

H. B. 4581

(By Delegates Armstead, Butler and Sobonya)

[Introduced February 17, 2014; referred to the Committee on the Judiciary.]

10 A BILL to amend and reenact §28-5-27 of the Code of West Virginia,
11 1931, as amended, relating to deductions from sentence for
12 good conduct; and mandatory supervision requirements.

13 Be it enacted by the Legislature of West Virginia:

14 That §28-5-27 of the Code of West Virginia, 1931, as amended,
15 be amended and reenacted to read as follows:

16 ARTICLE 5. THE PENITENTIARY.

17 §28-5-27. Deduction from sentence for good conduct; mandatory
18 supervision.

19 (a) All current and future adult inmates in the custody of the
20 Commissioner of Corrections, except those committed pursuant to
21 article four, chapter twenty-five of this code, shall be granted
22 commutation from their sentences for good conduct in accordance
23 with this section.

1 (b) The commutation of sentence, known as "good time", shall
2 be deducted from the maximum term of indeterminate sentences or
3 from the fixed term of determinate sentences.

4 (c) Each inmate committed to the custody of the Commissioner
5 of Corrections and incarcerated in a correctional facility pursuant
6 to that commitment shall be granted one day good time for each day
7 he or she is incarcerated, including any and all days in jail
8 awaiting sentence which are credited by the sentencing court to his
9 or her sentence pursuant to section twenty-four, article eleven,
10 chapter sixty-one of this code or for any other reason relating to
11 the commitment. An inmate may not be granted any good time for
12 time served either on parole or bond or in any other status when he
13 or she is not physically incarcerated.

14 (d) An inmate sentenced to serve a life sentence is not
15 eligible to earn or receive any good time pursuant to this section.

16 (e) An inmate under two or more consecutive sentences shall be
17 allowed good time as if the several sentences, when the maximum
18 terms of the consecutive sentences are added together, were all one
19 sentence.

20 (f) The Commissioner of Corrections shall promulgate
21 disciplinary rules. The rules shall describe acts that inmates are
22 prohibited from committing, procedures for charging individual
23 inmates for violation of the rules and for determining the guilt or
24 innocence of inmates charged with the violations and the sanctions

1 which may be imposed for the violations. A copy of the rules shall
2 be given to each inmate. For each violation, by a sanctioned
3 inmate, any part or all of the good time which has been granted to
4 the inmate pursuant to this section may be forfeited and revoked by
5 the warden or superintendent of the institution in which the
6 violation occurred. The warden or superintendent, when appropriate
7 and with approval of the commissioner, may restore any forfeited
8 good time.

9 (g) Each inmate, upon his or her commitment to and being
10 placed into the custody of the Commissioner of Corrections, or upon
11 his or her return to custody as the result of violation of parole
12 pursuant to section nineteen, article twelve, chapter sixty-two of
13 this code, shall be given a statement setting forth the term or
14 length of his or her sentence or sentences and the time of his or
15 her minimum discharge computed according to this section.

16 (h) Each inmate shall be given a revision of the statement
17 described in subsection (g) of this section if and when any part or
18 all of the good time has been forfeited and revoked or restored
19 pursuant to subsection (f) of this section, by which the time of
20 his or her earliest discharge is changed.

21 (i) The Commissioner of Corrections may, with the approval of
22 the Governor, allow extra good time for inmates who perform
23 exceptional work or service.

24 (j) In order to ensure equitable good time for all current and

1 future inmates in the custody of the Commissioner of Corrections,
2 except as to those persons committed pursuant to article four,
3 chapter twenty-five of this code, all good time shall be computed
4 according to this section and all previous computations of good
5 time under prior statutes or rules are void. All inmates who have
6 previously forfeited good time are hereby restored to good time
7 computed according to this section and all inmates will receive a
8 new discharge date computed according to this section. All inmates
9 that have been awarded overtime good time or extra good time
10 pursuant to sections twenty-seven-a and twenty-seven-b of this
11 article which were repealed simultaneously with the amendment to
12 this section during the regular session of the Legislature in the
13 year 1984 shall receive that good time in addition to the good time
14 computed according to this section.

15 (k) There shall be no grants or accumulations of good time or
16 credit to any current or future inmate serving a sentence in the
17 custody of the Division of Corrections except in the manner
18 provided in this section.

19 (l) Prior to the calculated discharge date of an inmate
20 serving a sentence for a felony crime of violence against the
21 person, a felony offense where the victim was a minor child or a
22 felony offense involving the use of a firearm, one year shall be
23 deducted from the inmate's accumulated good time to provide for one
24 year of mandatory post-release supervision following the first

1 instance in which the inmate reaches his or her calculated
2 discharge date. All inmates released pursuant to this subsection
3 shall be subject to electronic or GPS monitoring for the entire
4 period of supervision. The provisions of this subsection are
5 applicable to offenses committed on or after July 1, 2013.

6 (m) ~~Upon sentencing of an inmate for an offense not referenced~~
7 ~~in subsection (l) of this section, the court may order that one~~
8 ~~hundred eighty days of the sentence, or some lesser period, be~~
9 ~~served through post release mandatory supervision if the court~~
10 ~~determines supervision is appropriate and in the best interest of~~
11 ~~justice, rehabilitation and public safety. Prior to the calculated~~
12 ~~discharge date of an inmate who is serving a sentence for an~~
13 ~~offense not referenced in subsection (l) of this section, six~~
14 ~~months shall be deducted from the inmate's accumulated good time to~~
15 ~~provide six months of mandatory post release supervision following~~
16 ~~the first instance in which the inmate reaches his or her~~
17 ~~calculated discharge date. All inmates released pursuant to this~~
18 subsection shall be subject to electronic or GPS monitoring for the
19 entire period of supervision. The provisions of this subsection
20 are applicable to offenses committed on or after July 1, 2013 2014.

21 (n) The Commissioner of Corrections shall adopt policies and
22 procedures to implement the mandatory supervision provided ~~for~~ in
23 subsections (l) and (m) of this section, which may include terms,
24 conditions and procedures for supervision, modification and

1 violation applicable to persons on parole.

2 (o) As used in this section, "felony crime of violence against
3 the person" means felony offenses set forth in article two,
4 three-e, eight-b or eight-d, chapter sixty-one of this code, and
5 the felony offenses of arson and burglary of a residence where an
6 individual is physically located at the time of the offense as set
7 forth in article three, chapter sixty-one of this code.

8 (p) As used in this section, "felony offense where the victim
9 was a minor child" means any felony crime of violence against the
10 person and any felony offense set forth in article eight, eight-a,
11 eight-c or eight-d, chapter sixty-one of this code.

NOTE: The purpose of this bill is to remove the provision for six month reduction of sentence for nonviolent offenders and in lieu thereof, provides for a six month reduction of good time credit to provide for six months supervised release.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.