



HOUSE BILL No. 5034

September 13, 1995, Introduced by Reps. Bush, Ryan, Rocca, Hill, Kukuk, Jersevic, Green, Middaugh, Horton, Kaza, Jaye, McBryde, Pitoniak, Hammerstrom, London, Bullard, Profit, Jellema, Bodem, Gnodtke, Goschka, Voorhees, Anthony, Sikkema, Rhead, Law, Cropsey, Johnson, Dolan, Dobb, Gernaat, Dobronski, Palamara, Gustafson, Galloway and Llewellyn and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 33 and 34 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,"

section 33 as amended and section 34 as added by Act No. 218 of the Public Acts of 1994, being sections 800.33 and 800.34 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33 and 34 of Act No. 118 of the Public
2 Acts of 1893, section 33 as amended and section 34 as added by
3 Act No. 218 of the Public Acts of 1994, being sections 800.33 and
4 800.34 of the Michigan Compiled Laws, are amended to read as
5 follows:

1 Sec. 33. (1) A record of all major misconduct charges for
2 which a prisoner has been found guilty shall be maintained and
3 given to the ~~parole~~ OFFENDER REVIEW board as part of the parole
4 eligibility report prepared for each prisoner pursuant to section
5 35 of Act No. 232 of the Public Acts of 1953, being section
6 791.235 of the Michigan Compiled Laws, AND FOR USE BY THE
7 OFFENDER REVIEW BOARD IN DETERMINING WHETHER TO IMPOSE SPECIFIC
8 CONDITIONS OF SUPERVISED RELEASE UNDER SECTION 34B OF ACT NO. 232
9 OF THE PUBLIC ACTS OF 1953, BEING SECTION 791.234B OF THE
10 MICHIGAN COMPILED LAWS.

11 (2) Except as otherwise provided in this section, a prisoner
12 who is serving a sentence for a crime committed before April 1,
13 1987, and who has not been found guilty of a major misconduct or
14 had a violation of the laws of this state recorded against him or
15 her shall receive a reduction from his or her sentence as
16 follows:

17 (a) During the first and second years of his or her sen-
18 tence, 5 days for each month.

19 (b) During the third and fourth years, 6 days for each
20 month.

21 (c) During the fifth and sixth years, 7 days for each
22 month.

23 (d) During the seventh, eighth, and ninth years, 9 days for
24 each month.

25 (e) During the tenth, eleventh, twelfth, thirteenth, and
26 fourteenth years, 10 days for each month.

1 (f) During the fifteenth, sixteenth, seventeenth,
2 eighteenth, and nineteenth years, 12 days for each month.

3 (g) From and including the twentieth year, up to and includ-
4 ing the period fixed for the expiration of the sentence, 15 days
5 for each month.

6 (3) Except as provided in section 34, all prisoners serving
7 a sentence for a crime that was committed on or after April 1,
8 1987 are eligible to earn disciplinary and special disciplinary
9 credits as provided in subsection (5). Disciplinary credits
10 shall be earned, forfeited, and restored as provided in this
11 section. ~~Accumulated~~ DISCIPLINARY CREDITS SHALL BE APPLIED TO
12 A PRISONER'S SENTENCE AS FOLLOWS:

13 (A) FOR A PRISONER SENTENCED FOR A CRIME COMMITTED ON OR
14 BEFORE THE EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED
15 THIS SECTION, ACCUMULATED disciplinary credits shall be deducted
16 from ~~a~~ THE prisoner's minimum and maximum sentence in order to
17 determine his or her parole eligibility date and discharge date.

18 (B) FOR A PRISONER SENTENCED FOR A CRIME COMMITTED AFTER THE
19 EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED THIS SEC-
20 TION, OTHER THAN A PRISONER SUBJECT TO DISCIPLINARY TIME, ACCUMU-
21 LATED DISCIPLINARY CREDITS SHALL BE DEDUCTED FROM THE PRISONER'S
22 DETERMINATE SENTENCE IN ORDER TO DETERMINE HIS OR HER DISCHARGE
23 DATE.

