275(4) or s. 944.275(4)(b)3.b. The provisions of chapter
29 947, relating to parole, shall not apply to persons sentenced
30 under the Criminal Punishment Code.

31 Section 2. Paragraphs (b) and (f) of subsection (4) of
32 section 944.275, Florida Statutes, are amended to read:

33 944.275 Gain-time.—

34 (4)

35 (b) For each month in which an inmate works diligently,
36 participates in training, uses time constructively, or otherwise
37 engages in positive activities, the department may grant
38 incentive gain-time in accordance with this paragraph. The rate
39 of incentive gain-time in effect on the date the inmate



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40 committed the offense that ~~which~~ resulted in his or her
41 incarceration shall be the inmate's rate of eligibility to earn
42 incentive gain-time throughout the period of incarceration and
43 may ~~shall~~ not be altered by a subsequent change in the severity
44 level of the offense for which the inmate was sentenced.

45 1. For sentences imposed for offenses committed before
46 ~~prior to~~ January 1, 1994, up to 20 days of incentive gain-time
47 may be granted. If granted, such gain-time shall be credited and
48 applied monthly.

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

51 a. For offenses ranked in offense severity levels 1 through
52 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
53 of incentive gain-time may be granted. If granted, such gain-
54 time shall be credited and applied monthly.

55 b. For offenses ranked in offense severity levels 8, 9, and
56 10, under former s. 921.0012 or former s. 921.0013, up to 20
57 days of incentive gain-time may be granted. If granted, such
58 gain-time shall be credited and applied monthly.

59 3. For sentences imposed for offenses, regardless of the
60 date committed, the department may grant up to 20 days per month
61 of incentive gain-time, except that:

62 a. If the offense is a nonviolent felony, as defined in s.
63 948.08(6), the prisoner is not eligible to earn any type of
64 gain-time in an amount that would cause a sentence to expire,
65 end, or terminate, or that would result in a prisoner's release,
66 before he or she serves a minimum of 65 percent of the sentence
67 imposed. For purposes of this sub-subparagraph, credits awarded
68 by the court for time physically incarcerated must be credited



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69 toward satisfaction of 65 percent of the sentence imposed. A
70 prisoner who is granted incentive gain-time pursuant to this
71 sub-subparagraph may not accumulate further gain-time awards at
72 any point when the tentative release date is the same as that
73 date at which the prisoner will have served 65 percent of the
74 sentence imposed. State prisoners sentenced to life imprisonment
75 must be incarcerated for the rest of their natural lives, unless
76 granted pardon or clemency.

77 b. If the offense is not a nonviolent felony, as defined in
78 s. 948.08(6), the prisoner is not eligible to earn any type of
79 gain-time in an amount that would cause a sentence to expire,
80 end, or terminate, or that would result in a prisoner's release,
81 before he or she serves a minimum of 85 percent of the sentence
82 imposed. For purposes of this sub-subparagraph, credits awarded
83 by the court for time physically incarcerated must be credited
84 toward satisfaction of 85 percent of the sentence imposed. A
85 prisoner who is granted incentive gain-time pursuant to this
86 sub-subparagraph may not accumulate further gain-time awards at
87 any point when the tentative release date is the same as that
88 date at which the prisoner will have served 85 percent of the
89 sentence imposed. State prisoners sentenced to life imprisonment
90 must be incarcerated for the rest of their natural lives, unless
91 granted pardon or clemency ~~For sentences imposed for offenses~~
92 ~~committed on or after October 1, 1995, the department may grant~~
93 ~~up to 10 days per month of incentive gain-time.~~

94
95 ===== T I T L E A M E N D M E N T =====

96 And the title is amended as follows:

97 Delete lines 2 - 3



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98 and insert:

99 An act relating to release from imprisonment; amending
100 s. 921.002, F.S.; revising a principle of the Criminal
101 Punishment Code relating to a prisoner's required
102 minimum term of imprisonment; amending s. 944.275,
103 F.S.; revising the incentive gain-time that the
104 Department of Corrections may grant a prisoner;
105 providing exceptions; specifying that an inmate is not