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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- CORRECTIONS DEPARTMENT

Introduced By: Representatives Tanzi, DaSilva, Mattiello, Walsh, and Dickinson

Date Introduced: March 29, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-56 of the General Laws entitled "Corrections Department" is
2 hereby amended by adding thereto the following section:

3 **42-56-24.1. Legislative Findings.** – (a) The general assembly finds and declares that:

4 (1) The State of Rhode Island has supported the public policy that it is proper for
5 prisoners to receive credits towards release on community supervision for good behavior while
6 incarcerated.

7 (2) Credits towards release on community supervision for good behavior while
8 incarcerated are not a right of a prisoner, but a privilege.

9 (3) This benefit provides a deterrent against inappropriate behavior and acts as an
10 incentive to address rehabilitative needs.

11 (4) Some offenses are so egregious in nature that those who commit said offenses should
12 not be afforded the privilege of credits towards release on community supervision for good
13 behavior while incarcerated.

14 (5) Some offenses, while not as egregious as to bar credits towards release on community
15 supervision for good behavior while incarcerated, may allow prisoners the ability to earn a
16 reduced rate of credits towards release on community supervision for good behavior while
17 incarcerated.

18 (b) It is in the best interests of the citizens of Rhode Island that the department of
19 corrections have discretion, based on its review of each prisoner's behavior and record, on when

1 to grant, reduce or revoke a prisoner's credits towards release on community supervision for good
2 behavior while incarcerated.

3 SECTION 2. Sections 42-56-24 and 42-56-26 of the General Laws in Chapter 42-56
4 entitled "Corrections Department" are hereby amended to read as follows:

5 ~~42-56-24. Earned time for good behavior or program participation or completion.~~
6 Credit towards release on community supervision for good behavior while incarcerated. –

7 (a) A person serving a sentence for a violation of sections 11-23-1, 11-26-1.4, 11-37-2,
8 11-37-4, 11-37-6, 11-37-8.1, 11-37-8.3, 11-9-1.3 or 11-9-5.3(b)(1), shall not be eligible for the
9 benefits provided by the provisions of this section.

10 (b) The director, or his or her designee, shall keep a record of the conduct of each
11 prisoner, and for each month that a prisoner who has been sentenced to imprisonment for six (6)
12 months or more and not under sentence to imprisonment for life, appears by the record to have
13 faithfully observed all the rules and requirements of the institutions and not to have been
14 subjected to discipline, and is serving a sentence imposed for violation of ~~sexual offenses under~~
15 ~~sections 11-37-2, 11-37-4, 11-37-6, 11-37-8, 11-37-8.1 and 11-37-8.3 or 11-9-1.3~~ sections 11-4-
16 2, 11-23-3, or 11-5-1, where the specified felony is sections 11-23-1 or 11-37-2, there shall may,
17 with the consent of the director of the department of corrections, or his or her designee, upon
18 recommendation to him or her by the assistant director of institutions/operations, be ~~deducted~~
19 ~~from the term or terms of sentence of that prisoner~~ credited up to the same number of days that
20 there are years in the term of imprisonment of his or her sentence towards release on community
21 supervision for good behavior while incarcerated; provided, that when the term of imprisonment
22 of the sentence is for a longer term than ten (10) years, only up to ten (10) days ~~shall may~~ be
23 ~~deducted~~ credited for one month's good behavior towards release on community supervision for
24 good behavior while incarcerated; and provided, further, that in the case of sentences ~~of~~ where the
25 term of imprisonment is at least six (6) months and less than one year, one day per month ~~shall~~
26 may be ~~deducted~~ credited towards release on community supervision for good behavior while
27 incarcerated.

28 For the purposes of this subsection computing the number of days to be ~~deducted for~~
29 ~~good behavior~~ credited towards release on community supervision for good behavior while
30 incarcerated, consecutive sentences shall be counted as a whole sentence. ~~This subsection~~
31 ~~recognizes the serious nature of sex offenses; promotes community safety and protection of the~~
32 ~~public; and maintains the ability of the department of corrections to oversee the rehabilitation and~~
33 ~~supervision of sex offenders.~~

34 (b) ~~For all prisoners serving sentences of~~

1 (c) Except for those serving sentences pursuant to conviction of any offense enumerated
2 in subsections (a) and (b), for all prisoners who have been sentenced to imprisonment for more
3 than one month; and not serving a sentence of imprisonment for life, ~~or a sentence imposed for a~~
4 ~~violation of the sexual offenses identified in subsection (a)~~ the director, or his or her designee,
5 shall keep a record of the conduct of each prisoner, and for each month that prisoner has faithfully
6 observed all the rules and requirements of the institutions and has not been subjected to
7 discipline, there ~~shall~~ may, with the consent of the director of the department of corrections or his
8 or her designee and upon recommendation by the assistant director of institutions/operations, be
9 ~~deducted~~ credited up to ten (10) days towards release on community supervision for good
10 behavior while incarcerated ~~from the term or terms of sentence of that prisoner ten (10) days~~ for
11 each month's good behavior while incarcerated.

