

**By** the Committee on Criminal Justice; and Senators Brandes and Perry

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1                   A bill to be entitled  
2                   An act relating to release from imprisonment; amending  
3                   s. 921.002, F.S.; revising a principle of the Criminal  
4                   Punishment Code relating to a prisoner's required  
5                   minimum term of imprisonment; amending s. 944.275,  
6                   F.S.; revising the incentive gain-time that the  
7                   Department of Corrections may grant a prisoner;  
8                   providing exceptions; providing that an inmate is  
9                   considered in the care, custody, supervision, or  
10                  control of the Department of Corrections when  
11                  participating in specified programs and may receive  
12                  credit towards specified portions of a sentence for  
13                  such participation; amending s. 945.091, F.S.;  
14                  authorizing the department to extend the limits of  
15                  confinement to allow an inmate to participate in  
16                  supervised community release, subject to certain  
17                  requirements, as prescribed by the department by rule;  
18                  providing that an inmate participating in such  
19                  supervised community release is considered to be in  
20                  the custody, care, supervision, and control of the  
21                  department; authorizing the department to terminate  
22                  the inmate's supervised community release under  
23                  certain circumstances; providing that an inmate  
24                  participating in supervised community release is  
25                  eligible to earn or lose gain-time, subject to certain  
26                  restrictions; prohibiting the inmate from being  
27                  counted in the population of the prison system;  
28                  prohibiting the inmate's approved community-based  
29                  housing location from being counted in the capacity

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30 figures for the prison system; reenacting ss.  
31 775.084(4)(k) and 921.002(1)(e), F.S., relating to  
32 violent criminals and habitual offenders and the  
33 Criminal Punishment Code, respectively, to incorporate  
34 the amendment made to s. 944.275, F.S., in references  
35 thereto; reenacting s. 946.503(2), F.S., relating to  
36 the definition of the term "correctional work program"  
37 to incorporate the amendment made to s. 945.091, F.S.,  
38 in a reference thereto; providing an effective date.  
39

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

41  
42 Section 1. Paragraph (e) of subsection (1) of section  
43 921.002, Florida Statutes, is amended to read:

44 921.002 The Criminal Punishment Code.—The Criminal  
45 Punishment Code shall apply to all felony offenses, except  
46 capital felonies, committed on or after October 1, 1998.

47 (1) The provision of criminal penalties and of limitations  
48 upon the application of such penalties is a matter of  
49 predominantly substantive law and, as such, is a matter properly  
50 addressed by the Legislature. The Legislature, in the exercise  
51 of its authority and responsibility to establish sentencing  
52 criteria, to provide for the imposition of criminal penalties,  
53 and to make the best use of state prisons so that violent  
54 criminal offenders are appropriately incarcerated, has  
55 determined that it is in the best interest of the state to  
56 develop, implement, and revise a sentencing policy. The Criminal  
57 Punishment Code embodies the principles that:

58 (e) The sentence imposed by the sentencing judge reflects

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59 the length of actual time to be served, shortened only by the  
60 application of incentive and meritorious gain-time as provided  
61 by law, and may not be shortened if the defendant would  
62 consequently serve less than 65 percent of his or her term of  
63 imprisonment as provided in s. 944.275(4)(b)3.a. or less than 85  
64 percent of his or her term of imprisonment as provided in s.  
65 944.275(4) or s. 944.275(4)(b)3.b. The provisions of chapter  
66 947, relating to parole, shall not apply to persons sentenced  
67 under the Criminal Punishment Code.

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

70           944.275 Gain-time.—

71           (4)

72           (b) For each month in which an inmate works diligently,  
73 participates in training, uses time constructively, or otherwise  
74 engages in positive activities, the department may grant  
75 incentive gain-time in accordance with this paragraph. The rate  
76 of incentive gain-time in effect on the date the inmate  
77 committed the offense that which resulted in his or her  
78 incarceration shall be the inmate's rate of eligibility to earn  
79 incentive gain-time throughout the period of incarceration and  
80 may shall not be altered by a subsequent change in the severity  
81 level of the offense for which the inmate was sentenced.

82           1. For sentences imposed for offenses committed before  
83 prior to January 1, 1994, up to 20 days of incentive gain-time  
84 may be granted. If granted, such gain-time shall be credited and  
85 applied monthly.

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

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88        a. For offenses ranked in offense severity levels 1 through  
89      7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
90      of incentive gain-time may be granted. If granted, such gain-  
91      time shall be credited and applied monthly.

