

Earned Second Chance Provision

(HB _____ and SB _____)

Suggested Language:

Amend § 53.1-202.2 to read:

(Amended language italicized)

§ 53.1-202.1. Limitation upon applicability of this article.

The provisions of this article shall not apply to any sentence imposed upon a conviction of a felony offense committed on or after January 1, 1995.

§ 53.1-202.2. Eligibility for earned sentence credits.

Every person who is convicted of a felony offense committed on or after January 1, 1995, and who is sentenced to serve a term of incarceration in a state or local correctional facility shall be eligible to earn sentence credits in the manner prescribed by this article. Such eligibility shall commence upon the person's incarceration in any correctional facility following entry of a final order of conviction by the committing court. As used in this chapter, "sentence credit" and "earned sentence credit" mean deductions from a person's term of confinement earned through adherence to rules prescribed pursuant to §53.1-25, through program participation as required by §§ 53.1-32.1, ~~and 53.1-202.3~~, and 53.1-202.5, and by meeting such other requirements as may be established by law or regulation. One earned sentence credit shall equal a deduction of one day from a person's term of incarceration.

B. A juvenile convicted as an adult and sentenced as a serious juvenile offender under clause (i) of subdivision A 1 of § 16.1-272 shall be eligible to earn sentence credits for the portion of the sentence served with the Department of Juvenile Justice in the manner prescribed by this article. Consideration for earned sentence credits shall require adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1.

§ 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.

A maximum of four and one-half sentence credits may be earned for each 30 days served. The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § 53.1-32.1. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs afforded to the juvenile during that portion of the sentence. The Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

§ 53.1-202.4. Board of Corrections to establish certain rules, criteria, etc.

The Board shall:

1. Establish the criteria upon which a person shall be deemed to have earned sentence credits;
2. Establish the bases upon which earned sentence credits may be forfeited;
3. Establish the number of earned sentence credits which will be forfeited for violations of various (i) institutional rules, (ii) program participation requirements or (iii) other requirements for the retention of sentence credits; and
4. Establish such additional requirements for the earning of sentence credits as may be deemed advisable and as are consistent with the purposes of this article.

That the Code of Virginia is amended by adding a section as follows:

§ 53.1-202.5. Rate at which sentence credits may be earned for rehabilitative programming; prerequisites.

Ten additional sentence credits may be earned for each thirty days of rehabilitative programming. The earning of these sentence credits shall be conditioned upon full and satisfactory participation in programs for earning, a high school diploma or an equivalent degree, college credit, or a certification through an accredited vocational training program or other accredited continuing education program. Credit shall also be given based on equivalent interventional rehabilitation programs completion including but not limited to mental health treatment, sex offender treatment and any other interventional rehabilitation programs deemed appropriate for this credit by the Director. Qualified individuals who conduct or teach said programs without other compensation shall also be eligible for such credits.

Credit that has not been earned may not later be granted. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence. Credit awarded under this section shall vest on the last day of each calendar year or upon full completion of the included program and may be denied based on upon removal from any included program for noncompliance with program requirements or institutional rules.

Exemptions to the General Educational Development requirement may be made as deemed appropriate based upon the determination and recommendation of Department of Correctional Education personnel.

Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

Purpose:

The purpose of the proposed bill is to promote public safety by offering constructive incentives for exemplary institutional adjustment while at the same time increasing educational standards and decreasing the overall cost of corrections.

Budget Considerations:

The awarding of good conduct allowances as proposed in the bill would significantly decrease the amount of time served in prison by many inmates. This would result in savings to the Commonwealth. With inmates serving less time, the Department of Corrections (DOC) would have more bed space that it could use to bring in state inmates who are now being held in local jails. Currently, there are approximately 1,600 inmates in local jails who have been there longer than 60 days from their final sentencing date. Because DOC does not have sufficient bed space to house these offenders in state prisons, the state reimburses localities \$14 per day for housing them. However, there is not sufficient information available to project the extent to which prison populations would be decreased by the bill and, therefore, the fiscal impact cannot be determined.