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

1 (5) Except as provided in section 34, all prisoners serving
2 a sentence on December 30, 1982, or incarcerated after
3 December 30, 1982, for the conviction of a crime enumerated in
4 section 33b(a) to (cc) of Act No. 232 of the Public Acts of 1953,
5 being section 791.233b of the Michigan Compiled Laws, are eligi-
6 ble to earn a disciplinary credit of 5 days per month for each
7 month served after December 30, 1982. Accumulated disciplinary
8 credits shall be deducted from a prisoner's minimum and maximum
9 sentence in order to determine his or her parole eligibility
10 dates.

11 A prisoner shall not earn disciplinary credits under this
12 subsection during any month in which the prisoner is found guilty
13 of having committed a major misconduct. The amount of disci-
14 plinary credits not earned as a result of being found guilty of a
15 major misconduct shall be limited to the disciplinary credits
16 that would have been earned for the month in which the major mis-
17 conduct occurred. Any disciplinary credits not earned as a
18 result of the prisoner being found guilty of a major misconduct
19 shall never be earned or restored. The warden may order that a
20 prisoner found guilty of a major misconduct, including but not
21 limited to charges of rioting, inciting to riot, escape, homi-
22 cide, or assault and battery, forfeit all or a portion of the
23 disciplinary credits accumulated prior to the month in which the
24 misconduct occurred. An order forfeiting accumulated disci-
25 plinary credits shall be based upon a review of the prisoner's
26 institutional record.

1 The disciplinary credit committee, which is comprised of the
2 prisoner's resident unit manager, custody officers in the
3 resident unit with direct supervisory responsibilities over the
4 prisoner, and the appropriate work or school assignment supervi-
5 sor, shall be a part of the reclassification process and shall
6 review, at least annually, the status of each prisoner in the
7 housing unit who has forfeited disciplinary credits. The commit-
8 tee may recommend to the warden whether any forfeited disci-
9 plinary credits should be restored to the prisoner.

10 In addition to disciplinary credits, a prisoner eligible for
11 disciplinary credits under this subsection may be awarded 2 days
12 per month special disciplinary credits for good institutional
13 conduct on the recommendation of the disciplinary credit commit-
14 tee and the concurrence of the warden based on an annual review
15 of the prisoner's institutional record. Special disciplinary
16 credits shall not be awarded for any month in which a prisoner
17 has been found guilty of a major misconduct.

18 The department of corrections shall promulgate rules pursu-
19 ant to the administrative procedures act of 1969, Act No. 306 of
20 the Public Acts of 1969, being sections 24.201 to 24.328 of the
21 Michigan Compiled Laws, necessary to implement this subsection
22 not more than 180 days after December 30, 1982.

23 (6) On and after April 1, 1987, a prisoner shall not earn
24 good time under this section during any month in which the pris-
25 oner is found guilty of having committed a major misconduct. The
26 amount of good time not earned as a result of being found guilty
27 of a major misconduct shall be limited to the amount of good time

1 that would have been earned during the month in which the major
2 misconduct occurred. Any good time not earned as a result of the
3 prisoner being found guilty of a major misconduct shall never be
4 earned or restored.

5 (7) The department of corrections shall promulgate rules
6 pursuant to Act No. 306 of the Public Acts of 1969, prescribing
7 how much of his or her accumulated good time or accumulated dis-
8 ciplinary credits the prisoner may forfeit if found guilty of 1
9 or more major misconducts.

10 (8) The warden may order that a prisoner found guilty of a
11 major misconduct forfeit all or a portion of the good time accu-
12 mulated prior to the month in which the misconduct occurred.

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

21 (10) The warden, as a reward for good conduct, may restore
22 to a prisoner the whole or any portion of the good time or disci-
23 plinary credits forfeited because of a finding of guilty for a
24 major misconduct. However, forfeited good time or disciplinary
25 credits shall not be restored without the recommendation of the
26 disciplinary credit committee or good time committee and the
27 prior written approval of the deputy director in charge of the

1 bureau of correctional facilities or the deputy director in
2 charge of the bureau of field services. Disciplinary credits or
3 good time allowances that have not been earned because of insti-
4 tutional misconduct shall not be restored.

5 (11) A prisoner who has been sentenced concurrently for sep-
6 arate convictions shall have his or her good time or disciplinary
7 credits computed on the basis of the longest of the concurrent
8 sentences. If a prisoner is serving consecutive sentences for
9 separate convictions, his or her good time or disciplinary cred-
10 its shall be computed and accumulated on each sentence individu-
11 ally and all good time or disciplinary credits that have been
12 earned on any of the sentences shall be subject to forfeiture
13 pursuant to subsections (5) and (8).

