

By Senator Bracy

11-00424-19

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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 for offenses committed on or  
8       after a specified date; providing exceptions; revising  
9       the conditions under which an inmate may be granted a  
10      one-time award of 60 additional days of incentive  
11      gain-time by the department; providing an effective  
12      date.

13  
14 Be It Enacted by the Legislature of the State of Florida:  
15

16       Section 1. Paragraph (e) of subsection (1) of section  
17      921.002, Florida Statutes, is amended to read:

18       921.002 The Criminal Punishment Code.—The Criminal  
19      Punishment Code shall apply to all felony offenses, except  
20      capital felonies, committed on or after October 1, 1998.

21       (1) The provision of criminal penalties and of limitations  
22      upon the application of such penalties is a matter of  
23      predominantly substantive law and, as such, is a matter properly  
24      addressed by the Legislature. The Legislature, in the exercise  
25      of its authority and responsibility to establish sentencing  
26      criteria, to provide for the imposition of criminal penalties,  
27      and to make the best use of state prisons so that violent  
28      criminal offenders are appropriately incarcerated, has  
29      determined that it is in the best interest of the state to

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30 develop, implement, and revise a sentencing policy. The Criminal  
31 Punishment Code embodies the principles that:

32 (e) The sentence imposed by the sentencing judge reflects  
33 the length of actual time to be served, shortened only by the  
34 application of incentive and meritorious gain-time as provided  
35 by law, and may not be shortened if the defendant would  
36 consequently serve less than 65 percent of his or her term of  
37 imprisonment as provided in s. 944.275(4)(b)4.a. or 85 percent  
38 of his or her term of imprisonment as provided in s. 944.275(4)  
39 or s. 944.275(4)(b)4.b. The provisions of chapter 947, relating  
40 to parole, shall not apply to persons sentenced under the  
41 Criminal Punishment Code.

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

44 944.275 Gain-time.—

45 (4)

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

56 1. For sentences imposed for offenses committed before  
57 ~~prior to~~ January 1, 1994, up to 20 days of incentive gain-time  
58 may be granted. If granted, such gain-time shall be credited and

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59 applied monthly.

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

62 a. For offenses ranked in offense severity levels 1 through  
63 7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
64 of incentive gain-time may be granted. If granted, such gain-  
65 time shall be credited and applied monthly.

66 b. For offenses ranked in offense severity levels 8, 9, and  
67 10, under former s. 921.0012 or former s. 921.0013, up to 20  
68 days of incentive gain-time may be granted. If granted, such  
69 gain-time shall be credited and applied monthly.

70 3. For sentences imposed for offenses committed on or after  
71 October 1, 1995, and before July 1, 2019, the department may  
72 grant up to 10 days per month of incentive gain-time.

73 4. For sentences imposed for offenses committed on or after  
74 July 1, 2019, the department may grant up to 20 days per month  
75 of incentive gain-time, except that:

76 a. If the offense is a nonviolent felony, as defined in s.  
77 948.08(6), the prisoner is not eligible to earn any type of  
78 gain-time in an amount that would cause a sentence to expire,  
79 end, or terminate, or that would result in a prisoner's release,  
80 before he or she serves a minimum of 65 percent of the sentence  
81 imposed. For purposes of this sub-subparagraph, credits awarded  
82 by the court for time physically incarcerated must be credited  
83 toward satisfaction of 65 percent of the sentence imposed. A  
84 prisoner who is granted incentive gain-time pursuant to this  
85 sub-subparagraph may not accumulate further gain-time awards at  
86 any point when the tentative release date is the same as that  
87 date at which the prisoner will have served 65 percent of the

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88 sentence imposed. State prisoners sentenced to life imprisonment  
89 must be incarcerated for the rest of their natural lives, unless  
90 granted pardon or clemency.

91 b. If the offense is not a nonviolent felony, as defined in  
92 s. 948.08(6), the prisoner is not eligible to earn any type of  
93 gain-time in an amount that would cause a sentence to expire,  
94 end, or terminate, or that would result in a prisoner's release,  
95 before he or she serves a minimum of 85 percent of the sentence  
96 imposed. For purposes of this sub-subparagraph, credits awarded  
97 by the court for time physically incarcerated must be credited  
98 toward satisfaction of 85 percent of the sentence imposed. A  
99 prisoner who is granted incentive gain-time pursuant to this  
100 sub-subparagraph may not accumulate further gain-time awards at  
101 any point when the tentative release date is the same as that  
102 date at which the prisoner will have served 85 percent of the  
103 sentence imposed. State prisoners sentenced to life imprisonment  
104 must be incarcerated for the rest of their natural lives, unless  
105 granted pardon or clemency.

106 (d) Notwithstanding the monthly maximum awards of incentive  
107 gain-time under subparagraphs (b)1.-4. ~~subparagraphs (b)1., 2.,~~  
108 ~~and 3.~~, the education program manager shall recommend, and the  
109 Department of Corrections may grant, a one-time award of 60  
110 additional days of incentive gain-time to an inmate who is  
111 otherwise eligible and who successfully completes requirements  
112 for and is, or has been during the current commitment, awarded a  
113 high school equivalency diploma or vocational certificate. Under  
114 no circumstances may an inmate receive more than 60 days for  
115 educational attainment pursuant to this section.

116 (f) An inmate who is subject to subparagraph (b)3. is not

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117 eligible to earn or receive gain-time under paragraph (a),  
118 paragraph (b), paragraph (c), or paragraph (d) or any other type  
119 of gain-time in an amount that would cause a sentence to expire,  
120 end, or terminate, or that would result in a prisoner's release,  
121 before ~~prior to~~ serving a minimum of 85 percent of the sentence  
122 imposed. For purposes of this paragraph, credits awarded by the  
123 court for time physically incarcerated shall be credited toward  
124 satisfaction of 85 percent of the sentence imposed. Except as  
125 provided by this section, a prisoner may not accumulate further  
126 gain-time awards at any point when the tentative release date is  
127 the same as that date at which the prisoner will have served 85  
128 percent of the sentence imposed. State prisoners sentenced to  
129 life imprisonment shall be incarcerated for the rest of their  
130 natural lives, unless granted pardon or clemency.

131 Section 3. This act shall take effect July 1, 2019.