92        b. For offenses ranked in offense severity levels 8, 9, and  
93      10, under former s. 921.0012 or former s. 921.0013, up to 20  
94      days of incentive gain-time may be granted. If granted, such  
95      gain-time shall be credited and applied monthly.

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

99        a. If the offense is a nonviolent felony, as defined in s.  
100     948.08(6), the prisoner is not eligible to earn any type of  
101     gain-time in an amount that would cause a sentence to expire,  
102     end, or terminate, or that would result in a prisoner's release,  
103     before he or she serves a minimum of 65 percent of the sentence  
104     imposed. For purposes of this sub-subparagraph, credits awarded  
105     by the court for time physically incarcerated must be credited  
106     toward satisfaction of 65 percent of the sentence imposed. A  
107     prisoner who is granted incentive gain-time pursuant to this  
108     sub-subparagraph may not accumulate further gain-time awards at  
109     any point when the tentative release date is the same as that  
110     date at which the prisoner will have served 65 percent of the  
111     sentence imposed. State prisoners sentenced to life imprisonment  
112     must be incarcerated for the rest of their natural lives, unless  
113     granted pardon or clemency.

114        b. If the offense is not a nonviolent felony, as defined in  
115     s. 948.08(6), the prisoner is not eligible to earn any type of  
116     gain-time in an amount that would cause a sentence to expire,

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117 end, or terminate, or that would result in a prisoner's release,  
118 before he or she serves a minimum of 85 percent of the sentence  
119 imposed. For purposes of this sub-subparagraph, credits awarded  
120 by the court for time physically incarcerated must be credited  
121 toward satisfaction of 85 percent of the sentence imposed. A  
122 prisoner who is granted incentive gain-time pursuant to this  
123 sub-subparagraph may not accumulate further gain-time awards at  
124 any point when the tentative release date is the same as that  
125 date at which the prisoner will have served 85 percent of the  
126 sentence imposed. State prisoners sentenced to life imprisonment  
127 must be incarcerated for the rest of their natural lives, unless  
128 granted pardon or clemency ~~For sentences imposed for offenses~~  
129 ~~committed on or after October 1, 1995, the department may grant~~  
130 ~~up to 10 days per month of incentive gain-time.~~

131 (f) An inmate who is subject to subparagraph (b)3. is not  
132 eligible to earn or receive gain-time under paragraph (a),  
133 paragraph (b), paragraph (c), or paragraph (d) or any other type  
134 of gain-time in an amount that would cause a sentence to expire,  
135 end, or terminate, or that would result in a prisoner's release,  
136 prior to serving a minimum of 85 percent of the sentence  
137 imposed. For purposes of this paragraph, credits awarded by the  
138 court for time physically incarcerated or time spent in the  
139 department's care, custody, supervision, or control through  
140 participation in a program under s. 945.091 shall be credited  
141 toward satisfaction of 85 percent of the sentence imposed.  
142 Except as provided by this section, a prisoner may not  
143 accumulate further gain-time awards at any point when the  
144 tentative release date is the same as that date at which the  
145 prisoner will have served 85 percent of the sentence imposed.

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146 State prisoners sentenced to life imprisonment shall be  
147 incarcerated for the rest of their natural lives, unless granted  
148 pardon or clemency.

149       Section 3. Paragraph (d) is added to subsection (1) of  
150 section 945.091, Florida Statutes, to read:

151       945.091 Extension of the limits of confinement; restitution  
152 by employed inmates.—

153       (1) The department may adopt rules permitting the extension  
154 of the limits of the place of confinement of an inmate as to  
155 whom there is reasonable cause to believe that the inmate will  
156 honor his or her trust by authorizing the inmate, under  
157 prescribed conditions and following investigation and approval  
158 by the secretary, or the secretary's designee, who shall  
159 maintain a written record of such action, to leave the confines  
160 of that place unaccompanied by a custodial agent for a  
161 prescribed period of time to:

162       (d) Participate in supervised community release as  
163 prescribed by the department by rule. An inmate who has a  
164 sentence of 2 years or more may begin participation in  
165 supervised community release 365 days before his or her  
166 provisional or tentative release date. The supervised community  
167 release may include active electronic monitoring and community  
168 control as defined in s. 948.001. An inmate participating in  
169 such supervised community release is considered to be in the  
170 custody, care, supervision, and control of the department for  
171 purposes of ss. 921.002 and 944.275 and must be assigned to the  
172 caseload of a community control officer. The department must  
173 administer a risk assessment instrument to appropriately  
174 determine an inmate's ability to be released pursuant to this

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175 paragraph.

