

HOUSE BILL No. 5411

December 4, 1997, Introduced by Rep. Goschka and referred to the Committee on Corrections.

A bill to amend 1893 PA 118, entitled

"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,"

by amending section 33 (MCL 800.33), as amended by 1994 PA 218; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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~~ THE RECORD SHALL BE MADE AVAILABLE to the parole board as
4 part of the parole eligibility report prepared for ~~each~~ ANY
5 prisoner ELIGIBLE FOR PAROLE pursuant to section 35 of ~~Act~~
6 ~~No. 232 of the Public Acts of 1953, being section 791.235 of the~~
7 ~~Michigan Compiled Laws~~ 1953 PA 232, MCL 791.235.

1 (2) Except as otherwise provided in this section, a prisoner
2 who is serving a sentence for a crime committed before April 1,
3 1987, and who has not been found guilty of a major misconduct or
4 had a violation of the laws of this state recorded against him or
5 her shall receive a reduction from his or her sentence as
6 follows:

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

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

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

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

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

17 (f) During the fifteenth, sixteenth, seventeenth, eigh-
18 teenth, and nineteenth years, 12 days for each month.

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

22 (3) ~~Except as provided in section 34, all~~ ALL prisoners
23 serving a sentence for a crime that was committed ~~on or after~~
24 DURING A PERIOD BEGINNING ON April 1, 1987 AND ENDING ON THE
25 EFFECTIVE DATE OF THE 1997 AMENDATORY ACT THAT AMENDED THIS
26 SECTION are eligible to earn disciplinary and special
27 disciplinary credits as provided in subsection (5). Disciplinary

1 credits shall be earned, forfeited, and restored as provided in
2 this section. Accumulated disciplinary credits shall be deducted
3 from a prisoner's minimum and maximum sentence in order to deter-
4 mine his or her parole eligibility date and discharge date.

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

9 (5) Except as provided in ~~section 34~~ THIS SUBSECTION, all
10 prisoners serving a sentence on December 30, 1982, or incarcer-
11 ated after December 30, 1982, for the conviction of a crime enu-
12 merated in section 33b(a) to (cc) of ~~Act No. 232 of the Public~~
13 ~~Acts of 1953, being section 791.233b of the Michigan Compiled~~
14 ~~Laws~~ 1953 PA 232, MCL 791.233B, are eligible to earn a disci-
15 plinary credit of 5 days per month for each month served after
16 December 30, 1982. Accumulated disciplinary credits shall be
17 deducted from a prisoner's minimum and maximum sentence in order
18 to determine his or her parole eligibility dates. THIS SUBSEC-
19 TION DOES NOT APPLY TO A PRISONER INCARCERATED FOR THE CONVIC-
20 TION OF A CRIME COMMITTED AFTER THE EFFECTIVE DATE OF THE 1997 AMENDA-
21 TORY ACT THAT AMENDED THIS SECTION.

22 A prisoner shall not earn disciplinary credits under this
23 subsection during any month in which the prisoner is found guilty
24 of having committed a major misconduct. The amount of disci-
25 plinary credits not earned as a result of being found guilty of a
26 major misconduct shall be limited to the disciplinary credits
27 that would have been earned for the month in which the major

1 misconduct occurred. Any disciplinary credits not earned as a
2 result of the prisoner being found guilty of a major misconduct
3 shall never be earned or restored. The warden may order that a
4 prisoner found guilty of a major misconduct, including but not
5 limited to charges of rioting, inciting to riot, escape, homi-
6 cide, or assault and battery, forfeit all or a portion of the
7 disciplinary credits accumulated prior to the month in which the
8 misconduct occurred. An order forfeiting accumulated disci-
9 plinary credits shall be based upon a review of the prisoner's
10 institutional record.

