

By Senator Bracy

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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

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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

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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 who is granted incentive gain-time pursuant to this
78 sub-subparagraph may not accumulate further gain-time awards at
79 any point when the tentative release date is the same as that
80 date at 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,

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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 who is granted incentive gain-time pursuant to this
93 sub-subparagraph may not accumulate further gain-time awards at
94 any point when the tentative release date is the same as that
95 date at 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 at which the prisoner will have served 85
113 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, 2020.