176       1. If a participating inmate fails to comply with the  
177       conditions prescribed in the department's rule for supervised  
178       community release, the department may terminate the inmate's  
179       supervised community release and return him or her to the same  
180       or another institution designated by the department. A law  
181       enforcement officer or a probation officer may arrest the inmate  
182       without a warrant in accordance with s. 948.06, if there are  
183       reasonable grounds to believe he or she has violated the terms  
184       and conditions of supervised community release. The law  
185       enforcement officer must report the inmate's alleged violations  
186       to the supervising probation office or the department's  
187       emergency action center for disposition of disciplinary charges  
188       as prescribed by the department by rule.

189       2. An inmate participating in supervised community release  
190       under this paragraph remains eligible to earn or lose gain-time  
191       in accordance with s. 944.275 and department rule, but may not  
192       receive gain-time or other sentence credit in an amount that  
193       would cause his or her sentence to expire, end, or terminate, or  
194       that would result in his or her release before serving a minimum  
195       of 85 percent of the sentence imposed. The inmate may not be  
196       counted in the population of the prison system, and the inmate's  
197       approved community-based housing location may not be counted in  
198       the capacity figures for the prison system.

199       Section 4. For the purpose of incorporating the amendment  
200       made by this act to section 944.275, Florida Statutes, in a  
201       reference thereto, paragraph (k) of subsection (4) of section  
202       775.084, Florida Statutes, is reenacted to read:

203       775.084 Violent career criminals; habitual felony offenders

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204 and habitual violent felony offenders; three-time violent felony  
205 offenders; definitions; procedure; enhanced penalties or  
206 mandatory minimum prison terms.—

207 (4)

208 (k)1. A defendant sentenced under this section as a  
209 habitual felony offender, a habitual violent felony offender, or  
210 a violent career criminal is eligible for gain-time granted by  
211 the Department of Corrections as provided in s. 944.275(4)(b).

212 2. For an offense committed on or after October 1, 1995, a  
213 defendant sentenced under this section as a violent career  
214 criminal is not eligible for any form of discretionary early  
215 release, other than pardon or executive clemency, or conditional  
216 medical release granted pursuant to s. 947.149.

217 3. For an offense committed on or after July 1, 1999, a  
218 defendant sentenced under this section as a three-time violent  
219 felony offender shall be released only by expiration of sentence  
220 and shall not be eligible for parole, control release, or any  
221 form of early release.

222 Section 5. For the purpose of incorporating the amendment  
223 made by this act to section 944.275, Florida Statutes, in a  
224 reference thereto, paragraph (e) of subsection (1) of section  
225 921.002, Florida Statutes, is reenacted to read:

226 921.002 The Criminal Punishment Code.—The Criminal  
227 Punishment Code shall apply to all felony offenses, except  
228 capital felonies, committed on or after October 1, 1998.

229 (1) The provision of criminal penalties and of limitations  
230 upon the application of such penalties is a matter of  
231 predominantly substantive law and, as such, is a matter properly  
232 addressed by the Legislature. The Legislature, in the exercise

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233 of its authority and responsibility to establish sentencing  
234 criteria, to provide for the imposition of criminal penalties,  
235 and to make the best use of state prisons so that violent  
236 criminal offenders are appropriately incarcerated, has  
237 determined that it is in the best interest of the state to  
238 develop, implement, and revise a sentencing policy. The Criminal  
239 Punishment Code embodies the principles that:

240 (e) The sentence imposed by the sentencing judge reflects  
241 the length of actual time to be served, shortened only by the  
242 application of incentive and meritorious gain-time as provided  
243 by law, and may not be shortened if the defendant would  
244 consequently serve less than 85 percent of his or her term of  
245 imprisonment as provided in s. 944.275(4). The provisions of  
246 chapter 947, relating to parole, shall not apply to persons  
247 sentenced under the Criminal Punishment Code.

248 Section 6. For the purpose of incorporating the amendment  
249 made by this act to section 945.091, Florida Statutes, in a  
250 reference thereto, subsection (2) of section 946.503, Florida  
251 Statutes, is reenacted to read:

252 946.503 Definitions to be used with respect to correctional  
253 work programs.—As used in this part, the term:

254 (2) "Correctional work program" means any program presently  
255 a part of the prison industries program operated by the  
256 department or any other correctional work program carried on at  
257 any state correctional facility presently or in the future, but  
258 the term does not include any program authorized by s. 945.091  
259 or s. 946.40.

260 Section 7. This act shall take effect October 1, 2020.