

By the Committee on Criminal Justice; and Senator Pizzo

591-02934-21

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1 A bill to be entitled
2 An act relating to gain-time for certain women
3 prisoners; creating s. 944.243, F.S.; defining the
4 term "violent felony"; specifying that a pregnant
5 prisoner or a prisoner who is the mother of a child of
6 a certain age sentenced to a state correctional
7 institution is eligible under certain circumstances to
8 earn or receive gain-time in an amount that would
9 cause her sentence to expire, end, or terminate after
10 serving 65 percent of the sentence imposed; providing
11 that a pregnant prisoner or a prisoner who is the
12 mother of a child of a certain age is ineligible under
13 certain circumstances to earn or receive gain-time in
14 an amount that would cause her sentence to expire,
15 end, or terminate after serving 65 percent of the
16 sentence imposed; amending ss. 921.002 and 944.275,
17 F.S.; conforming provisions to changes made by the
18 act; providing an effective date.

19
20 WHEREAS, the absence of the mother of a young child on a
21 daily basis may lead to problems and disorders connected to such
22 absence for the child, and

23 WHEREAS, a mother's presence soothes a child's stress and
24 helps to regulate a child's emotions, and

25 WHEREAS, a mother's extended absence can cause a child to
26 experience higher levels of stress and anxiety, and

27 WHEREAS, the more emotionally and physically present a
28 mother can be for her child, the better the chance that child
29 will be emotionally healthy and mentally well, NOW, THEREFORE,

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

32
33 Section 1. Section 944.243, Florida Statutes, is created to
34 read:

35 944.243 Gain-time for pregnant prisoners or prisoners who
36 are mothers of young children.-

37 (1) As used in this section, the term "violent felony"
38 means the commission of, an attempt to commit, or a conspiracy
39 to commit any offense enumerated in s. 775.084(1)(c)1., s.
40 827.03, s. 827.071, or s. 827.10.

41 (2) A prisoner sentenced to a state correctional
42 institution who is a pregnant prisoner as defined in s. 944.241
43 or who is the mother of a child 3 years of age or younger at the
44 time the offense or offenses were committed is eligible to earn
45 or receive gain-time under s. 944.275 in an amount that would
46 cause the sentence to expire, end, or terminate, or that would
47 result in the prisoner's release, after serving 65 percent of
48 the sentence imposed if:

49 (a) No offense for which the prisoner was convicted is a
50 violent felony;

51 (b) The prisoner has demonstrated good behavior while
52 incarcerated; and

53 (c) The prisoner has completed at least one educational or
54 rehabilitative program while incarcerated, if such education or
55 rehabilitative program was available. However, if the prisoner's
56 participation in an educational or rehabilitative program is
57 terminated due to a reason other than the prisoner's voluntary
58 termination or expulsion from the program for cause, the

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59 prisoner's participation in the program shall be considered as
60 completion of the program for purposes of this paragraph.

61 (3) A pregnant prisoner or a prisoner who is the mother of
62 a child 3 years of age or younger at the time the offense or
63 offenses were committed becomes ineligible for release under
64 this section if the qualifying pregnancy is subsequently
65 terminated prior to the birth of an infant, or the woman is no
66 longer the legal parent of a qualifying child due to an adoption
67 under chapter 63 or termination of parental rights under chapter
68 39, or similar proceedings in another jurisdiction.

69 Section 2. Paragraph (e) of subsection (1) of section
70 921.002, Florida Statutes, is amended to read:

71 921.002 The Criminal Punishment Code.—The Criminal
72 Punishment Code shall apply to all felony offenses, except
73 capital felonies, committed on or after October 1, 1998.

74 (1) The provision of criminal penalties and of limitations
75 upon the application of such penalties is a matter of
76 predominantly substantive law and, as such, is a matter properly
77 addressed by the Legislature. The Legislature, in the exercise
78 of its authority and responsibility to establish sentencing
79 criteria, to provide for the imposition of criminal penalties,
80 and to make the best use of state prisons so that violent
81 criminal offenders are appropriately incarcerated, has
82 determined that it is in the best interest of the state to
83 develop, implement, and revise a sentencing policy. The Criminal
84 Punishment Code embodies the principles that:

85 (e) The sentence imposed by the sentencing judge reflects
86 the length of actual time to be served, shortened only by the
87 application of incentive and meritorious gain-time as provided

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88 by law, and may not be shortened if the defendant would
89 consequently serve less than the specified percentage ~~85 percent~~
90 of his or her term of imprisonment as provided in s. 944.275(4).
91 The provisions of chapter 947, relating to parole, do ~~shall~~ not
92 apply to persons sentenced under the Criminal Punishment Code.

