SB1 ENROLLED



- 1 V7EDPL-3
- 2 By Senator Weaver
- 3 RFD: Judiciary
- 4 First Read: 07-Mar-23
- 5 PFD: 17-Jan-23



1 Enrolled, An Act,

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- 4 Relating to correctional incentive time; to amend 5 Section 14-9-41, as last amended by Act 2022-322, 2022 Regular Session, Code of Alabama 1975, to reduce the amount of 6 7 correctional incentive time a prisoner receives; to require a prisoner to remain in a certain classification for a longer 8 9 period of time before moving up to a higher classification; to provide for additional circumstances in which a prisoner may 10 11 be required to forfeit his or her correctional incentive time; and to require the Department of Corrections to provide annual 12 13 reports to the Legislature, the Governor, and the Attorney
- 15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

General regarding correctional incentive time.

- Section 1. This act shall be known and may be cited as

 Deputy Brad Johnson Act.
- Section 2. Section 14-9-41, as last amended by Act 2022-322, 2022 Regular Session, Code of Alabama 1975, is
- amended to read as follows:
- 21 "\$14-9-41
 - (a) Except as provided in subsection (e), each prisoner who is convicted of any offense against the laws of the State of Alabama and is confined, in execution of the judgment or sentence upon any conviction, in the penitentiary, or at hard labor for the county jail, or in any municipal jail for a definite or indeterminate term, whose record of conduct shows that he or she has faithfully observed the rules for a period



- of time to be specified by this article, may earn a deduction from the term of his or her sentence as follows:
- 31 (1) <u>Seventy-five</u> <u>Thirty</u> days for each 30 days actually served while the prisoner is classified as a Class I prisoner.
- 33 (2) Forty Fifteen days for each 30 days actually served while the prisoner is a Class II prisoner.
- 35 (3) Twenty Five days for each 30 days actually served while the prisoner is a Class III prisoner.
- 37 (4) No <u>good correctional incentive</u> time shall accrue 38 during the period the prisoner is classified as a Class IV 39 prisoner.

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- (b) Within 90 days after May 19, 1980, the Commissioner of the Department of Corrections shall establish and publish in appropriate directives certain criteria not in conflict with this article for Class I, II, III, and IV prisoner classifications. The classifications shall encompass consideration of the prisoner's behavior, discipline, and work practices and job responsibilities.
 - (c) (1) Class I includes prisoners who are considered to be trustworthy in every respect and who, by virtue of their work habits, conduct, and attitude of cooperation have proven their trustworthiness. An example of a Class I inmate would be one who could work without constant supervision by a security officer.
- (2) Class II includes prisoners whose jobs will be under the supervision of a correctional employee at all times. Any inmate shall remain in this classification for a minimum period of six-12 months before being eligible for Class I.



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

- (4) Class IV includes prisoners not yet classified—and for those, including all incoming prisoners, prisoners who are able to work and refuse, prisoners who commit disciplinary infractions that do not warrant a higher classification, or and prisoners who do not abide by the rules of the institution. Prisoners who are classified in this earning class receive no correctional incentive time. This class is generally referred to as "flat time" or "day-for-day." A prisoner shall remain in this classification for a minimum period of 30 days three months before being eligible for Class III.
- (5) No prisoner may reach any class without first having gone through and meeting the requirements of all lower classifications.
- (d) As a prisoner gains a higher classification status he or she shall not be granted retroactive correctional incentive time based on the higher classification he or she has reached, but shall only be granted correctional incentive time based on the classification in which he or she was serving at the time the correctional incentive time was earned. Nothing in this article authorizes a prisoner to receive correctional incentive time based on the highest classification he or she attains for any period of time in



- which he or she was serving in a lower classification or from the date of his or her sentence.
- 87 (e) (1) No prisoner may receive correctional incentive 88 time under any of the following circumstances:
- a. He or she has been convicted of a Class A felony.
- b. He or she has been convicted of any crime that caused the death of another person by means of a deadly weapon, as defined in Section 13A-1-2.
- 93 c. He or she has been sentenced to life, sentenced to 94 death, or has received a sentence for more than 15 years.
- 95 d. He or she has been convicted of a sex offense 96 involving a child, as defined in Section 15-20A-4.
- 97 (2)a. No prisoner may be placed in Class I under either 98 any of the following circumstances:
- 99 1. He or she has been convicted of an assault where the victims of the assault suffered the permanent loss or use or permanent partial loss or use of any bodily organ or appendage.
- 2. He or she has been convicted of a crime involving the perpetration of sexual abuse upon the person of a child under the age of 17 years.
- 3. He or she has been convicted of a Class B felony
 that is a violent offense, as defined in Section 12-25-32.
- b. The court sentencing a person shall note on the transcript accompanying the prisoner that he or she has been sentenced to a crime that forbids his or her being classified as a Class I prisoner.
- (f) (1) If, during the term of imprisonment, a prisoner



