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SENATE BILL NO. 105

Offered January 11, 2006

Prefiled January 9, 2006

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

Patrons—Marsh and Devolites Davis

Referred to Committee on Rehabilitation and Social Services

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 a section numbered 53.1-202.5 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, 2006, 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*

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59 to persons who require moderate supervision in their assignments and whose assignments require
60 responsibility in the care and maintenance of property.

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

65 4. Prisoners classified as Class IV shall earn good conduct allowance at a rate of no credit for each
66 30 days served. Class IV shall be reserved for persons who are in isolation or segregation status for
67 disciplinary or security reasons and persons whose conduct and performance in their assignments are so
68 unsatisfactory as to eliminate consideration for good conduct allowance.

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

71 D.1. The Secretary of Public Safety shall direct the Department of Corrections and the Department
72 of Correctional Education to have a mandatory functional literacy program as defined in §§ 22.1-342,
73 22.1-344 and 22.1-344.1 for all mentally capable inmates who are not functionally literate in each state
74 correctional institution by January 1, 2007.

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

79 3. As used in this section, the term "functional literacy" has the same meaning as provided in
80 § 22.1-344.1.

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

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

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

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