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

21 (13) The ~~parole~~ OFFENDER REVIEW board ~~shall be~~ IS exclu-
22 sively empowered to cause the forfeiture of good time or disci-
23 plinary credits earned by a prisoner at the time of a parole
24 violation.

25 (14) A prisoner subject to disciplinary time is not eligible
26 for good time, special good time, disciplinary credits, or
27 special disciplinary credits.

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

5 (2) Accumulated disciplinary time shall be added to a
6 prisoner's ~~minimum~~ sentence in order to determine his or her
7 ~~parole~~ SUPERVISED RELEASE eligibility date. A prisoner's
8 ~~minimum~~ sentence, plus disciplinary time, shall not exceed ~~his~~
9 ~~or her maximum sentence~~ THE MAXIMUM PENALTY ALLOWED BY LAW FOR
10 THE CRIME OR CRIMES FOR WHICH THE PRISONER WAS CONVICTED.

11 (3) A prisoner SUBJECT TO DISCIPLINARY TIME who has been
12 sentenced concurrently for separate convictions shall have his or
13 her disciplinary time computed and accumulated on each sentence
14 individually. If a prisoner is serving consecutive sentences for
15 separate convictions, his or her disciplinary time shall be com-
16 puted and accumulated on each sentence individually.

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

23 (5) As used in this act, "prisoner subject to disciplinary
24 time" means a prisoner sentenced on or after the effective date
25 of the 1995 amendatory act that ~~added~~ AMENDED this section to
26 ~~an indeterminate~~ A term of imprisonment for any of the
27 following:

1 (a) A violation of section 625(4) or (5) of the Michigan
2 vehicle code, Act No. 300 of the Public Acts of 1949, being
3 section 257.625 of the Michigan Compiled Laws.

4 (b) A violation of section 171(4) or (5) of the marine
5 safety act, Act No. 303 of the Public Acts of 1967, being
6 section 281.1171 of the Michigan Compiled Laws.

7 (c) A violation of section 72, 73, 80, 82, 83, 84, 86, 87,
8 88, 89, 90, 110a(2), 112, 136b(2), 145c, 204, 204a, 205, 205a,
9 206, 207, 208, 210, 211, 211a, 213, 316, 317, 319, 321, 322, 327,
10 328, 329, 349, 349a, 350, 357, 397, 411i, 479b, 520b, 520c, 520d,
11 520e, 520g, 529, 529a, 530, or 531 of the Michigan penal code,
12 Act No. 328 of the Public Acts of 1931, being sections 750.72,
13 750.73, 750.80, 750.82, 750.83, 750.84, 750.86, 750.87, 750.88,
14 750.89, 750.90, 750.110a, 750.112, 750.136b, 750.145c, 750.204,
15 750.204a, 750.205, 750.205a, 750.206, 750.207, 750.208, 750.210,
16 750.211, 750.211a, 750.213, 750.316, 750.317, 750.319, 750.321,
17 750.322, 750.327, 750.328, 750.329, 750.349, 750.349a, 750.350,
18 750.357, 750.397, 750.411i, 750.479b, 750.520b, 750.520c,
19 750.520d, 750.520e, 750.520g, 750.529, 750.529a, 750.530, and
20 750.531 of the Michigan Compiled Laws.

21 (d) A violation of section 1 of Act No. 214 of the Public
22 Acts of 1931, being section 752.191 of the Michigan Compiled
23 Laws.

24 (e) A violation of section 1, 2, or 2a of Act No. 302 of the
25 Public Acts of 1968, being sections 752.541, 752.542, and
26 752.542a of the Michigan Compiled Laws.

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

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

5 Section 2. This amendatory act shall take effect on the
6 effective date of the act by which the legislature enacts sen-
7 tencing guidelines into law pursuant to section 33 of chapter IX
8 of the code of criminal procedure, Act No. 175 of the Public Acts
9 of 1927, being section 769.33 of the Michigan Compiled Laws.

10 Section 3. This amendatory act shall not take effect unless
11 all of the following bills of the 88th Legislature are enacted
12 into law:

13 (a) Senate Bill No. _____ or House Bill No. 5033 (request
14 no. 01456'95 *).

15 (b) Senate Bill No. _____ or House Bill No. 5035 (request
16 no. 01456'95 a *).