

By the Committee on Criminal Justice; and Senators Brandes and Perry

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1 A bill to be entitled
2 An act relating to release from imprisonment; amending
3 s. 921.002, F.S.; revising a principle of the Criminal
4 Punishment Code relating to a prisoner's required
5 minimum term of imprisonment; amending s. 944.275,
6 F.S.; revising the incentive gain-time that the
7 Department of Corrections may grant a prisoner;
8 providing exceptions; providing that an inmate is
9 considered in the care, custody, supervision, or
10 control of the Department of Corrections when
11 participating in specified programs and may receive
12 credit towards specified portions of a sentence for
13 such participation; amending s. 945.091, F.S.;
14 authorizing the department to extend the limits of
15 confinement to allow an inmate to participate in
16 supervised community release, subject to certain
17 requirements, as prescribed by the department by rule;
18 providing that an inmate participating in such
19 supervised community release is considered to be in
20 the custody, care, supervision, and control of the
21 department; authorizing the department to terminate
22 the inmate's supervised community release under
23 certain circumstances; providing that an inmate
24 participating in supervised community release is
25 eligible to earn or lose gain-time, subject to certain
26 restrictions; prohibiting the inmate from being
27 counted in the population of the prison system;
28 prohibiting the inmate's approved community-based
29 housing location from being counted in the capacity

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30 figures for the prison system; reenacting ss.
31 775.084(4)(k) and 921.002(1)(e), F.S., relating to
32 violent criminals and habitual offenders and the
33 Criminal Punishment Code, respectively, to incorporate
34 the amendment made to s. 944.275, F.S., in references
35 thereto; reenacting s. 946.503(2), F.S., relating to
36 the definition of the term "correctional work program"
37 to incorporate the amendment made to s. 945.091, F.S.,
38 in a reference thereto; providing an effective date.
39

40 Be It Enacted by the Legislature of the State of Florida:
41

42 Section 1. Paragraph (e) of subsection (1) of section
43 921.002, Florida Statutes, is amended to read:

44 921.002 The Criminal Punishment Code.—The Criminal
45 Punishment Code shall apply to all felony offenses, except
46 capital felonies, committed on or after October 1, 1998.

47 (1) The provision of criminal penalties and of limitations
48 upon the application of such penalties is a matter of
49 predominantly substantive law and, as such, is a matter properly
50 addressed by the Legislature. The Legislature, in the exercise
51 of its authority and responsibility to establish sentencing
52 criteria, to provide for the imposition of criminal penalties,
53 and to make the best use of state prisons so that violent
54 criminal offenders are appropriately incarcerated, has
55 determined that it is in the best interest of the state to
56 develop, implement, and revise a sentencing policy. The Criminal
57 Punishment Code embodies the principles that:

58 (e) The sentence imposed by the sentencing judge reflects

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59 the length of actual time to be served, shortened only by the
60 application of incentive and meritorious gain-time as provided
61 by law, and may not be shortened if the defendant would
62 consequently serve less than 65 percent of his or her term of
63 imprisonment as provided in s. 944.275(4)(b)3.a. or less than 85
64 percent of his or her term of imprisonment as provided in s.
65 944.275(4) or s. 944.275(4)(b)3.b. The provisions of chapter
66 947, relating to parole, shall not apply to persons sentenced
67 under the Criminal Punishment Code.

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

70 944.275 Gain-time.—

71 (4)

72 (b) For each month in which an inmate works diligently,
73 participates in training, uses time constructively, or otherwise
74 engages in positive activities, the department may grant
75 incentive gain-time in accordance with this paragraph. The rate
76 of incentive gain-time in effect on the date the inmate
77 committed the offense that ~~which~~ resulted in his or her
78 incarceration shall be the inmate's rate of eligibility to earn
79 incentive gain-time throughout the period of incarceration and
80 may shall not be altered by a subsequent change in the severity
81 level of the offense for which the inmate was sentenced.

