

Act No. 218
Public Acts of 1994
Approved by the Governor
June 24, 1994
Filed with the Secretary of State
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senators Van Regenmorter Emmons Hoffman, Arthurhultz, Bouchard, Gougeon and Carl

ENROLLED SENATE BILL No. 41

AN ACT to amend section 33 of Act No 118 of the Public Acts of 1893 entitled as amended An act to revise and consolidate the laws relative to state prisons to state houses of correction and branches of state prisons and reformatories and the government and discipline thereof and to repeal all acts inconsistent therewith as amended by Act No 322 of the Public Acts of 1986 being section 800 33 of the Michigan Compiled Laws and to add sections 34 and 35

The People of the State of Michigan enact

Section 1 Section 33 of Act No 118 of the Public Acts of 1893 as amended by Act No 322 of the Public Acts of 1986 being section 800 33 of the Michigan Compiled Laws is amended and sections 34 and 35 are added to read as follows

Sec 33 (1) A record of all major misconduct charges for which a prisoner has been found guilty shall be maintained and given to the parole board as part of the parole eligibility report prepared for each prisoner pursuant to section 35 of Act No 232 of the Public Acts of 1953 being section 791 235 of the Michigan Compiled Laws

(2) Except as otherwise provided in this section a prisoner who is serving a sentence for a crime committed before April 1 1987 and who has not been found guilty of a major misconduct or had a violation of the laws of this state recorded against him or her shall receive a reduction from his or her sentence as follows

- (a) During the first and second years of his or her sentence 5 days for each month
- (b) During the third and fourth years 6 days for each month
- (c) During the fifth and sixth years 7 days for each month
- (d) During the seventh eighth and ninth years 9 days for each month
- (e) During the tenth eleventh twelfth thirteenth and fourteenth years 10 days for each month
- (f) During the fifteenth sixteenth seventeenth eighteenth and nineteenth years 12 days for each month
- (g) From and including the twentieth year up to and including the period fixed for the expiration of the sentence 15 days for each month

(3) Except as provided in section 34 all prisoners serving a sentence for a crime that was committed on or after April 1 1987 are eligible to earn disciplinary and special disciplinary credits as provided in subsection (5) Disciplinary credits shall be earned forfeited and restored as provided in this section Accumulated disciplinary credits shall be deducted from a prisoner's minimum and maximum sentence in order to determine his or her parole eligibility date and discharge date

(4) This section shall not be construed to allow good time disciplinary credits or special disciplinary credits in cases of commuted sentences unless so stipulated in the executive order commuting the sentence

(5) Except as provided in section 34 all prisoners serving a sentence on December 30 1982 or incarcerated after December 30 1982 for the conviction of a crime enumerated in section 33b(a) to (cc) of Act No 232 of the Public Acts of 1953 being section 791 233b of the Michigan Compiled Laws are eligible to earn a disciplinary credit of 5 days per month for each month served after December 30 1982 Accumulated disciplinary credits shall be deducted from a prisoner's minimum and maximum sentence in order to determine his or her parole eligibility dates

A prisoner shall not earn disciplinary credits under this subsection during any month in which the prisoner is found guilty of having committed a major misconduct The amount of disciplinary credits not earned as a result of being found guilty of a major misconduct shall be limited to the disciplinary credits that would have been earned for the month in which the major misconduct occurred Any disciplinary credits not earned as a result of the prisoner being found guilty of a major misconduct shall never be earned or restored The warden may order that a prisoner found guilty of a major misconduct including but not limited to charges of rioting inciting to riot escape homicide or assault and battery forfeit all or a portion of the disciplinary credits accumulated prior to the month in which the misconduct occurred An order forfeiting accumulated disciplinary credits shall be based upon a review of the prisoner's institutional record

The disciplinary credit committee which is comprised of the prisoner's resident unit manager custody officers in the resident unit with direct supervisory responsibilities over the prisoner and the appropriate work or school assignment supervisor shall be a part of the reclassification process and shall review at least annually the status of each prisoner in the housing unit who has forfeited disciplinary credits The committee may recommend to the warden whether any forfeited disciplinary credits should be restored to the prisoner

In addition to disciplinary credits a prisoner eligible for disciplinary credits under this subsection may be awarded 2 days per month special disciplinary credits for good institutional conduct on the recommendation of the disciplinary credit committee and the concurrence of the warden based on an annual review of the prisoner's institutional record Special disciplinary credits shall not be awarded for any month in which a prisoner has been found guilty of a major misconduct

The department of corrections shall promulgate rules pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws necessary to implement this subsection not more than 180 days after December 30 1982

(6) On and after April 1 1987 a prisoner shall not earn good time under this section during any month in which the prisoner is found guilty of having committed a major misconduct The amount of good time not earned as a result of being found guilty of a major misconduct shall be limited to the amount of good time that would have been earned during the month in which the major misconduct occurred Any good time not earned as a result of the prisoner being found guilty of a major misconduct shall never be earned or restored

(7) The department of corrections shall promulgate rules pursuant to Act No 306 of the Public Acts of 1969 prescribing how much of his or her accumulated good time or accumulated disciplinary credits the prisoner may forfeit if found guilty of 1 or more major misconducts

(8) The warden may order that a prisoner found guilty of a major misconduct forfeit all or a portion of the good time accumulated prior to the month in which the misconduct occurred