12 ~~(e)~~(d) For every day a prisoner shall be shut up or otherwise disciplined for bad conduct,
13 as determined by the assistant director, institutions/operations, subject to the authority of the
14 director, there shall be deducted one day from the time he or she shall have ~~gained for good~~
15 ~~conduct~~ been credited towards release on community supervision for good behavior while
16 incarcerated.

17 ~~(e)~~(e) The assistant director, or his or her designee, subject to the authority of the
18 director, shall have the power to restore lost ~~good conduct time~~ credit towards release on
19 community supervision for good behavior while incarcerated, in whole or in part, upon a showing
20 by the prisoner of subsequent good behavior and disposition to reform.

21 ~~(e)~~(f) For each month that a prisoner who has been sentenced to imprisonment for more
22 than one month and not under sentence to imprisonment for life who has faithfully engaged in
23 institutional industries there ~~shall~~ may, with the consent of the director, upon the
24 recommendations to him or her by the assistant director, institutions/operations, be ~~deducted~~
25 credited ~~from the term or terms of the prisoner~~ up to an additional two (2) days a month towards
26 release on community supervision for good behavior while incarcerated.

27 ~~(f)~~(g) Except those prisoners serving a sentence ~~imposed for violation~~ pursuant to
28 conviction of any of sexual offense committed under sections 11-37-2, 11-37-4, 11-37-6, 11-37-8,
29 ~~11-37-8.1, 11-37-8.3 or 11-9-1.3~~ the offenses enumerated in subsections (a) and (b), for each
30 month that a prisoner who has been sentenced to imprisonment for more than one month and not
31 under sentence to imprisonment for life has participated faithfully in programs that have been
32 determined by the director or his/her designee to address that prisoner's individual needs that are
33 related to his/her criminal behavior, there ~~may~~, with the consent of the director and upon the
34 recommendation of the assistant director, rehabilitative services, be ~~deducted~~ credited ~~from the~~

1 ~~term or terms of the prisoner~~ up to an additional five (5) days a month towards release on
2 community supervision for good behavior while incarcerated. Furthermore, whenever the
3 prisoner has successfully completed such program, they may; with the consent of the director and
4 upon the recommendation by the assistant director, rehabilitative services, be ~~deducted~~ credited
5 ~~from the term or terms of the prisoner~~ up to an additional thirty (30) days, towards release on
6 community supervision for good behavior while incarcerated.

7 (h) Upon the release of any prisoner due to credits toward release on community
8 supervision for good behavior while incarcerated, as provided above, the prisoner shall be subject
9 to community supervision as provided for in section 13-8-34.

10 (i) Any person serving a sentence for a violation of sections 11-23-1, 11-26-1.4, 11-37-2,
11 11-37-4, 11-37-6, 11-37-8.1, 11-37-8.3, 11-9-1.3 or subdivision 11-9-5.3(b)(1), who for any
12 reason, including, but not limited to, any invalidity or inapplicability of the restrictions of this
13 statute, is eligible to earn credits towards release on community supervision for good behavior
14 while incarcerated, may receive any such days only if the director, or his or her designee, reviews
15 said prisoner's conduct and after considering each of the factors listed in subdivisions (1) through
16 (4) below determines, in writing, that said prisoner should receive some or all of the days he or
17 she may be eligible to receive under this statute:

18 (1) That credits towards release on community supervision for good behavior while
19 incarcerated shall not substantially reduce the time of incarceration imposed by the sentencing
20 court;

21 (2) That said prisoner has exhibited through his or her behavior a compliance with all
22 rules and regulations of the department and has successfully completed positive acts
23 demonstrating a transition from the conduct for which he or she is incarcerated;

24 (3) That the prisoner's release on community supervision for good behavior while
25 incarcerated is not a threat to society or to a specific person or group of people; and

26 (4) That the prisoner's release on community supervision for good behavior while
27 incarcerated is not physically or mentally harmful to the victim of the prisoner's crime or to the
28 immediate family of the victim of the prisoner's crime.

29 (j) At least sixty (60) days prior to the director's, or his or her designee's, decision, the
30 victim or victims of the prisoner's crime, or their immediate family, shall be notified that this
31 review shall take place. Said victim or victims, or their immediate family, shall within thirty (30)
32 days of their notification have the right to submit in writing to the director, or his or her designee,
33 their comments as to why the director, or his or her designee, should or should not grant the
34 prisoner credits towards release on community supervision for good behavior while incarcerated.

