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**SENATE BILL NO. 75**

Offered January 14, 2004

Prefiled January 6, 2004

*A BILL to amend the Code of Virginia by adding a section numbered 53.1-151.1, relating to eligibility for good conduct allowance; classification system; mandatory functional literacy requirement.*

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 Patron—Marsh
 

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 Referred to Committee on Rehabilitation and Social Services
 

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**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 53.1-151.1 as follows:**

*§ 53.1-151.1. Eligibility for good conduct allowance; application.*

*A. Beginning July 1, 2004, each person who on or after January 1, 1995, has been convicted of a felony and each person convicted of a misdemeanor and to whom the provisions of §§ 53.1-151, 53.1-152 or § 53.1-153 apply may be entitled to good conduct allowance not to exceed the amount set forth below. Such good conduct allowance shall be applied to reduce the person's maximum term of confinement while he is confined in any state correctional facility.*

*Any person who, on or after January 1, 1995, has been sentenced upon a conviction of murder in the first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery and any person who has been sentenced to a term of life imprisonment or two or more life sentences shall be classified within the system established by § 53.1-201. Such person shall be eligible for no more than five days good conduct allowance for each 30 days served, regardless of the class to which he is assigned. Additional good conduct allowance may be approved by the Board of Corrections for such persons in accordance with § 53.1-191.*

*B. Regulations approved by the Board shall govern the earning of good conduct allowance. The regulations shall require, as a condition for earning the allowance, that a prisoner who is serving a term of imprisonment as outlined above may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 180 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Department of Corrections that, during that year, the prisoner has displayed exemplary compliance with institutional disciplinary regulations. If the Department of Corrections determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, the prisoner shall receive no such credit toward service of the prisoner's sentence or shall receive such lesser credit as the Department of Corrections determines to be appropriate. In awarding credit under this section, the Department of Corrections shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree or a certificate through an accredited vocational training program. 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. Exemptions to the general educational development requirement may be made as deemed appropriate based upon the determination and recommendation of the Department of Correctional Education.*

*C. Good conduct allowances shall be based upon a four-level classification system. Such system shall be established as follows:*

*1. Prisoners classified as Class I shall earn good conduct allowance at a rate of no more than 15 days credit for each 30 days served. Class I shall be reserved for persons whose initiative, conduct and performance in their assignments are exemplary and who have earned, or are making satisfactory progress toward earning, a high school diploma or an equivalent degree or certification through an accredited vocational training program. Consideration for Class I credit shall be given to persons who perform in assignments requiring a high degree of trust, extra long hours or specialized skills.*

*2. Prisoners classified as Class II shall earn good conduct allowance at a rate of no more than 10 days credit for each 30 days served. Class II shall be reserved for persons whose initiative, conduct and performance in their assignments are satisfactory. Consideration for Class II credit shall be given to persons who require moderate supervision in their assignments and whose assignments require responsibility in the care and maintenance of property.*

*3. Prisoners classified as Class III shall earn good conduct allowance at a rate of no more than five days credit for each 30 days served. Class III shall be reserved for persons whose conduct and performance in their assignments are marginal. Persons requiring intensive supervision in their*

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59 assignments and exhibiting minor disciplinary problems may be assigned to Class III.

60 4. Prisoners classified as Class IV shall earn good conduct allowance at a rate of no credit for each  
61 30 days served. Class IV shall be reserved for persons who are in isolation or segregation status for  
62 disciplinary or security reasons and persons whose conduct and performance in their assignments are so  
63 unsatisfactory as to eliminate consideration for good conduct allowance.

64 Persons may be reclassified for an increase or decrease in class according to rules and regulations  
65 established pursuant to law.

66 D.1. The Secretary of Public Safety shall direct the Department of Corrections and the Department  
67 of Correctional Education to have a mandatory functional literacy program as defined in §§ 22.1-342,  
68 22.1-344 and 22.1-344.1 for all mentally capable inmates who are not functionally literate in each state  
69 correctional institution by January 1, 2005.

70 2. Each mandatory functional literacy program shall include a requirement that each inmate  
71 participate in such program for a mandatory period sufficient to provide the inmate with an adequate  
72 opportunity to achieve functional literacy, and appropriate incentives that lead to successful completion  
73 of such programs shall be developed and implemented.

74 3. As used in this section, the term "functional literacy" has the same meaning as provided in  
75 § 22.1-344.1.

76 4. Non-English-speaking inmates shall be required to participate in an  
77 English-As-A-Second-Language program, if available, until they function at the equivalence of the eighth  
78 grade on a nationally recognized educational achievement test.

79 5. The principal of each Department of Correctional Education adult school shall have the authority  
80 to grant an exemption for participation in the functional literacy program for good cause as determined  
81 by the Board of Correctional Education and documented on an individual basis.

82 E. Upon receipt by the Department, persons who have been confined while awaiting transfer to a  
83 state correctional facility shall be credited with such time as is certified to the Department in  
84 accordance with §§ 53.1-116 and 53.1-129 and as is otherwise provided by law. Certified good conduct  
85 allowance shall be applied to reduce the person's maximum term of confinement, and one half of such  
86 credit shall be applied to reduce the period of time the person shall serve before being eligible for  
87 parole.

88 After admission to a state correctional facility, a person shall be credited at the rate of 10 days for  
89 each 30 days of time served with satisfactory conduct. The person shall remain in this credit level until  
90 classified in accordance with the provisions herein.