93 Section 3. Subsection (4) of section 944.275, Florida
94 Statutes, is amended to read:

95 944.275 Gain-time.—

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

100 1. Portions of any sentences to be served concurrently
101 shall be treated as a single sentence when determining basic
102 gain-time.

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

105 3. When a prisoner receives a new maximum sentence
106 expiration date because of additional sentences imposed, basic
107 gain-time shall be granted for the amount of time the maximum
108 sentence expiration date was extended.

109 (b) For each month in which an inmate works diligently,
110 participates in training, uses time constructively, or otherwise
111 engages in positive activities, the department may grant
112 incentive gain-time in accordance with this paragraph. The rate
113 of incentive gain-time in effect on the date the inmate
114 committed the offense which resulted in his or her incarceration
115 shall be the inmate's rate of eligibility to earn incentive
116 gain-time throughout the period of incarceration and may ~~shall~~

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117 not be altered by a subsequent change in the severity level of
118 the offense for which the inmate was sentenced.

119 1. For sentences imposed for offenses committed prior to
120 January 1, 1994, up to 20 days of incentive gain-time may be
121 granted. If granted, such gain-time shall be credited and
122 applied monthly.

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

125 a. For offenses ranked in offense severity levels 1 through
126 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
127 of incentive gain-time may be granted. If granted, such gain-
128 time shall be credited and applied monthly.

129 b. For offenses ranked in offense severity levels 8, 9, and
130 10, under former s. 921.0012 or former s. 921.0013, up to 20
131 days of incentive gain-time may be granted. If granted, such
132 gain-time shall be credited and applied monthly.

133 3. For sentences imposed for offenses committed on or after
134 October 1, 1995, the department may grant up to 10 days per
135 month of incentive gain-time.

136 (c) An inmate who performs some outstanding deed, such as
137 saving a life or assisting in recapturing an escaped inmate, or
138 who in some manner performs an outstanding service that would
139 merit the granting of additional deductions from the term of his
140 or her sentence may be granted meritorious gain-time of from 1
141 to 60 days.

142 (d) Notwithstanding the monthly maximum awards of incentive
143 gain-time under subparagraphs (b)1., 2., and 3., the education
144 program manager shall recommend, and the Department of
145 Corrections may grant, a one-time award of 60 additional days of

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146 incentive gain-time to an inmate who is otherwise eligible and
147 who successfully completes requirements for and is, or has been
148 during the current commitment, awarded a high school equivalency
149 diploma or vocational certificate. Under no circumstances may an
150 inmate receive more than 60 days for educational attainment
151 pursuant to this section.

152 (e) Notwithstanding subparagraph (b)3., for sentences
153 imposed for offenses committed on or after October 1, 2014, the
154 department may not grant incentive gain-time if the offense is a
155 violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s.
156 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
157 800.04; s. 825.1025; or s. 847.0135(5).

158 (f) Except as provided in s. 944.243, an inmate who is
159 subject to subparagraph (b)3. is not eligible to earn or receive
160 gain-time under paragraph (a), paragraph (b), paragraph (c), or
161 paragraph (d) or any other type of gain-time in an amount that
162 would cause a sentence to expire, end, or terminate, or that
163 would result in a prisoner's release, prior to serving a minimum
164 of 85 percent of the sentence imposed. For purposes of this
165 paragraph, credits awarded by the court for time physically
166 incarcerated shall be credited toward satisfaction of 85 percent
167 of the sentence imposed. Except as provided by this section, a
168 prisoner may not accumulate further gain-time awards at any
169 point when the tentative release date is the same as that date
170 at which the prisoner will have served 85 percent of the
171 sentence imposed. State prisoners sentenced to life imprisonment
172 shall be incarcerated for the rest of their natural lives,
173 unless granted pardon or clemency.

174 Section 4. This act shall take effect July 1, 2021.