

By Senator Brandes

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1 A bill to be entitled
2 An act relating to extension of confinement; amending
3 s. 944.275, F.S.; specifying that an inmate is not
4 eligible to receive specified incentive gain-time if
5 such gain-time would result in the prisoner's release
6 from the care, custody, supervision, or control of the
7 Department of Corrections; requiring that
8 participation in specified programs be credited toward
9 satisfaction of specified portions of a sentence;
10 amending s. 945.091, F.S.; authorizing the department
11 to extend the limits of confinement to allow an inmate
12 to participate in supervised community release,
13 subject to certain requirements, as prescribed by the
14 department by rule; providing that an inmate
15 participating in such supervised community release is
16 considered to be in the custody, care, supervision,
17 and control of the department; authorizing the
18 department to terminate the inmate's supervised
19 community release under certain circumstances;
20 providing that an inmate participating in supervised
21 community release is eligible to earn or lose gain-
22 time, subject to certain restrictions; prohibiting the
23 inmate from being counted in the population of the
24 prison system; prohibiting the inmate's approved
25 community-based housing location from being counted in
26 the capacity figures for the prison system; reenacting
27 ss. 775.084(4)(k) and 921.002(1)(e), F.S., relating to
28 violent criminals and habitual offenders and the
29 Criminal Punishment Code, respectively, to incorporate

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30 the amendment made to s. 944.275, F.S., in references
31 thereto; reenacting s. 946.503(2), F.S., relating to
32 the definition of the term "correctional work program"
33 to incorporate the amendment made to s. 945.091, F.S.,
34 in a reference thereto; providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Paragraph (f) of subsection (4) of section
39 944.275, Florida Statutes, is amended, and paragraph (b) of that
40 subsection is republished, to read:

41 944.275 Gain-time.—

42 (4)

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

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

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

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59 a. For offenses ranked in offense severity levels 1 through
60 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
61 of incentive gain-time may be granted. If granted, such gain-
62 time shall be credited and applied monthly.

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

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

70 (f) An inmate who is subject to subparagraph (b)3. is not
71 eligible to earn or receive gain-time under paragraph (a),
72 paragraph (b), paragraph (c), or paragraph (d) or any other type
73 of gain-time in an amount that would cause a sentence to expire,
74 end, or terminate, or that would result in a prisoner's release
75 from the department's care, custody, supervision, or control,
76 prior to serving a minimum of 85 percent of the sentence
77 imposed. For purposes of this paragraph, credits awarded by the
78 court for time physically incarcerated or time spent in the
79 department's care, custody, supervision, or control through
80 participation in a program under s. 945.091 shall be credited
81 toward satisfaction of 85 percent of the sentence imposed.
82 Except as provided by this section, a prisoner may not
83 accumulate further gain-time awards at any point when the
84 tentative release date is the same as that date at which the
85 prisoner will have served 85 percent of the sentence imposed.
86 State prisoners sentenced to life imprisonment shall be
87 incarcerated for the rest of their natural lives, unless granted

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88 pardon or clemency.

89 Section 2. Paragraph (d) is added to subsection (1) of
90 section 945.091, Florida Statutes, to read:

91 945.091 Extension of the limits of confinement; restitution
92 by employed inmates.—

93 (1) The department may adopt rules permitting the extension
94 of the limits of the place of confinement of an inmate as to
95 whom there is reasonable cause to believe that the inmate will
96 honor his or her trust by authorizing the inmate, under
97 prescribed conditions and following investigation and approval
98 by the secretary, or the secretary's designee, who shall
99 maintain a written record of such action, to leave the confines
100 of that place unaccompanied by a custodial agent for a
101 prescribed period of time to:

102 (d) Participate in supervised community release as
103 prescribed by the department by rule. An inmate who has a
104 sentence of 2 years or more may begin participation in
105 supervised community release 365 days before his or her
106 provisional or tentative release date. The supervised community
107 release may include active electronic monitoring and community
108 control as defined in s. 948.001. An inmate participating in
109 such supervised community release is considered to be in the
110 custody, care, supervision, and control of the department for
111 purposes of ss. 921.002 and 944.275 and must be assigned to the
112 caseload of a community control officer. The department must
113 administer a risk assessment instrument to appropriately
114 determine an inmate's ability to be released pursuant to this
115 paragraph.

116 1. If a participating inmate fails to comply with the

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117 conditions prescribed in the department's rule for supervised
118 community release, the department may terminate the inmate's
119 supervised community release and return him or her to the same
120 or another institution designated by the department. A law
121 enforcement officer or a probation officer may arrest the inmate
122 without a warrant in accordance with s. 948.06, if there are
123 reasonable grounds to believe he or she has violated the terms
124 and conditions of supervised community release. The law
125 enforcement officer must report the inmate's alleged violations
126 to the supervising probation office or the department's
127 emergency action center for disposition of disciplinary charges
128 as prescribed by the department by rule.

129 2. An inmate participating in supervised community release
130 under this paragraph remains eligible to earn or lose gain-time
131 in accordance with s. 944.275 and department rule, but may not
132 receive gain-time or other sentence credit in an amount that
133 would cause his or her sentence to expire, end, or terminate, or
134 that would result in his or her release before serving a minimum
135 of 85 percent of the sentence imposed. The inmate may not be
136 counted in the population of the prison system, and the inmate's
137 approved community-based housing location may not be counted in
138 the capacity figures for the prison system.

139 Section 3. For the purpose of incorporating the amendment
140 made by this act to section 944.275, Florida Statutes, in a
141 reference thereto, paragraph (k) of subsection (4) of section
142 775.084, Florida Statutes, is reenacted to read:

143 775.084 Violent career criminals; habitual felony offenders
144 and habitual violent felony offenders; three-time violent felony
145 offenders; definitions; procedure; enhanced penalties or

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146 mandatory minimum prison terms.-

147 (4)

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

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

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

162 Section 4. For the purpose of incorporating the amendment
163 made by this act to section 944.275, Florida Statutes, in a
164 reference thereto, paragraph (e) of subsection (1) of section
165 921.002, Florida Statutes, is reenacted to read:

166 921.002 The Criminal Punishment Code.-The Criminal
167 Punishment Code shall apply to all felony offenses, except
168 capital felonies, committed on or after October 1, 1998.

169 (1) The provision of criminal penalties and of limitations
170 upon the application of such penalties is a matter of
171 predominantly substantive law and, as such, is a matter properly
172 addressed by the Legislature. The Legislature, in the exercise
173 of its authority and responsibility to establish sentencing
174 criteria, to provide for the imposition of criminal penalties,

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175 and to make the best use of state prisons so that violent
176 criminal offenders are appropriately incarcerated, has
177 determined that it is in the best interest of the state to
178 develop, implement, and revise a sentencing policy. The Criminal
179 Punishment Code embodies the principles that:

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

188 Section 5. For the purpose of incorporating the amendment
189 made by this act to section 945.091, Florida Statutes, in a
190 reference thereto, subsection (2) of section 946.503, Florida
191 Statutes, is reenacted to read:

192 946.503 Definitions to be used with respect to correctional
193 work programs.—As used in this part, the term:

194 (2) "Correctional work program" means any program presently
195 a part of the prison industries program operated by the
196 department or any other correctional work program carried on at
197 any state correctional facility presently or in the future, but
198 the term does not include any program authorized by s. 945.091
199 or s. 946.40.

200 Section 6. This act shall take effect October 1, 2020.