

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to gain-time for certain women
3 prisoners; creating s. 944.243, F.S.; defining the
4 term "violent felony"; specifying that a pregnant
5 prisoner or a prisoner who is the mother of a child of
6 a certain age sentenced to a state correctional
7 institution is eligible under certain circumstances to
8 earn or receive gain-time in an amount that would
9 cause her sentence to expire, end, or terminate after
10 serving 65 percent of the sentence imposed; amending
11 ss. 921.002 and 944.275, F.S.; conforming provisions
12 to changes made by the act; providing an effective
13 date.

14
15 WHEREAS, the absence of the mother of a young child on a
16 daily basis may lead to problems and disorders connected to such
17 absence for the child, and

18 WHEREAS, a mother's presence soothes a child's stress and
19 helps to regulate a child's emotions, and

20 WHEREAS, a mother's extended absence can cause a child to
21 experience higher levels of stress and anxiety, and

22 WHEREAS, the more emotionally and physically present a
23 mother can be for her child, the better the chance that child
24 will be emotionally healthy and mentally well, NOW, THEREFORE,

25
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Section 944.243, Florida Statutes, is created to
29 read:

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30 944.243 Gain-time for pregnant prisoners or prisoners who
31 are mothers of young children.—

32 (1) As used in this section, the term "violent felony"
33 means the commission of, an attempt to commit, or a conspiracy
34 to commit any offense enumerated in s. 775.084(1)(c)1.

35 (2) A prisoner sentenced to a state correctional
36 institution who is a pregnant prisoner as defined in s. 944.241
37 or who is the mother of a child 3 years of age or younger at the
38 time the offense or offenses were committed is eligible to earn
39 or receive gain-time under s. 944.275 in an amount that would
40 cause the sentence to expire, end, or terminate, or that would
41 result in the prisoner's release, after serving 65 percent of
42 the sentence imposed if:

43 (a) No offense for which the prisoner was convicted is a
44 violent felony;

45 (b) The prisoner has demonstrated good behavior while
46 incarcerated; and

47 (c) The prisoner has participated in at least one
48 educational or rehabilitative program while incarcerated, if
49 such education or rehabilitative program was available.

50 Section 2. Paragraph (e) of subsection (1) of section
51 921.002, Florida Statutes, is amended to read:

52 921.002 The Criminal Punishment Code.—The Criminal
53 Punishment Code shall apply to all felony offenses, except
54 capital felonies, committed on or after October 1, 1998.

55 (1) The provision of criminal penalties and of limitations
56 upon the application of such penalties is a matter of
57 predominantly substantive law and, as such, is a matter properly
58 addressed by the Legislature. The Legislature, in the exercise

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59 of its authority and responsibility to establish sentencing
60 criteria, to provide for the imposition of criminal penalties,
61 and to make the best use of state prisons so that violent
62 criminal offenders are appropriately incarcerated, has
63 determined that it is in the best interest of the state to
64 develop, implement, and revise a sentencing policy. The Criminal
65 Punishment Code embodies the principles that:

66 (e) The sentence imposed by the sentencing judge reflects
67 the length of actual time to be served, shortened only by the
68 application of incentive and meritorious gain-time as provided
69 by law, and may not be shortened if the defendant would
70 consequently serve less than the specified percentage ~~85 percent~~
71 of his or her term of imprisonment as provided in s. 944.275(4).
72 The provisions of chapter 947, relating to parole, do ~~shall~~ not
73 apply to persons sentenced under the Criminal Punishment Code.

74 Section 3. Subsection (4) of section 944.275, Florida
75 Statutes, is amended to read:

76 944.275 Gain-time.—

77 (4) (a) As a means of encouraging satisfactory behavior, the
78 department shall grant basic gain-time at the rate of 10 days
79 for each month of each sentence imposed on a prisoner, subject
80 to the following:

81 1. Portions of any sentences to be served concurrently
82 shall be treated as a single sentence when determining basic
83 gain-time.

84 2. Basic gain-time for a partial month shall be prorated on
85 the basis of a 30-day month.

86 3. When a prisoner receives a new maximum sentence
87 expiration date because of additional sentences imposed, basic

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88 gain-time shall be granted for the amount of time the maximum
89 sentence expiration date was extended.

90 (b) For each month in which an inmate works diligently,
91 participates in training, uses time constructively, or otherwise
92 engages in positive activities, the department may grant
93 incentive gain-time in accordance with this paragraph. The rate
94 of incentive gain-time in effect on the date the inmate
95 committed the offense which resulted in his or her incarceration
96 shall be the inmate's rate of eligibility to earn incentive
97 gain-time throughout the period of incarceration and may ~~shall~~
98 not be altered by a subsequent change in the severity level of
99 the offense for which the inmate was sentenced.

100 1. For sentences imposed for offenses committed prior to
101 January 1, 1994, up to 20 days of incentive gain-time may be
102 granted. If granted, such gain-time shall be credited and
103 applied monthly.

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

106 a. For offenses ranked in offense severity levels 1 through
107 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
108 of incentive gain-time may be granted. If granted, such gain-
109 time shall be credited and applied monthly.

110 b. For offenses ranked in offense severity levels 8, 9, and
111 10, under former s. 921.0012 or former s. 921.0013, up to 20
112 days of incentive gain-time may be granted. If granted, such
113 gain-time shall be credited and applied monthly.

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

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117 (c) An inmate who performs some outstanding deed, such as
118 saving a life or assisting in recapturing an escaped inmate, or
119 who in some manner performs an outstanding service that would
120 merit the granting of additional deductions from the term of his
121 or her sentence may be granted meritorious gain-time of from 1
122 to 60 days.

123 (d) Notwithstanding the monthly maximum awards of incentive
124 gain-time under subparagraphs (b)1., 2., and 3., the education
125 program manager shall recommend, and the Department of
126 Corrections may grant, a one-time award of 60 additional days of
127 incentive gain-time to an inmate who is otherwise eligible and
128 who successfully completes requirements for and is, or has been
129 during the current commitment, awarded a high school equivalency
130 diploma or vocational certificate. Under no circumstances may an
131 inmate receive more than 60 days for educational attainment
132 pursuant to this section.

133 (e) Notwithstanding subparagraph (b)3., for sentences
134 imposed for offenses committed on or after October 1, 2014, the
135 department may not grant incentive gain-time if the offense is a
136 violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s.
137 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
138 800.04; s. 825.1025; or s. 847.0135(5).

139 (f) Except as provided in s. 944.243, an inmate who is
140 subject to subparagraph (b)3. is not eligible to earn or receive
141 gain-time under paragraph (a), paragraph (b), paragraph (c), or
142 paragraph (d) or any other type of gain-time in an amount that
143 would cause a sentence to expire, end, or terminate, or that
144 would result in a prisoner's release, prior to serving a minimum
145 of 85 percent of the sentence imposed. For purposes of this

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146 paragraph, credits awarded by the court for time physically
147 incarcerated shall be credited toward satisfaction of 85 percent
148 of the sentence imposed. Except as provided by this section, a
149 prisoner may not accumulate further gain-time awards at any
150 point when the tentative release date is the same as that date
151 at which the prisoner will have served 85 percent of the
152 sentence imposed. State prisoners sentenced to life imprisonment
153 shall be incarcerated for the rest of their natural lives,
154 unless granted pardon or clemency.

155 Section 4. This act shall take effect July 1, 2021.