

H. B. 3126

(By Delegates Miley and Manchin)
[Introduced March 25, 2013; referred to the
Committee on the Judiciary then Finance.]

A BILL to amend and reenact §28-5-27 of the Code of West Virginia,
1931, as amended, relating to providing encouragement to
inmates to complete education and treatment programs and to
reward extra meritorious service of inmates, both through the
award of good time days.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 5. THE PENITENTIARY.

§28-5-27. Deduction from sentence for good conduct.

(a) All adult inmates now in the custody of the Commissioner
of the Division of Corrections, or hereafter committed to the
custody of the Commissioner of the Division of Corrections, except
those committed pursuant to article four, chapter twenty-five of

1 this code, shall be granted commutation from their sentences for
2 good conduct in accordance with this section.

3 (b) Such commutation of sentence, hereinafter called "good
4 time," shall be deducted from the maximum term of indeterminate
5 sentences or from the fixed term of determinate sentences.

6 (c) Each inmate committed to the custody of the Commissioner
7 of the Division of Corrections and incarcerated in a penal facility
8 pursuant to such commitment shall:

9 (1) Be granted one day good time for each day he or she is
10 incarcerated, including ~~any and~~ all days in jail awaiting sentence
11 and which is credited by the sentencing court to his or her
12 sentence pursuant to section twenty-four, article eleven, chapter
13 sixty-one of this code or for any other reason relating to such
14 commitment. No inmate may be granted any good time for time served
15 either on parole or bond or ~~in any~~ other status where ~~by~~ he or she
16 is not physically incarcerated.

17 (2) Receive ninety days good time for receiving each of the
18 following:

19 (A) A high school diploma;

20 (B) A two year certification in applied sciences;

21 (C) A four year certification in applied sciences;

22 (D) A technical education diploma as provided and defined by
23 the division; or

24 (E) A civics education program that requires passing a final

1 exam.

2 (3) Receive ninety days good time for each successful
 3 completion of a drug treatment program or other program as defined
 4 by the division that requires participation for a minimum of six
 5 months.

6 (d) An inmate committed to the custody of the Commissioner of
 7 the Division of Corrections and incarcerated in a penal facility
 8 may receive credit on his or her sentence in an amount not to
 9 exceed seven days per month, awarded at the discretion of the
 10 commissioner, for the following:

11 (1) Performing exceptionally meritorious service or duties of
 12 outstanding importance in connection with institutional operations
 13 and programs; or

14 (2) Acts of exceptional service during times of emergency.

15 ~~(d)~~ (e) No inmate sentenced to serve a life sentence ~~shall be~~
 16 is eligible to earn or receive ~~any~~ good time pursuant to this
 17 section.

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

21 ~~(f)~~ (g) The Commissioner of the Division of Corrections shall
 22 promulgate ~~separate~~ disciplinary rules for each institution under
 23 his or her control in which adult felons are incarcerated which
 24 ~~rules shall~~ describe acts ~~which~~ inmates are prohibited from

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

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

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

1 ~~(i) The commissioner of corrections may, with the approval of~~
2 ~~the governor, allow extra good time for inmates who perform~~
3 ~~exceptional work or service.~~

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

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

NOTE: The purpose of this bill is to encourage inmates to complete educational and treatment programs and to reward exceptionally meritorious service by awarding good time days.

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