

HOUSE BILL No. 4498

March 3, 2009, Introduced by Rep. Cushingberry and referred to the Committee on Judiciary.

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 1999 PA 148; 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 to the parole board as part of the parole eligibility report
4 prepared for each prisoner pursuant to section 35 of **THE**
5 **CORRECTIONS CODE OF 1953**, 1953 PA 232, MCL 791.235.

6 (2) Except as otherwise provided in this section, a prisoner
7 ~~who is serving a sentence for a crime committed before April 1,~~
8 ~~1987, and~~ who has not been found guilty of a major misconduct or

1 had a violation of the laws of this state recorded against him or
2 her shall receive a reduction from his or her sentence as follows:

3 (a) During the first and second years of his or her sentence,
4 5 days for each month.

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

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

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

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

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

13 (g) From and including the twentieth year, up to and including
14 the period fixed for the expiration of the sentence, 15 days for
15 each month.

16 ~~(3) Except as provided in section 34, all prisoners serving a~~
17 ~~sentence for a crime that was committed on or after April 1, 1987~~
18 ~~are eligible to earn disciplinary and special disciplinary credits~~
19 ~~as provided in subsection (5). Disciplinary credits shall be~~
20 ~~earned, forfeited, and restored as provided in this section.~~

21 ~~Accumulated disciplinary credits~~ **GOOD TIME RECEIVED UNDER**
22 **SUBSECTION (2)** shall be deducted from a prisoner's minimum and
23 maximum sentence in order to determine his or her parole
24 eligibility date and discharge date.

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

1 commuting the sentence.

2 ~~—— (5) Except as provided in section 34, all prisoners serving a~~
3 ~~sentence on December 30, 1982, or incarcerated after December 30,~~
4 ~~1982, for the conviction of a crime enumerated in section 33b(a) to~~
5 ~~(cc) of 1953 PA 232, MCL 791.233b, are eligible to earn a~~
6 ~~disciplinary credit of 5 days per month for each month served after~~
7 ~~December 30, 1982. Accumulated disciplinary credits shall be~~
8 ~~deducted from a prisoner's minimum and maximum sentence in order to~~
9 ~~determine his or her parole eligibility dates.~~

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

25 ~~—— The disciplinary credit committee, which is comprised of the~~
26 ~~prisoner's resident unit manager, custody officers in the resident~~
27 ~~unit with direct supervisory responsibilities over the prisoner,~~

1 ~~and the appropriate work or school assignment supervisor, shall be~~
2 ~~a part of the reclassification process and shall review, at least~~
3 ~~annually, the status of each prisoner in the housing unit who has~~
4 ~~forfeited disciplinary credits. The committee may recommend to the~~
5 ~~warden whether any forfeited disciplinary credits should be~~
6 ~~restored to the prisoner.~~

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

15 ~~—— The department of corrections shall promulgate rules pursuant~~
16 ~~to the administrative procedures act of 1969, 1969 PA 306, MCL~~
17 ~~24.201 to 24.328, necessary to implement this subsection not more~~
18 ~~than 180 days after December 30, 1982.~~

19 (5) ~~(6) On and after April 1, 1987, a~~ A prisoner shall not
20 earn good time under this section during any month in which the
21 prisoner is found guilty of having committed a major misconduct.
22 The amount of good time not earned as a result of being found
23 guilty of a major misconduct shall be limited to the amount of good
24 time that would have been earned during the month in which the
25 major misconduct occurred. Any good time not earned as a result of
26 the prisoner being found guilty of a major misconduct shall never
27 be earned or restored.

1 (6) ~~(7)~~—The department of corrections shall promulgate rules
 2 pursuant to the administrative procedures act of 1969, 1969 PA 306,
 3 MCL 24.201 to 24.328, prescribing how much of his or her
 4 accumulated good time ~~or accumulated disciplinary credits~~ the
 5 prisoner may forfeit if found guilty of 1 or more major
 6 misconducts.

7 (7) ~~(8)~~—The warden may order that a prisoner found guilty of a
 8 major misconduct forfeit all or a portion of the good time
 9 accumulated prior to the month in which the misconduct occurred.