11 The disciplinary credit committee, which is comprised of the
12 prisoner's resident unit manager, custody officers in the resi-
13 dent unit with direct supervisory responsibilities over the pris-
14 oner, and the appropriate work or school assignment supervisor,
15 shall be a part of the reclassification process and shall review,
16 at least annually, the status of each prisoner in the housing
17 unit who has forfeited disciplinary credits. The committee may
18 recommend to the warden whether any forfeited disciplinary cred-
19 its should be restored to the prisoner.

20 In addition to disciplinary credits, a prisoner eligible for
21 disciplinary credits under this subsection may be awarded 2 days
22 per month special disciplinary credits for good institutional
23 conduct on the recommendation of the disciplinary credit commit-
24 tee and the concurrence of the warden based on an annual review
25 of the prisoner's institutional record. Special disciplinary
26 credits shall not be awarded for any month in which a prisoner
27 has been found guilty of a major misconduct.

1 The department of corrections shall promulgate rules
2 pursuant to the administrative procedures act of 1969, ~~Act~~
3 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to~~
4 ~~24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO
5 24.328, necessary to implement this subsection not more than 180
6 days after December 30, 1982.

7 (6) On and after April 1, 1987, a prisoner shall not earn
8 good time under this section during any month in which the pris-
9 oner is found guilty of having committed a major misconduct. The
10 amount of good time not earned as a result of being found guilty
11 of a major misconduct shall be limited to the amount of good time
12 that would have been earned during the month in which the major
13 misconduct occurred. Any good time not earned as a result of the
14 prisoner being found guilty of a major misconduct shall never be
15 earned or restored.

16 (7) The department of corrections shall promulgate rules
17 pursuant to ~~Act No. 306 of the Public Acts of 1969~~ THE ADMINIS-
18 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
19 24.328, prescribing how much of his or her accumulated good time
20 or accumulated disciplinary credits the prisoner may forfeit if
21 found guilty of 1 or more major misconducts.

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

25 (9) The good time committee, which is comprised of the
26 prisoner's resident unit manager, custody officer in the resident
27 unit with direct supervisory responsibility over the prisoner,

1 and the appropriate work or school assignment supervisor, shall
2 be part of the reclassification process. The good time committee
3 shall recommend to the warden the amount of special good time to
4 be awarded and the restoration of any accumulated good time that
5 has been forfeited.

6 (10) The warden, as a reward for good conduct, may restore
7 to a prisoner the whole or any portion of the good time or disci-
8 plinary credits forfeited because of a finding of guilty for a
9 major misconduct. However, forfeited good time or disciplinary
10 credits shall not be restored without the recommendation of the
11 disciplinary credit committee or good time committee and the
12 prior written approval of the deputy director in charge of the
13 bureau of correctional facilities or the deputy director in
14 charge of the bureau of field services. Disciplinary credits or
15 good time allowances that have not been earned because of insti-
16 tutional misconduct shall not be restored.

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

26 (12) The warden of an institution may grant special good
27 time allowances to eligible prisoners who are convicted of a

1 crime that is committed before April 1, 1987. Special good time
2 credit shall not exceed 50% of the good time allowances under the
3 schedule in subsection (2). Special good time shall be awarded
4 for good conduct only and shall not be awarded for any month in
5 which a prisoner has been found guilty of a major misconduct.

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

9 (14) A prisoner ~~subject to disciplinary time~~ SERVING A
10 SENTENCE FOR A CRIME COMMITTED AFTER THE EFFECTIVE DATE OF THE
11 1997 AMENDATORY ACT THAT AMENDED THIS SECTION is not eligible for
12 good time, special good time, disciplinary credits, or special
13 disciplinary credits.

14 Enacting section 1. Section 34 of 1893 PA 118, MCL 800.34,
15 is repealed.

16 Enacting section 2. This amendatory act does not take
17 effect unless all of the following bills of the 89th Legislature
18 are enacted into law:

19 (a) Senate Bill No. _____ or House Bill No. _____ (request
20 no. 02647'97).

21 (b) Senate Bill No. _____ or House Bill No. _____ (request
22 no. 02647'97 a).