

By Senator Bracy

11-01550-22

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1                   A bill to be entitled  
2       An act relating to gain-time; amending s. 921.002,  
3       F.S.; revising a principle of the Criminal Punishment  
4       Code relating to a prisoner's required minimum term of  
5       imprisonment; amending s. 944.275, F.S.; revising the  
6       incentive gain-time that the Department of Corrections  
7       may grant a prisoner; providing exceptions; providing  
8       an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

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12       Section 1. 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 limitations  
18       upon the application of such penalties is a matter of  
19       predominantly substantive law and, as such, is a matter properly  
20       addressed by the Legislature. The Legislature, in the exercise  
21       of its authority and responsibility to establish sentencing  
22       criteria, to provide for the imposition of criminal penalties,  
23       and to make the best use of state prisons so that violent  
24       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 Criminal  
27       Punishment Code embodies the principles that:

28       (e) The sentence imposed by the sentencing judge reflects  
29       the length of actual time to be served, shortened only by the

11-01550-22

20221486\_\_

30 application of incentive and meritorious gain-time as provided  
31 by law, and may not be shortened if the defendant would  
32 consequently serve less than 65 percent of his or her term of  
33 imprisonment as provided in s. 944.275(4)(b)3.a. or less than 85  
34 percent of his or her term of imprisonment as provided in s.  
35 944.275(4) or s. 944.275(4)(b)3.b. The provisions of chapter  
36 947, relating to parole, shall not apply to persons sentenced  
37 under the Criminal Punishment Code.

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

40 944.275 Gain-time.—

41 (4)

42 (b) For each month in which an inmate works diligently,  
43 participates in training, uses time constructively, or otherwise  
44 engages in positive activities, the department may grant  
45 incentive gain-time in accordance with this paragraph. The rate  
46 of incentive gain-time in effect on the date the inmate  
47 committed the offense that ~~which~~ resulted in his or her  
48 incarceration shall be the inmate's rate of eligibility to earn  
49 incentive gain-time throughout the period of incarceration and  
50 may ~~shall~~ not be altered by a subsequent change in the severity  
51 level of the offense for which the inmate was sentenced.

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

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

58 a. For offenses ranked in offense severity levels 1 through

11-01550-22

20221486\_\_

59 7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
60 of incentive gain-time may be granted. If granted, such gain-  
61 time shall be credited and applied monthly.

62 b. For offenses ranked in offense severity levels 8, 9, and  
63 10, under former s. 921.0012 or former s. 921.0013, up to 20  
64 days of incentive gain-time may be granted. If granted, such  
65 gain-time shall be credited and applied monthly.

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

69 a. If the offense is a nonviolent felony, as defined in s.  
70 948.08(6), the prisoner is not eligible to earn any type of  
71 gain-time in an amount that would cause a sentence to expire,  
72 end, or terminate, or that would result in a prisoner's release,  
73 before he or she serves a minimum of 65 percent of the sentence  
74 imposed. For purposes of this sub-subparagraph, credits awarded  
75 by the court for time physically incarcerated must be credited  
76 toward satisfaction of 65 percent of the sentence imposed. A  
77 prisoner granted incentive gain-time pursuant to this sub-  
78 subparagraph may not accumulate further gain-time awards at any  
79 point when the tentative release date is the same as that date  
80 on which the prisoner will have served 65 percent of the  
81 sentence imposed. State prisoners sentenced to life imprisonment  
82 must be incarcerated for the rest of their natural lives, unless  
83 granted pardon or clemency.

84 b. If the offense is not a nonviolent felony, as defined in  
85 s. 948.08(6), the prisoner is not eligible to earn any type of  
86 gain-time in an amount that would cause a sentence to expire,  
87 end, or terminate, or that would result in a prisoner's release,

11-01550-22

20221486\_\_

88 before he or she serves a minimum of 85 percent of the sentence  
89 imposed. For purposes of this sub-subparagraph, credits awarded  
90 by the court for time physically incarcerated must be credited  
91 toward satisfaction of 85 percent of the sentence imposed. A  
92 prisoner granted incentive gain-time pursuant to this sub-  
93 subparagraph may not accumulate further gain-time awards at any  
94 point when the tentative release date is the same as that date  
95 on which the prisoner will have served 85 percent of the  
96 sentence imposed. State prisoners sentenced to life imprisonment  
97 must be incarcerated for the rest of their natural lives, unless  
98 granted pardon or clemency ~~For sentences imposed for offenses~~  
99 ~~committed on or after October 1, 1995, the department may grant~~  
100 ~~up to 10 days per month of incentive gain-time.~~

101 (f) An inmate who is subject to subparagraph (b)3. is not  
102 eligible to earn or receive gain-time under paragraph (a),  
103 paragraph (b), paragraph (c), or paragraph (d) or any other type  
104 of gain-time in an amount that would cause a sentence to expire,  
105 end, or terminate, or that would result in a prisoner's release,  
106 before ~~prior to~~ serving a minimum of 85 percent of the sentence  
107 imposed. For purposes of this paragraph, credits awarded by the  
108 court for time physically incarcerated shall be credited toward  
109 satisfaction of 85 percent of the sentence imposed. Except as  
110 provided by this section, a prisoner may not accumulate further  
111 gain-time awards at any point when the tentative release date is  
112 the same as that date on ~~at~~ which the prisoner will have served  
113 85 percent of the sentence imposed. State prisoners sentenced to  
114 life imprisonment shall be incarcerated for the rest of their  
115 natural lives, unless granted pardon or clemency.

116 Section 3. This act shall take effect July 1, 2022.