

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **Originating**

## **Senate Bill 713**

BY SENATORS AZINGER, CAPUTO, LINDSAY, MAYNARD,  
PHILLIPS, ROMANO, RUCKER, SMITH, STOVER, WELD,  
WOELFEL, WOODRUM, AND TRUMP

[Originating in the Committee on the Judiciary;  
reported on March 25, 2021]



1 A BILL to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended,  
2 relating generally to inmate good time; updating references to personnel; clarifying that  
3 inmates in the custody of the Commissioner of the Division of Corrections and  
4 Rehabilitation receive basic good time unless expressly excluded; creating certain  
5 exclusions; clarifying that inmates who received good time on or before October 21, 2020,  
6 are entitled to the good time, unless it is lost due to a disciplinary violation; establishing  
7 basis for earning extra good time in the discretion of the commissioner; and granting civil  
8 immunity to the Division of Corrections and Rehabilitation, its commissioner, employees,  
9 agents, and assigns for any and all claims relating to calculation of good time for certain  
10 offenders occurring before October 21, 2020.

*Be it enacted by the Legislature of West Virginia:*

#### **ARTICLE 4. CORRECTIONS MANAGEMENT.**

##### **§15A-4-17. Deduction from sentence for good conduct; mandatory supervision.**

1 (a) All ~~current and future~~ adult inmates ~~sentenced to a felony and~~ placed in the custody of  
2 the Commissioner of the Division of Corrections and Rehabilitation pursuant to a term of court-  
3 ordered incarceration for a misdemeanor or felony, ~~division~~ except those committed pursuant to  
4 §25-4-1 *et seq.* and §62-12-26 of this code, shall be granted commutation from their sentences  
5 for good conduct in accordance with this section: *Provided,* That nothing in this section shall be  
6 considered to recalculate the “good time” of inmates currently serving a sentence or of giving back  
7 good time to inmates who have previously lost good time earned for a disciplinary violation:  
8 *Provided, however,* That as of the effective date of the amendments to this section enacted during  
9 the regular session of the Legislature, 2021, an inmate who had good time calculated into his or  
10 her release date prior to October 21, 2020, is entitled to the benefit of the good time awarded or  
11 earned before that date, unless the good time was lost due to a disciplinary violation. ~~, except for~~  
12 ~~those inmates currently serving a sentence for a misdemeanor.~~

13 (b) The commutation of sentence, known as “good time”, shall be deducted from the  
14 maximum term of indeterminate sentences or from the fixed term of determinate sentences.

15 (c) Each eligible inmate committed to the custody of the commissioner and incarcerated  
16 in a facility pursuant to that commitment shall be granted one day good time for each day he or  
17 she is incarcerated, including any and all days in jail awaiting sentence which are credited by the  
18 sentencing court to his or her sentence pursuant to §61-11-24 of this code, or for any other reason  
19 relating to the commitment. An inmate may not be granted any good time for time served either  
20 on parole or bond or in any other status when he or she is not physically incarcerated.

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

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

26 (f) The commissioner shall promulgate disciplinary rules and policies. The rules and  
27 policies shall describe acts that inmates are prohibited from committing, procedures for charging  
28 individual inmates for violation of the rules, and for determining the guilt or innocence of inmates  
29 charged with the violations, and the sanctions which may be imposed for the violations. A copy of  
30 the rules shall be given to each inmate. For each violation, ~~by a sanctioned inmate,~~ any part or all  
31 of the good time which has been granted to the inmate pursuant to this section may be forfeited  
32 and revoked by the superintendent of the institution in which the violation occurred. The  
33 superintendent, when appropriate and with approval of the commissioner, may restore any  
34 forfeited good time.

35 (g) Each inmate, upon his or her commitment to, and being placed into the custody of, the  
36 commissioner, or upon his or her return to custody as the result of violation of parole under  
37 pursuant to §62-12-19 of this code, or supervised release under §62-12-26 of this code shall be

38 given a statement setting forth the term or length of his or her sentence or sentences and the time  
39 of his or her minimum discharge computed according to this section.

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

44 (i)(1) An eligible inmate may receive extra good time in the sole discretion of the  
45 commissioner for meritorious service or performing extra assigned duties during emergencies;  
46 and

47 (2) In addition to the good time granted under subsection (c) of this section and that  
48 authorized by subdivision (1) of this subsection, an eligible inmate serving a felony sentence may  
49 receive up to 90 days good time per program for successfully completing an approved, but not  
50 required, academic or vocational program, which is not part of the inmate's required individualized  
51 reentry programming plan. The commissioner shall adopt a written policy to effectuate the purposes  
52 of this subsection. The superintendent may, with the approval of the commissioner, allow extra  
53 good time for inmates who perform exceptional work or service.

54 (j) There shall be no grants or accumulations of good time or credit to any ~~current or future~~  
55 inmate serving a sentence in the custody of the Division of Corrections and Rehabilitation except  
56 in the manner provided in this section.

57 (k) Prior to the calculated discharge date of an inmate serving a sentence for a felony  
58 crime of violence against the person, a felony offense where the victim was a minor child, or a  
59 felony offense involving the use of a firearm, one year shall be deducted from the inmate's  
60 accumulated good time to provide for one year of mandatory post-release supervision following  
61 the first instance in which the inmate reaches his or her calculated discharge date. All inmates  
62 released pursuant to this subsection ~~shall be~~ are subject to electronic or GPS monitoring for the

63 entire period of supervision. The provisions of this subsection are applicable to offenses  
64 committed on or after July 1, 2013.

65 (l) Upon sentencing of an inmate for a felony offense not referenced in subsection (k) of  
66 this section, the court may order that 180 days of the sentence, or some lesser period, be served  
67 through post-release mandatory supervision if the court determines supervision is appropriate  
68 and in the best interest of justice, rehabilitation, and public safety. All inmates released pursuant  
69 to this subsection ~~shall be~~ are subject to electronic or GPS monitoring for the entire period of  
70 supervision. The provisions of this subsection are applicable to offenses committed on or after  
71 July 1, 2013.

72 (m) The commissioner shall adopt policies and procedures to implement the mandatory  
73 supervision provided for in subsections (k) and (l) of this section which may include terms,  
74 conditions, and procedures for supervision, modification, and violation applicable to persons on  
75 parole.

76 (n) As used in this section, "felony crime of violence against the person" means felony  
77 offenses set forth in §61-2-1 *et seq.*, §61-3E-1 *et seq.*, §61-8B-1 *et seq.*, or §61-8D-1 *et seq.* of  
78 this code, and the felony offenses of arson and burglary of a residence where an individual is  
79 physically located at the time of the offense as set forth in §61-3-1 *et seq.* of this code.

80 (o) As used in this section, "felony offense where the victim was a minor child" means any  
81 felony crime of violence against the person and any felony offense set forth in §61-8-1 *et seq.*,  
82 §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

83 (p) The Division of Corrections and Rehabilitation, its commissioner, employees, agents,  
84 and assigns, shall be granted absolute immunity from liability from any claims or actions of any  
85 person serving, or who has served, a term of incarceration pursuant to §62-12-26 of this code, for  
86 any matter or claim arising out of good time calculations or awards which may or may not have  
87 been awarded, given, removed, or taken which caused a person to be reincarcerated or to  
88 increase the expected term of his or her incarceration, which calculation, award, removal, taking,

Org SB 713

89 or reincarceration occurred prior to the effective date of the amendments to this section enacted  
90 during the regular session of the Legislature, 2021.