1 (k) In making his or her determination, the director, or his or her designee, shall review
2 the prisoner's conduct, the victim's, victims', or immediate families' comments, if any, and the
3 above described factors no earlier than twelve (12) months prior to the date said prisoner would
4 be released if awarded all credits towards release on community supervision for good behavior
5 while incarcerated. The director, or his or her designee, in his or her sole discretion shall
6 determine how many, if any, credits towards release on community supervision for good behavior
7 while incarcerated the prisoner may be granted. Any credits towards release on community
8 supervision for good behavior while incarcerated not then awarded to the prisoner shall be lost
9 and shall not be awarded to the prisoner in the future. If the prisoner subsequently earns sufficient
10 credits towards release on community supervision for good behavior while incarcerated, the
11 director, or his or her designee, shall conduct another review on the date and manner prescribed
12 herein.

13 **42-56-26. Additional time allowed for meritorious service.** -- ~~With the exception of the~~
14 ~~prisoners eligible for credits pursuant to subsections 42-56-24(b) and 42-56-24(f), (a) any~~ Any
15 prisoner sentenced to imprisonment for one year or more in the adult correctional institutions,
16 whether the sentence was imposed before or after May 8, 1974, ~~shall~~ may be eligible to have
17 ~~deducted~~ credited ~~from his or her sentence~~ up to three (3) days per month up to a maximum of
18 thirty-six (36) days per year, towards release on community supervision for good behavior while
19 incarcerated, when in the determination of the director, or his or her designee, an inmate has
20 performed heroic acts affecting the lives and welfare of the institutional personnel, inmates, or the
21 general public, or when an inmate has submitted extraordinary and useful ideas and plans which
22 have been implemented for the benefit of the state resulting in substantial savings and/or a higher
23 degree of efficiency ~~or performance while participating in and completing academic or vocational~~
24 ~~education programs, or when an inmate has submitted useful ideas concerning academic or~~
25 ~~vocational programs which have been implemented at the adult correctional institutions.~~ Nothing
26 in this section shall be construed to deprive a prisoner of time already accumulated or deducted
27 prior to May 8, 1974.

28 (b) Upon release of any prisoner due to credits toward release on community supervision
29 for good behavior while incarcerated, as provided above, the prisoner shall be subject to
30 community supervision as provided for in section 13-8-34.

31 SECTION 4. Chapter 13-8 of the General Laws entitled "Parole" is hereby amended by
32 adding thereto the following section:

33 **13-8-35. Community supervision for those granted early release under section 42-**
34 **56-24 and 42-56-26.** -- (a) Notwithstanding any other provision of the general laws, any prisoner

1 who has earned sufficient credits towards release on good behavior while incarcerated under the
2 provisions of sections 45-26-24 and 45-56-26 shall, upon his or her release, be subject to
3 community supervision for the duration of the term of the original sentence.

4 (b) A person who has been placed on community supervision shall be subject to the
5 provisions of law governing parole as if the person were a parolee and shall be under the
6 jurisdiction, supervision and control of the parole board in the same manner as a person under
7 parole supervision. The board is authorized on an individual basis to establish any conditions of
8 community supervision that may be necessary to ensure public safety. The parole board shall
9 impose the conditions for the community supervision no later than thirty (30) days prior to the
10 prisoner's release.

11 (c) The board may require a prisoner found in violation of the conditions of his or her
12 community supervision to serve all or part of his or her sentence that had not been served prior to
13 his or her release on community supervision for good behavior while incarcerated.

14 (d) The board is authorized to impose and enforce a supervision fee, and rehabilitation
15 fee upon a person on community supervision. To the extent possible the board shall set the fee in
16 an amount that will substantially defray the cost of the community supervision program.

17 (e) The board shall also establish a fee waiver procedure for hardship cases and
18 indigency.

19 (f) For the purposes of this section, "community supervision" refers only to those released
20 on community supervision for credits earned for good behavior while incarcerated, as provided
21 by sections 42-56-24 and 42-56-26.

22 SECTION 5. This act shall take effect on January 1, 2012 and shall apply to all good time
23 credits not awarded or otherwise credited to a prisoner's sentence on or before that date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO STATE AFFAIRS AND GOVERNMENT -- CORRECTIONS DEPARTMENT

1 This act would amend the current methods of calculation for earned time for good
2 behavior or program participation or completion. The act would exclude certain offenses from
3 eligibility and limits the amount of credits towards release on community supervision for good
4 behavior while incarcerated that prisoners convicted of certain other offenses may earn. This act
5 would also provide that any prisoner who has earned sufficient credits towards release on good
6 behavior while incarcerated would be subject to community supervision by the parole board for
7 the duration of their original sentence.

8 This act would take effect on January 1, 2012 and would apply to all good time credits
9 not awarded or otherwise credited to a prisoner's sentence on or before that date.

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