(9) The good time committee which is comprised of the prisoner's resident unit manager custody officer in the resident unit with direct supervisory responsibility over the prisoner and the appropriate work or school assignment supervisor shall be part of the reclassification process The good time committee shall recommend to the warden the amount of special good time to be awarded and the restoration of any accumulated good time that has been forfeited

(10) The warden as a reward for good conduct may restore to a prisoner the whole or any portion of the good time or disciplinary credits forfeited because of a finding of guilty for a major misconduct However forfeited good time or disciplinary credits shall not be restored without the recommendation of the disciplinary credit committee or good time committee and the prior written approval of the deputy director in charge of the bureau of correctional facilities or the deputy director in charge of the bureau of field services Disciplinary credits or good time allowances that have not been earned because of institutional misconduct shall not be restored

(11) A prisoner who has been sentenced concurrently for separate convictions shall have his or her good time or disciplinary credits computed on the basis of the longest of the concurrent sentences If a prisoner is serving consecutive sentences for separate convictions his or her good time or disciplinary credits shall be computed and accumulated on each sentence individually and all good time or disciplinary credits that have been earned on any of the sentences shall be subject to forfeiture pursuant to subsections (5) and (8)

(12) The warden of an institution may grant special good time allowances to eligible prisoners who are convicted of a crime that is committed before April 1 1987 Special good time credit shall not exceed 50% of the good time allowances under the schedule in subsection (2) Special good time shall be awarded for good conduct only and shall not be awarded for any month in which a prisoner has been found guilty of a major misconduct

(13) The parole board shall be exclusively empowered to cause the forfeiture of good time or disciplinary credits earned by a prisoner at the time of a parole violation

(14) A prisoner subject to disciplinary time is not eligible for good time special good time disciplinary credits or special disciplinary credits

Sec 34 (1) A prisoner subject to disciplinary time shall receive disciplinary time for each major misconduct for which he or she is found guilty as prescribed by rule pursuant to section 35

(2) Accumulated disciplinary time shall be added to a prisoner's minimum sentence in order to determine his or her parole eligibility date A prisoner's minimum sentence plus disciplinary time shall not exceed his or her maximum sentence

(3) A prisoner who has been sentenced concurrently for separate convictions shall have his or her disciplinary time computed and accumulated on each sentence individually If a prisoner is serving consecutive sentences for separate convictions his or her disciplinary time shall be computed and accumulated on each sentence individually

(4) A prisoner subject to disciplinary time may have any or all of his or her accumulated disciplinary time reduced by the department if he or she has demonstrated exemplary good conduct during the term of imprisonment Disciplinary time deducted pursuant to this section may be restored if the prisoner is found guilty of a major misconduct

(5) As used in this act 'prisoner subject to disciplinary time' means a prisoner sentenced on or after the effective date of the amendatory act that added this section to an indeterminate term of imprisonment for any of the following

(a) A violation of section 625(4) or (5) of the Michigan vehicle code Act No 300 of the Public Acts of 1949 being section 257 625 of the Michigan Compiled Laws

(b) A violation of section 171(4) or (5) of the marine safety act Act No 303 of the Public Acts of 1967 being section 281 1171 of the Michigan Compiled Laws

(c) A violation of section 72 73, 80 82 83 84 86 87, 88 89 90 110a(2) 112 136b(2) 145c 204 204a 205 205a 206 207 208 210 211 211a 213 316 317 319 321 322 327 328 329 349 349a 350 357 397 411i 479b 520b 520c 520d 520e, 520g 529, 529a 530 or 531 of the Michigan penal code Act No 328 of the Public Acts of 1931 being sections 750 72 750 73 750 80 750 82 750 83 750 84 750 86 750 87 750 88 750 89 750 90 750 110a 750 112 750 136b 750 145c 750 204 750 204a, 750 205 750 205a 750 206 750 207 750 208 750 210 750 211 750 211a 750 213 750 316 750 317 750 319, 750 321 750 322, 750 327 750 328 750 329 750 349 750 349a 750 350 750 357 750 397 750 411i 750 479b 750 520b 750 520c 750 520d 750 520e, 750 520g 750 529 750 529a 750 530 and 750 531 of the Michigan Compiled Laws

(d) A violation of section 1 of Act No 214 of the Public Acts of 1931 being section 752 191 of the Michigan Compiled Laws

(e) A violation of section 1 2 or 2a of Act No 302 of the Public Acts of 1968 being sections 752 541 752 542 and 752 542a of the Michigan Compiled Laws

(f) Any offense not listed in subdivisions (a) to (e) that is punishable by life imprisonment

(g) An attempt conspiracy or solicitation to commit an offense described in subdivisions (a) to (f)

Sec 35 The department shall promulgate rules prescribing the amount of disciplinary time to be received by prisoners subject to disciplinary time for each type of major misconduct for which he or she is found guilty The rules shall be promulgated pursuant to the administrative procedures act of 1969, Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws

Section 2 Sections 33 and 34 of Act No 118 of the Public Acts of 1893 as amended or as added by this amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No 175 of the Public Acts of 1927 as added by the amendatory act resulting from House Bill No 4782 of the 87th Legislature

Section 3 This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law

(a) Senate Bill No 40

(b) House Bill No 4782

(c) House Bill No 5439

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor