

# **WEST VIRGINIA LEGISLATURE**

## **2024 REGULAR SESSION**

**Introduced**

### **House Bill 4875**

By Delegates Kirby, Foster, Kimble, Brooks, Foggin,  
Ridenour, and Street

[Introduced January 17, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §15A-4-17 of the Code of West Virginia, 1931, as amended, relating  
2 to eliminating the use of good time credit for certain sexual offenses.

*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 an eligible  
3 misdemeanor or eligible felony, except those committed pursuant to §25-4-1 *et seq.*, and §62-12-  
4 26 of this code, and those offenses specifically designated in this section, shall be granted  
5 commutation from their sentences for good conduct in accordance with this section: *Provided,*  
6 That nothing in this section shall be considered to recalculate the "good time" of inmates currently  
7 serving a sentence or of giving back good time to inmates who have previously lost good time  
8 earned for a disciplinary violation: *Provided, however,* That as of the effective date of the  
9 amendments to this section enacted during the regular session of the Legislature, 2021, an inmate  
10 who had good time calculated into his or her release date prior to October 21, 2020, is entitled to  
11 the benefit of the good time awarded or earned before that date, unless the good time was lost due  
12 to a disciplinary violation: *Provided, however,* That as of the effective date of the amendments to  
13 this section enacted during the regular session of the Legislature, 2024, an inmate who had good  
14 time calculated into his or her release date prior to October 21, 2023, is entitled to the benefit of the  
15 good time awarded or earned before that date, unless the good time was lost due to a disciplinary  
16 violation.

17 (b) The commutation of sentence, known as "good time", shall be deducted from the  
18 maximum term of indeterminate sentences or from the fixed term of determinate sentences.

19 (c) Each eligible inmate committed to the custody of the commissioner and incarcerated in  
20 a facility pursuant to that commitment shall be granted one day good time for each day he or she is  
21 incarcerated, including any and all days in jail awaiting sentence which are credited by the

22 sentencing court to his or her sentence pursuant to §61-11-24 of this code, or for any other reason  
23 relating to the commitment. An inmate may not be granted any good time for time served either on  
24 parole or bond or in any other status when he or she is not physically incarcerated.

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

27 (e) An inmate convicted of the following offenses is not eligible to earn or receive any good  
28 time pursuant to this section:

29 (1) §61-3C-14b

30 (2) §61-8-32

31 (2) §61-8A-2

32 (2) §61-8A-4

33 (3) §61-8A-5

34 (6) §61-8B-3

35 (7) §61-8B-4

36 (8) §61-8B-5

37 (9) §61-8B-7

38 (10) §61-8B-8

39 (11) §61-8B-9

40 (12) §61-8B-10

41 (13) §61-8B-11

42 (14) §61-8C-2

43 (15) §61-8C-3

44 (16) §61-8C-3a

45 (17) §61-8D-3a

46 (18) §61-8D-5

47 (19) §61-8D-6

48           (20) §61-14-2

49           (21) §61-14-5

50           (22) §61-14-6

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

54           ~~(f)~~ (g) The commissioner shall promulgate disciplinary rules and policies. The rules and  
55 policies shall describe acts that inmates are prohibited from committing, procedures for charging  
56 individual inmates for violation of the rules, and for determining the guilt or innocence of inmates  
57 charged with the violations, and the sanctions which may be imposed for the violations. A copy of  
58 the rules shall be given to each inmate. For each violation any part or all of the good time which  
59 has been granted to the inmate pursuant to this section may be forfeited and revoked by the  
60 superintendent of the institution in which the violation occurred. The superintendent, when  
61 appropriate and with approval of the commissioner, may restore any forfeited good time.

62           ~~(g)~~ (h) Each inmate, upon his or her commitment to, and being placed into the custody of,  
63 the commissioner, or upon his or her return to custody as the result of violation of parole under  
64 §62-12-19 of this code, or supervised release under §62-12-26 of this code shall be given a  
65 statement setting forth the term or length of his or her sentence or sentences and the time of his or  
66 her minimum discharge computed according to this section.

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

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

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

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

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

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

97 ~~(m)~~ (n) The commissioner shall adopt policies and procedures to implement the mandatory  
98 supervision provided for in subsections ~~(k)~~ (l) and ~~(l)~~ (m) of this section which may include terms,  
99 conditions, and procedures for supervision, modification, and violation applicable to persons on

100 parole.

101 ~~(n)~~ (o) As used in this section, "felony crime of violence against the person" means felony  
102 offenses not otherwise excluded under subsection (e) of this section and set forth in §61-2-1 et  
103 seq., §61-3E-1 et seq., §61-8B-1 et seq., or §61-8D-1 et seq. of this code, and the felony offenses  
104 of arson and burglary of a residence where an individual is physically located at the time of the  
105 offense as set forth in §61-3-1 et seq. of this code.

106 ~~(e)~~ (p) As used in this section, "felony offense where the victim was a minor child" means  
107 any felony crime of violence against the person not otherwise excluded under subsection (e) of  
108 this section and any felony offense not otherwise excluded under subsection (e) of this section and  
109 set forth in §61-8-1 et seq., §61-8A-1 et seq., §61-8C-1 et seq., or §61-8D-1 et seq. of this code.

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

NOTE: The purpose of this bill is to eliminate the use of good time credit for certain sexual offenses.

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