

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2766

By Delegates Steele, Burkhammer, Foster, Smith,
Holstein, Mazzocchi, and Butler

[Introduced January 18, 2023; Referred to the
Committee on Jails and Prisons then the Judiciary]

1 A BILL to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended, relating
2 to corrections management and the deduction from a sentence of incarceration for good
3 conduct; providing that an inmate sentenced to a life sentence, certain offenses relating to
4 crimes against the person, sexual offenses, child abuse, or human trafficking is not eligible
5 for good time; requiring that all persons not eligible for good time have one year of
6 mandatory post-release supervision following the first instance in which the inmate
7 reaches his or her calculated discharge date; and providing that all inmates so released
8 are subject to electronic or GPS monitoring for the entire period of supervision.

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 eligible felony, except those committed pursuant to §25-4-1 *et seq.* and §62-12-
4 26 of this code, shall be granted commutation from their sentences for good conduct in
5 accordance with this section: *Provided*, That nothing in this section shall may be considered to
6 recalculate the "good time" of inmates currently serving a sentence or of giving back good time to
7 inmates who have previously lost good time earned for a disciplinary violation: *Provided, however*,
8 That as of the effective date of the amendments to this section enacted during the regular session
9 of the Legislature, 2021, an inmate who had good time calculated into his or her release date prior
10 to 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) An inmate sentenced to serve a life sentence is not eligible to earn or receive any good
13 time pursuant to this section.

14 (c) A conviction pursuant to the following felony offenses are hereby excluded from any
15 and all deductions from a sentence for good conduct and are treated and defined as ineligible

16 felony convictions, all other felony offenses are to be considered as an eligible felony for purposes
17 of any deductions from sentence for good conduct:

18 (1) §61-2-1, §61-2-12(a), §61-2-14a, §61-2-29a (c), and §61-2-29a (d) of this code, all
19 relating to crimes against the person;

20 (2) §61-8B-3, §61-8B-4, §61-8B-5, §61-8B-7, §61-8B-8, and §61-8B-9 of this code, all
21 relating to sexual offenses;

22 (3) §61-8D-2, §61-8D-2a, §61-8D-4a, §61-8D-5, and §61-8D-6 of this code, all relating to
23 child abuse; and

24 (4) §61-14-2 of this code, relating to human trafficking.

25 ~~(b)-(d)~~ The commutation of sentence, known as "good time", shall be deducted from the
26 maximum term of indeterminate sentences or from the fixed term of determinate sentences.

27 ~~(e)~~ (e) Each eligible inmate sentenced to incarceration for a misdemeanor or eligible felony
28 and committed to the custody of the commissioner and incarcerated in a facility pursuant to that
29 commitment shall be granted one day good time for each day he or she is incarcerated, including
30 any and all days in jail awaiting sentence which are credited by the sentencing court to his or her
31 sentence pursuant to §61-11-24 of this code, or for any other reason relating to the commitment.
32 An inmate may not be granted any good time for time served either on parole or bond or in any
33 other status when he or she is not physically incarcerated.

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

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

39 ~~(f)~~ (g) The commissioner shall promulgate disciplinary rules and policies. The rules and
40 policies shall describe acts that inmates are prohibited from committing, procedures for charging
41 individual inmates for violation of the rules, and for determining the guilt or innocence of inmates

42 charged with the violations, and the sanctions which may be imposed for the violations. A copy of
43 the rules shall be given to each inmate. For each violation any part or all of the good time which
44 has been granted to the inmate pursuant to this section may be forfeited and revoked by the
45 superintendent of the institution in which the violation occurred. The superintendent, when
46 appropriate and with approval of the commissioner, may restore any forfeited good time.

47 ~~(g)~~ (h) Each inmate, upon his or her commitment to, and being placed into the custody of,
48 the commissioner, or upon his or her return to custody as the result of violation of parole under
49 §62-12-19 of this code, or supervised release under §62-12-26 of this code shall be given a
50 statement setting forth the term or length of his or her sentence or sentences and the time of his or
51 her minimum discharge computed according to this section.

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

56 ~~(i)~~ (j) (1) An eligible inmate may receive extra good time in the sole discretion of the
57 commissioner for meritorious service or performing extra assigned duties during emergencies;
58 and

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

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

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

76 (m) An inmate serving a sentence for an ineligible felony crime, as defined in this section,
77 shall be required to have one year of mandatory post-release supervision following the first
78 instance in which the inmate reaches his or her calculated discharge date. All inmates released
79 pursuant to this subsection are subject to electronic or GPS monitoring for the entire period of
80 supervision.

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

87 ~~(m)~~(o) The commissioner shall adopt policies and procedures to implement the mandatory
88 supervision provided for in subsections (k) and (l) of this section which may include terms,
89 conditions, and procedures for supervision, modification, and violation applicable to persons on
90 parole.

91 ~~(n)~~(p) As used in this section, "felony crime of violence against the person" means felony
92 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 this
93 code, and the felony offenses of arson and burglary of a residence where an individual is

94 physically located at the time of the offense as set forth in §61-3-1 *et seq.* of this code.

95 ~~(p)~~ (q) As used in this section, "felony offense where the victim was a minor child" means
96 any felony crime of violence against the person and any felony offense set forth in §61-8-1 *et seq.*,
97 §61-8A-1 *et seq.*, §61-8C-1 *et seq.*, or §61-8D-1 *et seq.* of this code.

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

NOTE: The purpose of this bill is to provide that offenders of certain criminal offenses are not entitled to the deduction from a sentence of incarceration for good conduct. These offenses include an inmate sentenced to a life sentence, certain offenses relating to crimes against the person, sexual offenses, child abuse, or human trafficking. The bill also requires that all persons not eligible for good time have one year of mandatory post-release supervision following the first instance in which the inmate reaches his or her calculated discharge date; and providing that all inmates so released are subject to electronic or GPS monitoring for the entire period of supervision.

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