

HB9 INTRODUCED



1 EJVE22-1
2 By Representative Bedsole
3 RFD: Public Safety and Homeland Security
4 First Read: 07-Mar-23
5 PFD: 20-Jan-23



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SYNOPSIS:

Under existing law, prisoners who have been convicted of an offense and are in custody may earn correctional incentive time, which is a deduction from the term of his or her sentence. The amount of time earned varies with the level of the prisoner's classification.

This bill would reduce the amount of time a prisoner may earn correctional incentive time.

Under existing law, prisoners are assigned to a classification for purposes of accruing correctional incentive time and must remain in a certain classification for a period of time before he or she may move up in classification.

This bill would increase the amount of time a prisoner must spend in a certain classification before he or she may move up in classification.

Under existing law, prisoners may be required to forfeit correctional incentive time in certain circumstances.

This bill would provide additional circumstances where an inmate would be required to forfeit correctional incentive time.

This bill would also require the Department of Corrections to provide annual reports to the



29 Legislature, the Governor, and the Attorney General
30 regarding correctional incentive time.

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A BILL
TO BE ENTITLED
AN ACT

37 Relating to correctional incentive time; to amend
38 Section 14-9-41, as last amended by Act 2022-322, 2022 Regular
39 Session, Code of Alabama 1975, to reduce the amount of
40 correctional incentive time a prisoner receives; to require a
41 prisoner to remain in a certain classification for a longer
42 period of time before moving up to a higher classification; to
43 provide for additional circumstances in which a prisoner may
44 be required to forfeit his or her correctional incentive time;
45 and to require the Department of Corrections to provide annual
46 reports to the Legislature, the Governor, and the Attorney
47 General regarding correctional incentive time.

48 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 Section 1. This act shall be known and may be cited as
50 the Deputy Brad Johnson Act.

51 Section 2. Section 14-9-41, as last amended by Act
52 2022-322, 2022 Regular Session, Code of Alabama 1975, is
53 amended to read as follows:

54 "§14-9-41

55 (a) Except as provided in subsection (e), each prisoner
56 who is convicted of any offense against the laws of the State



57 of Alabama and is confined, in execution of the judgment or
58 sentence upon any conviction, in the penitentiary, or at hard
59 labor for the county jail, or in any municipal jail for a
60 definite or indeterminate term, whose record of conduct shows
61 that he or she has faithfully observed the rules for a period
62 of time to be specified by this article, may earn a deduction
63 from the term of his or her sentence as follows:

64 (1) ~~Seventy-five~~ Thirty days for each 30 days actually
65 served while the prisoner is classified as a Class I prisoner.

66 (2) ~~Forty~~ Fifteen days for each 30 days actually served
67 while the prisoner is a Class II prisoner.

68 (3) ~~Twenty~~ Five days for each 30 days actually served
69 while the prisoner is a Class III prisoner.

70 (4) No ~~good~~ correctional incentive time shall accrue
71 during the period the prisoner is classified as a Class IV
72 prisoner.

73 (b) Within 90 days after May 19, 1980, the Commissioner
74 of the Department of Corrections shall establish and publish
75 in appropriate directives certain criteria not in conflict
76 with this article for Class I, II, III, and IV prisoner
77 classifications. The classifications shall encompass
78 consideration of the prisoner's behavior, discipline, and work
79 practices and job responsibilities.

80 (c) (1) Class I includes prisoners who are considered to
81 be trustworthy in every respect and who, by virtue of their
82 work habits, conduct, and attitude of cooperation have proven
83 their trustworthiness. An example of a Class I inmate would be
84 one who could work without constant supervision by a security



85 officer.

86 (2) Class II includes prisoners whose jobs will be
87 under the supervision of a correctional employee at all times.
88 Any inmate shall remain in this classification for a minimum
89 period of ~~six~~12 months before being eligible for Class I.

90 (3) Class III includes prisoners with special
91 assignments. They may not receive any of the privileges of
92 Class I and Class II prisoners. A prisoner shall remain in
93 this classification for a minimum period of ~~three~~six months
94 before being eligible for Class II.

95 (4) Class IV includes prisoners not yet classified ~~and~~
96 ~~for these~~, including all incoming prisoners, prisoners who are
97 able to work and refuse, prisoners who commit disciplinary
98 infractions that do not warrant a higher classification, ~~or~~
99 and prisoners who do not abide by the rules of the
100 institution. Prisoners who are classified in this earning
101 class receive no correctional incentive time. This class is
102 generally referred to as "flat time" or "day-for-day." A
103 prisoner shall remain in this classification for a minimum
104 period of ~~30 days~~three months before being eligible for Class
105 III.

106 (5) No prisoner may reach any class without first
107 having gone through and meeting the requirements of all lower
108 classifications.

109 (d) As a prisoner gains a higher classification status
110 he or she shall not be granted retroactive correctional
111 incentive time based on the higher classification he or she
112 has reached, but shall only be granted correctional incentive



113 time based on the classification in which he or she was
114 serving at the time the correctional incentive time was
115 earned. Nothing in this article authorizes a prisoner to
116 receive correctional incentive time based on the highest
117 classification he or she attains for any period of time in
118 which he or she was serving in a lower classification or from
119 the date of his or her sentence.