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

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

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88 a. For offenses ranked in offense severity levels 1 through
89 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
90 of incentive gain-time may be granted. If granted, such gain-
91 time shall be credited and applied monthly.

92 b. For offenses ranked in offense severity levels 8, 9, and
93 10, under former s. 921.0012 or former s. 921.0013, up to 20
94 days of incentive gain-time may be granted. If granted, such
95 gain-time shall be credited and applied monthly.

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

99 a. If the offense is a nonviolent felony, as defined in s.
100 948.08(6), the prisoner is not eligible to earn any type of
101 gain-time in an amount that would cause a sentence to expire,
102 end, or terminate, or that would result in a prisoner's release,
103 before he or she serves a minimum of 65 percent of the sentence
104 imposed. For purposes of this sub-subparagraph, credits awarded
105 by the court for time physically incarcerated must be credited
106 toward satisfaction of 65 percent of the sentence imposed. A
107 prisoner who is granted incentive gain-time pursuant to this
108 sub-subparagraph may not accumulate further gain-time awards at
109 any point when the tentative release date is the same as that
110 date at which the prisoner will have served 65 percent of the
111 sentence imposed. State prisoners sentenced to life imprisonment
112 must be incarcerated for the rest of their natural lives, unless
113 granted pardon or clemency.

114 b. If the offense is not a nonviolent felony, as defined in
115 s. 948.08(6), the prisoner is not eligible to earn any type of
116 gain-time in an amount that would cause a sentence to expire,

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117 end, or terminate, or that would result in a prisoner's release,
118 before he or she serves a minimum of 85 percent of the sentence
119 imposed. For purposes of this sub-subparagraph, credits awarded
120 by the court for time physically incarcerated must be credited
121 toward satisfaction of 85 percent of the sentence imposed. A
122 prisoner who is granted incentive gain-time pursuant to this
123 sub-subparagraph may not accumulate further gain-time awards at
124 any point when the tentative release date is the same as that
125 date at which the prisoner will have served 85 percent of the
126 sentence imposed. State prisoners sentenced to life imprisonment
127 must be incarcerated for the rest of their natural lives, unless
128 granted pardon or clemency ~~For sentences imposed for offenses~~
129 ~~committed on or after October 1, 1995, the department may grant~~
130 ~~up to 10 days per month of incentive gain-time.~~

131 (f) An inmate who is subject to subparagraph (b)3. is not
132 eligible to earn or receive gain-time under paragraph (a),
133 paragraph (b), paragraph (c), or paragraph (d) or any other type
134 of gain-time in an amount that would cause a sentence to expire,
135 end, or terminate, or that would result in a prisoner's release,
136 prior to serving a minimum of 85 percent of the sentence
137 imposed. For purposes of this paragraph, credits awarded by the
138 court for time physically incarcerated or time spent in the
139 department's care, custody, supervision, or control through
140 participation in a program under s. 945.091 shall be credited
141 toward satisfaction of 85 percent of the sentence imposed.
142 Except as provided by this section, a prisoner may not
143 accumulate further gain-time awards at any point when the
144 tentative release date is the same as that date at which the
145 prisoner will have served 85 percent of the sentence imposed.

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146 State prisoners sentenced to life imprisonment shall be
147 incarcerated for the rest of their natural lives, unless granted
148 pardon or clemency.

149 Section 3. Paragraph (d) is added to subsection (1) of
150 section 945.091, Florida Statutes, to read:

151 945.091 Extension of the limits of confinement; restitution
152 by employed inmates.—

153 (1) The department may adopt rules permitting the extension
154 of the limits of the place of confinement of an inmate as to
155 whom there is reasonable cause to believe that the inmate will
156 honor his or her trust by authorizing the inmate, under
157 prescribed conditions and following investigation and approval
158 by the secretary, or the secretary's designee, who shall
159 maintain a written record of such action, to leave the confines
160 of that place unaccompanied by a custodial agent for a
161 prescribed period of time to:

