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SENATE BILL NO. 105

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on February 3, 2006)

(Patron Prior to Substitute—Senator Marsh)

A BILL to amend the Code of Virginia by adding in Chapter 6 of Title 53.1 an article numbered 5, consisting of sections numbered 53.1-202.5 and 53.1-202.6, relating to eligibility for good conduct allowance; classification system; mandatory functional literacy requirement.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 6 of Title 53.1 an article numbered 5, consisting of sections numbered 53.1-202.5 and 53.1-202.6, as follows:

Article 5.

Good Conduct Allowance for Persons Committed on or After January 1, 1995.

§ 53.1-202.5. Eligibility for good conduct allowance; application.

A. In addition to sentence credits earned as provided in Article 4 of this chapter, beginning July 1, 2007, 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 July 1, 1993, 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. One-half of such credit shall be applied to reduce the period of time he shall serve before being eligible for parole. 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, college credit, or a certificate through an accredited vocational training program. Credit shall also be given based on completion of equivalent interventional rehabilitation programs 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. 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, college credit, or certification through an accredited vocational training program or other accredited continuing education program. Qualified individuals who conduct or teach said programs without other compensation shall also be eligible for such credits. Consideration for Class I credit shall be given to persons who perform in

60 assignments requiring a high degree of trust, extra long hours, or specialized skills.

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

66 3. Prisoners classified as Class III shall earn good conduct allowance at a rate of no more than five
67 days credit for each 30 days served. Class III shall be reserved for persons whose conduct and
68 performance in their assignments are marginal. Persons requiring intensive supervision in their
69 assignments and exhibiting minor disciplinary problems may be assigned to Class III.

70 4. Prisoners classified as Class IV shall earn good conduct allowance at a rate of no credit for each
71 30 days served. Class IV shall be reserved for persons who are in isolation or segregation status for
72 disciplinary or security reasons and persons whose conduct and performance in their assignments are so
73 unsatisfactory as to eliminate consideration for good conduct allowance.

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

76 D.1. The Secretary of Public Safety shall direct the Department of Corrections and the Department
77 of Correctional Education to have in effect a mandatory functional literacy program as defined in
78 §§ 22.1-342, 22.1-344 and 22.1-344.1 for all mentally capable inmates who are not functionally literate
79 in each state correctional institution by January 1, 2007.

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

84 3. As used in this section, the term "functional literacy" means:

85 a. Educational skills necessary to function independently in society, including but not limited to
86 reading, writing, comprehension, and mathematical computation; and

87 b. Completion of such a literacy program, which shall include testing on a nationally recognized
88 standardized test at an eighth-grade level or higher.

89 4. Non-English-speaking inmates shall be required to participate in an
90 English-As-A-Second-Language program until they function at the equivalence of the eighth grade on a
91 nationally recognized educational achievement test.

92 5. The principal of each Department of Correctional Education adult school shall have the authority
93 to grant waivers for good cause as determined by the Board of Correctional Education and documented
94 on an individual basis.

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

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

104 §53.1-202.6. Eligibility for additional Reading for Good Time credits; application.

105 A. Beginning July 1, 2007, and notwithstanding any other provision of law, every person who, on or
106 after January 1, 1995, has been convicted of a felony and every person convicted of a misdemeanor and
107 to whom the provisions of §§ 53.1-151, 53.1-152, or 53.1-153 apply may be entitled to earn additional
108 Reading for Good Time (RTG) credits not to exceed the amount set forth below. Such credits shall be
109 applied to reduce the person's maximum term of confinement while he is confined in any state
110 correctional facility.

111 Any person who, on or after July 1, 1993, has been sentenced upon a conviction of murder in the
112 first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual
113 penetration or aggravated sexual battery and any person who has been sentenced to a term of life
114 imprisonment or two or more life sentences shall be classified within the system established by
115 § 53.1-201. Such person shall be eligible for no more than five days good conduct allowance for each
116 30 days served, regardless of the class to which he is assigned. One-half of such credit shall be applied
117 to reduce the period of time he shall serve before being eligible for parole. Additional good conduct
118 allowance may be approved by the Board of Corrections for such persons in accordance with
119 § 53.1-191.

120 B. Regulations approved by the Board shall govern the earning of additional RGT credits. The
121 regulations shall require, as a condition for earning the credits, that a prisoner who is serving a term of

122 imprisonment as outlined above may receive credit toward the service of the prisoner's sentence, beyond
123 the time served and in addition to any other credit or allowance earned, of up to 10 days at the end of
124 each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term,
125 subject to determination by the Department of Corrections that, during that year, the prisoner has
126 displayed compliance with institutional disciplinary regulations and has satisfactorily completed the
127 requirements of the Reading for Good Time program by completely reading and passing a
128 comprehension test on approved novels or literature as set forth under the program mandates as
129 determined by the Department of Correctional Education. Credit that has not been earned may not later
130 be granted. Credit awarded under this section shall vest on the last day of each calendar year.
131 Participation compliance to the program and comprehension testing compliance may be determined by
132 Department of Correctional Education personnel.

133 C. RGT credits shall be awarded on the basis of one day's credit for every 1,000 pages read of
134 approved novels or compilations of literature scored under the RGT program. Scoring is determined by
135 the Department of Correctional Education based upon the completion of reading the approved novels or
136 literature and the passing with a score of 70% on comprehension testing for the approved material.

137 D. The Secretary of Public Safety shall direct the Department of Corrections and the Department of
138 Correctional Education to have in effect a Reading for Good Time program with appropriate testing
139 materials and criteria in each state correctional institution by July 1, 2007.