10 (8) ~~(9)~~—The good time committee, which is comprised of the
 11 prisoner's resident unit manager, custody officer in the resident
 12 unit with direct supervisory responsibility over the prisoner, and
 13 the appropriate work or school assignment supervisor, shall be part
 14 of the reclassification process. The good time committee shall
 15 recommend to the warden the amount of special good time to be
 16 awarded and the restoration of any accumulated good time that has
 17 been forfeited.

18 (9) ~~(10)~~—The warden, as a reward for good conduct, may restore
 19 to a prisoner the whole or any portion of the good time ~~or~~
 20 ~~disciplinary credits~~ forfeited because of a finding of guilty for a
 21 major misconduct. However, forfeited good time ~~or disciplinary~~
 22 ~~credits~~ shall not be restored without the recommendation of the
 23 ~~disciplinary credit committee or good time committee~~ and the prior
 24 written approval of the deputy director in charge of the ~~bureau of~~
 25 correctional facilities **ADMINISTRATION** or the deputy director in
 26 charge of the ~~bureau of field services~~ **FIELD OPERATIONS**
 27 **ADMINISTRATION**. ~~Disciplinary credits or good~~ **GOOD** time allowances

1 that have not been earned because of institutional misconduct shall
2 not be restored.

3 (10) ~~(11)~~—A prisoner who has been sentenced concurrently for
4 separate convictions shall have his or her good time ~~or~~
5 ~~disciplinary credits~~ computed on the basis of the longest of the
6 concurrent sentences. If a prisoner is serving consecutive
7 sentences for separate convictions, his or her good time ~~or~~
8 ~~disciplinary credits~~ shall be computed and accumulated on each
9 sentence individually and all good time ~~or disciplinary credits~~
10 that ~~have~~ **HAS** been earned on any of the sentences shall be subject
11 to forfeiture pursuant to ~~subsections (5) and (8)~~ **SUBSECTION (7)**.

12 (11) ~~(12)~~—The warden of an institution may grant special good
13 time allowances. ~~to eligible prisoners who are convicted of a crime~~
14 ~~that is committed before April 1, 1987.~~ Special good time credit
15 shall not exceed 50% of the good time allowances under the schedule
16 in subsection (2). Special good time shall be awarded for good
17 conduct only and shall not be awarded for any month in which a
18 prisoner has been found guilty of a major misconduct.

19 (12) ~~(13)~~—The parole board shall be exclusively empowered to
20 cause the forfeiture of good time ~~or disciplinary credits~~ earned by
21 a prisoner at the time of a parole violation.

22 ~~—(14) A prisoner subject to disciplinary time is not eligible~~
23 ~~for good time, special good time, disciplinary credits, or special~~
24 ~~disciplinary credits.~~

25 (13) ~~(15)~~—The court may order the reduction or forfeiture of ~~±~~
26 ~~or more of the following~~ **GOOD TIME** credits pursuant to section 5513
27 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5513. ~~÷~~

1 ~~_____ (a) Good time.~~

2 ~~_____ (b) Disciplinary.~~

3 ~~_____ (c) Special disciplinary.~~

4 (14) THE DEPARTMENT SHALL RECALCULATE THE PAROLE ELIGIBILITY
5 DATE AND DISCHARGE DATE FOR EACH PRISONER SERVING A SENTENCE ON THE
6 EFFECTIVE DATE OF THE 2009 AMENDATORY ACT THAT AMENDED THIS SECTION
7 WHO BECOMES ELIGIBLE FOR GOOD TIME CREDITS UNDER SUBSECTION (2) AS
8 A RESULT OF THE 2009 AMENDATORY ACT THAT AMENDED THIS SECTION.

9 Enacting section 1. Sections 34 and 35 of 1893 PA 218, MCL
10 800.34 and 800.35, are repealed.

11 Enacting section 2. This amendatory act does not take effect
12 unless Senate Bill No. _____ or House Bill No. 4497 (request no.
13 01437'09) of the 95th Legislature is enacted into law.