162 (d) Participate in supervised community release as
163 prescribed by the department by rule. An inmate who has a
164 sentence of 2 years or more may begin participation in
165 supervised community release 365 days before his or her
166 provisional or tentative release date. The supervised community
167 release may include active electronic monitoring and community
168 control as defined in s. 948.001. An inmate participating in
169 such supervised community release is considered to be in the
170 custody, care, supervision, and control of the department for
171 purposes of ss. 921.002 and 944.275 and must be assigned to the
172 caseload of a community control officer. The department must
173 administer a risk assessment instrument to appropriately
174 determine an inmate's ability to be released pursuant to this

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175 paragraph.

176 1. If a participating inmate fails to comply with the
177 conditions prescribed in the department's rule for supervised
178 community release, the department may terminate the inmate's
179 supervised community release and return him or her to the same
180 or another institution designated by the department. A law
181 enforcement officer or a probation officer may arrest the inmate
182 without a warrant in accordance with s. 948.06, if there are
183 reasonable grounds to believe he or she has violated the terms
184 and conditions of supervised community release. The law
185 enforcement officer must report the inmate's alleged violations
186 to the supervising probation office or the department's
187 emergency action center for disposition of disciplinary charges
188 as prescribed by the department by rule.

189 2. An inmate participating in supervised community release
190 under this paragraph remains eligible to earn or lose gain-time
191 in accordance with s. 944.275 and department rule, but may not
192 receive gain-time or other sentence credit in an amount that
193 would cause his or her sentence to expire, end, or terminate, or
194 that would result in his or her release before serving a minimum
195 of 85 percent of the sentence imposed. The inmate may not be
196 counted in the population of the prison system, and the inmate's
197 approved community-based housing location may not be counted in
198 the capacity figures for the prison system.

199 Section 4. For the purpose of incorporating the amendment
200 made by this act to section 944.275, Florida Statutes, in a
201 reference thereto, paragraph (k) of subsection (4) of section
202 775.084, Florida Statutes, is reenacted to read:

203 775.084 Violent career criminals; habitual felony offenders

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204 and habitual violent felony offenders; three-time violent felony
205 offenders; definitions; procedure; enhanced penalties or
206 mandatory minimum prison terms.—

207 (4)

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

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

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

222 Section 5. For the purpose of incorporating the amendment
223 made by this act to section 944.275, Florida Statutes, in a
224 reference thereto, paragraph (e) of subsection (1) of section
225 921.002, Florida Statutes, is reenacted to read:

226 921.002 The Criminal Punishment Code.—The Criminal
227 Punishment Code shall apply to all felony offenses, except
228 capital felonies, committed on or after October 1, 1998.

229 (1) The provision of criminal penalties and of limitations
230 upon the application of such penalties is a matter of
231 predominantly substantive law and, as such, is a matter properly
232 addressed by the Legislature. The Legislature, in the exercise

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233 of its authority and responsibility to establish sentencing
234 criteria, to provide for the imposition of criminal penalties,
235 and to make the best use of state prisons so that violent
236 criminal offenders are appropriately incarcerated, has
237 determined that it is in the best interest of the state to
238 develop, implement, and revise a sentencing policy. The Criminal
239 Punishment Code embodies the principles that:

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

248 Section 6. For the purpose of incorporating the amendment
249 made by this act to section 945.091, Florida Statutes, in a
250 reference thereto, subsection (2) of section 946.503, Florida
251 Statutes, is reenacted to read:

252 946.503 Definitions to be used with respect to correctional
253 work programs.—As used in this part, the term:

254 (2) "Correctional work program" means any program presently
255 a part of the prison industries program operated by the
256 department or any other correctional work program carried on at
257 any state correctional facility presently or in the future, but
258 the term does not include any program authorized by s. 945.091
259 or s. 946.40.

260 Section 7. This act shall take effect October 1, 2020.