113	commits an offense or violates a rule of the Department of
114	Corrections, all or any part of his or her correctional
115	incentive time accrued pursuant to this section shall be
116	forfeited.
117	(2) a. The Commissioner of the Department of Corrections
118	may restore any portion of the correctional incentive time
119	that has been forfeited by a prisoner for violating any
120	existing law or <pre>prison</pre> <pre>department</pre> rule or <pre>regulation</pre> , as the
121	commissioner deems proper, upon recommendation and evidence
122	provided by the warden in charge.
123	b. This subdivision shall not apply to prisoners who
124	<pre>commit or attempt to commit violations provided in subdivision</pre>
125	<u>(3).</u>
126	(3) If, during the term of imprisonment, a prisoner
127	commits or attempts to commit by any overt act toward the
128	commission of any of the following violations, as
129	defined by the department's Administrative Regulation Number
130	403 as of January 1, 2023, he or she may no longer receive
131	correctional incentive time for the term of imprisonment and
132	shall forfeit all of his or her correctional incentive time
133	accrued nursuant to this section.

- a. Homicide.
- b. Escape.
- c. Assault that causes serious physical injury,
 excluding when used in self-defense, as determined by the
 Department of Corrections.
- d. Seizing or holding a hostage in any manner.
- e. Sexual assault.

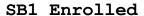


- f. Inciting a riot.
- g. Rioting, excluding civil protests.
- 143 h. Fighting with a weapon resulting in serious physical
- 144 injury.
- 145 i. Arson.
- 146 (g) (1) For prisoners receiving correctional incentive
- 147 time, the term of supervision required pursuant to Section
- 148 15-22-26.2, shall not further reduce the term of imprisonment
- 149 except where the minimum required term of supervision would
- 150 exceed the correctional incentive time accrued.
- 151 (2) When a prisoner is serving two or more terms of
- imprisonment and the sentences run consecutively, all
- sentences shall be combined for the purpose of computing
- 154 deductions for correctional incentive time and release date.
- 155 The actual deduction from sentence for correctional incentive
- 156 time provided by this section shall apply only to sentences to
- 157 be served.
- 158 $\frac{(2)}{(3)}$ When a prisoner is serving two or more sentences
- 159 that run concurrently, the sentence that results in the longer
- 160 period of incarceration shall be used for the purpose of
- 161 computing deductions for correctional incentive time and
- release date. When computing the deductions allowed in this
- section on indeterminate sentences, the maximum sentence shall
- be the basis for the computation.
- 165 (h) This section shall be administered by the chief
- 166 administrative officer of the penal institution as it applies
- 167 to prisoners in any state penal institution, by the sheriff of
- 168 the county as it applies to prisoners in any county jail, and



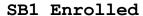
by the chief of police as it applies to prisoners in any municipal jail.

- (i) Deductions for good behavior, work habits and cooperation, or good conduct shall be interpreted to give authorized good correctional incentive time retroactively to those offenders convicted of crimes committed after May 19, 1980, except those convicted of crimes of the unlawful sale or distribution of controlled substances as enumerated in Article 5 of Chapter 12 of Title 13A and for any sex offenses as enumerated in Articles 4 and 4A of Chapter 6 of Title 13A. The commissioner shall have the prison records of all prisoners who become eligible under this article reviewed and shall disqualify any prisoner from being awarded correctional incentive time under this article at his or her discretion.
- (j) The Department of Corrections, by February 15 of each year, shall submit to the Legislature, the Governor, and the Attorney General a report including all of the following:
 - (1) The number of prisoners in each classification.
- (2) The number of prisoners who changed classifications.
- (3) The number of prisoners who had their correctional incentive time forfeited based on a high level violation, as provided by department guidelines, including the specific kind and number of the high level violation for each prisoner.
- (4) The number of prisoners who had their correction incentive time forfeited based on a violation of subdivision (f) (3), including the cumulative number of days that were forfeited."





197 Section 3. All amendatory language to Section 14-9-41, 198 Code of Alabama 1975, regarding the calculation as to 199 correctional incentive time, added pursuant to this amendatory 200 act shall be applied prospectively, and any adjustment to that 201 time shall only apply to violations committed after the 202 effective date of this act. This act shall supersede any 203 policy, procedure, or rule in place on the effective date of 204 this act, with exception of the Department of Corrections' Administrative Regulation Number 403. 205 Section 4. This act shall become effective immediately 206 following its passage and approval by the Governor, or its 207 otherwise becoming law. 208





President and Presiding Officer of the Senate Speaker of the House of Representatives SB1 Senate 23-Mar-23 I hereby certify that the within Act originated in and passed the Senate. Patrick Harris, Secretary. House of Representatives Passed: 11-Apr-23 By: Senator Weaver