

1 **H. B. 2499**

2
3 (By Delegates Sobonya and Border)

4 [Introduced February 15, 2013; referred to the
5 Committee on the Judiciary then Finance.]

6 **FISCAL**
7 **NOTE**

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9
10 A BILL to amend and reenact §28-5-27 of the Code of West Virginia,
11 1931, as amended, relating to eliminating good time for
12 persons convicted of sex crimes involving minor children.

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.**

18 (a) All adult inmates now in the custody of the Commissioner
19 of Corrections, or hereafter committed to 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) Such commutation of sentence, hereinafter called "good
2 time," shall be deducted from the maximum term of indeterminate
3 sentences or 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 penal facility pursuant to
6 such commitment shall be granted one day good time for each day he
7 or she is incarcerated, including any and all days in jail awaiting
8 sentence and which is credited by the sentencing court to his or
9 her sentence pursuant to section twenty-four, article eleven,
10 chapter sixty-one or for any other reason relating to such
11 commitment. No inmate may be granted any good time for time served
12 either on parole or bond or in any other status whereby he or she
13 is not physically incarcerated.

14 (d) No inmate sentenced to serve a life sentence shall be
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 thereof are added together, were all one sentence.

19 (f) The Commissioner of Corrections shall promulgate separate
20 disciplinary rules for each institution under his or her control in
21 which adult felons are incarcerated, which rules shall describe
22 acts which inmates are prohibited from committing, procedures for
23 charging individual inmates for violation of such rules and for
24 determining the guilt or innocence of inmates charged with such

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

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

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

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

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

17 (k) There shall be no grants or accumulations of good time or
18 credit to any inmate now or hereafter serving a sentence in the
19 custody of the ~~Department~~ Division of Corrections except in the
20 manner provided in this section.

21 (l) Notwithstanding any provision of law to the contrary, no
22 grant or credit for good time may be awarded to any person
23 convicted of any sex crime involving a minor child.

NOTE: The purpose of this bill is to eliminate good time for persons convicted of sex crimes involving minor children.

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