

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Enrolled

Senate Bill 713

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2021 APR 19 P 4: 47

FILED

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

[Passed April 6, 2021; to take effect April 30, 2021]

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

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

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

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

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

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

33 (g) Each inmate, upon his or her commitment to, and being placed into the custody of, the
34 commissioner, or upon his or her return to custody as the result of violation of parole under §62-
35 12-19 of this code, or supervised release under §62-12-26 of this code shall be given a statement
36 setting forth the term or length of his or her sentence or sentences and the time of his or her
37 minimum discharge computed according to this section.

38 (h) Each inmate shall be given a revision of the statement described in subsection (g) of
39 this section when any part or all of the good time has been forfeited and revoked or restored

40 pursuant to subsection (f) of this section, by which the time of his or her earliest discharge is
41 changed.

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

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

51 (j) There shall be no grants or accumulations of good time or credit to any inmate serving
52 a sentence in the custody of the Division of Corrections and Rehabilitation except in the manner
53 provided in this section.

54 (k) Prior to the calculated discharge date of an inmate serving a sentence for a felony
55 crime of violence against the person, a felony offense where the victim was a minor child, or a
56 felony offense involving the use of a firearm, one year shall be deducted from the inmate's
57 accumulated good time to provide for one year of mandatory post-release supervision following
58 the first instance in which the inmate reaches his or her calculated discharge date. All inmates
59 released pursuant to this subsection are subject to electronic or GPS monitoring for the entire
60 period of supervision. The provisions of this subsection are applicable to offenses committed on
61 or after July 1, 2013.

62 (l) Upon sentencing of an inmate for a felony offense not referenced in subsection (k) of
63 this section, the court may order that 180 days of the sentence, or some lesser period, be served
64 through post-release mandatory supervision if the court determines supervision is appropriate
65 and in the best interest of justice, rehabilitation, and public safety. All inmates released pursuant

66 to this subsection are subject to electronic or GPS monitoring for the entire period of supervision.
67 The provisions of this subsection are applicable to offenses committed on or after July 1, 2013.

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

72 (n) As used in this section, "felony crime of violence against the person" means felony
73 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
74 this code, and the felony offenses of arson and burglary of a residence where an individual is
75 physically located at the time of the offense as set forth in §61-3-1 *et seq.* of this code.

76 (o) As used in this section, "felony offense where the victim was a minor child" means any
77 felony crime of violence against the person and any felony offense set forth in §61-8-1 *et seq.*,
78 §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

79 (p) The Division of Corrections and Rehabilitation, its commissioner, employees, agents,
80 and assigns, shall be granted absolute immunity from liability from any claims or actions of any
81 person serving, or who has served, a term of incarceration pursuant to §62-12-26 of this code, for
82 any matter or claim arising out of good time calculations or awards which may or may not have
83 been awarded, given, removed, or taken which caused a person to be reincarcerated or to
84 increase the expected term of his or her incarceration, which calculation, award, removal, taking,
85 or reincarceration occurred prior to the effective date of the amendments to this section enacted
86 during the regular session of the Legislature, 2021.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Mark Warner
.....
Chairman, Senate Committee

Dean J. Japp
.....
Chairman, House Committee

Originated in the Senate.

To take effect April 30, 2021.

FILED
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OFFICE WEST VIRGINIA
SECRETARY OF STATE

Jee Kim
.....
Clerk of the Senate

Steve Harkin
.....
Clerk of the House of Delegates

C. P. Blasz
.....
President of the Senate

Ray Hensley
.....
Speaker of the House of Delegates

The within *is approved* this the *19th*
Day of *April*, 2021.

James Owens
.....
Governor

PRESENTED TO THE GOVERNOR

APR 13 2021

Time 2:16pm