

[No. 148]

(SB 500)

AN ACT 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 1994 PA 218.

The People of the State of Michigan enact:

800.33 Record of major misconduct charges as part of parole eligibility report; reduction from sentence; good time, disciplinary credits, or special disciplinary credits; forfeiture; disciplinary credit committee; rules; good time committee; powers of warden and parole board; prisoner subject to disciplinary time; reduction of credits by court order. [M.S.A. 28.1403]

Sec. 33. (1) A record of all major misconduct charges for which a prisoner has been found guilty shall be maintained and given to the parole board as part of the parole eligibility report prepared for each prisoner pursuant to section 35 of 1953 PA 232, MCL 791.235.

(2) Except as otherwise provided in this section, a prisoner who is serving a sentence for a crime committed before April 1, 1987, and who has not been found guilty of a major misconduct or had a violation of the laws of this state recorded against him or her shall receive a reduction from his or her sentence as follows:

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

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

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

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

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

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

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

(3) Except as provided in section 34, all prisoners serving a sentence for a crime that was committed on or after April 1, 1987 are eligible to earn disciplinary and special disciplinary credits as provided in subsection (5). Disciplinary credits shall be earned, forfeited, and restored as provided in this section. Accumulated disciplinary credits shall be deducted from a prisoner's minimum and maximum sentence in order to determine his or her parole eligibility date and discharge date.

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

(5) Except as provided in section 34, all prisoners serving a sentence on December 30, 1982, or incarcerated after December 30, 1982, for the conviction of a crime enumerated in section 33b(a) to (cc) of 1953 PA 232, MCL 791.233b, are eligible to earn a disciplinary credit of 5 days per month for each month served after December 30, 1982. Accumulated

disciplinary credits shall be deducted from a prisoner's minimum and maximum sentence in order to determine his or her parole eligibility dates.

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

The disciplinary credit committee, which is comprised of the prisoner's resident unit manager, custody officers in the resident unit with direct supervisory responsibilities over the prisoner, and the appropriate work or school assignment supervisor, shall be a part of the reclassification process and shall review, at least annually, the status of each prisoner in the housing unit who has forfeited disciplinary credits. The committee may recommend to the warden whether any forfeited disciplinary credits should be restored to the prisoner.

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

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

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

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

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

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

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(10) The warden, as a reward for good conduct, may restore to a prisoner the whole or any portion of the good time or disciplinary credits forfeited because of a finding of guilty for a major misconduct. However, forfeited good time or disciplinary credits shall not be restored without the recommendation of the disciplinary credit committee or good time committee and the prior written approval of the deputy director in charge of the bureau of correctional facilities or the deputy director in charge of the bureau of field services. Disciplinary credits or good time allowances that have not been earned because of institutional misconduct shall not be restored.

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

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

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

(14) A prisoner subject to disciplinary time is not eligible for good time, special good time, disciplinary credits, or special disciplinary credits.

(15) The court may order the reduction or forfeiture of 1 or more of the following credits pursuant to section 5513 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5513:

- (a) Good time.
- (b) Disciplinary.
- (c) Special disciplinary.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 419 of the 90th Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved November 1, 1999.

Filed with Secretary of State November 1, 1999.

Compiler's note: Senate Bill No. 419, referred to in enacting section 1, was filed with the Secretary of State November 1, 1999, and became P.A. 1999, No. 147, Imd. Eff. Nov. 1, 1999.