120 (e) (1) No prisoner may receive correctional incentive
121 time under any of the following circumstances:

122 a. He or she has been convicted of a Class A felony.

123 b. He or she has been convicted of any crime that
124 caused the death of another person by means of a deadly
125 weapon, as defined in Section 13A-1-2.

126 c. He or she has been sentenced to life, sentenced to
127 death, or has received a sentence for more than 15 years.

128 d. He or she has been convicted of a sex offense
129 involving a child, as defined in Section 15-20A-4.

130 (2)a. No prisoner may be placed in Class I under either
131 of the following circumstances:

132 1. He or she has been convicted of an assault where the
133 victims of the assault suffered the permanent loss or use or
134 permanent partial loss or use of any bodily organ or
135 appendage.

136 2. He or she has been convicted of a crime involving
137 the perpetration of sexual abuse upon the person of a child
138 under the age of 17 years.

139 b. The court sentencing a person shall note on the
140 transcript accompanying the prisoner that he or she has been



141 sentenced to a crime that forbids his or her being classified
142 as a Class I prisoner.

143 (f) (1) If, during the term of imprisonment, a prisoner
144 commits an offense or violates a rule of the Department of
145 Corrections, all or any part of his or her correctional
146 incentive time accrued pursuant to this section shall be
147 forfeited.

148 (2) a. The Commissioner of the Department of Corrections
149 may restore any portion of the correctional incentive time
150 that has been forfeited by a prisoner for violating any
151 existing law or department prison rule or regulation, as the
152 commissioner deems proper, upon recommendation and evidence
153 provided by the warden in charge.

154 b. This subdivision shall not apply to prisoners who
155 commit or attempt to commit violations provided in subdivision
156 (3).

157 (3) If, during the term of imprisonment, a prisoner
158 commits or attempts to commit any of the following in
159 violation of Department of Corrections rules or regulations,
160 he or she may no longer receive correctional incentive time
161 for the term of imprisonment and shall forfeit all of his or
162 her correctional incentive time accrued pursuant to this
163 section:

164 a. Homicide.

165 b. Escape.

166 c. Assault that causes serious physical injury.

167 d. Seizing or holding a hostage in any manner.

168 e. Sexual assault.



169 f. Inciting a riot.

170 g. Rioting.

171 h. Fighting with a weapon resulting in serious physical
172 injury.

173 i. Arson.

174 (g) (1) When a prisoner is serving two or more terms of
175 imprisonment and the sentences run consecutively, all
176 sentences shall be combined for the purpose of computing
177 deductions for correctional incentive time and release date.
178 The actual deduction from sentence for correctional incentive
179 time provided by this section shall apply only to sentences to
180 be served.

181 (2) When a prisoner is serving two or more sentences
182 that run concurrently, the sentence that results in the longer
183 period of incarceration shall be used for the purpose of
184 computing deductions for correctional incentive time and
185 release date. When computing the deductions allowed in this
186 section on indeterminate sentences, the maximum sentence shall
187 be the basis for the computation.

188 (h) This section shall be administered by the chief
189 administrative officer of the penal institution as it applies
190 to prisoners in any state penal institution, by the sheriff of
191 the county as it applies to prisoners in any county jail, and
192 by the chief of police as it applies to prisoners in any
193 municipal jail.

194 (i) Deductions for good behavior, work habits and
195 cooperation, or good conduct shall be interpreted to give
196 authorized ~~good~~ correctional incentive time retroactively to



197 those offenders convicted of crimes committed after May 19,
198 1980, except those convicted of crimes of the unlawful sale or
199 distribution of controlled substances as enumerated in Article
200 5 of Chapter 12 of Title 13A and for any sex offenses as
201 enumerated in Articles 4 and 4A of Chapter 6 of Title 13A. The
202 commissioner shall have the prison records of all prisoners
203 who become eligible under this article reviewed and shall
204 disqualify any prisoner from being awarded correctional
205 incentive time under this article at his or her discretion.

206 (j) The Department of Corrections, by February 15 of
207 each year, shall submit to the Legislature, the Governor, and
208 the Attorney General a report including all of the following:

209 (1) The number of prisoners in each classification.

210 (2) The number of prisoners who changed
211 classifications.

212 (3) The number of prisoners who had their correctional
213 incentive time forfeited based on a high level violation, as
214 provided by department guidelines, including the specific kind
215 and number of the high level violation for each prisoner.

216 (4) The number of prisoners who had their correction
217 incentive time forfeited based on a violation of subdivision
218 (f) (3), including the specific reason for each prisoner."

219 Section 3. All amendatory language to Section 14-9-41,
220 Code of Alabama 1975, added pursuant to this act shall be
221 applied prospectively, may not be construed to take away any
222 correctional incentive time earned prior to the effective date
223 of this act, and shall only apply to violations committed
224 after the effective date of this act.



225 Section 4. This act shall become effective immediately
226 following its passage and approval by the Governor, or its
227 otherwise becoming law.